

SENATE BILL 445

Unofficial Copy
J2

1998 Regular Session
(8r1378)

ENROLLED BILL

-- Economic and Environmental Affairs/Environmental Matters --

Introduced by **Senator Hollinger**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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
4 Nursing before practicing as a nursing assistant, using certain titles, and
5 making certain representations; making certain exceptions; requiring the State
6 Board of Nursing to adopt certain regulations; establishing procedures for the
7 certification of nursing assistants and the issuance and renewal of nursing
8 assistant certificates; ~~authorizing~~ requiring the State Board of Nursing to waive
9 certain qualifications for certification as a nursing assistant under specified
10 circumstances; establishing grounds for the denial of certificates and the
11 discipline of certificate holders; establishing certain penalties; requiring the
12 State Board of Nursing to appoint a certain advisory committee; requiring the
13 State Board of Nursing to take certain actions relating to the approval of
14 nursing assistant training programs; establishing certain requirements for
15 nursing assistant training programs; requiring certain individuals to submit to
16 certain examinations under specified circumstances; requiring the State Board
17 of Nursing to disclose certain information to certain officials; ~~altering a certain~~

1 ~~provision of law authorizing the use of certain titles by unlicensed individuals;~~
2 ~~defining certain terms; and generally relating to the certification of nursing~~
3 ~~assistants by the State Board of Nursing.~~

4 BY repealing

5 Article - Health Occupations
6 Section 8-6A-01
7 Annotated Code of Maryland
8 (1994 Replacement Volume and 1997 Supplement)

9 BY adding to

10 Article - Health Occupations
11 Section 8-6A-01 through 8-6A-16
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1997 Supplement)

14 ~~BY repealing and reenacting, with amendments,~~

15 ~~Article - Health Occupations~~
16 ~~Section 8-703(f)~~
17 ~~Annotated Code of Maryland~~
18 ~~(1994 Replacement Volume and 1997 Supplement)~~

19 Preamble

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

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

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

29 WHEREAS, The Federal Omnibus Reconciliation Act of 1987 recognized the
30 benefit of regulating nursing assistants who work in nursing homes by establishing
31 minimal educational requirements and requiring registration of nursing assistants
32 who work in nursing homes; and

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

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

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

3 **Article - Health Occupations**

4 [8-6A-01.

5 (a) As of January 1, 2000, nursing assistants who practice in the State shall be
6 regulated.

7 (b) The Department shall establish an advisory committee to make
8 recommendations relating to:

9 (1) The education and training requirements for nursing assistants who
10 practice in the State;

11 (2) The clinical and administrative procedures for the regulation of
12 nursing assistants; and

13 (3) A plan for the mobility of nursing assistants between various practice
14 settings.

15 (c) The advisory committee shall include representatives of:

16 (1) Nursing assistants;

17 (2) The affected industries, including hospitals, long-term care facilities,
18 and assisted living facilities;

19 (3) The Board;

20 (4) The Maryland Higher Education Commission;

21 (5) Organizations that represent nursing assistants in their relations
22 with their employers; and

23 (6) Consumers of the services provided by nursing assistants.

24 (d) The Department shall report to the Senate Economic and Environmental
25 Affairs Committee and the House Environmental Matters Committee on or before
26 January 1, 1998, in accordance with § 2-1246 of the State Government Article, with
27 a proposal for legislation that would provide for the regulation of nursing assistants
28 in the State.]

29 8-6A-01.

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

1 (B) "APPROVED NURSING ASSISTANT TRAINING PROGRAM" MEANS A COURSE
 2 OF TRAINING THAT MEETS THE BASIC NURSING ASSISTANT CURRICULUM
 3 PRESCRIBED AND APPROVED BY THE BOARD.

4 (C) "BOARD" MEANS THE STATE BOARD OF NURSING.

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

7 (E) "CERTIFIED MEDICINE AIDE" MEANS A CERTIFIED NURSING ASSISTANT
 8 WHO HAS COMPLETED A 60-HOUR, STATE-APPROVED COURSE IN MEDICATION
 9 ADMINISTRATION.

