

HOUSE BILL 908

J2

4lr0433
CF SB 849

By: **Delegate Nathan–Pulliam**

Introduced and read first time: February 5, 2014

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing – Nurses, Nursing Assistants, Medication**
3 **Technicians, and Electrologists – Licensing, Certification, Regulation,**
4 **Violations, and Penalties**

5 FOR the purpose of requiring the State Board of Nursing to establish, on or before a
6 certain date, a certain program through which the Criminal Justice Information
7 System Central Repository reports to the Board certain criminal history
8 information for certain applicants; requiring the Board to notify certain
9 applicants that certain fingerprints will be retained by the Central Repository
10 and certain criminal information will be reported to the Board; authorizing the
11 Board to enter into a certain agreement; establishing requirements for the
12 Board to place certain licensees and certificate holders on inactive status and to
13 reactivate certain licenses and certificates if certain documentation of a medical
14 condition is submitted to the Board; altering the duration of a certain
15 application for inactive status; prohibiting the Board from charging a certain
16 fee; providing that a certain inactive status may not be considered certain
17 disciplinary action or reported to certain entities, employers, or insurance
18 companies as certain disciplinary action; providing that certain licenses expire
19 on a certain day; repealing certain prohibitions on the lapsing of certain licenses
20 and certificates under certain circumstances; authorizing the Board to require
21 terms on certain agreements to accept the surrender of certain licenses and
22 certificates; providing that agreements to accept the surrender of certain
23 licenses and certificates are final orders and public records; clarifying that the
24 Board may deny or grant licenses or certificates subject to certain reprimand,
25 probation, or suspension under certain circumstances; altering and adding
26 certain grounds for disciplinary action for certain licensees and certificate
27 holders; repealing certain requirements that certain individuals return certain
28 licenses or certificates to the Board or file certain verified statements;
29 authorizing the Board to require certain licensees or certificate holders that
30 receive certain sanctions to comply with certain terms and conditions
31 determined by the Board; repealing a certain requirement that certain hearing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 notices bear certain postmarks; authorizing the Board to send certain advisory
 2 letters to holders of multistate licensing privileges; clarifying that certain Board
 3 decisions may not be stayed while judicial review is pending; altering certain
 4 reinstatement requirements for certain licenses and certificates; clarifying the
 5 Board's authority for certain licensure, practice on the multistate licensing
 6 privilege, and certification; requiring criminal history records checks for certain
 7 applicants for certification as medication technicians and for certain medication
 8 technicians on or after a certain date; clarifying certain requirements for
 9 hearings for certain certificate holders or applicants; authorizing the Board to
 10 suspend certain certificates under certain circumstances; repealing certain
 11 provisions and penalties for certain persons that fail to report certain
 12 employment or placement of registered nurses and licensed practical nurses;
 13 authorizing the Board to issue certain cease and desist orders and impose
 14 certain fines under certain circumstances; requiring the Board to pay certain
 15 fines to the Board of Nursing Fund; authorizing certain injunctive relief for
 16 certain conduct under certain circumstances; defining certain terms; making
 17 stylistic changes; and generally relating to the regulation by the State Board of
 18 Nursing of nurses, nursing assistants, medication technicians, and
 19 electrologists.

20 BY repealing and reenacting, with amendments,
 21 Article – Health Occupations
 22 Section 8–101, 8–303, 8–309, 8–312(a) and (g)(1), 8–313, 8–314, 8–316 through
 23 8–319, 8–6A–01, 8–6A–05(c), 8–6A–08(g) and (k), 8–6A–10 through
 24 8–6A–12, 8–6B–01, 8–6B–14(b), (h), and (i), 8–6B–15, 8–6B–18,
 25 8–6B–19(c), 8–6B–22, 8–6B–27, 8–6B–29, and 8–710
 26 Annotated Code of Maryland
 27 (2009 Replacement Volume and 2013 Supplement)

28 BY adding to
 29 Article – Health Occupations
 30 Section 8–322, 8–6A–08(l), 8–6A–10.1, 8–6A–17, 8–6B–29, 8–707, and 8–708
 31 Annotated Code of Maryland
 32 (2009 Replacement Volume and 2013 Supplement)

33 BY repealing
 34 Article – Health Occupations
 35 Section 8–707
 36 Annotated Code of Maryland
 37 (2009 Replacement Volume and 2013 Supplement)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 39 MARYLAND, That the Laws of Maryland read as follows:

40 **Article – Health Occupations**

41 8–101.

1 (a) In this title the following words have the meanings indicated.

2 (b) “Advanced practice nurse” means an individual who:

3 (1) Is licensed by the Board to practice registered nursing; and

4 (2) Is certified by the Board to practice as:

5 (i) A nurse practitioner;

6 (ii) A nurse anesthetist;

7 (iii) A nurse midwife;

8 (iv) A nurse psychotherapist; or

9 (v) A clinical nurse specialist.

10 (c) “APPLICANT” MEANS, UNLESS THE CONTEXT REQUIRES
11 OTHERWISE:

12 (1) AN INDIVIDUAL APPLYING FOR AN INITIAL LICENSE BY
13 EXAMINATION OR ENDORSEMENT;

14 (2) A LICENSEE APPLYING FOR RENEWAL OF A LICENSE; OR

15 (3) AN INDIVIDUAL APPLYING FOR REINSTATEMENT OF A
16 LICENSE IN ACCORDANCE WITH § 8–319 OF THIS TITLE.

17 [(c)] (D) “Board” means the State Board of Nursing.

18 (E) “EXPIRED LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES
19 OTHERWISE, A LICENSE THAT WAS NOT RENEWED BEFORE THE EXPIRATION
20 DATE OF THE LICENSE AS ESTABLISHED UNDER § 8–312(A) OF THIS TITLE.

21 (F) “LAPSED LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES
22 OTHERWISE, A LICENSE THAT WAS NOT RENEWED BECAUSE A LICENSEE FAILED
23 TO RENEW THE LICENSE OR OTHERWISE DID NOT MEET THE RENEWAL
24 REQUIREMENTS OF THIS TITLE.

25 [(d)] (G) “License” means, unless the context requires otherwise, a license
26 issued by the Board to practice:

27 (1) Registered nursing; or

1 (2) Licensed practical nursing.

2 [(e)] (H) “Licensed practical nurse” means, unless the context requires
3 otherwise, an individual who is licensed by the Board to practice licensed practical
4 nursing.

5 (I) “LICENSEE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE,
6 A REGISTERED NURSE OR LICENSED PRACTICAL NURSE WHO HAS:

7 (1) AN ACTIVE LICENSE;

8 (2) AN INACTIVE LICENSE;

9 (3) A TEMPORARY LICENSE;

10 (4) AN EXPIRED TEMPORARY LICENSE;

11 (5) AN EXPIRED LICENSE;

12 (6) A LAPSED LICENSE;

13 (7) A SUSPENDED LICENSE; OR

14 (8) A LICENSE SUBJECT TO A REPRIMAND, PROBATION, OR
15 SUSPENSION.

16 [(f)] (J) “Nurse practitioner” means an individual who:

17 (1) Is licensed by the Board to practice registered nursing; and

18 (2) Is certified by the Board to practice as a nurse practitioner.

19 [(g)] (K) “Practice as a nurse practitioner” means to independently:

20 (1) Perform an act under subsection [(i)] (M) of this section;

21 (2) Conduct a comprehensive physical assessment of an individual;

22 (3) Establish a medical diagnosis for common chronic stable or
23 short-term health problems;

24 (4) Order, perform, and interpret laboratory tests;

25 (5) Prescribe drugs as provided under § 8-508 of this title;

- 1 (6) Perform diagnostic, therapeutic, or corrective measures;
- 2 (7) Refer an individual to an appropriate licensed physician or other
3 health care provider; and
- 4 (8) Provide emergency care.

5 **[(h)] (L)** “Practice licensed practical nursing” means to perform in a team
6 relationship an act that requires specialized knowledge, judgment, and skill based on
7 principles of biological, physiological, behavioral, or sociological science to:

- 8 (1) Administer treatment or medication to an individual;
- 9 (2) Aid in the rehabilitation of an individual;
- 10 (3) Promote preventive measures in community health;
- 11 (4) Give counsel to an individual;
- 12 (5) Safeguard life and health;
- 13 (6) Teach or supervise; or
- 14 (7) Perform any additional acts authorized by the Board under §
15 8–205 of this title.

16 **[(i)] (M)** (1) “Practice registered nursing” means the performance of acts
17 requiring substantial specialized knowledge, judgment, and skill based on the
18 biological, physiological, behavioral, or sociological sciences as the basis for
19 assessment, nursing diagnosis, planning, implementation, and evaluation of the
20 practice of nursing in order to:

- 21 (i) Maintain health;
- 22 (ii) Prevent illness; or
- 23 (iii) Care for or rehabilitate the ill, injured, or infirm.
- 24 (2) For these purposes, “practice registered nursing” includes:
- 25 (i) Administration;
- 26 (ii) Teaching;
- 27 (iii) Counseling;

- 1 (iv) Supervision, delegation and evaluation of nursing practice;
- 2 (v) Execution of therapeutic regimen, including the
3 administration of medication and treatment;
- 4 (vi) Independent nursing functions and delegated medical
5 functions; and
- 6 (vii) Performance of additional acts authorized by the Board
7 under § 8–205 of this title.

