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**By: Senators Hollinger and Collins**

Introduced and read first time: January 31, 1997

Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 1997

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## CHAPTER \_\_\_\_

1 AN ACT concerning

2 **State Board of Nursing - Nursing Assistants - Certification**

3 FOR the purpose of requiring ~~an individual to be certified by~~ the State Board of Nursing  
4 by a certain date to regulate nursing assistants who practice in the State; by a  
5 ~~certain date before practicing as a nursing assistant, using certain titles, and making~~  
6 ~~certain representations; making certain exceptions; requiring the State Board of~~  
7 ~~Nursing to adopt certain regulations; establishing procedures for the certification of~~  
8 ~~nursing assistants and the issuance and renewal of nursing assistant certificates;~~  
9 ~~authorizing the State Board of Nursing to waive certain qualifications for~~  
10 ~~certification as a nursing assistant under specified circumstances; establishing~~  
11 ~~grounds for the denial of certificates and the discipline of certificate holders;~~  
12 ~~establishing certain penalties; requiring the State Board of Nursing to appoint a~~  
13 ~~certain advisory committee; requiring the State Board of Nursing to take certain~~  
14 ~~actions relating to the approval of nursing assistant training programs; establishing~~  
15 ~~certain requirements for nursing assistant training programs; requiring certain~~  
16 ~~individuals to submit to certain examinations under specified circumstances;~~  
17 ~~requiring the State Board of Nursing to disclose certain information to certain~~  
18 ~~officials; altering a certain provision of law authorizing the use of certain titles by~~  
19 ~~unlicensed individuals; defining certain terms; providing for a delayed effective date~~  
20 ~~for certain provisions of this Act requiring the establishment of a certain advisory~~  
21 ~~committee; specifying the composition of the committee and its responsibilities;~~  
22 ~~requiring the State Board of Nursing to make a certain report on or before a certain~~  
23 ~~date; and generally relating to the certification of nursing assistants by the State~~  
24 ~~Board of Nursing.~~

25 BY adding to

26 Article - Health Occupations

27 Section 8-6A-01 ~~through 8-6A-17, inclusive,~~ to be under the new subtitle "Subtitle

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1 6A. Certification of Nursing Assistants"  
2 Annotated Code of Maryland  
3 (1994 Replacement Volume and 1996 Supplement)

4 ~~BY repealing and reenacting, with amendments,~~  
5 ~~Article—Health Occupations~~  
6 ~~Section 8-703(f)~~  
7 ~~Annotated Code of Maryland~~  
8 ~~(1994 Replacement Volume and 1996 Supplement)~~

9 Preamble

10 WHEREAS, At the same time the population of the State is aging, the advent of  
11 managed care has resulted in numerous changes in the delivery of health care in the State  
12 that seek to reduce the cost of health care, including reductions in the length of hospital  
13 stays; and

14 WHEREAS, As a result of these changes, care is being provided in a variety of  
15 settings, including the homes of individuals, assisted living facilities, hospitals, and  
16 long-term care facilities; and

17 WHEREAS, Nursing assistants play an important role in providing care in all of  
18 these settings; and

19 WHEREAS, The Federal Omnibus Reconciliation Act of 1987 recognized the  
20 benefit of regulating nursing assistants who work in nursing homes by establishing  
21 minimal educational requirements and requiring registration of nursing assistants who  
22 work in nursing homes; and

23 WHEREAS, Nursing assistants who work in other settings in the State are not  
24 currently regulated; and

25 WHEREAS, Because of the absence of regulation, there is not a central repository  
26 for the collection of complaints and investigations of alleged disciplinary problems  
27 relating to nursing assistants; now, therefore,

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

30 **Article - Health Occupations**

31 SUBTITLE 6A. CERTIFICATION OF NURSING ASSISTANTS.

32 8-6A-01.

33 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~  
34 ~~INDICATED.~~

35 ~~(B) "APPROVED NURSING ASSISTANT TRAINING PROGRAM" MEANS A~~  
36 ~~COURSE OF TRAINING THAT MEETS THE BASIC NURSING ASSISTANT CURRICULUM~~  
37 ~~PRESCRIBED AND APPROVED BY THE BOARD.~~

1           ~~(C) "BOARD" MEANS THE STATE BOARD OF NURSING.~~

2           ~~(D) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE BOARD TO~~  
3 ~~PRACTICE AS A CERTIFIED NURSING ASSISTANT IN THE STATE.~~

