
By: Senator Hollinger

Introduced and read first time: February 2, 1996

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing - Regulatory Authority**

3 FOR the purpose of establishing a certain date on which the registration of a nursing staff
4 agency expires unless renewed for an additional term; requiring the State Board of
5 Nursing to renew certain registrations under certain circumstances; establishing that
6 the proceedings, records, and files of the Board are not discoverable and are not
7 admissible in evidence; making a certain exception; authorizing the Board to
8 disclose certain information under certain circumstances; authorizing the Board to
9 impose certain civil fines; and generally relating to the regulatory authority of the
10 State Board of Nursing.

11 BY adding to

12 Article - Health Occupations
13 Section 8-320, 8-321, and 8-711
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 1995 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - Health Occupations
18 Section 8-507
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1995 Supplement)

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

23 **Article - Health Occupations**

24 8-320.

25 (A) EXCEPT BY THE EXPRESS STIPULATION AND CONSENT OF ALL PARTIES
26 TO A PROCEEDING BEFORE THE BOARD OR ANY OF ITS INVESTIGATORY BODIES, IN
27 A CIVIL OR CRIMINAL ACTION, THE PROCEEDINGS, RECORDS, AND FILES OF THE
28 BOARD OR ANY OF ITS INVESTIGATORY BODIES ARE NOT DISCOVERABLE AND ARE
29 NOT ADMISSIBLE IN EVIDENCE.

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1 (B) THIS SECTION DOES NOT APPLY TO A CIVIL ACTION BROUGHT BY A
2 PARTY TO A PROCEEDING BEFORE THE BOARD WHO CLAIMS TO BE AGGRIEVED BY
3 THE DECISION OF THE BOARD.

4 (C) IF ANY MEDICAL OR HOSPITAL RECORD OR ANY OTHER EXHIBIT IS
5 SUBPOENAED AND OTHERWISE IS ADMISSIBLE IN EVIDENCE, THE USE OF THE
6 RECORD OR EXHIBIT IN A PROCEEDING BEFORE THE BOARD OR ANY OF ITS
7 INVESTIGATORY BODIES DOES NOT PREVENT ITS PRODUCTION IN ANY OTHER
8 PROCEEDING.

9 8-321.

10 THE BOARD MAY DISCLOSE ANY INFORMATION CONTAINED IN THE
11 PROCEEDINGS, RECORDS, AND FILES OF THE BOARD TO ANY HEALTH OCCUPATION
12 REGULATORY BOARD OF THE STATE OR ANOTHER STATE IF THE HEALTH
13 OCCUPATIONS REGULATORY BOARD OF THE STATE REQUESTS THE INFORMATION
14 IN WRITING.

15 8-507.

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

17 (2) "Health care facility" means a hospital or related institution as defined
18 in § 19-301 of the Health - General Article.

19 (3) "Initially providing or referring" means the first time a nursing staff
20 agency provides or refers a particular licensed practical nurse, registered nurse, or
21 geriatric nursing assistant to a health care facility.

22 (4) "Nursing personnel" means:

23 (i) Any individual licensed by the State Board of Nursing as a:

24 1. Licensed practical nurse; or

25 2. Registered nurse; or

26 (ii) A geriatric nursing assistant who complies with the provisions of §
27 19-308.1 of the Health - General Article for patient care personnel.

28 (5) (i) "Nursing staff agency" means any person, firm, corporation,
29 partnership, or other business entity engaged in the business of providing or referring
30 nursing personnel to render temporary nursing services at a health care facility in the
31 State.

32 (ii) "Nursing staff agency" does not include:

33 1. Any person, firm, corporation, partnership, or other business
34 entity engaged solely in the business of providing or referring nursing personnel to render
35 private duty nursing care at a health care facility;

36 2. A nursing staff agency operated by a health care facility
37 solely for the purpose of procuring, furnishing, or referring temporary or permanent
38 nursing personnel for employment at that health care facility;

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1 3. A home health agency regulated under Subtitle 4 of the
2 Health - General Article; or

3 4. Any nursing personnel procuring, furnishing, or referring
4 their own services to a health care facility without the direct or indirect assistance of a
5 nursing staff agency.

6 (6) "Responsible party" means the individual at a nursing staff agency who
7 controls the day to day operation of the nursing staff agency.

8 (b) All nursing staff agencies shall submit to the Board the nursing staff agency's:

9 (1) Business name;

10 (2) Business address;

11 (3) Business telephone number; and

12 (4) Responsible party.

13 (C) (1) A NURSING STAFF AGENCY REGISTRATION EXPIRES ON THE 28TH
14 DAY OF THE MONTH IN WHICH THE AGENCY WAS ORIGINALLY REGISTERED UNLESS
15 THE LICENSE IS RENEWED FOR A 1-YEAR TERM AS PROVIDED IN THIS SECTION.