10 (F) "CERTIFIED NURSING ASSISTANT":

11 (1) MEANS AN INDIVIDUAL REGARDLESS OF TITLE WHO ROUTINELY
 12 ~~PROVIDES NURSING AND NURSING-RELATED~~ PERFORMS NURSING TASKS
 13 DELEGATED BY A REGISTERED NURSE OR LICENSED PRACTICAL NURSE FOR
 14 COMPENSATION; AND

15 (2) DOES NOT INCLUDE A ~~MEDICINE MONITOR~~ MEDICATION ASSISTANT.

16 (G) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL
 17 HYGIENE.

18 (H) "MEDICATION ~~MONITOR~~ ASSISTANT" MEANS AN INDIVIDUAL WHO HAS
 19 COMPLETED THE 16-HOUR COURSE IN MEDICATION ADMINISTRATION APPROVED BY
 20 THE BOARD.

21 8-6A-02.

22 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL
 23 SHALL BE CERTIFIED BY THE BOARD TO PRACTICE AS A NURSING ASSISTANT
 24 BEFORE THE INDIVIDUAL MAY PRACTICE AS A NURSING ASSISTANT IN THE STATE.

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

26 (1) PRACTICES A HEALTH OCCUPATION THAT THE INDIVIDUAL IS
 27 AUTHORIZED TO PRACTICE UNDER THIS ARTICLE;

28 (2) PROVIDES FOR THE GRATUITOUS CARE OF FRIENDS OR FAMILY
 29 MEMBERS;

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

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

34 ~~(5)~~ (4) PERFORMS NURSING ASSISTANT TASKS AS A STUDENT WHILE:

1 (I) ENROLLED IN A BOARD APPROVED NURSING ASSISTANT
2 TRAINING PROGRAM; ~~AND~~

3 (II) PRACTICING UNDER THE DIRECT SUPERVISION OF QUALIFIED
4 FACULTY OR PRECEPTORS; OR

5 (III) PRACTICING UNDER THE DIRECT SUPERVISION OF A LICENSED
6 NURSE WHILE WORKING AS A NURSING ASSISTANT.

7 (C) NOTHING IN THIS SECTION SHALL PRECLUDE A REGISTERED NURSE OR
8 LICENSED PRACTICAL NURSE FROM DELEGATING A NURSING TASK TO AN
9 UNLICENSED INDIVIDUAL PROVIDED THAT ACCEPTANCE OF DELEGATED NURSING
10 TASKS DOES NOT BECOME A ROUTINE PART OF THE ~~UNLICENCED~~ UNLICENSED
11 INDIVIDUAL'S JOB DUTIES.

12 (D) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED AS CREATING A SCOPE
13 OF PRACTICE FOR NURSING ASSISTANTS.

14 8-6A-03.

15 (A) AN INDIVIDUAL SHALL BE CERTIFIED AS A NURSING ASSISTANT BY THE
16 BOARD BEFORE THE INDIVIDUAL MAY:

17 (1) USE THE TITLE "CERTIFIED NURSING ASSISTANT";

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

19 (3) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS
20 A NURSING ASSISTANT.

21 (B) A MEDICATION ~~MONITOR~~ ASSISTANT SHALL BE REQUIRED TO REGISTER
22 WITH THE BOARD.

23 8-6A-04.

24 (A) (1) THE BOARD SHALL SET REASONABLE FEES FOR THE ISSUANCE AND
25 RENEWAL OF CERTIFICATES AND OTHER SERVICES IT PROVIDES TO CERTIFIED
26 NURSING ASSISTANTS.

27 (2) THE FEES CHARGED SHALL BE SET TO PRODUCE FUNDS TO
28 APPROXIMATE THE COST OF MAINTAINING THE CERTIFICATION PROGRAM AND THE
29 OTHER SERVICES PROVIDED TO CERTIFIED NURSING ASSISTANTS.

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

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

1 8-6A-05.

2 (A) THE BOARD SHALL ADOPT REGULATIONS ESTABLISHING THE
3 QUALIFICATIONS FOR CERTIFICATION AS A CERTIFIED NURSING ASSISTANT.