4           ~~(E) "CERTIFIED NURSING ASSISTANT" MEANS AN INDIVIDUAL WHO IS~~  
5 ~~CERTIFIED BY THE BOARD TO PRACTICE AS A CERTIFIED NURSING ASSISTANT IN~~  
6 ~~THE STATE.~~

7           ~~(F) "PRACTICE AS A NURSING ASSISTANT" MEANS THE PERFORMANCE OF~~  
8 ~~NURSING SERVICES THAT REQUIRE BOARD APPROVED EDUCATION, TRAINING, AND~~  
9 ~~SKILLS AS SPECIFIED IN THE REGULATIONS ADOPTED BY THE BOARD.~~

10 ~~8-6A-02.~~

11           ~~(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL~~  
12 ~~SHALL BE CERTIFIED BY THE BOARD TO PRACTICE AS A NURSING ASSISTANT~~  
13 ~~BEFORE THE INDIVIDUAL MAY PRACTICE AS A NURSING ASSISTANT IN THE STATE.~~

14           ~~(B) THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL WHO:~~

15                   ~~(1) PRACTICES A HEALTH OCCUPATION THAT THE INDIVIDUAL IS~~  
16 ~~AUTHORIZED TO PRACTICE UNDER THIS ARTICLE;~~

17                   ~~(2) PROVIDES FOR THE GRATUITOUS CARE OF FRIENDS OR FAMILY~~  
18 ~~MEMBERS;~~

19                   ~~(3) PROVIDES NURSING ASSISTANCE IN THE EVENT OF AN EMERGENCY;~~

20                   ~~(4) PERFORMS NURSING ASSISTANT TASKS WHILE A NURSING STUDENT~~  
21 ~~ENROLLED IN AN ACCREDITED NURSING PROGRAM AND PRACTICING UNDER THE~~  
22 ~~DIRECT SUPERVISION OF QUALIFIED FACULTY OR PRECEPTORS; OR~~

23                   ~~(5) PERFORMS NURSING ASSISTANT TASKS AS A STUDENT WHILE:~~

24                           ~~(I) ENROLLED IN A BOARD APPROVED NURSING ASSISTANT~~  
25 ~~TRAINING PROGRAM; AND~~

26                           ~~(II) PRACTICING UNDER THE DIRECT SUPERVISION OF QUALIFIED~~  
27 ~~FACULTY OR PRECEPTORS.~~

28 ~~8-6A-03.~~

29           ~~AN INDIVIDUAL SHALL BE CERTIFIED AS A NURSING ASSISTANT BY THE~~  
30 ~~BOARD BEFORE THE INDIVIDUAL MAY:~~

31                   ~~(1) USE THE TITLE "CERTIFIED NURSING ASSISTANT";~~

32                   ~~(2) USE THE INITIALS "C.N.A." AFTER THE NAME OF THE INDIVIDUAL;~~  
33 ~~OR~~

34                   ~~(3) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS~~  
35 ~~A NURSING ASSISTANT.~~

1 ~~8-6A-04.~~

2 ~~(A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND~~  
3 ~~RENEWAL OF CERTIFICATES AND OTHER SERVICES IT PROVIDES TO CERTIFIED~~  
4 ~~NURSING ASSISTANTS.~~

5 ~~(2) THE FEES CHARGED SHALL BE SET TO PRODUCE FUNDS TO~~  
6 ~~APPROXIMATE THE COST OF MAINTAINING THE CERTIFICATION PROGRAM AND~~  
7 ~~THE OTHER SERVICES PROVIDED TO CERTIFIED NURSING ASSISTANTS.~~

8 ~~(B) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THE~~  
9 ~~PROVISIONS OF THIS SUBTITLE TO THE COMPTROLLER OF THE STATE.~~

10 ~~(2) THE COMPTROLLER SHALL DISTRIBUTE ALL THE FEES TO THE~~  
11 ~~STATE BOARD OF NURSING FUND ESTABLISHED UNDER § 8-206 OF THIS TITLE.~~

12 ~~8-6A-05.~~

13 ~~(A) THE BOARD SHALL ADOPT REGULATIONS ESTABLISHING THE~~  
14 ~~QUALIFICATIONS FOR CERTIFICATION AS A CERTIFIED NURSING ASSISTANT.~~

15 ~~(B) TO QUALIFY FOR CERTIFICATION, AN APPLICANT SHALL MEET THE~~  
16 ~~REQUIREMENTS SET BY THE BOARD.~~

17 ~~(C) (1) AN APPLICANT FOR A CERTIFICATE SHALL:~~

18 ~~(i) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT~~  
19 ~~THE BOARD REQUIRES;~~