16 (2) AT LEAST 1 MONTH BEFORE THE REGISTRATION EXPIRES, THE
17 BOARD SHALL SEND TO THE NURSING STAFF AGENCY, BY FIRST-CLASS MAIL TO THE
18 LAST KNOWN ADDRESS OF THE NURSING STAFF AGENCY, A RENEWAL NOTICE THAT
19 STATES:

20 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;

21 (II) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
22 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
23 THE REGISTRATION EXPIRES; AND

24 (III) THE AMOUNT OF THE RENEWAL FEE.

25 (3) BEFORE A REGISTRATION EXPIRES, THE NURSING STAFF AGENCY
26 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE NURSING STAFF
27 AGENCY:

28 (I) OTHERWISE IS ENTITLED TO BE REGISTERED; AND

29 (II) PAYS TO THE BOARD THE RENEWAL FEE SET BY THE BOARD.

30 (D) IF A NURSING STAFF AGENCY FAILS TO RENEW, THE NURSING STAFF
31 AGENCY MUST IMMEDIATELY STOP REFERRING PERSONNEL TO HEALTH CARE
32 FACILITIES.

33 [(c)] (E) (1) Before initially providing or referring a licensed practical nurse or
34 registered nurse to health care facilities to render temporary nursing services the nursing
35 staff agency shall:

36 (i) Submit the name and license number of the licensed practical
37 nurse or registered nurse to the Board; and

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1 (ii) Verify the licensure status of the licensed practical nurse or
2 registered nurse.

3 (2) At the time a licensed practical nurse or registered nurse who is being
4 referred to health care facilities by a nursing staff agency must renew their license to
5 practice licensed practical nursing or registered nursing, the nursing staff agency shall:

6 (i) Submit the name and license number of the licensed practical
7 nurse or registered nurse to the Board; and

8 (ii) Verify the licensure status of the licensed practical nurse or
9 registered nurse.

10 (3) (i) On the request of a nursing staff agency, the Board shall verify by
11 telephone or other electronic means the licensure status of any licensed practical nurse or
12 registered nurse that the nursing staff agency plans to refer to health care facilities within
13 24 hours of the request.

14 (ii) The Board shall provide written confirmation of the information
15 provided in accordance with the provisions of item (i) of this paragraph to the nursing
16 staff agency within 10 working days of the request.

17 (4) (i) At least quarterly, the Board shall report by telephone or other
18 electronic means to a nursing staff agency any disciplinary action taken against a licensed
19 practical nurse or registered nurse who is being referred to health care facilities by that
20 nursing staff agency within the previous quarter.

21 (ii) The Board shall provide written confirmation of the information
22 provided in accordance with the provisions of item (i) of this paragraph to the nursing
23 staff agency within 10 working days of the disciplinary action being taken.

24 [(d)] (F) Before initially providing or referring a geriatric nursing assistant to
25 related institutions to render temporary services, the nursing staff agency shall verify with
26 the Office of Licensing and Certification Programs of the Department that the geriatric
27 nursing assistant complies with the applicable standards under the regulations adopted
28 under § 19-308.1 of the Health - General Article.

29 [(e)] (G) (1) A nursing staff agency may not knowingly provide or refer a
30 licensed practical nurse who is not authorized to practice licensed practical nursing under
31 this title to a health care facility to render temporary nursing services.

32 (2) A nursing staff agency may not knowingly provide or refer a registered
33 nurse who is not authorized to practice registered nursing under this title to a health care
34 facility to render temporary nursing services.

35 [(f)] (H) (1) Except as provided in paragraph (2) of this subsection:

36 (i) If a nursing staff agency knows of an action or condition performed
37 by a licensed practical nurse or registered nurse provided or referred by that nursing staff
38 agency that might be grounds for action under § 8-316 of this title, the nursing staff
39 agency shall report the action or condition to the Board; and

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1 (ii) An individual shall have immunity from liability described under §
2 5-386 of the Courts and Judicial Proceedings Article for making a report as required
3 under this paragraph.

4 (2) A nursing staff agency is not required under this subsection to make any
5 report that would be in violation of any federal or state law, rule, or regulation concerning
6 the confidentiality of alcohol and drug abuse patient records.

7 [(g)] (I) (1) Subject to the provisions of Title 10, Subtitle 2 of the State
8 Government Article, the Board may impose a penalty of up to \$2,000 for a violation of
9 any provision of this section.

10 (2) Each day a violation continues is a separate violation.

11 8-711.

12 (A) THE BOARD MAY IMPOSE A CIVIL FINE ON A LICENSEE WHO FAILS TO
13 RENEW A LICENSE WITHIN 30 DAYS AFTER THE DATE OF EXPIRATION OF THE
14 LICENSE AND ENGAGES IN THE PRACTICE OF NURSING DURING THE PERIOD OF
15 EXPIRATION.

16 (B) THE CIVIL FINE SHALL BE \$5 A DAY FOR EACH DAY THAT THE VIOLATION
17 CONTINUES, UP TO A MAXIMUM OF \$5,000.

18 (C) THE BOARD SHALL PAY ANY FINE COLLECTED UNDER THIS SECTION
19 INTO THE GENERAL FUND OF THE STATE.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1996.