8 **[(j)] (N)** “Registered nurse” means, unless the context requires otherwise,
9 an individual who is licensed by the Board to practice registered nursing.

10 8–303.

11 (a) In this section, “Central Repository” means the Criminal Justice
12 Information System Central Repository of the Department of Public Safety and
13 Correctional Services.

14 (b) As part of an application to the Central Repository for a State and
15 national criminal history records check, an applicant shall submit to the Central
16 Repository:

17 (1) Two complete sets of legible fingerprints taken on forms approved
18 by the Director of the Central Repository and the Director of the Federal Bureau of
19 Investigation;

20 (2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure
21 Article for access to State criminal history records; and

22 (3) The processing fee required by the Federal Bureau of Investigation
23 for a national criminal history records check.

24 (c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure
25 Article, the Central Repository shall forward to the Board and to the applicant the
26 criminal history record information of the applicant.

27 **(D) (1) BEGINNING JANUARY 1, 2015, THE BOARD SHALL ESTABLISH**
28 **A RAP BACK PROGRAM THROUGH WHICH THE CENTRAL REPOSITORY REPORTS**
29 **ALL NEW AND ADDITIONAL CRIMINAL HISTORY INFORMATION TO THE BOARD**
30 **FOR AN APPLICANT WHO HAS BEEN FINGERPRINTED IN ACCORDANCE WITH THE**
31 **REQUIREMENTS OF THIS SECTION.**

32 **(2) THE BOARD SHALL NOTIFY EACH APPLICANT THAT:**

1 **(I) THE APPLICANT'S FINGERPRINTS WILL BE RETAINED BY**
2 **THE CENTRAL REPOSITORY; AND**

3 **(II) ALL NEW AND ADDITIONAL CRIMINAL INFORMATION**
4 **WILL BE REPORTED TO THE BOARD.**

5 **(3) THE BOARD MAY ENTER INTO AN AGREEMENT WITH THE**
6 **CENTRAL REPOSITORY AND THE FEDERAL BUREAU OF INVESTIGATION TO**
7 **CARRY OUT THIS SUBSECTION.**

8 **[(d)] (E)** If an applicant has made two or more unsuccessful attempts at
9 securing legible fingerprints, the Board may accept an alternate method of criminal
10 history records check as permitted by the Director of the Central Repository and the
11 Director of the Federal Bureau of Investigation.

12 **[(e)] (F)** Information obtained from the Central Repository under this
13 section shall be:

14 (1) Confidential and may not be disseminated; and

15 (2) Used only for the licensing purpose authorized by this title.

16 **[(f)] (G)** The subject of a criminal history records check under this section
17 may contest the contents of the printed statement issued by the Central Repository as
18 provided in § 10-223 of the Criminal Procedure Article.

19 8-309.

20 (a) If an individual has been licensed by the Board to practice registered
21 nursing or licensed practical nursing in this State in accordance with the
22 requirements of this subtitle, the individual may be subsequently licensed as a
23 registered nurse or as a licensed practical nurse on inactive status.

24 (b) The Board shall place a licensee on inactive status and record the
25 inactive status in the Board's database and on the Board's website if the licensee:

26 (1) (i) Has not satisfactorily completed 1,000 hours of active
27 nursing practice within the 5-year period immediately preceding the date of
28 anticipated renewal; [or]

29 (ii) Chooses inactive status; **OR**

30 **(III) SUBMITS DOCUMENTATION OF A MEDICAL CONDITION**
31 **THAT THE BOARD DETERMINES WILL PREVENT THE LICENSEE FROM**
32 **PRACTICING AS A REGISTERED NURSE OR LICENSED PRACTICAL NURSE;**

1 (2) **(I)** Completes the [annual] **BIENNIAL** application for inactive
2 status; and

3 **(II) IF APPLICABLE, PROVIDES DOCUMENTATION OF A**
4 **CONTINUING MEDICAL CONDITION; AND**

5 (3) Pays the [fee established] **APPLICABLE FEES AS REQUIRED** by
6 the Board.

7 (c) A licensee on inactive status may not practice nursing in this State, but:

8 (1) A registered nurse on inactive status may use the title “Registered
9 Nurse”, or the abbreviation “RN”; and

10 (2) A practical nurse on inactive status may use the title “Licensed
11 Practical Nurse”, or the abbreviation “LPN”.

12 (d) **(1)** [If a] A licensee on inactive status [applies a] **MAY APPLY** for
13 **REACTIVATION OF THE** license to practice nursing [and meets] **IF THE LICENSEE:**

14 **(I)** **MEETS** the renewal requirements of § 8–312 of this
15 subtitle[.]; **AND**

16 **(II) IF APPLICABLE, SUBMITS DOCUMENTATION**
17 **SATISFACTORY TO THE BOARD THAT THE MEDICAL CONDITION FOR WHICH THE**
18 **INACTIVE STATUS WAS GRANTED NO LONGER EXISTS.**

19 **(2)** **IF A LICENSEE MEETS THE REQUIREMENTS OF PARAGRAPH**
20 **(1) OF THIS SUBSECTION,** the Board shall:

21 [(1) Remove the licensee from inactive status;

22 (2) Void the licensee’s inactive status registration certificate; and]

23 **(I)** **RECORD THE STATUS OF THE LICENSEE AS ACTIVE IN**
24 **THE BOARD’S DATABASE AND ON THE BOARD’S WEB SITE; AND**

25 [(3)] **(II)** [Renew] **REACTIVATE** the licensee’s license to practice
26 nursing in this State.

27 **(E)** **(1)** **IF A LICENSEE IS GRANTED INACTIVE STATUS BECAUSE OF A**
28 **MEDICAL CONDITION, THE BOARD MAY NOT CHARGE A FEE TO PLACE THE**
29 **LICENSEE ON OR REMOVE THE LICENSEE FROM INACTIVE STATUS.**

1 **(2) IF A LICENSEE IS GRANTED INACTIVE STATUS BECAUSE OF A**
2 **MEDICAL CONDITION, THE INACTIVE STATUS:**

3 **(I) MAY NOT BE CONSIDERED A DISCIPLINARY ACTION**
4 **UNDER § 8-316 OF THIS SUBTITLE; AND**

5 **(II) MAY NOT BE REPORTED TO ANY CERTIFYING ENTITY,**
6 **EMPLOYER, OR INSURANCE COMPANY AS A DISCIPLINARY ACTION.**

7 8-312.

8 (a) [(1) On or before December 31, 2012, a] **A** license expires on the 28th
9 day of the birth month of the licensee[, unless the license is renewed for a 1-year term
10 as provided in this section.

11 (2) On or after January 1, 2013, a license expires on the date set by
12 the Board] and may not be renewed for a term longer than 2 years.

13 (g) (1) (i) Beginning July 2009, the Board shall begin a process
14 requiring criminal history records checks in accordance with § 8-303 of this subtitle
15 on:

16 1. Selected annual renewal applicants as determined by
17 regulations adopted by the Board; and

18 2. Each [former] licensee who files for reinstatement
19 under § 8-313 of this subtitle after failing to renew the license for a period of 1 year or
20 more.

21 (ii) An additional criminal history records check shall be
22 performed every 12 years thereafter.

23 8-313.

24 The Board shall reinstate the license of a [former] licensee who has failed to
25 renew the license for any reason if the [former] licensee meets the renewal
26 requirements of § 8-312 of this subtitle.

27 8-314.

28 (a) Unless the Board agrees to accept the surrender of a license, a licensed
29 registered nurse, licensed practical nurse, or holder of a temporary license may not
30 surrender the license [nor may the license lapse by operation of law while the licensee
31 is under investigation or while charges are pending against the licensee].

1 (b) The Board may [set] **REQUIRE TERMS AND** conditions on [its] **AN**
2 agreement with the licensee [under investigation or against whom charges are
3 pending] to accept surrender of the license.

4 (c) **AN AGREEMENT TO ACCEPT THE SURRENDER OF A LICENSE IS A**
5 **FINAL ORDER OF THE BOARD AND IS A PUBLIC RECORD.**

6 8–316.