4 (B) TO QUALIFY FOR CERTIFICATION, AN APPLICANT SHALL MEET THE
5 REQUIREMENTS SET BY THE BOARD.

6 (C) (1) AN APPLICANT FOR A CERTIFICATE SHALL:

7 (I) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT
8 THE BOARD REQUIRES;

9 (II) PROVIDE EVIDENCE, AS REQUIRED BY THE BOARD, OF
10 SUCCESSFUL COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING
11 PROGRAM; AND

12 (III) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

13 (2) AN APPLICANT FOR CERTIFICATION AS A CERTIFIED MEDICINE
14 AIDE, IN ADDITION TO THE REQUIREMENTS UNDER SUBSECTION (C)(1) OF THIS
15 SECTION, SHALL SUBMIT AN ADDITIONAL APPLICATION TO THAT EFFECT TO THE
16 BOARD ON THE FORM THAT THE BOARD REQUIRES.

17 (3) AN APPLICANT FOR A CERTIFICATE MAY NOT:

18 (I) HAVE COMMITTED ANY ACT OR OMISSION THAT WOULD BE
19 GROUNDS FOR DISCIPLINE OR DENIAL OF CERTIFICATION UNDER THIS SUBTITLE;
20 AND

21 (II) HAVE A RECORD OF ABUSE, NEGLIGENCE, MISAPPROPRIATION
22 OF A RESIDENT'S PROPERTY, OR ANY DISCIPLINARY ACTION TAKEN OR PENDING IN
23 ANY OTHER STATE OR TERRITORY OF THE UNITED STATES AGAINST THE
24 CERTIFICATION OF THE NURSING ASSISTANT IN THE STATE OR TERRITORY.

25 (D) THE BOARD ~~MAY~~ SHALL WAIVE THE REQUIREMENT FOR SUCCESSFUL
26 COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING PROGRAM UNDER
27 SUBSECTION (C) OF THIS SECTION FOR ANY APPLICANT WHO APPLIES FOR
28 CERTIFICATION UNDER THIS SUBTITLE BY JULY 1, 2002 AND SUBMITS EVIDENCE
29 SATISFACTORY TO THE BOARD THAT THE APPLICANT:

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

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

1 8-6A-06.

2 EVERY APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL:

3 (1) PAY THE REQUIRED APPLICATION FEE;

4 (2) SUBMIT THE INFORMATION REQUIRED BY THE BOARD IN THE
5 MANNER AND FORM SPECIFIED BY THE BOARD; AND

6 (3) SUBMIT WRITTEN EVIDENCE THAT THE APPLICANT:

7 (I) IS CERTIFIED TO PRACTICE AS A NURSING ASSISTANT BY
8 ANOTHER STATE OR TERRITORY OF THE UNITED STATES WITH REQUIREMENTS THAT
9 ARE ESSENTIALLY SIMILAR TO THE REQUIREMENTS FOR CERTIFICATION
10 ESTABLISHED IN THIS SUBTITLE AND THAT THE CERTIFICATION IS IN GOOD
11 STANDING;

12 (II) HAS NOT COMMITTED ANY ACT OR OMISSION THAT WOULD BE
13 GROUNDS FOR DISCIPLINE OR DENIAL OF CERTIFICATION UNDER THIS SUBTITLE;

14 (III) HAS SUCCESSFULLY COMPLETED NURSING ASSISTANT
15 TRAINING THAT MEETS THE STANDARDS FOR AN APPROVED NURSING ASSISTANT
16 TRAINING PROGRAM ESTABLISHED UNDER THIS SUBTITLE AND THE STANDARDS
17 ADOPTED BY THE BOARD; AND

18 (IV) HAS NO RECORD OF ABUSE, NEGLIGENCE, OR
19 MISAPPROPRIATION OF A RESIDENT'S PROPERTY OR ANY DISCIPLINARY ACTION
20 TAKEN OR PENDING IN ANY OTHER STATE OR TERRITORY OF THE UNITED STATES
21 AGAINST THE CERTIFICATION OF THE NURSING ASSISTANT IN THE STATE OR
22 TERRITORY.

