
By: Senator Hollinger

Introduced and read first time: January 30, 1997

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Nurses - Exercise of Professional Judgment**

3 FOR the purpose of providing grounds for disciplining a supervisory nurse directing
4 another nurse to perform a designated nursing act or responsibility that the nurse
5 has refused for certain reasons; creating a certain exception for emergencies under
6 which the nurse should do the designated nursing act or responsibility; providing
7 grounds for disciplining a supervisory nurse for interfering with, inhibiting, or
8 preventing another nurse from refusing to accept a certain designated nursing
9 responsibility under certain circumstances; prohibiting a certain person from
10 interfering with, inhibiting, or preventing another nurse from refusing to accept
11 certain designated nursing responsibility or do a certain designated nursing act;
12 creating a certain exception for emergencies under which the nurse should accept
13 the designated nursing responsibility or do the designated nursing act; authorizing a
14 certain board to discipline a certain licensee or certificate holder in a certain
15 manner for violating a certain prohibition; exempting a certain licensee or
16 certificate holder from discipline under a certain provision; exempting a certain
17 employee of a certain hospital from discipline under a certain provision; and
18 generally relating to the exercise of professional judgment by nurses.

19 BY renumbering

20 Article - Health Occupations

21 Section 8-316(b) through (d), respectively

22 to be Section 8-316(c) through (e), respectively

23 (1994 Replacement Volume and 1996 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article - Health Occupations

26 Section 8-316(a)(27) and (28) and 8-710

27 Annotated Code of Maryland

28 (1994 Replacement Volume and 1996 Supplement)

29 BY adding to

30 Article - Health Occupations

31 Section 8-316(a)(29) and (30) and (b) and 8-708

32 Annotated Code of Maryland

2

1 (1994 Replacement Volume and 1996 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That Section(s) 8-316(b) through (d), respectively, of Article - Health
4 Occupations of the Annotated Code of Maryland be renumbered to be Section(s)
5 8-316(c) through (e), respectively.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article - Health Occupations**

9 8-316.

10 (a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may
11 deny a license to any applicant, reprimand any licensee, place any licensee on probation,
12 or suspend or revoke the license of a licensee if the applicant or licensee:

13 (27) Practices registered nursing or licensed practical nursing without a
14 license before obtaining or renewing a license, including any period when the license or a
15 temporary license of the applicant or licensee has lapsed; [or]

16 (28) After failing to renew a license or after a temporary license has lapsed,
17 commits any act that would be grounds for disciplinary action under this section[.];

18 (29) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION,
19 DIRECTS ANOTHER NURSE TO PERFORM A DESIGNATED NURSING ACT OR
20 RESPONSIBILITY THAT THE NURSE ACTING AS A REASONABLE AND PRUDENT
21 NURSE EXERCISING SOUND NURSING JUDGMENT HAS REFUSED TO PERFORM:

22 (I) BECAUSE THE DESIGNATED NURSING ACT OR RESPONSIBILITY
23 IS NOT WITHIN THE NURSE'S PREPARATION, CAPABILITIES, AND EXPERIENCE; OR

24 (II) BECAUSE THE DESIGNATED NURSING ACT OR
25 RESPONSIBILITY, TAKING INTO ACCOUNT THE NURSE'S PREPARATION,
26 CAPABILITIES, AND EXPERIENCE, IS NOT SUPPLEMENTED BY ANOTHER NURSE
27 HAVING THE PREPARATION, CAPABILITIES, AND EXPERIENCE TO PERFORM THE
28 DESIGNATED NURSING ACT OR RESPONSIBILITY IN A SAFE AND COMPETENT
29 MANNER; OR

30 (30) INTERFERES WITH, INHIBITS, OR PREVENTS ANOTHER NURSE'S
31 REFUSAL TO ACCEPT RESPONSIBILITY AND ACCOUNTABILITY FOR SUPERVISING,
32 MONITORING, INSTRUCTING, OR EVALUATING AN UNLICENSED INDIVIDUAL
33 PERFORMING A DESIGNATED NURSING ACT OR RESPONSIBILITY, WHEN THE
34 UNLICENSED INDIVIDUAL HAS NOT DEMONSTRATED IN THE NURSE'S
35 PROFESSIONAL NURSING JUDGMENT THE KNOWLEDGE, EXPERIENCE,
36 PREPARATION, AND ABILITY TO PERFORM THE DESIGNATED NURSING ACT OR
37 RESPONSIBILITY IN A SAFE AND COMPETENT MANNER.