20 ~~(ii) PROVIDE EVIDENCE, AS REQUIRED BY THE BOARD, OF~~  
21 ~~SUCCESSFUL COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING~~  
22 ~~PROGRAM;~~

23 ~~(iii) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD;~~  
24 ~~AND~~

25 ~~(iv) PASS AN EXAMINATION APPROVED BY THE BOARD.~~

26 ~~(2) AN APPLICANT FOR A CERTIFICATE MAY NOT:~~

27 ~~(i) HAVE COMMITTED ANY ACT OR OMISSION THAT WOULD BE~~  
28 ~~GROUND FOR DISCIPLINE OR DENIAL OF CERTIFICATION UNDER THIS SUBTITLE;~~  
29 ~~AND~~

30 ~~(ii) HAVE A RECORD OF ABUSE, NEGLIGENCE, MISAPPROPRIATION~~  
31 ~~OF A RESIDENT'S PROPERTY, OR ANY DISCIPLINARY ACTION TAKEN OR PENDING IN~~  
32 ~~ANY OTHER STATE OR TERRITORY OF THE UNITED STATES AGAINST THE~~  
33 ~~CERTIFICATION OF THE NURSING ASSISTANT IN THE STATE OR TERRITORY.~~

34 ~~(D) THE BOARD MAY WAIVE THE REQUIREMENT FOR SUCCESSFUL~~  
35 ~~COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING PROGRAM AND~~  
36 ~~PASSAGE OF AN EXAMINATION APPROVED BY THE BOARD UNDER SUBSECTION (C)~~  
37 ~~OF THIS SECTION FOR ANY APPLICANT WHO APPLIES FOR CERTIFICATION UNDER~~

5

1 ~~THIS SUBTITLE BY JULY 1, 1999 AND SUBMITS EVIDENCE SATISFACTORY TO THE~~  
2 ~~BOARD THAT THE APPLICANT:~~

3                   ~~(1) HOLDS CURRENT REGISTRATION IN GOOD STANDING AS A~~  
4 ~~GERIATRIC NURSING ASSISTANT IN ACCORDANCE WITH REGULATIONS ADOPTED~~  
5 ~~BY THE DEPARTMENT UNDER § 19-308.1 OF THE HEALTH—GENERAL ARTICLE; OR~~

6                   ~~(2) IN THE LAST 2 YEARS HAS PRACTICED FOR AT LEAST 1,000 HOURS AS~~  
7 ~~A NURSING ASSISTANT.~~

8 ~~8-6A-06.~~

9                   ~~EVERY APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL:~~

10                   ~~(1) PAY THE REQUIRED APPLICATION FEE;~~

11                   ~~(2) SUBMIT THE INFORMATION REQUIRED BY THE BOARD IN THE~~  
12 ~~MANNER AND FORM SPECIFIED BY THE BOARD; AND~~

13                   ~~(3) SUBMIT WRITTEN EVIDENCE THAT THE APPLICANT:~~

14                   ~~(I) IS CERTIFIED TO PRACTICE AS A NURSING ASSISTANT BY~~  
15 ~~ANOTHER STATE OR TERRITORY OF THE UNITED STATES WITH REQUIREMENTS~~  
16 ~~THAT ARE ESSENTIALLY SIMILAR TO THE REQUIREMENTS FOR CERTIFICATION~~  
17 ~~ESTABLISHED IN THIS SUBTITLE AND THAT THE CERTIFICATION IS IN GOOD~~  
18 ~~STANDING;~~

19                   ~~(II) HAS NOT COMMITTED ANY ACT OR OMISSION THAT WOULD BE~~  
20 ~~GROUND FOR DISCIPLINE OR DENIAL OF CERTIFICATION UNDER THIS SUBTITLE;~~

21                   ~~(III) HAS SUCCESSFULLY COMPLETED NURSING ASSISTANT~~  
22 ~~TRAINING THAT MEETS THE STANDARDS FOR AN APPROVED NURSING ASSISTANT~~  
23 ~~TRAINING PROGRAM ESTABLISHED UNDER THIS SUBTITLE AND THE STANDARDS~~  
24 ~~ADOPTED BY THE BOARD;~~

25                   ~~(IV) HAS NO RECORD OF ABUSE, NEGLIGENCE, OR~~  
26 ~~MISAPPROPRIATION OF A RESIDENT'S PROPERTY OR ANY DISCIPLINARY ACTION~~  
27 ~~TAKEN OR PENDING IN ANY OTHER STATE OR TERRITORY OF THE UNITED STATES~~  
28 ~~AGAINST THE CERTIFICATION OF THE NURSING ASSISTANT IN THE STATE OR~~  
29 ~~TERRITORY; AND~~