23 8-6A-07.

24 (A) THE BOARD SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS
25 THE REQUIREMENTS OF THIS SUBTITLE.

26 (B) THE CERTIFICATE SHALL INCLUDE THE TITLE "CERTIFIED NURSING
27 ASSISTANT".

28 (C) THE CERTIFICATE OF AN INDIVIDUAL WHO ROUTINELY ~~PROVIDES~~
29 ~~NURSING AND NURSING RELATED~~ PERFORMS NURSING TASKS DELEGATED BY A
30 REGISTERED NURSE OR LICENSED PRACTICAL NURSE FOR COMPENSATION AND HAS
31 ALSO COMPLETED THE 60-HOUR, STATE-APPROVED COURSE IN MEDICATION
32 ADMINISTRATION SHALL ALSO INCLUDE THE TITLE "CERTIFIED MEDICINE AIDE".

33 (D) THE BOARD MAY ISSUE A CERTIFICATE TO REPLACE A LOST, DESTROYED,
34 OR MUTILATED CERTIFICATE, IF THE CERTIFICATE HOLDER PAYS THE CERTIFICATE
35 REPLACEMENT FEE SET BY THE BOARD.

1 8-6A-08.

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

5 (B) AT LEAST ~~1 MONTH~~ 3 MONTHS BEFORE THE CERTIFICATE EXPIRES, THE
6 BOARD SHALL SEND TO THE NURSING ASSISTANT, BY FIRST-CLASS MAIL TO THE
7 LAST KNOWN ADDRESS OF THE NURSING ASSISTANT, A RENEWAL NOTICE THAT
8 STATES:

9 (1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

10 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
11 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
12 THE CERTIFICATE EXPIRES; AND

13 (3) THE AMOUNT OF THE RENEWAL FEE.

14 (C) BEFORE A CERTIFICATE EXPIRES, THE NURSING ASSISTANT
15 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE CERTIFICATE
16 HOLDER:

17 (1) OTHERWISE IS ENTITLED TO BE CERTIFIED;

18 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
19 THAT THE BOARD REQUIRES;

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

21 (4) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF:

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

24 (II) AN APPROVED NURSING ASSISTANT TRAINING PROGRAM.

25 (D) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH NURSING
26 ASSISTANT WHO MEETS THE REQUIREMENTS OF THIS SECTION.

27 8-6A-09.

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

32 (B) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SECTION
33 TO THE GENERAL FUND OF THE STATE.

1 8-6A-10.

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

7 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
8 OBTAIN A CERTIFICATE FOR THE APPLICANT OR FOR ANOTHER;

9 (2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;

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

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

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

21 (6) GIVES ANY FALSE OR MISLEADING INFORMATION ABOUT A
22 MATERIAL MATTER IN AN EMPLOYMENT APPLICATION;

23 (7) FAILS TO FILE OR RECORD ANY HEALTH RECORD THAT IS REQUIRED
24 BY LAW;

25 (8) INDUCES ANOTHER PERSON TO FAIL TO FILE OR RECORD ANY
26 HEALTH RECORD THAT IS REQUIRED BY LAW;

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

29 (10) PROVIDES SERVICES AS A NURSING ASSISTANT WHILE:

30 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

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

34 (11) IS HABITUALLY INTOXICATED;

35 (12) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR
36 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 FOR
24 WHICH THE APPLICANT OR CERTIFICATE HOLDER IS CERTIFIED AND QUALIFIED TO
25 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 CONDUCTED
30 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 THAT
34 WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION;

1 (27) PRACTICES AS A NURSING ASSISTANT BEFORE OBTAINING OR
2 RENEWING THE CERTIFICATE, INCLUDING ANY TIME PERIOD WHEN THE
3 CERTIFICATE HAS LAPSED;

4 (28) IMPERSONATES ANOTHER INDIVIDUAL:

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

6 (II) WHO HOLDS A CERTIFICATE ISSUED UNDER THE PROVISIONS
7 OF THIS TITLE;

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

10 (30) PERFORMS ACTIVITIES THAT EXCEED THE EDUCATION AND
11 TRAINING OF THE CERTIFIED NURSING ASSISTANT.

