

SENATE BILL 8

J2

8lr0056

(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request
– Departmental – Health)**

Requested: September 27, 2017

Introduced and read first time: January 10, 2018

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 29, 2018

CHAPTER _____

1 AN ACT concerning

2 **State Board of Nursing – Maryland Nurse Practice Act – Revisions**

3 FOR the purpose of repealing certain provisions of law that authorize the State Board of
4 Nursing to grant a certain number of certain extensions for the renewal of a certain
5 license or certain certificate pending receipt of criminal history record information;
6 repealing a provision of law that authorizes the Board to immediately suspend the
7 license of a certain nurse or the certificate of a certain nursing assistant or certain
8 medication technician who is expelled from the Safe Practice Program under certain
9 circumstances; altering when certain employers are required to submit a certain
10 report to the Board; repealing the requirement that a nurse in independent practice
11 or a direct-entry midwife engaged in independent practice display a certain notice
12 in certain offices; providing that certain members of the nursing assistant advisory
13 committee may serve one additional full term; authorizing the Board to remove
14 committee members from the certified nursing assistant advisory committee for
15 certain reasons; authorizing certain licensing boards to issue cease and desist orders
16 or impose an encumbrance on a nurse's authority to practice in a certain state;
17 making certain stylistic and conforming changes; and generally relating to the Nurse
18 Practice Act.

19 BY repealing and reenacting, without amendments,
20 Article – Health Occupations
21 Section 8-312(c) and 8-6A-08(c)
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2014 Replacement Volume and 2017 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Health Occupations
4 Section 8–312(d), 8–317(a) and (h), 8–504, 8–6A–08(f), 8–6A–10.1(a) and (h), ~~and~~
5 8–6A–13(a), and 8–7A–01 Article V Section 11(a)
6 Annotated Code of Maryland
7 (2014 Replacement Volume and 2017 Supplement)

8 BY repealing
9 Article – Health Occupations
10 Section 8–317(g), 8–506, 8–6A–10.1(g), and 8–6C–23
11 Annotated Code of Maryland
12 (2014 Replacement Volume and 2017 Supplement)

13 BY adding to
14 Article – Health Occupations
15 Section 8–6A–13(h) and (i)
16 Annotated Code of Maryland
17 (2014 Replacement Volume and 2017 Supplement)

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

20 **Article – Health Occupations**

21 8–312.

22 (c) Before a license expires, the licensee periodically may renew it for an
23 additional term, if the licensee:

24 (1) Otherwise is entitled to be licensed;

25 (2) Pays to the Board:

26 (i) A renewal fee set by the Board; or

27 (ii) A renewal fee that is set by the Board if the licensee certifies to
28 the Board that the licensee provides professional services only as a volunteer; and

29 (3) Submits to the Board by paper application or electronic means:

30 (i) A renewal application on the form that the Board requires; and

31 (ii) Satisfactory evidence of completion of:

1 1. 1,000 hours of active nursing practice within the 5–year
2 period immediately preceding the date of renewal;

3 2. A course of instruction, commonly known as a refresher
4 course, approved by the Board;

5 3. A preceptorship program provided by an employer and
6 approved by the Board; or

7 4. A minimum number of continuing education units as
8 required by regulations adopted by the Board.

9 (d) **[(1)]** The Board may grant a 30–day extension, beyond a license’s expiration
10 date, to a licensee so that the licensee may renew the license before it expires.

11 **[(2)** The Board may grant two 90–day extensions beyond a license’s
12 expiration date pending receipt of criminal history record information.]

13 8–317.

14 (a) Except as otherwise provided in the Administrative Procedure Act [and in
15 subsection (g) of this section], before the Board takes any action under § 8–312 or § 8–316
16 of this subtitle or § 8–404 or § 8–6C–20 of this title, it shall give the person against whom
17 the action is contemplated an opportunity for a hearing before the Board.

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

21 (1) Prior to suspending the license, the Board provides the licensee with an
22 opportunity to show cause by written communication or nontestimonial presentation as to
23 why the suspension should not occur; and

24 (2) The Board provides the licensee with an opportunity for a hearing,
25 which:

26 (i) Shall occur within 30 days of written request by the licensee; and

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

29 **[(h)] (G)** (1) After the Board conducts an investigation under this title, the
30 Board may issue an advisory letter to the licensee or holder of a multistate licensing
31 privilege.

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

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

4 (i) Be considered a disciplinary action under § 8–316 of this subtitle;
5 and

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

8 8–504.

9 (a) (1) In this section, “employer” means:

10 (i) A public employer;

11 (ii) A private employer; or

12 (iii) An employment agency.

13 (2) “Employer” does not include a private employer who employs a licensee
14 for personal or family use.

15 (b) **[Each] ON THE REQUEST OF THE BOARD, AN** employer shall report
16 **[periodically to the Board]** the name and license number of each licensee employed or
17 placed to practice registered nursing or licensed practical nursing.