30                   ~~(V) HAS SUCCESSFULLY PASSED AN EXAMINATION THAT WAS~~  
31 ~~SIMILAR TO THE EXAMINATION THAT WAS GIVEN IN THIS STATE AT THE TIME THE~~  
32 ~~APPLICANT WAS CERTIFIED IN ANY OTHER STATE OR TERRITORY OF THE UNITED~~  
33 ~~STATES.~~

34 ~~8-6A-07.~~

35                   ~~(A) THE BOARD SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS~~  
36 ~~THE REQUIREMENTS OF THIS SUBTITLE.~~

37                   ~~(B) THE CERTIFICATE SHALL INCLUDE THE TITLE "CERTIFIED NURSING~~  
38 ~~ASSISTANT".~~

1           ~~(C) AN INDIVIDUAL EMPLOYED IN A SETTING IN WHICH THE INDIVIDUAL~~  
2 ~~CARES FOR DEVELOPMENTALLY DISABLED INDIVIDUALS MAY REQUEST THE~~  
3 ~~INDIVIDUAL'S CERTIFICATE TO CONTAIN THE TITLE "HUMAN SERVICES SUPPORT~~  
4 ~~WORKER" OR "HOME CARE AIDE".~~

5           ~~(D) THE BOARD MAY ISSUE A CERTIFICATE TO REPLACE A LOST,~~  
6 ~~DESTROYED, OR MUTILATED CERTIFICATE, IF THE CERTIFICATE HOLDER PAYS THE~~  
7 ~~CERTIFICATE REPLACEMENT FEE SET BY THE BOARD.~~

8 ~~8-6A-08.~~

9           ~~(A) A CERTIFICATE EXPIRES ON THE 28TH DAY OF THE BIRTH MONTH OF THE~~  
10 ~~NURSING ASSISTANT, UNLESS THE CERTIFICATE IS RENEWED FOR A 1-YEAR TERM~~  
11 ~~AS PROVIDED IN THIS SECTION.~~

12           ~~(B) AT LEAST 1 MONTH BEFORE THE CERTIFICATE EXPIRES, THE BOARD~~  
13 ~~SHALL SEND TO THE NURSING ASSISTANT, BY FIRST CLASS MAIL TO THE LAST~~  
14 ~~KNOWN ADDRESS OF THE NURSING ASSISTANT, A RENEWAL NOTICE THAT STATES:~~

15                   ~~(1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;~~

16                   ~~(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE~~  
17 ~~RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE~~  
18 ~~THE CERTIFICATE EXPIRES; AND~~

19                   ~~(3) THE AMOUNT OF THE RENEWAL FEE.~~

20           ~~(C) BEFORE A CERTIFICATE EXPIRES, THE NURSING ASSISTANT~~  
21 ~~PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE CERTIFICATE~~  
22 ~~HOLDER:~~

23                   ~~(1) OTHERWISE IS ENTITLED TO BE CERTIFIED;~~

24                   ~~(2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM~~  
25 ~~THAT THE BOARD REQUIRES;~~

26                   ~~(3) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD; AND~~

27                   ~~(4) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF:~~

28                           ~~(I) 8 HOURS OF ACTIVE NURSING ASSISTANT PRACTICE WITHIN~~  
29 ~~THE 1-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF RENEWAL; OR~~

30                           ~~(II) AN APPROVED NURSING ASSISTANT TRAINING PROGRAM.~~

31           ~~(D) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH NURSING~~  
32 ~~ASSISTANT WHO MEETS THE REQUIREMENTS OF THIS SECTION.~~

33 ~~8-6A-09.~~

34           ~~(A) THE BOARD MAY IMPOSE A CIVIL FINE NOT EXCEEDING \$50 ON A~~  
35 ~~CERTIFIED NURSING ASSISTANT WHO FAILS TO RENEW A CERTIFICATE WITHIN 30~~  
36 ~~DAYS AFTER ITS EXPIRATION DATE AND PRACTICES AS A CERTIFIED NURSING~~  
37 ~~ASSISTANT DURING THE PERIOD OF EXPIRATION.~~

1           ~~(B) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION~~  
2 ~~TO THE GENERAL FUND OF THE STATE.~~