7 (a) Subject to the hearing provisions of § 8–317 of this subtitle, the Board
8 may deny a license or grant a [probationary] license, **INCLUDING A LICENSE**
9 **SUBJECT TO A REPRIMAND, PROBATION, OR SUSPENSION**, to any applicant,
10 reprimand any licensee, place any licensee on probation, or suspend or revoke the
11 license of a licensee if the applicant or licensee:

12 (1) Fraudulently or deceptively obtains or attempts to obtain a license
13 for the applicant or for another;

14 (2) Fraudulently or deceptively uses a license;

15 (3) Is disciplined by a licensing, military, or disciplinary authority in
16 this State or in any other state or country or convicted or disciplined by a court in this
17 State or in any other state or country for an act that would be grounds for disciplinary
18 action under the Board’s disciplinary statutes;

19 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
20 crime involving moral turpitude, whether or not any appeal or other proceeding is
21 pending to have the conviction or plea set aside;

22 (5) Willfully and knowingly:

23 (i) Files a false report or record of an individual under the
24 licensee’s care;

25 (ii) Gives any false or misleading information about a material
26 matter in an employment application;

27 (iii) Fails to file or record any health record that is required by
28 law;

29 (iv) Obstructs the filing or recording of any health record as
30 required by law; or

31 (v) Induces another person to fail to file or record any health
32 record as required by law;

- 1 (6) Knowingly does any act that has been determined by the Board, in
2 its rules and regulations, to exceed the scope of practice authorized to the individual
3 under this title;
- 4 (7) Provides professional services while:
- 5 (i) Under the influence of alcohol; or
- 6 (ii) Using any narcotic or controlled dangerous substance, as
7 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
8 therapeutic amounts or without valid medical indication;
- 9 (8) Does an act that is inconsistent with generally accepted
10 professional standards in the practice of registered nursing or licensed practical
11 nursing;
- 12 (9) Is grossly negligent in the practice of registered nursing or licensed
13 practical nursing;
- 14 (10) Has violated any provision of this title;
- 15 (11) Submits a false statement to collect a fee;
- 16 (12) Is physically or mentally incompetent;
- 17 (13) Knowingly fails to report suspected child abuse in violation of §
18 5–704 of the Family Law Article;
- 19 (14) Refuses, withholds from, denies, or discriminates against an
20 individual with regard to the provision of professional services for which the licensee is
21 licensed and qualified to render because the individual is HIV positive;
- 22 (15) Except in an emergency life–threatening situation where it is not
23 feasible or practicable, fails to comply with the Centers for Disease Control and
24 Prevention’s guidelines on universal precautions;
- 25 (16) Is in independent practice and fails to display the notice required
26 under § 8–506 of this title;
- 27 (17) Is in breach of a service obligation resulting from the applicant’s or
28 licensee’s receipt of State or federal funding for the applicant’s or licensee’s nursing
29 education;
- 30 (18) Is habitually intoxicated;
- 31 (19) Is addicted to, or habitually abuses, any narcotic or controlled
32 dangerous substance as defined in § 5–101 of the Criminal Law Article;

1 (20) Fails to cooperate with a lawful investigation conducted by the
2 Board;

3 (21) Is expelled from the rehabilitation program established pursuant
4 to § 8–208 of this title for failure to comply with the conditions of the program;

5 (22) Delegates nursing acts or responsibilities to an individual that the
6 applicant or licensee knows or has reason to know lacks the ability or knowledge to
7 perform;

8 (23) Delegates to an unlicensed individual nursing acts or
9 responsibilities the applicant or licensee knows or has reason to know are to be
10 performed only by a registered nurse or licensed practical nurse;

11 (24) Fails to properly supervise individuals to whom nursing acts or
12 responsibilities have been delegated;

13 (25) Engages in conduct that violates the professional code of ethics;

14 (26) Is professionally incompetent;

15 (27) Practices registered nursing or licensed practical nursing without a
16 license before obtaining or renewing a license, including any period when [the license
17 or a temporary license of the applicant or licensee has lapsed] **PRACTICING**
18 **REGISTERED NURSING OR LICENSED PRACTICAL NURSING ON AN EXPIRED**
19 **LICENSE OR A LAPSED LICENSE;**

20 (28) [After failing to renew a license] **WHEN HOLDING AN EXPIRED**
21 **LICENSE OR A LAPSED LICENSE** or after a temporary license has [lapsed] **EXPIRED**
22 **IN ACCORDANCE WITH § 8–315(D) OF THIS SUBTITLE**, commits any act that would
23 be grounds for disciplinary action under this section;

24 (29) Practices registered nursing or licensed practical nursing on a
25 nonrenewed license for a period of 16 months or longer;

26 (30) Violates regulations adopted by the Board or an order from the
27 Board;

28 (31) Performs an act that is beyond the licensee's knowledge and skills;

29 (32) Fails to submit to a criminal history records check in accordance
30 with § 8–303 of this subtitle;

31 (33) When acting in a supervisory position, directs another nurse to
32 perform an act that is beyond the nurse's knowledge and skills; [or]

1 (34) When acting in a supervisory position, directs another nurse to
2 delegate a nursing task to an individual when that nurse reasonably believes:

3 (i) The individual lacks the knowledge and skills to perform the
4 task; or

5 (ii) The patient's condition does not allow delegation of the
6 nursing task; OR

7 **(35) HAS MISAPPROPRIATED THE PROPERTY OF A PATIENT OR A**
8 **FACILITY.**

9 (b) If, after a hearing under § 8–317 of this subtitle, the Board finds that
10 there are grounds under subsection (a) of this section to suspend or revoke a license to
11 practice registered nursing or licensed practical nursing, to reprimand a licensee, or
12 place a licensee on probation, the Board may impose a penalty not exceeding \$5,000
13 instead of or in addition to suspending or revoking the license, reprimanding the
14 licensee, or placing the licensee on probation.

15 [(c) An individual whose license has been suspended or revoked by the Board
16 shall return the license to the Board. However, if the suspended or revoked license has
17 been lost, the individual shall file with the Board a verified statement to that effect.]

18 **(C) IN ADDITION TO ANY SANCTION AUTHORIZED UNDER THIS SECTION,**
19 **THE BOARD MAY REQUIRE A LICENSEE TO COMPLY WITH SPECIFIED TERMS AND**
20 **CONDITIONS DETERMINED BY THE BOARD.**

21 8–317.

22 (a) Except as otherwise provided in the Administrative Procedure Act and in
23 subsection (g) of this section, before the Board takes any action under § 8–312 or §
24 8–316 of this subtitle or § 8–404 [or § 8–6A–10] of this title, it shall give the person
25 against whom the action is contemplated an opportunity for a hearing before the
26 Board.

27 (b) The Board shall give notice and hold the hearing in accordance with the
28 Administrative Procedure Act.

29 (c) The hearing notice to be given to the person shall be sent by certified
30 mail, return receipt requested, [bearing a postmark from the United States Postal
31 Service,] to the last known address of the person at least 30 days before the hearing.

32 (d) The person may be represented at the hearing by counsel.

1 (e) If after due notice the individual against whom the action is
2 contemplated fails or refuses to appear, nevertheless the Board may hear and
3 determine the matter.

4 (f) (1) Over the signature of the president, the executive director, or the
5 deputy director as authorized by the executive director of the Board, the Board may
6 issue subpoenas and administer oaths in connection with any investigation under this
7 title and any hearings or proceedings before it.

8 (2) If a person, without lawful excuse, disobeys a subpoena from the
9 Board or an order by the Board to take an oath, testify, or answer questions, on
10 petition of the Board a court of competent jurisdiction may compel compliance with the
11 subpoena and hold the individual in contempt of court.

12 (g) The Board may immediately suspend the license of a registered nurse or
13 licensed practical nurse who is expelled from the rehabilitation program under §
14 8–208 of this title for noncompliance with the nurse’s agreement if:

15 (1) Prior to suspending the license, the Board provides the [nurse]
16 **LICENSEE** with an opportunity to show cause by written communication or
17 nontestimonial presentation as to why the suspension should not occur; and

18 (2) The Board provides the [nurse] **LICENSEE** with an opportunity for
19 a hearing, which:

20 (i) Shall occur within 30 days of written request by the [nurse]
21 **LICENSEE**; and

22 (ii) Shall impose on the licensee the burden of proving by a
23 preponderance of the evidence that the licensee is not addicted to drugs or alcohol.

24 (h) (1) After the Board conducts an investigation under this title, the
25 Board may issue an advisory letter to the licensee or [certificate] holder **OF A**
26 **MULTISTATE LICENSING PRIVILEGE**.

27 (2) The Board may disclose an advisory letter issued under this
28 subsection to the public.

29 (3) The issuance of an advisory letter under this subsection may not:

30 (i) Be considered a disciplinary action under [§§ 8–316 and
31 8–6A–10] **§ 8–316** of this [title] **SUBTITLE**; and

32 (ii) Be reported to any licensing entity, employer, or insurance
33 company as a disciplinary action.

1 8–318.

2 (a) Except as provided in this section for an action under § 8–316 of this
3 subtitle, any person aggrieved by a final decision of the Board in a contested case, as
4 defined in the Administrative Procedure Act, may:

5 (1) Appeal that decision to the Board of Review; and

6 (2) Then take any further appeal allowed by the Administrative
7 Procedure Act.

8 (b) (1) Any person aggrieved by a final decision of the Board under §
9 8–316 of this subtitle may not appeal to the Secretary or Board of Review but may
10 take a direct judicial appeal.

