

CF 7r2353

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**By: Senator Hollinger**

Introduced and read first time: January 30, 1997

Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 1997

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## CHAPTER \_\_\_\_\_

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 or related institution from discipline under a certain  
 18 provision; and 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

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1 Annotated Code of Maryland  
2 (1994 Replacement Volume and 1996 Supplement)

3 BY adding to

4 Article - Health Occupations  
5 Section 8-316(a)(29) and (30) and (b) and 8-708  
6 Annotated Code of Maryland  
7 (1994 Replacement Volume and 1996 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
9 MARYLAND, That Section(s) 8-316(b) through (d), respectively, of Article - Health  
10 Occupations of the Annotated Code of Maryland be renumbered to be Section(s)  
11 8-316(c) through (e), respectively.

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

14 **Article - Health Occupations**

15 8-316.

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

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

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

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

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

30 (II) BECAUSE THE DESIGNATED NURSING ACT OR  
31 RESPONSIBILITY, TAKING INTO ACCOUNT THE NURSE'S PREPARATION,  
32 CAPABILITIES, AND EXPERIENCE, IS NOT SUPPLEMENTED BY ANOTHER NURSE  
33 HAVING THE PREPARATION, CAPABILITIES, AND EXPERIENCE TO PERFORM THE  
34 DESIGNATED NURSING ACT OR RESPONSIBILITY IN A SAFE AND COMPETENT  
35 MANNER; OR

36 (30) INTERFERES WITH, INHIBITS, OR PREVENTS ANOTHER NURSE'S  
37 REFUSAL TO ACCEPT RESPONSIBILITY AND ACCOUNTABILITY FOR SUPERVISING,  
38 MONITORING, INSTRUCTING, OR EVALUATING AN UNLICENSED INDIVIDUAL  
39 PERFORMING A DESIGNATED NURSING ACT OR RESPONSIBILITY, WHEN THE  
40 UNLICENSED INDIVIDUAL HAS NOT DEMONSTRATED IN THE NURSE'S

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1 PROFESSIONAL NURSING JUDGMENT THE KNOWLEDGE, EXPERIENCE,  
2 PREPARATION, AND ABILITY TO PERFORM THE DESIGNATED NURSING ACT OR  
3 RESPONSIBILITY IN A SAFE AND COMPETENT MANNER.

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

8 8-708.

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

11 (1) TO ACCEPT RESPONSIBILITY AND ACCOUNTABILITY FOR  
12 SUPERVISING, MONITORING, INSTRUCTING, OR EVALUATING AN UNLICENSED  
13 INDIVIDUAL PERFORMING A DESIGNATED NURSING ACT OR RESPONSIBILITY WHEN  
14 THE UNLICENSED INDIVIDUAL HAS NOT DEMONSTRATED IN THE NURSE'S  
15 PROFESSIONAL JUDGMENT THE KNOWLEDGE, EXPERIENCE, PREPARATION, AND  
16 ABILITY TO PERFORM THE DESIGNATED NURSING ACT OR RESPONSIBILITY IN A  
17 SAFE AND COMPETENT MANNER; OR

18 (2) TO PERFORM A DESIGNATED NURSING ACT OR RESPONSIBILITY  
19 THAT IS NOT WITHIN THE NURSE'S PREPARATION, CAPABILITIES, AND EXPERIENCE  
20 AFTER THE NURSE HAS INFORMED THE PERSON THAT THE DESIGNATED NURSING  
21 ACT OR RESPONSIBILITY IS NOT WITHIN THE NURSE'S PREPARATION, CAPABILITIES,  
22 AND EXPERIENCE.

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

26 8-710.

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

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

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

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

35 (C) (1) SUBJECT TO THE APPROPRIATE HEARING AND APPEAL PROVISIONS,  
36 THE APPROPRIATE HEALTH OCCUPATIONS BOARD, ON THE AFFIRMATIVE VOTE OF  
37 A MAJORITY OF ITS MEMBERS, MAY REPRIMAND A LICENSEE OR CERTIFICATE  
38 HOLDER, PLACE A LICENSEE OR CERTIFICATE HOLDER ON PROBATION, OR  
39 SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF A PERSON WHO VIOLATES §  
40 8-708 OF THIS SUBTITLE.

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

4                   (D) A PERSON WHO IS NOT LICENSED OR CERTIFIED UNDER THE HEALTH  
5 OCCUPATIONS ARTICLE AND WHO IS EMPLOYED IN A SUPERVISORY CAPACITY IN  
6 AN ACCREDITED HOSPITAL AS DEFINED IN § 19-301(B) OF THE HEALTH - GENERAL  
7 ARTICLE OR A RELATED INSTITUTION AS DEFINED IN § 19-301(L) OF THE HEALTH -  
8 GENERAL ARTICLE IS NOT SUBJECT TO THE PENALTY PROVIDED IN SUBSECTION (A)  
9 OF THIS SECTION.

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