3 ~~8-6A-10.~~

4           ~~(A) SUBJECT TO THE HEARING PROVISIONS OF § 8-317 OF THIS TITLE, THE~~  
5 ~~BOARD MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY~~  
6 ~~CERTIFICATE HOLDER, PLACE ANY CERTIFICATE HOLDER ON PROBATION, OR~~  
7 ~~SUSPEND OR REVOKE THE CERTIFICATE OF A CERTIFICATE HOLDER, IF THE~~  
8 ~~APPLICANT OR CERTIFICATE HOLDER:~~

9                   ~~(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO~~  
10 ~~OBTAIN A CERTIFICATE FOR THE APPLICANT OR FOR ANOTHER;~~

11                   ~~(2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;~~

12                   ~~(3) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY IN~~  
13 ~~THIS STATE OR IN ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED~~  
14 ~~BY A COURT IN THIS STATE OR IN ANY OTHER STATE OR COUNTRY FOR AN ACT~~  
15 ~~THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S~~  
16 ~~DISCIPLINARY STATUTES;~~

17                   ~~(4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A~~  
18 ~~FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY~~  
19 ~~APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA~~  
20 ~~SET ASIDE;~~

21                   ~~(5) FILES A FALSE REPORT OR RECORD OF AN INDIVIDUAL UNDER THE~~  
22 ~~CERTIFICATE HOLDER'S CARE;~~

23                   ~~(6) GIVES ANY FALSE OR MISLEADING INFORMATION ABOUT A~~  
24 ~~MATERIAL MATTER IN AN EMPLOYMENT APPLICATION;~~

25                   ~~(7) FAILS TO FILE OR RECORD ANY HEALTH RECORD THAT IS~~  
26 ~~REQUIRED BY LAW;~~

27                   ~~(8) INDUCES ANOTHER PERSON TO FAIL TO FILE OR RECORD ANY~~  
28 ~~HEALTH RECORD THAT IS REQUIRED BY LAW;~~

29                   ~~(9) HAS VIOLATED ANY ORDER, RULE, OR REGULATION OF THE BOARD~~  
30 ~~RELATING TO THE PRACTICE OR CERTIFICATION OF A NURSING ASSISTANT;~~

31                   ~~(10) PROVIDES SERVICES AS A NURSING ASSISTANT WHILE:~~

32                           ~~(i) UNDER THE INFLUENCE OF ALCOHOL; OR~~

33                           ~~(ii) USING ANY NARCOTIC OR CONTROLLED DANGEROUS~~  
34 ~~SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR OTHER DRUG THAT IS IN~~  
35 ~~EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;~~

36                   ~~(11) IS HABITUALLY INTOXICATED;~~

37                   ~~(12) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR~~  
38 ~~CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN ARTICLE 27 OF THE CODE;~~

1                   ~~(13) HAS ACTED IN A MANNER INCONSISTENT WITH THE HEALTH OR~~  
2 ~~SAFETY OF A PERSON UNDER THE APPLICANT OR CERTIFICATE HOLDER'S CARE;~~

3                   ~~(14) HAS PRACTICED AS A NURSING ASSISTANT IN A MANNER WHICH~~  
4 ~~FAILS TO MEET GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF A~~  
5 ~~NURSING ASSISTANT;~~

6                   ~~(15) HAS PHYSICALLY, VERBALLY, OR PSYCHOLOGICALLY ABUSED,~~  
7 ~~NEGLECTED, OR OTHERWISE HARMED A PERSON UNDER THE APPLICANT OR~~  
8 ~~CERTIFICATE HOLDER'S CARE;~~

9                   ~~(16) HAS A PHYSICAL OR MENTAL DISABILITY WHICH RENDERS THE~~  
10 ~~APPLICANT OR CERTIFICATE HOLDER UNABLE TO PRACTICE AS A CERTIFIED~~  
11 ~~NURSING ASSISTANT WITH REASONABLE SKILL AND SAFETY TO THE PATIENTS AND~~  
12 ~~WHICH MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE CARE OF~~  
13 ~~THE APPLICANT OR CERTIFICATE HOLDER;~~

14                   ~~(17) HAS VIOLATED THE CONFIDENTIALITY OF INFORMATION OR~~  
15 ~~KNOWLEDGE AS PRESCRIBED BY LAW CONCERNING ANY PATIENT;~~

16                   ~~(18) HAS MISAPPROPRIATED PATIENT OR FACILITY PROPERTY;~~

17                   ~~(19) PERFORMS CERTIFIED NURSING ASSISTANT FUNCTIONS~~  
18 ~~INCOMPETENTLY;~~

19                   ~~(20) HAS VIOLATED ANY PROVISION OF THIS TITLE OR HAS AIDED OR~~  
20 ~~KNOWINGLY PERMITTED ANY PERSON TO VIOLATE ANY PROVISION OF THIS TITLE;~~

