

SENATE BILL 445

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SB 661/97 - EEA

1998 Regular Session  
8r1378

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By: **Senator Hollinger**

Introduced and read first time: February 6, 1998

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

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 the State Board of Nursing to waive certain  
9 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  
18 provision of law authorizing the use of certain titles by unlicensed individuals;  
19 defining certain terms; and generally relating to the certification of nursing  
20 assistants by the State Board of Nursing.

21 BY repealing

22 Article - Health Occupations  
23 Section 8-6A-01  
24 Annotated Code of Maryland  
25 (1994 Replacement Volume and 1997 Supplement)

26 BY adding to

27 Article - Health Occupations  
28 Section 8-6A-01 through 8-6A-16  
29 Annotated Code of Maryland  
30 (1994 Replacement Volume and 1997 Supplement)

31 BY repealing and reenacting, with amendments,

1 Article - Health Occupations  
2 Section 8-703(f)  
3 Annotated Code of Maryland  
4 (1994 Replacement Volume and 1997 Supplement)

5 Preamble

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

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

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

15 WHEREAS, The Federal Omnibus Reconciliation Act of 1987 recognized the  
16 benefit of regulating nursing assistants who work in nursing homes by establishing  
17 minimal educational requirements and requiring registration of nursing assistants  
18 who work in nursing homes; and

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

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

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

26 **Article - Health Occupations**

27 [8-6A-01.

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

30 (b) The Department shall establish an advisory committee to make  
31 recommendations relating to:

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

34 (2) The clinical and administrative procedures for the regulation of  
35 nursing assistants; and

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

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

4 (1) Nursing assistants;

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

7 (3) The Board;

8 (4) The Maryland Higher Education Commission;

9 (5) Organizations that represent nursing assistants in their relations  
10 with their employers; and

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

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

17 8-6A-01.

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
19 INDICATED.

20 (B) "APPROVED NURSING ASSISTANT TRAINING PROGRAM" MEANS A COURSE  
21 OF TRAINING THAT MEETS THE BASIC NURSING ASSISTANT CURRICULUM  
22 PRESCRIBED AND APPROVED BY THE BOARD.

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

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

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

29 (F) "CERTIFIED NURSING ASSISTANT":

30 (1) MEANS AN INDIVIDUAL REGARDLESS OF TITLE WHO ROUTINELY  
31 PROVIDES NURSING AND NURSING RELATED TASKS DELEGATED BY A REGISTERED  
32 NURSE OR LICENSED PRACTICAL NURSE FOR COMPENSATION; AND

33 (2) DOES NOT INCLUDE A MEDICINE MONITOR.

1 (G) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL  
2 HYGIENE.

3 (H) "MEDICATION MONITOR" MEANS AN INDIVIDUAL WHO HAS COMPLETED  
4 THE 16-HOUR COURSE IN MEDICATION ADMINISTRATION APPROVED BY THE BOARD.

5 8-6A-02.

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

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

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

12 (2) PROVIDES FOR THE GRATUITOUS CARE OF FRIENDS OR FAMILY  
13 MEMBERS;

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

15 (4) PERFORMS NURSING ASSISTANT TASKS WHILE A NURSING STUDENT  
16 ENROLLED IN AN ACCREDITED NURSING PROGRAM AND PRACTICING UNDER THE  
17 DIRECT SUPERVISION OF QUALIFIED FACULTY OR PRECEPTORS; OR

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

19 (I) ENROLLED IN A BOARD APPROVED NURSING ASSISTANT  
20 TRAINING PROGRAM; AND

21 (II) PRACTICING UNDER THE DIRECT SUPERVISION OF QUALIFIED  
22 FACULTY OR PRECEPTORS.

23 8-6A-03.

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

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

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

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

30 (B) A MEDICATION MONITOR SHALL BE REQUIRED TO REGISTER WITH THE  
31 BOARD.

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 THE  
7 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; AND

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

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

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

29 (I) HAVE COMMITTED ANY ACT OR OMISSION THAT WOULD BE  
30 GROUNDS FOR DISCIPLINE OR DENIAL OF CERTIFICATION UNDER THIS SUBTITLE;  
31 AND

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

1 (D) THE BOARD MAY WAIVE THE REQUIREMENT FOR SUCCESSFUL  
2 COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING PROGRAM UNDER  
3 SUBSECTION (C) OF THIS SECTION FOR ANY APPLICANT WHO APPLIES FOR  
4 CERTIFICATION UNDER THIS SUBTITLE BY JULY 1, 2002 AND SUBMITS EVIDENCE  
5 SATISFACTORY TO THE BOARD THAT THE APPLICANT:

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

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

11 8-6A-06.