11 (2) The appeal shall be made as provided for judicial review of final
12 decisions in the Administrative Procedure Act.

13 (c) A Board decision [to deny, suspend, or revoke a license] may not be
14 stayed while judicial review is pending.

15 8–319.

16 (A) If a license [is] WAS suspended or revoked for a period of more than 1
17 year, OR IF A PERIOD OF MORE THAN 1 YEAR HAS PASSED SINCE A LICENSE WAS
18 SURRENDERED, the Board may reinstate the license [after 1 year] if the licensee:

19 (1) APPLIES TO THE BOARD FOR REINSTATEMENT;

20 [(1)] (2) Meets the requirements for RENEWAL UNDER § 8–312 OF
21 THIS SUBTITLE;

22 (3) MEETS ANY OTHER REQUIREMENTS FOR reinstatement as
23 established by the Board; and

24 [(2)] (4) Submits to a criminal history records check in accordance
25 with § 8–303 of this subtitle.

26 (B) IF A LICENSEE MEETS THE REQUIREMENTS OF SUBSECTION (A) OF
27 THIS SECTION, THE BOARD MAY:

28 (1) REINSTATE THE LICENSE;

1 **(2) REINSTATE THE LICENSE SUBJECT TO TERMS AND**
2 **CONDITIONS THAT THE BOARD CONSIDERS NECESSARY, INCLUDING A PERIOD**
3 **OF PROBATION; OR**

4 **(3) DENY REINSTATEMENT OF THE LICENSE.**

5 **8-322.**

6 **(A) THE AUTHORITY OF THE BOARD ESTABLISHED UNDER THIS**
7 **SUBTITLE:**

8 **(1) VESTS WITH THE BOARD AT THE TIME AN INDIVIDUAL**
9 **APPLIES FOR LICENSURE OR TO PRACTICE UNDER THE MULTISTATE LICENSING**
10 **PRIVILEGE;**

11 **(2) CONTINUES DURING PERIODS OF LICENSURE; AND**

12 **(3) INCLUDES AUTHORITY OVER AN INDIVIDUAL HOLDING AN**
13 **EXPIRED LICENSE, A LAPSED LICENSE, OR A TEMPORARY LICENSE THAT HAS**
14 **EXPIRED UNDER § 8-315(D) OF THIS SUBTITLE.**

15 **(B) THE AUTHORITY OF THE BOARD SHALL BE CONTINUOUS OVER AN**
16 **INDIVIDUAL APPLICANT, LICENSEE, OR HOLDER OF A MULTISTATE LICENSING**
17 **PRIVILEGE AND MAY NOT BE DIVESTED BY WITHDRAWAL OF AN APPLICATION,**
18 **WHEN A LICENSE EXPIRES OR LAPSES, OR WHEN A TEMPORARY LICENSE**
19 **EXPIRES.**

20 **8-6A-01.**

21 **(a) In this subtitle the following words have the meanings indicated.**

22 **(B) “APPLICANT” MEANS, UNLESS THE CONTEXT REQUIRES**
23 **OTHERWISE:**

24 **(1) AN INDIVIDUAL APPLYING FOR AN INITIAL CERTIFICATE BY**
25 **EXAMINATION OR ENDORSEMENT;**

26 **(2) A CERTIFICATE HOLDER APPLYING FOR RENEWAL OF A**
27 **CERTIFICATE; OR**

28 **(3) AN INDIVIDUAL APPLYING FOR REINSTATEMENT OF A**
29 **CERTIFICATE IN ACCORDANCE WITH § 8-6A-10 OF THIS SUBTITLE.**

1 **[(b)] (C)** “Approved medication technician training program” means a
2 course of training approved by the Board that meets the basic medication technician
3 core curriculum and the medication technician content training specific to the setting
4 in which the medication technician will work.

5 **[(c)] (D)** “Approved nursing assistant training program” means a course of
6 training that meets the basic nursing assistant curriculum prescribed and approved by
7 the Board.

8 **[(d)] (E)** “Board” means the State Board of Nursing.

9 **[(e)] (F)** “Certificate” means a certificate issued by the Board to practice as
10 a certified nursing assistant or a certified medication technician in the State.

11 **(G) “CERTIFICATE HOLDER” MEANS A CERTIFIED NURSING ASSISTANT**
12 **OR MEDICATION TECHNICIAN WHO HAS:**

13 **(1) AN ACTIVE CERTIFICATE;**

14 **(2) AN INACTIVE CERTIFICATE;**

15 **(3) A TEMPORARY CERTIFICATE;**

16 **(4) AN EXPIRED TEMPORARY CERTIFICATE;**

17 **(5) AN EXPIRED CERTIFICATE;**

18 **(6) A LAPSED CERTIFICATE;**

19 **(7) A SUSPENDED CERTIFICATE; OR**

20 **(8) A CERTIFICATE SUBJECT TO A REPRIMAND, PROBATION, OR**
21 **SUSPENSION.**

22 **[(f)] (H)** “Certified medication technician” means an individual who:

23 (1) Has completed a Board–approved medication technician training
24 program; and

25 (2) Is certified by the Board as a medication technician.

26 **[(g)] (I)** “Certified medicine aide” means a certified nursing assistant who
27 has completed a Board–approved course in medication administration.

28 **[(h)] (J)** “Certified nursing assistant”:

1 (v) Be at least 16 years old to apply for certification as a nursing
2 assistant; and

3 (vi) Be at least 18 years old to apply for certification as a
4 medication technician.

5 (2) Subject to paragraph (1) of this subsection[, an]:

6 (I) AN applicant for certification as a certified nursing assistant
7 shall submit to the Board:

8 [(i)] 1. A criminal history records check in accordance with §
9 8-303 of this title and § 8-6A-08(k) of this subtitle; and

10 [(ii)] 2. On the form required by the Board, written, verified
11 evidence that the requirement of [item (i) of this paragraph] **ITEM 1 OF THIS ITEM** is
12 being met or has been met; **AND**

13 (II) **BEGINNING JANUARY 1, 2015, AN APPLICANT FOR**
14 **CERTIFICATION AS A CERTIFIED MEDICATION TECHNICIAN SHALL SUBMIT TO**
15 **THE BOARD:**

16 1. **A CRIMINAL HISTORY RECORDS CHECK IN**
17 **ACCORDANCE WITH § 8-303 OF THIS TITLE AND § 8-6A-08(K) OF THIS**
18 **SUBTITLE; AND**

19 2. **ON THE FORM REQUIRED BY THE BOARD,**
20 **WRITTEN, VERIFIED EVIDENCE THAT THE REQUIREMENT OF ITEM 1 OF THIS**
21 **ITEM IS BEING MET OR HAS BEEN MET.**

22 (3) An applicant for certification as a certified medicine aide, in
23 addition to the requirements under paragraph (1) of this subsection, shall submit an
24 additional application to that effect to the Board on the form that the Board requires.

25 (4) An applicant for a certificate may not:

26 (i) Have committed any act or omission that would be grounds
27 for discipline or denial of certification under this subtitle; and

28 (ii) Have a record of abuse, negligence, misappropriation of a
29 resident's property, or any disciplinary action taken or pending in any other state or
30 territory of the United States against the certification of the nursing assistant or
31 medication technician in the state or territory.

32 8-6A-08.

1 (g) The Board shall reinstate the certificate of a [former] certificate holder
2 who has failed to renew the certificate for any reason if the [former] certificate holder
3 meets the applicable renewal requirements of subsections (c) through (e) and (k)(1)(i)2
4 of this section.

5 (k) (1) (i) The Board shall require criminal history records checks in
6 accordance with § 8–303 of this title on:

7 1. Selected applicants for certification as a certified
8 nursing assistant who renew their certificates every 2 years as determined by
9 regulations adopted by the Board; and

10 2. Each [former] certified nursing assistant who files for
11 reinstatement under subsection (g) of this section after failing to renew the certificate
12 for a period of 1 year or more.

13 (ii) An additional criminal history records check shall be
14 performed every 12 years thereafter.

15 **(2) (I) BEGINNING JANUARY 1, 2015, THE BOARD SHALL**
16 **REQUIRE CRIMINAL HISTORY RECORDS CHECKS IN ACCORDANCE WITH § 8–303**
17 **OF THIS TITLE FOR:**

18 **1. SELECTED APPLICANTS FOR CERTIFICATION AS A**
19 **CERTIFIED MEDICATION TECHNICIAN WHO RENEW THEIR CERTIFICATES EVERY**
20 **2 YEARS AS DETERMINED BY REGULATIONS ADOPTED BY THE BOARD; AND**

21 **2. EACH CERTIFIED MEDICATION TECHNICIAN WHO**
22 **FILES FOR REINSTATEMENT OF A CERTIFICATE UNDER SUBSECTION (G) OF THIS**
23 **SECTION AFTER FAILING TO RENEW THE CERTIFICATE FOR A PERIOD OF 1 YEAR**
24 **OR MORE.**

25 **(II) AN ADDITIONAL CRIMINAL HISTORY RECORDS CHECK**
26 **SHALL BE PERFORMED EVERY 12 YEARS THEREAFTER.**

27 **[(2)] (3)** On receipt of the criminal history record information of a
28 certificate holder forwarded to the Board in accordance with § 8–303 of this title, in
29 determining whether to renew the certificate, the Board shall consider:

30 (i) The age at which the crime was committed;

31 (ii) The circumstances surrounding the crime;

32 (iii) The length of time that has passed since the crime;

- 1 (iv) Subsequent work history;
- 2 (v) Employment and character references; and
- 3 (vi) Other evidence that demonstrates whether the certificate
4 holder poses a threat to the public health or safety.