21                   ~~(21) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;~~

22                   ~~(22) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST~~  
23 ~~AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES~~  
24 ~~FOR WHICH THE APPLICANT OR CERTIFICATE HOLDER IS CERTIFIED AND~~  
25 ~~QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;~~

26                   ~~(23) EXCEPT IN AN EMERGENCY LIFE THREATENING SITUATION WHERE~~  
27 ~~IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR~~  
28 ~~DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS;~~

29                   ~~(24) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION~~  
30 ~~CONDUCTED BY THE BOARD;~~

31                   ~~(25) FAILS TO COMPLY WITH INSTRUCTIONS AND DIRECTIONS OF THE~~  
32 ~~SUPERVISING REGISTERED NURSE OR LICENSED PRACTICAL NURSE;~~

33                   ~~(26) AFTER FAILING TO RENEW A CERTIFICATE, COMMITS ANY ACT~~  
34 ~~THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;~~

35                   ~~(27) PRACTICES AS A NURSING ASSISTANT BEFORE OBTAINING OR~~  
36 ~~RENEWING THE CERTIFICATE, INCLUDING ANY TIME PERIOD WHEN THE~~  
37 ~~CERTIFICATE HAS LAPSED;~~

38                   ~~(28) IMPERSONATES ANOTHER INDIVIDUAL;~~



1 ~~(I) LICENSED UNDER THE PROVISIONS OF THIS TITLE; OR~~

2 ~~(II) WHO HOLDS A CERTIFICATE ISSUED UNDER THE PROVISIONS~~  
3 ~~OF THIS TITLE;~~

4 ~~(29) HAS ACTED IN A MANNER INCONSISTENT WITH THE HEALTH OR~~  
5 ~~SAFETY OF A PERSON UNDER THE CERTIFIED NURSING ASSISTANT'S CARE; OR~~

6 ~~(30) PERFORMS ACTIVITIES THAT EXCEED THE EDUCATION AND~~  
7 ~~TRAINING OF THE CERTIFIED NURSING ASSISTANT.~~

8 ~~(B) IF, AFTER A HEARING UNDER § 8-317 OF THIS TITLE, THE BOARD FINDS~~  
9 ~~THAT THERE ARE GROUNDS UNDER SUBSECTION (A) OF THIS SECTION TO SUSPEND~~  
10 ~~OR REVOKE A CERTIFICATE TO PRACTICE AS A CERTIFIED NURSING ASSISTANT, TO~~  
11 ~~REPRIMAND A CERTIFICATE HOLDER, OR PLACE A CERTIFICATE HOLDER ON~~  
12 ~~PROBATION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$500 INSTEAD OF~~  
13 ~~OR IN ADDITION TO SUSPENDING OR REVOKING THE CERTIFICATE, REPRIMANDING~~  
14 ~~THE CERTIFICATE HOLDER, OR PLACING THE CERTIFICATE HOLDER ON~~  
15 ~~PROBATION.~~

16 ~~(C) (1) AN INDIVIDUAL WHOSE CERTIFICATE HAS BEEN SUSPENDED OR~~  
17 ~~REVOKED BY THE BOARD SHALL RETURN THE CERTIFICATE TO THE BOARD.~~

18 ~~(2) IF THE SUSPENDED OR REVOKED CERTIFICATE HAS BEEN LOST, THE~~  
19 ~~INDIVIDUAL SHALL FILE WITH THE BOARD A VERIFIED STATEMENT TO THAT~~  
20 ~~EFFECT.~~

21 ~~(D) THE BOARD SHALL FILE A NOTICE FOR PUBLICATION IN THE EARLIEST~~  
22 ~~PUBLICATION OF THE MARYLAND REGISTER OF EACH REVOCATION OR~~  
23 ~~SUSPENSION OF A CERTIFICATE UNDER THIS SECTION WITHIN 24 HOURS OF THE~~  
24 ~~REVOCATION OR SUSPENSION.~~

25 ~~8-6A-11.~~

26 ~~ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER §~~  
27 ~~8-6A-12 OF THIS SUBTITLE MAY ONLY TAKE A DIRECT JUDICIAL APPEAL AS~~  
28 ~~ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.~~