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

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

21 (2) IF THE SUSPENDED OR REVOKED CERTIFICATE HAS BEEN LOST, THE
22 INDIVIDUAL SHALL FILE WITH THE BOARD A VERIFIED STATEMENT TO THAT
23 EFFECT.

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

28 8-6A-11.

29 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER §
30 8-6A-12 OF THIS SUBTITLE MAY ONLY TAKE A DIRECT JUDICIAL APPEAL AS
31 ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.

32 8-6A-12.

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

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

4 8-6A-13.

5 (A) THE BOARD SHALL APPOINT AN ADVISORY COMMITTEE CONSISTING OF
6 AT LEAST ~~4~~ 13 MEMBERS APPOINTED BY THE BOARD.

7 (B) OF THE ~~4~~ 13 COMMITTEE MEMBERS:

8 (1) ~~THREE~~ FIVE SHALL BE NURSING ASSISTANTS:

9 (I) ONE SHALL BE AN ACUTE CARE NURSING ASSISTANT;

10 (II) ONE SHALL BE A HOME CARE NURSING ASSISTANT;

11 (III) ONE SHALL BE A LONG-TERM CARE NURSING ASSISTANT; ~~AND~~

12 (IV) AT LEAST ONE OF THE NURSING ASSISTANT MEMBERS SHALL
13 BE A MEMBER OF A UNION; AND

14 (V) ONE SHALL BE AN INDEPENDENT CONTRACTOR;

15 (2) THREE SHALL BE REGISTERED NURSES;

16 (I) ONE SHALL BE AN ACUTE CARE REGISTERED NURSE;

17 (II) ONE SHALL BE A HOME CARE REGISTERED NURSE; AND

18 (III) ONE SHALL BE A LONG-TERM CARE REGISTERED NURSE;

19 (3) ONE SHALL BE AN ADMINISTRATOR FROM A LICENSED HEALTH
20 CARE FACILITY;

21 (4) ONE SHALL BE A LICENSED PRACTICAL NURSE;

22 (5) ONE SHALL BE AN INDIVIDUAL WHO TEACHES A NURSING
23 ASSISTANT COURSE;

24 (6) ONE SHALL BE A CONSUMER MEMBER WHO HAS RECEIVED CARE, OR
25 HAS A FAMILY MEMBER WHO HAS RECEIVED CARE FROM A NURSING ASSISTANT;
26 AND

27 (7) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT.

28 (C) THE BOARD SHALL APPOINT AN ALTERNATE FOR EACH OF THE THREE
29 NURSING ASSISTANT MEMBERS IN THE EVENT THAT THE NURSING ASSISTANT
30 MEMBER IS UNABLE TO DISCHARGE THE DUTIES OF THE COMMITTEE.

31 (D) AN ADVISORY COMMITTEE MEMBER SHALL SERVE A TERM OF 4 YEARS.

1 (E) THE ADVISORY COMMITTEE SHALL:

2 (1) EVALUATE TRAINING PROGRAMS AND MAKE RECOMMENDATIONS
3 FOR APPROVAL BY THE BOARD;

4 (2) DEVELOP AND RECOMMEND REGULATIONS TO ENFORCE THE
5 PROVISIONS OF THIS SUBTITLE;

6 (3) EVALUATE CANDIDATES AS REQUIRED AND RECOMMEND ACTION TO
7 THE BOARD;

8 (4) REVIEW INVESTIGATIONS OF COMPLAINTS AGAINST NURSING
9 ASSISTANTS AND MAKE RECOMMENDATIONS TO THE BOARD FOR DISCIPLINARY
10 ACTION;

11 (5) KEEP A RECORD OF ITS PROCEEDINGS; AND

12 (6) SUBMIT AN ANNUAL REPORT TO THE BOARD.

13 8-6A-14.