12 EVERY APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL:

13 (1) PAY THE REQUIRED APPLICATION FEE;

14 (2) SUBMIT THE INFORMATION REQUIRED BY THE BOARD IN THE  
15 MANNER AND FORM SPECIFIED BY THE BOARD; AND

16 (3) SUBMIT WRITTEN EVIDENCE THAT THE APPLICANT:

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

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

24 (III) HAS SUCCESSFULLY COMPLETED NURSING ASSISTANT  
25 TRAINING THAT MEETS THE STANDARDS FOR AN APPROVED NURSING ASSISTANT  
26 TRAINING PROGRAM ESTABLISHED UNDER THIS SUBTITLE AND THE STANDARDS  
27 ADOPTED BY THE BOARD; AND

28 (IV) HAS NO RECORD OF ABUSE, NEGLIGENCE, OR  
29 MISAPPROPRIATION OF A RESIDENT'S PROPERTY OR ANY DISCIPLINARY ACTION  
30 TAKEN OR PENDING IN ANY OTHER STATE OR TERRITORY OF THE UNITED STATES  
31 AGAINST THE CERTIFICATION OF THE NURSING ASSISTANT IN THE STATE OR  
32 TERRITORY.

33 8-6A-07.

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

1 (B) THE CERTIFICATE SHALL INCLUDE THE TITLE "CERTIFIED NURSING  
2 ASSISTANT".

3 (C) THE CERTIFICATE OF AN INDIVIDUAL WHO ROUTINELY PROVIDES  
4 NURSING AND NURSING RELATED TASKS DELEGATED BY A REGISTERED NURSE OR  
5 LICENSED PRACTICAL NURSE FOR COMPENSATION AND HAS ALSO COMPLETED THE  
6 60-HOUR, STATE-APPROVED COURSE IN MEDICATION ADMINISTRATION SHALL ALSO  
7 INCLUDE THE TITLE "CERTIFIED MEDICINE AIDE".

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

11 8-6A-08.

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

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

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

19 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE  
20 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE  
21 THE CERTIFICATE EXPIRES; AND

22 (3) THE AMOUNT OF THE RENEWAL FEE.

23 (C) BEFORE A CERTIFICATE EXPIRES, THE NURSING ASSISTANT  
24 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE CERTIFICATE  
25 HOLDER:

26 (1) OTHERWISE IS ENTITLED TO BE CERTIFIED;

27 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM  
28 THAT THE BOARD REQUIRES;

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

30 (4) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF:

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

33 (II) AN APPROVED NURSING ASSISTANT TRAINING PROGRAM.

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

1 8-6A-09.

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

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

8 8-6A-10.

9 (A) SUBJECT TO THE HEARING PROVISIONS OF § 8-317 OF THIS TITLE, THE  
10 BOARD MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY  
11 CERTIFICATE HOLDER, PLACE ANY CERTIFICATE HOLDER ON PROBATION, OR  
12 SUSPEND OR REVOKE THE CERTIFICATE OF A CERTIFICATE HOLDER, IF THE  
13 APPLICANT OR CERTIFICATE HOLDER:

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

16 (2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;

17 (3) IS DISCIPLINED BY A LICENSING, MILITARY, OR DISCIPLINARY  
18 AUTHORITY IN THIS STATE OR IN ANY OTHER STATE OR COUNTRY OR CONVICTED OR  
19 DISCIPLINED BY A COURT IN THIS STATE OR IN ANY OTHER STATE OR COUNTRY FOR  
20 AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S  
21 DISCIPLINARY STATUTES;