29 ~~8-6A-12.~~

30 ~~(A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A~~  
31 ~~CERTIFICATE, A CERTIFIED NURSING ASSISTANT MAY NOT SURRENDER THE~~  
32 ~~CERTIFICATE NOR MAY THE CERTIFICATE LAPSE BY OPERATION OF LAW WHILE~~  
33 ~~THE CERTIFICATE HOLDER IS UNDER INVESTIGATION OR WHILE CHARGES ARE~~  
34 ~~PENDING AGAINST THE CERTIFIED NURSING ASSISTANT.~~

35 ~~(B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE~~  
36 ~~CERTIFIED NURSING ASSISTANT UNDER INVESTIGATION OR AGAINST WHOM~~  
37 ~~CHARGES ARE PENDING TO ACCEPT SURRENDER OF THE CERTIFICATE.~~

10

1 ~~8-6A-13.~~

2 ~~A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A~~  
3 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000~~  
4 ~~OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.~~

5 ~~8-6A-14.~~

6 ~~(A) THE BOARD SHALL APPOINT AN ADVISORY COMMITTEE CONSISTING OF~~  
7 ~~AT LEAST TEN MEMBERS APPOINTED BY THE BOARD.~~

8 ~~(B) THE MEMBERSHIP OF THE ADVISORY COMMITTEE SHALL INCLUDE TWO~~  
9 ~~NURSING ASSISTANTS.~~

10 ~~(C) THE ADVISORY COMMITTEE SHALL ADVISE THE BOARD CONCERNING~~  
11 ~~MATTERS RELATED TO NURSING ASSISTANTS.~~

12 ~~8-6A-15.~~

13 ~~(A) THE BOARD SHALL APPROVE EACH NURSING ASSISTANT TRAINING~~  
14 ~~PROGRAM PRIOR TO ITS IMPLEMENTATION AND PROVIDE PERIODIC SURVEY OF~~  
15 ~~ALL PROGRAMS IN THE STATE.~~

16 ~~(B) THE CURRICULUM CONTENT FOR AN APPROVED NURSING ASSISTANT~~  
17 ~~TRAINING PROGRAM SHALL COMPLY WITH THE REGULATIONS ADOPTED BY THE~~  
18 ~~BOARD.~~

19 ~~(C) THE CURRICULUM SHALL INCLUDE MATERIAL THAT PROVIDES A BASIC~~  
20 ~~LEVEL OF KNOWLEDGE AND DEMONSTRABLE SKILLS FOR EACH INDIVIDUAL~~  
21 ~~COMPLETING THE PROGRAM AND BE PRESENTED IN A MANNER THAT PROVIDES~~  
22 ~~FOR CONSIDERATION OF INDIVIDUALS WITH LIMITED LITERACY SKILLS.~~

23 ~~(D) THE CURRICULUM SHALL ALLOW FOR INDIVIDUAL CONTENT RELATED~~  
24 ~~TO THE NEEDS OF POPULATIONS IN SPECIFIC HEALTH CARE SETTINGS.~~

25 ~~(E) THE BOARD MAY NOT REQUIRE THE CURRICULUM CONTENT OF AN~~  
26 ~~APPROVED NURSING ASSISTANT TRAINING PROGRAM TO SUBSTANTIALLY EXCEED~~  
27 ~~THE REQUIREMENTS ESTABLISHED IN THE FEDERAL OMNIBUS BUDGET~~  
28 ~~RECONCILIATION ACT OF 1987, AS AMENDED.~~

29 ~~8-6A-16.~~

30 ~~(A) IF, DURING THE INVESTIGATION OF AN ALLEGATION BROUGHT AGAINST~~  
31 ~~A CERTIFIED NURSING ASSISTANT UNDER THIS SUBTITLE, THE BOARD HAS REASON~~  
32 ~~TO BELIEVE THAT THE CERTIFIED NURSING ASSISTANT MAY CAUSE HARM TO A~~  
33 ~~PERSON AFFECTED BY THE PRACTICE OF THE CERTIFIED NURSING ASSISTANT, THE~~  
34 ~~BOARD, ON ITS OWN INITIATIVE, SHALL DIRECT THE CERTIFIED NURSING~~  
35 ~~ASSISTANT TO SUBMIT TO AN APPROPRIATE EXAMINATION BY A HEALTH CARE~~  
36 ~~PROVIDER DESIGNATED BY THE BOARD.~~

37 ~~(B) IN RETURN FOR THE PRIVILEGE GIVEN TO A CERTIFIED NURSING~~  
38 ~~ASSISTANT TO PRACTICE IN THE STATE, THE CERTIFIED NURSING ASSISTANT IS~~  
39 ~~DEEMED TO HAVE:~~