5 ~~[(3)]~~ (4) The Board may not renew a certificate if the criminal history
6 record information required under § 8-303 of this title has not been received.

7 (L) (1) IF AN INDIVIDUAL HAS BEEN CERTIFIED BY THE BOARD TO
8 PRACTICE AS A NURSING ASSISTANT OR MEDICATION TECHNICIAN IN THE
9 STATE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE, THE
10 INDIVIDUAL SUBSEQUENTLY MAY BE CERTIFIED AS A NURSING ASSISTANT OR
11 MEDICATION TECHNICIAN ON INACTIVE STATUS.

12 (2) THE BOARD SHALL PLACE A CERTIFICATE HOLDER ON
13 INACTIVE STATUS AND RECORD THE INACTIVE STATUS IN THE BOARD'S
14 DATABASE AND ON THE BOARD'S WEB SITE IF THE CERTIFICATE HOLDER:

15 (I) SUBMITS DOCUMENTATION OF A MEDICAL CONDITION
16 THAT THE BOARD DETERMINES WILL PREVENT THE CERTIFICATE HOLDER
17 FROM PRACTICING AS A NURSING ASSISTANT OR MEDICATION TECHNICIAN; AND

18 (II) COMPLETES THE BIENNIAL APPLICATION FOR INACTIVE
19 STATUS AND SUBMITS DOCUMENTATION OF A CONTINUING MEDICAL
20 CONDITION.

21 (3) A CERTIFICATE HOLDER ON INACTIVE STATUS MAY APPLY
22 FOR REACTIVATION OF THE CERTIFICATE IF THE CERTIFICATE HOLDER:

23 (I) SUBMITS DOCUMENTATION SATISFACTORY TO THE
24 BOARD THAT THE MEDICAL CONDITION FOR WHICH THE INACTIVE STATUS WAS
25 GRANTED NO LONGER EXISTS; AND

26 (II) MEETS THE RENEWAL REQUIREMENTS OF THIS
27 SECTION.

28 (4) IF A CERTIFICATE HOLDER MEETS THE REQUIREMENTS OF
29 PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD SHALL:

30 (I) RECORD THE STATUS OF THE CERTIFICATE HOLDER AS
31 ACTIVE IN THE BOARD'S DATABASE AND ON THE BOARD'S WEB SITE; AND

1 **(II) REACTIVATE THE CERTIFICATE HOLDER'S CERTIFICATE**
2 **TO PRACTICE AS A NURSING ASSISTANT OR MEDICATION TECHNICIAN IN THE**
3 **STATE.**

4 **(5) THE BOARD MAY NOT CHARGE A FEE TO PLACE THE**
5 **CERTIFICATE HOLDER ON OR REMOVE THE CERTIFICATE HOLDER FROM**
6 **INACTIVE STATUS UNDER THIS SUBSECTION.**

7 **(6) INACTIVE STATUS:**

8 **(I) MAY NOT BE CONSIDERED A DISCIPLINARY ACTION**
9 **UNDER § 8-6A-10 OF THIS SUBTITLE; AND**

10 **(II) MAY NOT BE REPORTED TO ANY CERTIFYING ENTITY,**
11 **EMPLOYER, OR INSURANCE COMPANY AS A DISCIPLINARY ACTION.**

12 8-6A-10.

13 (a) Subject to the hearing provisions of § 8-317 of this title AND §
14 **8-6A-10.1 OF THIS SUBTITLE**, the Board may deny a certificate or [issue a
15 probationary] **GRANT A certificate, INCLUDING A CERTIFICATE SUBJECT TO A**
16 **REPRIMAND, PROBATION, OR SUSPENSION**, to any applicant, reprimand any
17 certificate holder, place any certificate holder on probation, or suspend or revoke the
18 certificate of a certificate holder, if the applicant or certificate holder:

19 (1) Fraudulently or deceptively obtains or attempts to obtain a
20 certificate for the applicant or for another;

21 (2) Fraudulently or deceptively uses a certificate;

22 (3) Is disciplined by a licensing, military, or disciplinary authority in
23 this State or in any other state or country or convicted or disciplined by a court in this
24 State or in any other state or country for an act that would be grounds for disciplinary
25 action under the Board's disciplinary statutes;

26 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
27 crime involving moral turpitude, whether or not any appeal or other proceeding is
28 pending to have the conviction or plea set aside;

29 (5) Files a false report or record of an individual under the certificate
30 holder's care;

31 (6) Gives any false or misleading information about a material matter
32 in an employment application;

- 1 (7) Fails to file or record any health record that is required by law;
- 2 (8) Induces another person to fail to file or record any health record
3 that is required by law;
- 4 (9) Has violated any order, rule, or regulation of the Board relating to
5 the practice or certification of a nursing assistant or medication technician;
- 6 (10) Provides services as a nursing assistant or medication technician
7 while:
- 8 (i) Under the influence of alcohol; or
- 9 (ii) Using any narcotic or controlled dangerous substance, as
10 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
11 therapeutic amounts or without valid medical indication;
- 12 (11) Is habitually intoxicated;
- 13 (12) Is addicted to, or habitually abuses, any narcotic or controlled
14 dangerous substance as defined in § 5–101 of the Criminal Law Article;
- 15 (13) Has acted in a manner inconsistent with the health or safety of a
16 person under the applicant or certificate holder’s care;
- 17 (14) Has practiced as a nursing assistant or medication technician in a
18 manner which fails to meet generally accepted standards for the practice of a nursing
19 assistant or medication technician;
- 20 (15) Has physically, verbally, or psychologically abused, neglected, or
21 otherwise harmed a person under the applicant or certificate holder’s care;
- 22 (16) Has a physical or mental [disability] **CONDITION** which renders
23 the applicant or certificate holder unable to practice as a certified nursing assistant or
24 certified medication technician with reasonable skill and safety to the patients and
25 which may endanger the health or safety of persons under the care of the applicant or
26 certificate holder;
- 27 (17) Has violated the confidentiality of information or knowledge as
28 prescribed by law concerning any patient;
- 29 (18) Has misappropriated patient or facility property;
- 30 (19) Performs certified nursing assistant or certified medication
31 technician functions incompetently;

1 (20) Has violated any provision of this title or has aided or knowingly
2 permitted any person to violate any provision of this title;

3 (21) Submits a false statement to collect a fee;

4 (22) Refuses, withholds from, denies, or discriminates against an
5 individual with regard to the provision of professional services for which the applicant
6 or certificate holder is certified and qualified to render because the individual is HIV
7 positive;

8 (23) Except in an emergency life-threatening situation where it is not
9 feasible or practicable, fails to comply with the Centers for Disease Control and
10 Prevention's guidelines on universal precautions;

11 (24) Fails to cooperate with a lawful investigation conducted by the
12 Board;

13 (25) Fails to comply with instructions and directions of the supervising
14 registered nurse or licensed practical nurse;

15 (26) [After failing to renew a certificate] **WHEN HOLDING AN**
16 **EXPIRED CERTIFICATE OR A LAPSED CERTIFICATE**, commits any act that would be
17 grounds for disciplinary action under this section;

18 (27) Practices as a nursing assistant or medication technician before
19 obtaining or renewing the certificate, including any time period when [the certificate
20 has lapsed] **PRACTICING AS A NURSING ASSISTANT OR MEDICATION TECHNICIAN**
21 **ON AN EXPIRED CERTIFICATE OR A LAPSED CERTIFICATE**;

22 (28) Impersonates another individual:

23 (i) Licensed under the provisions of this title; or

24 (ii) Who holds a certificate issued under the provisions of this
25 title;

26 (29) Engages in conduct that violates the code of ethics;

27 (30) Performs activities that exceed the education and training of the
28 certified nursing assistant or certified medication technician;

29 (31) Is expelled from the rehabilitation program established pursuant
30 to § 8-208 of this title for failure to comply with the conditions of the program;

31 (32) Fails to submit to a criminal history records check in accordance
with § 8-303 of this title as required under § 8-6A-05(c)(2) of this subtitle;

1 (33) Abandons a patient; or

2 (34) Is a director of nursing, or acts in the capacity of a director of
3 nursing and knowingly employs an individual who is not authorized to perform
4 delegated nursing duties under this subtitle.

