
By: **Delegates Nathan-Pulliam, Goldwater, Eckardt, Frush, Walkup, and
Marriott**

Introduced and read first time: February 6, 1998

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing - Discipline**

3 FOR the purpose of requiring the State Board of Nursing to require certain licensees
4 to undergo a certain examination by a health care provider under certain
5 circumstances; requiring that certain licensees are deemed to have consented to
6 certain examinations and to have waived claims of privilege regarding the
7 resulting examination reports or testimony; requiring the Board to pay the costs
8 of an examination; specifying certain circumstances under which a licensee may
9 be placed on probation or have a license suspended, denied, or revoked;
10 establishing a penalty for certain licensed nurses who disobey subpoenas from
11 the Board; and generally relating to discipline taken against certain licensed
12 nurses.

13 BY adding to
14 Article - Health Occupations
15 Section 8-205.1 and 8-316(a)(29) and (30)
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1997 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Health Occupations
20 Section 8-316(a)(3), (27), and (28) and 8-317(f)
21 Annotated Code of Maryland
22 (1994 Replacement Volume and 1997 Supplement)

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

1

Article - Health Occupations

2 8-205.1.

3 (A) IF THE BOARD, WHILE INVESTIGATING AN ALLEGATION BROUGHT
4 AGAINST A LICENSEE UNDER THIS TITLE, HAS REASON TO BELIEVE THAT THE
5 LICENSEE MAY CAUSE HARM TO INDIVIDUALS AFFECTED BY THE LICENSEE'S
6 PRACTICE OF NURSING, THE BOARD SHALL REQUIRE THE LICENSEE TO SUBMIT TO
7 AN APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE
8 BOARD.

9 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A LICENSEE TO PRACTICE
10 NURSING IN THE STATE, THE LICENSEE IS DEEMED TO HAVE:

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

13 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
14 EXAMINATION REPORTS OF THE EXAMINING HEALTH CARE PROFESSIONAL.

15 (C) THE FAILURE OR REFUSAL OF THE LICENSEE TO SUBMIT TO AN
16 EXAMINATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION IS PRIMA FACIE
17 EVIDENCE OF THE LICENSEE'S INABILITY TO PRACTICE NURSING COMPETENTLY,
18 UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE
19 CONTROL OF THE LICENSEE.

20 (D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE UNDER
21 THIS SECTION.

22 8-316.

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

26 (3) Is disciplined by a licensing, MILITARY, or disciplinary authority in
27 this State or in any other state or country or convicted or disciplined by a court in this
28 State or in any other state or country for an act that would be grounds for disciplinary
29 action under the Board's disciplinary statutes;

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

33 (28) After failing to renew a license or after a temporary license has
34 lapsed, commits any act that would be grounds for disciplinary action under this
35 section;

36 (29) PRACTICES REGISTERED NURSING OR LICENSED PRACTICAL
37 NURSING ON A NONRENEWED LICENSE FOR A PERIOD OF 16 MONTHS OR LONGER; OR

1 (30) VIOLATES REGULATIONS ADOPTED BY THE BOARD.

2 8-317.

3 (f) (1) Over the signature of the president or the executive director of the
4 Board, the Board may issue subpoenas and administer oaths in connection with any
5 investigation under this title and any hearings or proceedings before it.

6 (2) IF A PERSON, WITHOUT LAWFUL EXCUSE, DISOBEYS A SUBPOENA
7 FROM THE BOARD OR AN ORDER BY THE BOARD TO TAKE AN OATH, TESTIFY, OR
8 ANSWER QUESTIONS, ON PETITION OF THE BOARD A COURT OF COMPETENT
9 JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA AND HOLD THE
10 INDIVIDUAL IN CONTEMPT OF COURT.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1998.