11

1           ~~(1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS SECTION~~  
2 ~~IF REQUESTED BY THE BOARD IN WRITING; AND~~

3           ~~(2) WAIVED ANY LEGAL CLAIM OF PRIVILEGE AS TO THE TESTIMONY~~  
4 ~~OR EXAMINATION REPORTS OF THE EXAMINING HEALTH CARE PROVIDER.~~

5           ~~(C) THE FAILURE OR REFUSAL OF A CERTIFIED NURSING ASSISTANT TO~~  
6 ~~SUBMIT TO AN EXAMINATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION~~  
7 ~~IS PRIMA FACIE EVIDENCE OF THE INABILITY OF THE CERTIFIED NURSING~~  
8 ~~ASSISTANT TO COMPETENTLY PRACTICE AS A CERTIFIED NURSING ASSISTANT,~~  
9 ~~UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE~~  
10 ~~CONTROL OF THE CERTIFIED NURSING ASSISTANT.~~

11           ~~(D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE IN~~  
12 ~~ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.~~

13 ~~8-6A-17.~~

14           ~~IF THE BOARD DETERMINES THAT THE INFORMATION CONTAINED IN A~~  
15 ~~RECORD CONCERNS POSSIBLE CRIMINAL ACTIVITY OF A CERTIFIED NURSING~~  
16 ~~ASSISTANT, THE BOARD SHALL DISCLOSE THE INFORMATION TO A LAW~~  
17 ~~ENFORCEMENT OR PROSECUTORIAL OFFICIAL.~~

18 ~~8-703.~~

19           ~~(f) An unlicensed individual who acts under § 8-102(b)(3) of this title may use~~  
20 ~~the word "nursing" together with another word to describe the occupation of the~~  
21 ~~individual, as in [phrases] A PHRASE such as "nursing aide" [and "nursing assistant"].~~

22           ~~SECTION 2. AND BE IT FURTHER ENACTED, That §§ 8-6A-02 and 8-6A-03~~  
23 ~~of the Health Occupations Article as enacted by Section 1 of this Act shall take effect~~  
24 ~~October 1, 1999.~~

25           (A) AS OF JANUARY 1, 2000, THE BOARD SHALL REGULATE NURSING  
26 ASSISTANTS WHO PRACTICE IN THE STATE.

27           (B) THE BOARD SHALL ESTABLISH AN ADVISORY COMMITTEE TO MAKE  
28 RECOMMENDATIONS TO THE BOARD RELATING TO:

29           (1) THE EDUCATION AND TRAINING REQUIREMENTS FOR NURSING  
30 ASSISTANTS WHO PRACTICE IN THE STATE;

31           (2) THE CLINICAL AND ADMINISTRATIVE PROCEDURES FOR THE  
32 REGULATION OF NURSING ASSISTANTS; AND

33           (3) A PLAN FOR THE MOBILITY OF NURSING ASSISTANTS BETWEEN  
34 VARIOUS PRACTICE SETTINGS.

35           (C) THE ADVISORY COMMITTEE SHALL INCLUDE REPRESENTATIVES OF:

36           (1) NURSING ASSISTANTS;

37           (2) THE AFFECTED INDUSTRIES, INCLUDING HOSPITALS, LONG-TERM  
38 CARE FACILITIES, AND ASSISTED LIVING FACILITIES;

12

1           (3) THE DEPARTMENT;

2           (4) THE MARYLAND HIGHER EDUCATION COMMISSION;

3           (5) ORGANIZATIONS THAT REPRESENT NURSING ASSISTANTS IN THEIR  
4 RELATIONS WITH THEIR EMPLOYERS; AND

5           (6) CONSUMERS OF THE SERVICES PROVIDED BY NURSING ASSISTANTS.

6           (D) THE BOARD SHALL REPORT TO THE SENATE ECONOMIC AND  
7 ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENTAL  
8 MATTERS COMMITTEE ON OR BEFORE OCTOBER 1, 1998, IN ACCORDANCE WITH §  
9 2-1312 OF THE STATE GOVERNMENT ARTICLE, WITH A PROPOSAL FOR LEGISLATION  
10 THAT WOULD PROVIDE FOR THE REGULATION OF NURSING ASSISTANTS IN THE  
11 STATE.

12           SECTION ~~3-~~ 2. AND BE IT FURTHER ENACTED, That, ~~subject to Section 2 of~~  
13 ~~this Act,~~ this Act shall take effect October 1, 1997.