38 (B) FOR THE PURPOSES OF SUBSECTION (A)(29) OF THIS SECTION, IF AN
39 EMERGENCY SITUATION PRESENTING A CLEAR AND SIGNIFICANT RISK OF DEATH,
40 SERIOUS INJURY, OR HARM TO A PATIENT EXISTS, THE NURSE SHALL PROVIDE FOR
41 PATIENT SAFETY AND SUPPORT VITAL LIFE FUNCTIONS.

3

1 8-708.

2 (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, A
3 PERSON MAY NOT INTERFERE WITH, INHIBIT, OR PREVENT A NURSE'S REFUSAL:

4 (1) TO ACCEPT RESPONSIBILITY AND ACCOUNTABILITY FOR
5 SUPERVISING, MONITORING, INSTRUCTING, OR EVALUATING AN UNLICENSED
6 INDIVIDUAL PERFORMING A DESIGNATED NURSING ACT OR RESPONSIBILITY WHEN
7 THE UNLICENSED INDIVIDUAL HAS NOT DEMONSTRATED IN THE NURSE'S
8 PROFESSIONAL JUDGMENT THE KNOWLEDGE, EXPERIENCE, PREPARATION, AND
9 ABILITY TO PERFORM THE DESIGNATED NURSING ACT OR RESPONSIBILITY IN A
10 SAFE AND COMPETENT MANNER; OR

11 (2) TO PERFORM A DESIGNATED NURSING ACT OR RESPONSIBILITY
12 THAT IS NOT WITHIN THE NURSE'S PREPARATION, CAPABILITIES, AND EXPERIENCE
13 AFTER THE NURSE HAS INFORMED THE PERSON THAT THE DESIGNATED NURSING
14 ACT OR RESPONSIBILITY IS NOT WITHIN THE NURSE'S PREPARATION, CAPABILITIES,
15 AND EXPERIENCE.

16 (B) IF AN EMERGENCY SITUATION PRESENTING A CLEAR AND SIGNIFICANT
17 RISK OF DEATH, SERIOUS INJURY, OR HARM TO A PATIENT EXISTS, THE NURSE
18 SHALL PROVIDE FOR PATIENT SAFETY AND SUPPORT VITAL LIFE FUNCTIONS.

19 8-710.

20 (a) Except for a violation of § 8-707 of this subtitle, a person who violates any
21 provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine
22 not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

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

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

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

28 (C) (1) SUBJECT TO THE APPROPRIATE HEARING AND APPEAL PROVISIONS,
29 THE APPROPRIATE HEALTH OCCUPATIONS BOARD, ON THE AFFIRMATIVE VOTE OF
30 A MAJORITY OF ITS MEMBERS, MAY REPRIMAND A LICENSEE OR CERTIFICATE
31 HOLDER, PLACE A LICENSEE OR CERTIFICATE HOLDER ON PROBATION, OR
32 SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF A PERSON WHO VIOLATES §
33 8-708 OF THIS SUBTITLE.

34 (2) A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE
35 AUTHORIZED TO PROVIDE HEALTH CARE SERVICES UNDER THIS ARTICLE IS NOT
36 SUBJECT TO THE PENALTY PROVIDED IN SUBSECTION (A) OF THIS SECTION.

37 (D) A PERSON WHO IS EMPLOYED IN A SUPERVISORY CAPACITY IN AN
38 ACCREDITED HOSPITAL AS DEFINED IN § 19-301(B) OF THE HEALTH - GENERAL
39 ARTICLE IS NOT SUBJECT TO THE PENALTY PROVIDED IN SUBSECTION (A) OF THIS
40 SECTION.

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1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1997.