5 (b) If, after a hearing under § 8-317 of this title **AND § 8-6A-10.1 OF THIS**
6 **SUBTITLE**, the Board finds that there are grounds under subsection (a) of this section
7 to suspend or revoke a certificate to practice as a certified nursing assistant or
8 certified medication technician, to reprimand a certificate holder, or place a certificate
9 holder on probation, the Board may impose a penalty not exceeding \$500 instead of or
10 in addition to suspending or revoking the certificate, reprimanding the certificate
11 holder, or placing the certificate holder on probation.

12 [(c) (1) An individual whose certificate has been suspended or revoked by
13 the Board shall return the certificate to the Board.

14 (2) If the suspended or revoked certificate has been lost, the individual
15 shall file with the Board a verified statement to that effect.]

16 [(d) (C) (1) If a certificate issued under this subtitle [is] **WAS** suspended
17 or revoked for a period of more than 1 year, **OR IF A PERIOD OF MORE THAN 1 YEAR**
18 **HAS PASSED SINCE A CERTIFICATE WAS SURRENDERED**, the Board may reinstate
19 the certificate [after 1 year] if the certificate holder:

20 (I) **APPLIES TO THE BOARD FOR REINSTATEMENT;**

21 [(1) (II) Meets the requirements for **RENEWAL UNDER § 8-6A-08**
22 **OF THIS SUBTITLE;**

23 (III) **MEETS ANY OTHER REQUIREMENTS FOR** reinstatement
24 as established by the Board in regulations; and

25 [(2) (IV) Submits to a criminal history records check in accordance
26 with § 8-303 of this title.

27 (2) **IF A CERTIFICATE HOLDER MEETS THE REQUIREMENTS OF**
28 **PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD MAY:**

29 (I) **REINSTATE THE CERTIFICATE;**

30 (II) **REINSTATE THE CERTIFICATE SUBJECT TO TERMS AND**
31 **CONDITIONS THAT THE BOARD CONSIDERS NECESSARY, INCLUDING A PERIOD**
32 **OF PROBATION; OR**

1 **(III) DENY REINSTATEMENT OF THE CERTIFICATE.**

2 **8-6A-10.1.**

3 **(A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE**
4 **PROCEDURE ACT AND IN SUBSECTION (G) OF THIS SECTION, BEFORE THE**
5 **BOARD TAKES ANY ACTION UNDER § 8-6A-10 OF THIS SUBTITLE, THE BOARD**
6 **SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED**
7 **AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.**

8 **(B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN**
9 **ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.**

10 **(C) THE HEARING NOTICE TO BE GIVEN TO THE INDIVIDUAL SHALL BE**
11 **SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN**
12 **ADDRESS OF THE INDIVIDUAL AT LEAST 30 DAYS BEFORE THE HEARING.**

13 **(D) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY**
14 **COUNSEL.**

15 **(E) IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE**
16 **ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY**
17 **HEAR AND DETERMINE THE MATTER.**

18 **(F) (1) OVER THE SIGNATURE OF THE PRESIDENT, THE EXECUTIVE**
19 **DIRECTOR, OR THE DEPUTY DIRECTOR AS AUTHORIZED BY THE EXECUTIVE**
20 **DIRECTOR OF THE BOARD, THE BOARD MAY ISSUE SUBPOENAS AND**
21 **ADMINISTER OATHS IN CONNECTION WITH ANY INVESTIGATION UNDER THIS**
22 **SUBTITLE AND ANY HEARINGS OR PROCEEDINGS BEFORE THE BOARD.**

23 **(2) IF AN INDIVIDUAL, WITHOUT LAWFUL EXCUSE, DISOBEYS A**
24 **SUBPOENA FROM THE BOARD OR AN ORDER BY THE BOARD TO TAKE AN OATH,**
25 **TESTIFY, OR ANSWER QUESTIONS, ON PETITION OF THE BOARD A COURT OF**
26 **COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA**
27 **AND HOLD THE INDIVIDUAL IN CONTEMPT OF COURT.**

28 **(G) THE BOARD IMMEDIATELY MAY SUSPEND THE CERTIFICATE OF A**
29 **NURSING ASSISTANT OR MEDICATION TECHNICIAN WHO IS EXPELLED FROM THE**
30 **REHABILITATION PROGRAM UNDER § 8-208 OF THIS TITLE FOR**
31 **NONCOMPLIANCE WITH THE CERTIFICATE HOLDER'S AGREEMENT IF:**

32 **(1) BEFORE SUSPENDING THE CERTIFICATE, THE BOARD**
33 **PROVIDES THE CERTIFICATE HOLDER WITH AN OPPORTUNITY TO SHOW CAUSE**

1 BY WRITTEN COMMUNICATION OR NONTESTIMONIAL PRESENTATION AS TO WHY
2 THE SUSPENSION SHOULD NOT OCCUR; AND

3 (2) THE BOARD PROVIDES THE CERTIFICATE HOLDER WITH AN
4 OPPORTUNITY FOR A HEARING THAT SHALL:

5 (i) OCCUR WITHIN 30 DAYS AFTER WRITTEN REQUEST BY
6 THE CERTIFICATE HOLDER; AND

7 (ii) IMPOSE ON THE CERTIFICATE HOLDER THE BURDEN OF
8 PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE CERTIFICATE
9 HOLDER IS NOT ADDICTED TO DRUGS OR ALCOHOL.

10 (H) (1) AFTER THE BOARD CONDUCTS AN INVESTIGATION UNDER
11 THIS SUBTITLE, THE BOARD MAY ISSUE AN ADVISORY LETTER TO THE
12 CERTIFICATE HOLDER.

13 (2) THE BOARD MAY DISCLOSE AN ADVISORY LETTER ISSUED
14 UNDER THIS SUBSECTION TO THE PUBLIC.

15 (3) THE ISSUANCE OF AN ADVISORY LETTER UNDER THIS
16 SUBSECTION:

17 (i) MAY NOT BE CONSIDERED A DISCIPLINARY ACTION
18 UNDER § 8-6A-10 OF THIS SUBTITLE; AND

19 (ii) MAY NOT BE REPORTED TO ANY CERTIFYING ENTITY,
20 EMPLOYER, OR INSURANCE COMPANY AS A DISCIPLINARY ACTION.

21 8-6A-11.

22 (A) Any person aggrieved by a final decision of the Board under § 8-6A-10 of
23 this subtitle may only take a direct judicial appeal as allowed by the Administrative
24 Procedure Act.

25 (B) A BOARD DECISION MAY NOT BE STAYED WHILE JUDICIAL REVIEW
26 IS PENDING.

27 8-6A-12.

28 (a) Unless the Board agrees to accept the surrender of a certificate, a
29 certified nursing assistant or certified medication technician may not surrender the
30 certificate [nor may the certificate lapse by operation of law while the certificate

1 holder is under investigation or while charges are pending against the certified
2 nursing assistant or certified medication technician].

3 (b) The Board may [set] **REQUIRE TERMS AND** conditions on [its] **AN**
4 agreement with the certified nursing assistant or certified medication technician
5 [under investigation or against whom charges are pending] to accept surrender of the
6 certificate.

7 (c) **AN AGREEMENT TO ACCEPT THE SURRENDER OF A CERTIFICATE IS**
8 **A FINAL ORDER OF THE BOARD AND IS A PUBLIC RECORD.**

9 **8-6A-17.**

10 (A) **THE AUTHORITY OF THE BOARD ESTABLISHED UNDER THIS**
11 **SUBTITLE:**

12 (1) **VESTS WITH THE BOARD AT THE TIME AN INDIVIDUAL**
13 **APPLIES FOR CERTIFICATION;**

14 (2) **CONTINUES DURING PERIODS OF CERTIFICATION; AND**

15 (3) **INCLUDES AUTHORITY OVER AN INDIVIDUAL HOLDING AN**
16 **EXPIRED CERTIFICATE, A LAPSED CERTIFICATE, OR A TEMPORARY**
17 **CERTIFICATE THAT HAS EXPIRED UNDER § 8-6A-07(F) OF THIS SUBTITLE.**

18 (B) **THE AUTHORITY OF THE BOARD SHALL BE CONTINUOUS OVER AN**
19 **INDIVIDUAL APPLICANT OR CERTIFICATE HOLDER AND MAY NOT BE DIVESTED**
20 **BY WITHDRAWAL OF AN APPLICATION, WHEN A CERTIFICATE EXPIRES OR**
21 **LAPSES, OR WHEN A TEMPORARY CERTIFICATE EXPIRES.**

22 **8-6B-01.**

23 (a) In this subtitle the following words have the meanings indicated.

24 (B) **“APPLICANT” MEANS, UNLESS THE CONTEXT REQUIRES**
25 **OTHERWISE:**

26 (1) **AN INDIVIDUAL APPLYING FOR AN INITIAL LICENSE BY**
27 **EXAMINATION OR ENDORSEMENT;**

28 (2) **A LICENSEE APPLYING FOR RENEWAL OF A LICENSE; OR**

29 (3) **AN INDIVIDUAL APPLYING FOR REINSTATEMENT OF A**
30 **LICENSE IN ACCORDANCE WITH § 8-6B-14 OF THIS SUBTITLE.**

1 **[(b)] (C)** “Board” means the State Board of Nursing.