14 (A) THE BOARD, IN CONJUNCTION WITH THE MARYLAND HIGHER EDUCATION
15 COMMISSION, SHALL APPROVE EACH NURSING ASSISTANT TRAINING PROGRAM
16 PRIOR TO ITS IMPLEMENTATION AND PROVIDE PERIODIC SURVEY OF ALL PROGRAMS
17 IN THE STATE.

18 (B) THE BOARD IN CONJUNCTION WITH THE DEPARTMENT, MARYLAND
19 HIGHER EDUCATION COMMISSION, AND THE AFFECTED INDUSTRY SHALL DEVELOP
20 REGULATIONS FOR NURSING ASSISTANT TRAINING PROGRAMS.

21 (C) THE CURRICULUM CONTENT FOR AN APPROVED NURSING ASSISTANT
22 TRAINING PROGRAM SHALL INCLUDE:

23 ~~(+) ALL CONTENT REQUIRED TO MEET THE FEDERAL REQUIREMENTS
24 FOR PRACTICE AS A GERIATRIC NURSING ASSISTANT AND HOME HEALTH AIDE; AND~~

25 (1) CONTENT CONSISTENT WITH STATE LICENSING REQUIREMENTS IN
26 THE HEALTH - GENERAL ARTICLE AND ALL FEDERAL REQUIREMENTS; AND

27 (2) ALL BASIC SKILLS REQUIRED OF A NURSING ASSISTANT
28 REGARDLESS OF THE SETTING OF THE PRACTICE.

29 (D) ANY ADDITIONAL CLINICAL PRACTICE SKILLS SPECIFIC TO A SETTING OF
30 PRACTICE SHALL BE TAUGHT IN THAT SETTING AS A PART OF THE EMPLOYMENT
31 TRAINING PROCESS IN THAT SETTING.

32 (E) THE PROVISIONS OF THIS SECTION MAY NOT BE INTERPRETED TO IMPOSE
33 ADDITIONAL REQUIREMENTS FOR GERIATRIC NURSING ASSISTANTS BEYOND THOSE
34 REQUIRED UNDER FEDERAL LAW.

1 8-6A-15.

2 (A) IF, DURING THE INVESTIGATION OF AN ALLEGATION BROUGHT AGAINST A
3 CERTIFIED NURSING ASSISTANT UNDER THIS SUBTITLE, THE BOARD HAS REASON
4 TO BELIEVE THAT THE CERTIFIED NURSING ASSISTANT MAY CAUSE HARM TO A
5 PERSON AFFECTED BY THE PRACTICE OF THE CERTIFIED NURSING ASSISTANT, THE
6 BOARD, ON ITS OWN INITIATIVE, SHALL DIRECT THE CERTIFIED NURSING ASSISTANT
7 TO SUBMIT TO AN APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER
8 DESIGNATED BY THE BOARD.

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

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

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

16 (C) THE FAILURE OR REFUSAL OF A CERTIFIED NURSING ASSISTANT TO
17 SUBMIT TO AN EXAMINATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION
18 IS PRIMA FACIE EVIDENCE OF THE INABILITY OF THE CERTIFIED NURSING
19 ASSISTANT TO COMPETENTLY PRACTICE AS A CERTIFIED NURSING ASSISTANT,
20 UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE
21 CONTROL OF THE CERTIFIED NURSING ASSISTANT.

22 (D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE IN
23 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

24 8-6A-16.

25 IF THE BOARD DETERMINES THAT THE INFORMATION CONTAINED IN A RECORD
26 CONCERNS POSSIBLE CRIMINAL ACTIVITY OF AN INDIVIDUAL WHO ROUTINELY
27 PROVIDES NURSING AND NURSING RELATED TASKS DELEGATED BY A REGISTERED
28 NURSE OR LICENSED PRACTICAL NURSE FOR COMPENSATION, THE BOARD SHALL
29 DISCLOSE THE INFORMATION TO A LAW ENFORCEMENT OR PROSECUTORIAL
30 OFFICIAL.

31 ~~8-703.~~

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

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