18 **[8–506.**

19 If a nurse is engaged in independent practice in this State, the nurse shall display
20 the notice developed under § 1–207 of this article conspicuously in each office where the
21 nurse is engaged in practice.]

22 8–6A–08.

23 (c) Before a certificate expires, a nursing assistant periodically may renew it for
24 an additional term, if the certificate holder:

25 (1) Otherwise is entitled to be certified;

26 (2) Submits to the Board a renewal application on the form that the Board
27 requires;

28 (3) Pays to the Board a renewal fee set by the Board; and

29 (4) Provides satisfactory evidence of completion of:

1 (i) 16 hours of active nursing assistant practice within the 2-year
2 period immediately preceding the date of renewal; or

3 (ii) An approved nursing assistant training program.

4 (f) [(1)] The Board may grant a 30-day extension, beyond a certificate's
5 expiration date, to a certificate holder so that the certificate holder may renew the
6 certificate before it expires.

7 [(2)] The Board may grant two 90-day extensions beyond a certificate's
8 expiration date pending receipt of criminal history record information.]

9 8-6A-10.1.

10 (a) Except as otherwise provided in the Administrative Procedure Act [and in
11 subsection (g) of this section], before the Board takes any action under § 8-6A-10 of this
12 subtitle, the Board shall give the individual against whom the action is contemplated an
13 opportunity for a hearing before the Board.

14 [(g)] The Board immediately may suspend the certificate of a nursing assistant or
15 medication technician who is expelled from the rehabilitation program under § 8-208 of
16 this title for noncompliance with the certificate holder's agreement if:

17 (1) Before suspending the certificate, the Board provides the certificate
18 holder with an opportunity to show cause by written communication or nontestimonial
19 presentation as to why the suspension should not occur; and

20 (2) The Board provides the certificate holder with an opportunity for a
21 hearing that shall:

22 (i) Occur within 30 days after written request by the certificate
23 holder; and

24 (ii) Impose on the certificate holder the burden of proving by a
25 preponderance of the evidence that the certificate holder is not addicted to drugs or alcohol.]

26 [(h)] (G) (1) After the Board conducts an investigation under this subtitle, the
27 Board may issue an advisory letter to the certificate holder.

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

30 (3) The issuance of an advisory letter under this subsection:

1 (i) May not be considered a disciplinary action under § 8–6A–10 of
2 this subtitle; and

3 (ii) May not be reported to any certifying entity, employer, or
4 insurance company as a disciplinary action.

5 8–6A–13.

6 (a) The Board shall appoint an advisory committee consisting of at least 15
7 members [appointed by the Board].

8 **(H) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN MAY SERVE**
9 **ONE ADDITIONAL FULL TERM.**

10 **(I) THE BOARD MAY REMOVE A MEMBER:**

11 **(1) FOR INCOMPETENCE OR MISCONDUCT; OR**

12 **(2) WHO IS ABSENT FROM TWO SUCCESSIVE COMMITTEE MEETINGS**
13 **WITHOUT ADEQUATE REASON.**

14 [8–6C–23.

15 If a licensed direct–entry midwife is engaged in the private practice of direct–entry
16 midwifery in the State, the licensed direct–entry midwife shall display the notice developed
17 under § 1–207 of this article conspicuously in each office where the licensed direct–entry
18 midwife is engaged in practice.]

19 8–7A–01.

20 Article V. Additional Authorities Invested in Party State Licensing Boards.

21 11.

22 (a) In addition to the other powers conferred by state law, a licensing board shall
23 have the authority to:

24 (1) Take adverse action against a nurse’s multistate licensure privilege to
25 practice within that party state;

26 (2) Complete any pending investigations of a nurse who changes the
27 nurse’s home state during the course of the investigations;

28 **(3) ISSUE CEASE AND DESIST ORDERS OR IMPOSE AN ENCUMBRANCE**
29 **ON A NURSE’S AUTHORITY TO PRACTICE WITHIN THAT PARTY STATE;**

1 [(3)] (4) Take appropriate action based on investigations and shall
2 promptly report the conclusions of the investigations to the administrator of the
3 coordinated licensure information system who shall promptly notify the new home state of
4 any actions;

5 [(4)] (5) Issue subpoenas for both hearings and investigations that
6 require the attendance and testimony of witnesses, as well as the production of evidence;

7 [(5)] (6) Obtain and submit, for each nurse licensure applicant,
8 fingerprint or other biometric-based information to the Federal Bureau of Investigation for
9 criminal background checks, receive the results of the Federal Bureau of Investigation
10 record search on criminal background checks, and use the results in making licensure
11 decisions;

12 [(6)] (7) If otherwise permitted by state law, recover from the affected
13 nurse the costs of investigations and disposition of cases resulting from any adverse action
14 taken against that nurse; and

15 [(7)] (8) Take adverse action based on the factual findings of a remote
16 state, provided that the licensing board follows its own procedures for taking such adverse
17 action.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2018.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.