2 **[(c)] (D)** “Committee” means the Electrology Practice Committee.

3 **[(d)] (E)** “Electrologist” means an individual who practices electrology.

4 **[(e)] (F)** “Electrology instructor” means an individual who practices
5 electrology and teaches an electrology education program.

6 **(G) “EXPIRED LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES**
7 **OTHERWISE, A LICENSE THAT WAS NOT RENEWED BEFORE THE EXPIRATION**
8 **DATE OF THE LICENSE AS ESTABLISHED BY § 8-6B-14(A) OF THIS SUBTITLE.**

9 **(H) “LAPSED LICENSE” MEANS, UNLESS THE CONTEXT REQUIRES**
10 **OTHERWISE, A LICENSE THAT WAS NOT RENEWED BECAUSE A LICENSEE FAILED**
11 **TO RENEW THE LICENSED OR OTHERWISE DID NOT MEET THE RENEWAL**
12 **REQUIREMENTS OF THIS SUBTITLE.**

13 **[(f)] (I)** “License” means, unless the context requires otherwise, a license
14 issued by the Board:

15 (1) To practice electrology; or

16 (2) To practice electrology and teach an electrology education program.

17 **[(g)] (J)** “Licensed electrologist” means, unless the context requires
18 otherwise, an electrologist who is licensed by the Board to practice electrology.

19 **[(h)] (K)** “Licensed electrology instructor” means, unless the context
20 requires otherwise, an electrologist who is licensed by the Board to practice electrology
21 and teach an electrology education program.

22 **(L) “LICENSEE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE,**
23 **A LICENSED ELECTROLOGIST OR LICENSED ELECTROLOGY INSTRUCTOR WHO**
24 **HAS:**

25 (1) **AN ACTIVE LICENSE;**

26 (2) **AN INACTIVE LICENSE;**

27 (3) **AN EXPIRED LICENSE;**

28 (4) **A LAPSED LICENSE;**

1 **(5) A SUSPENDED LICENSE; OR**

2 **(6) A LICENSE SUBJECT TO A REPRIMAND, PROBATION, OR**
3 **SUSPENSION.**

4 **[(i)] (M)** “Practice electrology” means to remove hair permanently through
5 the use of electrical instruments.

6 8-6B-14.

7 (b) **[(1)** On or before December 31, 2012, a license may not be renewed for
8 a term longer than 1 year.

9 **(2)** Beginning on January 1, 2013, a] **A** license may not be renewed for
10 a term longer than 2 years.

11 (h) **(1)** The Board shall place a licensee on inactive status **AND RECORD**
12 **THE INACTIVE STATUS IN THE BOARD’S DATABASE AND ON THE BOARD’S WEB**
13 **SITE**, if the licensee submits to the Board:

14 (i) An application for inactive status on the form required by
15 the Board;

16 **(II) IF APPLICABLE, DOCUMENTATION OF A MEDICAL**
17 **CONDITION THAT THE BOARD DETERMINES WILL PREVENT THE LICENSEE**
18 **FROM PRACTICING ELECTROLOGY; and**

19 **[(ii)] (III) [The] IF APPLICABLE, THE** inactive status fee set by
20 the Board.

21 **(2)** The Board shall reactivate the license of an individual who is on
22 inactive status **AND RECORD THE STATUS OF THE LICENSEE AS ACTIVE IN THE**
23 **BOARD’S DATABASE AND ON THE BOARD’S WEB SITE**, if the individual:

24 (i) Complies with any continuing education requirement
25 established by the Board for this purpose;

26 **(II) IF APPLICABLE, SUBMITS DOCUMENTATION**
27 **SATISFACTORY TO THE BOARD THAT THE MEDICAL CONDITION FOR WHICH THE**
28 **INACTIVE STATUS WAS GRANTED NO LONGER EXISTS;**

29 **[(ii)] (III) [Pays] IF APPLICABLE, PAYS** to the Board a
30 reactivation fee set by the Board; and

31 **[(iii)] (IV)** Is otherwise entitled to be licensed.

1 (3) If the individual has been on inactive status for 5 years or more,
2 before the Board may reactivate the license, the individual must pass an examination
3 approved by the Board.

4 **(4) (I) IF A LICENSEE IS GRANTED INACTIVE STATUS BECAUSE**
5 **OF A MEDICAL CONDITION, THE BOARD MAY NOT CHARGE A FEE TO PLACE THE**
6 **LICENSEE ON OR REMOVE THE LICENSEE FROM INACTIVE STATUS.**

7 **(II) IF A LICENSEE IS GRANTED INACTIVE STATUS BECAUSE**
8 **OF A MEDICAL CONDITION, THE INACTIVE STATUS:**

9 **1. MAY NOT BE CONSIDERED A DISCIPLINARY**
10 **ACTION UNDER § 8-6B-18 OF THIS SUBTITLE; AND**

11 **2. MAY NOT BE REPORTED TO ANY CERTIFYING**
12 **ENTITY, EMPLOYER, OR INSURANCE COMPANY AS A DISCIPLINARY ACTION.**

13 (i) The Board, in accordance with its rules and regulations, shall reinstate
14 the license of an individual who has failed to renew the license for any reason if the
15 individual:

16 (1) Is otherwise entitled to be licensed;

17 (2) Complies with any continuing education requirement established
18 by the Board for this purpose;

19 (3) Pays to the Board a reinstatement fee set by the Board; [and]

20 **(4) FOR AN EXPIRED LICENSE OR LAPSED LICENSE THAT HAS**
21 **BEEN EXPIRED OR LAPSED FOR MORE THAN 1 YEAR, COMPLETES A CRIMINAL**
22 **HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS TITLE; AND**

23 **[(4)] (5)** Applies to the Board for reinstatement of the license within
24 5 years after the license expires.

25 8-6B-15.

26 (a) Unless the Board agrees to accept the surrender of a license, a licensed
27 electrologist or licensed electrology instructor may not surrender the license [nor may
28 the license lapse by operation of law while the licensee is under investigation or while
29 charges are pending against the licensee].

1 (b) The Board may [set] **REQUIRE TERMS AND** conditions on [its] **AN**
2 agreement with the licensed electrologist or licensed electrology instructor [under
3 investigation or against whom charges are pending] to accept surrender of the license.

4 **(C) AN AGREEMENT TO ACCEPT THE SURRENDER OF A LICENSE IS A**
5 **FINAL ORDER OF THE BOARD AND IS A PUBLIC RECORD.**

6 8-6B-18.

7 (a) Subject to the hearing provisions of § 8-317 of this title and § 8-6B-19 of
8 this subtitle, the Board may deny a license to an applicant, grant a [probationary]
9 license, **INCLUDING A LICENSE SUBJECT TO A REPRIMAND, PROBATION, OR**
10 **SUSPENSION**, to an applicant, reprimand a licensee, place a licensee on probation, or
11 suspend or revoke a license if the applicant or licensee:

12 (1) Fraudulently or deceptively obtains or attempts to obtain a license
13 for the applicant or licensee or for another;

14 (2) Fraudulently or deceptively uses a license;

15 (3) As part of the practice of electrology, knowingly does an act that
16 exceeds the scope of the practice of electrology;

17 (4) Is grossly negligent in practicing or teaching an electrology
18 education program;

19 (5) Acts in a manner inconsistent with generally accepted standards
20 for the practice of electrology;

21 (6) Is convicted of or pleads guilty or nolo contendere to a felony or to a
22 crime involving moral turpitude, whether or not any appeal or other proceeding is
23 pending to have the conviction or plea set aside;

24 (7) Is disciplined by a licensing or disciplinary authority of any state
25 or country, convicted or disciplined by a court of any state or country, or disciplined by
26 any branch of the United States uniformed services or the Veterans Administration for
27 an act that would be grounds for disciplinary action under the Board's disciplinary
28 statutes;

29 (8) Provides professional services while:

30 (i) Under the influence of alcohol; or

31 (ii) Using any narcotic or controlled dangerous substance, as
32 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
33 therapeutic amounts or without valid medical indication;

- 1 (9) Uses types of instruments or procedures in the practice of
2 electrology that are not approved by the Board;
- 3 (10) Advertises in a manner that violates this subtitle;
- 4 (11) Uses a title not authorized by § 8–6B–23 of this subtitle;
- 5 (12) Is currently adjudicated as being a disabled individual under Title
6 13 of the Estates and Trusts Article;
- 7 (13) Practices electrology with an unauthorized individual or supervises
8 or aids an unauthorized individual in the practice of electrology;
- 9 (14) Willfully makes or files a false report or record in the practice of
10 electrology;
- 11 (15) Willfully fails to file or record any report as required by law,
12 willfully impedes or obstructs the filing or recording of the report, or induces another
13 to fail to file or record the report;
- 14 (16) Submits a false statement to collect a fee;
- 15 (17) Violates a provision of this subtitle or a rule or regulation adopted
16 by the Board;
- 17 (18) Uses or promotes or causes the use of a misleading, deceiving, or
18 untruthful advertising matter, promotional literature, or testimonial;
- 19 (19) Is professionally, physically, or mentally incompetent;
- 20 (20) Promotes the sale of devices, appliances, or goods to a patient so as
21 to exploit the patient for financial gain;
- 22 (21) Behaves immorally in the practice of electrology;
- 23 (22) Commits an act of unprofessional conduct in the practice of
24 electrology;
- 25 (23) Refuses, withholds from, denies, or discriminates against an
26 individual with regard to the provision of professional services for which the licensee is
27 licensed and qualified to render because the individual is HIV positive;
- 28 (24) Except in an emergency life–threatening situation where it is not
29 feasible or practicable, fails to comply with the Centers for Disease Control and
30 Prevention’s guidelines on universal precautions;

1 (25) Fails to display the notice required under § 8-6B-26 of this
2 subtitle;

3 (26) Fails to submit to a criminal history records check in accordance
4 with § 8-303 of this title;

5 (27) Fails to allow an inspection under § 8-6B-06(10) and (11) of this
6 subtitle;

7 (28) Fails to cooperate with a lawful investigation conducted by the
8 Board;

9 (29) Practices electrology without a license before obtaining or renewing
10 a license, including any period when [the license has lapsed] **PRACTICING**
11 **ELECTROLOGY ON AN EXPIRED LICENSE OR A LAPSED LICENSE;** or

12 (30) After failing to renew a license, commits any act that would be
13 grounds for disciplinary action under this section.

14 [(b) (1) An individual whose license has been revoked or suspended by the
15 Board shall return the license to the Board.

16 (2) If at that time the license is lost, the individual shall send a sworn
17 statement to this effect to the Board.]

18 **(B) IN ADDITION TO ANY SANCTION AUTHORIZED UNDER THIS SECTION,**
19 **THE BOARD MAY REQUIRE A LICENSEE TO COMPLY WITH SPECIFIED TERMS AND**
20 **CONDITIONS DETERMINED BY THE BOARD.**

21 8-6B-19.

22 (c) The hearing notice to be given to the person shall be sent by certified
23 mail, return receipt requested, [bearing a postmark from the United States Postal
24 Service,] to the last known address of the person at least 30 days before the hearing.

25 8-6B-22.

26 **(A) [On the application of an individual whose license has been] IF A**
27 **LICENSE WAS** suspended or revoked for a period of more than 1 year, **OR IF A**
28 **PERIOD OF MORE THAN 1 YEAR HAS PASSED SINCE A LICENSE WAS**
29 **SURRENDERED,** the Board may reinstate the license [after 1 year] **IF THE**
30 **LICENSEE:**

31 **(1) APPLIES TO THE BOARD FOR REINSTATEMENT;**

1 **(2) MEETS THE REQUIREMENTS FOR RENEWAL UNDER § 8-6B-14**
2 **OF THIS SUBTITLE;**

3 **(3) MEETS ANY OTHER REQUIREMENTS FOR REINSTATEMENT AS**
4 **ESTABLISHED BY THE BOARD; AND**

5 **(4) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN**
6 **ACCORDANCE WITH § 8-303 OF THIS TITLE.**

7 **(B) IF A LICENSEE MEETS THE REQUIREMENTS OF SUBSECTION (A) OF**
8 **THIS SECTION, THE BOARD MAY:**

9 **(1) REINSTATE THE LICENSE;**

10 **(2) REINSTATE THE LICENSE SUBJECT TO TERMS AND**
11 **CONDITIONS THAT THE BOARD CONSIDERS NECESSARY, INCLUDING A PERIOD**
12 **OF PROBATION; OR**

13 **(3) DENY REINSTATEMENT OF THE LICENSE.**

14 **8-6B-27.**

15 A person who violates any provision of **§ 8-6B-23** OF this subtitle is guilty of a
16 misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or
17 imprisonment not exceeding 1 year or both.

18 **8-6B-29.**

19 **(A) THE AUTHORITY OF THE BOARD ESTABLISHED UNDER THIS**
20 **SUBTITLE:**

21 **(1) VESTS WITH THE BOARD AT THE TIME AN INDIVIDUAL**
22 **APPLIES FOR LICENSURE;**

23 **(2) CONTINUES DURING PERIODS OF LICENSURE; AND**

24 **(3) INCLUDES AUTHORITY OVER AN INDIVIDUAL HOLDING AN**
25 **EXPIRED LICENSE OR A LAPSED LICENSE.**

26 **(B) THE AUTHORITY OF THE BOARD SHALL BE CONTINUOUS OVER AN**
27 **INDIVIDUAL APPLICANT OR LICENSEE AND MAY NOT BE DIVESTED BY**
28 **WITHDRAWAL OF AN APPLICATION OR WHEN A LICENSE EXPIRES OR LAPSES.**

29 **[8-6B-29.] 8-6B-30.**

1 Subject to the evaluation and reestablishment provisions of the Maryland
2 Program Evaluation Act, and subject to the termination of this title under § 8–802 of
3 this title, this subtitle and all rules and regulations adopted under this subtitle shall
4 terminate and be of no effect after July 1, 2023.

5 [8–707.

6 (a) A person may not fail to report the employment or placement of a
7 registered nurse to practice registered nursing as required under § 8–504 of this title.

8 (b) A person may not fail to report the employment or placement of a
9 licensed practical nurse to practice licensed practical nursing as required under §
10 8–504 of this title.]

11 **8–707.**

12 (A) **SUBJECT TO THE HEARING PROVISIONS OF § 8–317 OF THIS TITLE**
13 **AND IN ADDITION TO ANY OTHER SANCTION AUTHORIZED FOR A VIOLATION OF**
14 **§§ 8–701 THROUGH 8–706 OF THIS SUBTITLE, THE BOARD MAY ISSUE A PUBLIC**
15 **CEASE AND DESIST ORDER, IMPOSE A CIVIL FINE OF NOT MORE THAN \$5,000**
16 **PER OFFENSE, OR BOTH.**

17 (B) **FOR THE PURPOSES OF THIS SECTION, EACH VIOLATION IS A**
18 **SEPARATE OFFENSE IF THE VIOLATION OCCURS:**

19 (1) **AT A DIFFERENT TIME, DATE, OR LOCATION; OR**

20 (2) **ON THE SAME DATE AND LOCATION AT A DIFFERENT TIME.**

21 (C) **THE BOARD SHALL PAY ANY FINE COLLECTED UNDER THIS SECTION**
22 **TO THE BOARD OF NURSING FUND.**

23 (D) **THE BOARD MAY REFER ALL CASES OF DELINQUENT PAYMENT TO**
24 **THE CENTRAL COLLECTION UNIT OF THE DEPARTMENT OF BUDGET AND**
25 **MANAGEMENT TO INSTITUTE AND MAINTAIN PROCEEDINGS TO ENSURE**
26 **PROMPT PAYMENT.**

27 **8–708.**

28 (A) **AN ACTION MAY BE MAINTAINED IN THE NAME OF THE STATE OR**
29 **THE BOARD TO ENJOIN CONDUCT:**

1 (1) PROHIBITED UNDER §§ 8-701 THROUGH 8-706 OF THIS
2 SUBTITLE; OR

3 (2) THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER §
4 8-316, § 8-6A-10, OR § 8-6B-18 OF THIS TITLE.

5 (B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

6 (1) THE BOARD, IN ITS OWN NAME;

7 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

8 (3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.

9 (C) AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE
10 COUNTY WHERE THE DEFENDANT:

11 (1) RESIDES; OR

12 (2) ENGAGED IN THE ACTS SOUGHT TO BE ENJOINED.

13 8-710.

14 (a) Except for a violation of § 8-701(a) through (e) [and § 8-707] of this
15 subtitle, a person who violates any provision of this subtitle is guilty of a misdemeanor
16 and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not
17 exceeding 1 year or both.

18 [(b) A person who violates any provision of § 8-707 of this subtitle is guilty of
19 a misdemeanor and on conviction is subject:

20 (1) For a first offense, to a fine not exceeding \$100; and

21 (2) For any subsequent violation of the same provision, to a fine not
22 exceeding \$500 or imprisonment not exceeding 6 months or both.]

23 [(c)] (B) (1) Except as otherwise provided in this section, subject to the
24 appropriate hearing and appeals provisions, the Board, on the affirmative vote of the
25 majority of its members, may reprimand a licensee or certificate holder, place a
26 licensee or certificate holder on probation, or suspend or revoke a license or certificate
27 of a person who violates any provision of this subtitle.

28 (2) A person who is licensed, certified, or otherwise authorized to
29 provide health care services under this article is not subject to the penalty provided in

1 subsections (a) and (b) of this section for a violation of § 8-701(f) and (g) of this
2 subtitle.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2014.