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

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

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

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

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

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

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



- 1 (I) UNDER THE INFLUENCE OF ALCOHOL; OR
- 2 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS  
3 SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR OTHER DRUG THAT IS IN  
4 EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;
- 5 (11) IS HABITUALLY INTOXICATED;
- 6 (12) IS ADDICTED TO, OR HABITUALLY ABUSES, ANY NARCOTIC OR  
7 CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN ARTICLE 27 OF THE CODE;
- 8 (13) HAS ACTED IN A MANNER INCONSISTENT WITH THE HEALTH OR  
9 SAFETY OF A PERSON UNDER THE APPLICANT OR CERTIFICATE HOLDER'S CARE;
- 10 (14) HAS PRACTICED AS A NURSING ASSISTANT IN A MANNER WHICH  
11 FAILS TO MEET GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF A  
12 NURSING ASSISTANT;
- 13 (15) HAS PHYSICALLY, VERBALLY, OR PSYCHOLOGICALLY ABUSED,  
14 NEGLECTED, OR OTHERWISE HARMED A PERSON UNDER THE APPLICANT OR  
15 CERTIFICATE HOLDER'S CARE;
- 16 (16) HAS A PHYSICAL OR MENTAL DISABILITY WHICH RENDERS THE  
17 APPLICANT OR CERTIFICATE HOLDER UNABLE TO PRACTICE AS A CERTIFIED  
18 NURSING ASSISTANT WITH REASONABLE SKILL AND SAFETY TO THE PATIENTS AND  
19 WHICH MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE CARE OF  
20 THE APPLICANT OR CERTIFICATE HOLDER;
- 21 (17) HAS VIOLATED THE CONFIDENTIALITY OF INFORMATION OR  
22 KNOWLEDGE AS PRESCRIBED BY LAW CONCERNING ANY PATIENT;
- 23 (18) HAS MISAPPROPRIATED PATIENT OR FACILITY PROPERTY;
- 24 (19) PERFORMS CERTIFIED NURSING ASSISTANT FUNCTIONS  
25 INCOMPETENTLY;
- 26 (20) HAS VIOLATED ANY PROVISION OF THIS TITLE OR HAS AIDED OR  
27 KNOWINGLY PERMITTED ANY PERSON TO VIOLATE ANY PROVISION OF THIS TITLE;
- 28 (21) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;
- 29 (22) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST  
30 AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR  
31 WHICH THE APPLICANT OR CERTIFICATE HOLDER IS CERTIFIED AND QUALIFIED TO  
32 RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;
- 33 (23) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE  
34 IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR  
35 DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

1 (24) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED  
2 BY THE BOARD;

3 (25) FAILS TO COMPLY WITH INSTRUCTIONS AND DIRECTIONS OF THE  
4 SUPERVISING REGISTERED NURSE OR LICENSED PRACTICAL NURSE;

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

7 (27) PRACTICES AS A NURSING ASSISTANT BEFORE OBTAINING OR  
8 RENEWING THE CERTIFICATE, INCLUDING ANY TIME PERIOD WHEN THE  
9 CERTIFICATE HAS LAPSED;

10 (28) IMPERSONATES ANOTHER INDIVIDUAL:

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

12 (II) WHO HOLDS A CERTIFICATE ISSUED UNDER THE PROVISIONS  
13 OF THIS TITLE;

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

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

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

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

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

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

1 8-6A-11.

2 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER §  
3 8-6A-12 OF THIS SUBTITLE MAY ONLY TAKE A DIRECT JUDICIAL APPEAL AS  
4 ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.

5 8-6A-12.

6 (A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A  
7 CERTIFICATE, A CERTIFIED NURSING ASSISTANT MAY NOT SURRENDER THE  
8 CERTIFICATE NOR MAY THE CERTIFICATE LAPSE BY OPERATION OF LAW WHILE THE  
9 CERTIFICATE HOLDER IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING  
10 AGAINST THE CERTIFIED NURSING ASSISTANT.

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

14 8-6A-13.

15 (A) THE BOARD SHALL APPOINT AN ADVISORY COMMITTEE CONSISTING OF  
16 AT LEAST 11 MEMBERS APPOINTED BY THE BOARD.

17 (B) OF THE 11 COMMITTEE MEMBERS:

18 (1) THREE SHALL BE NURSING ASSISTANTS:

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

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

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

22 (IV) AT LEAST ONE OF THE NURSING ASSISTANT MEMBERS SHALL  
23 BE A MEMBER OF A UNION;

24 (2) THREE SHALL BE REGISTERED NURSES;

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

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

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

28 (3) ONE SHALL BE AN ADMINISTRATOR FROM A LICENSED HEALTH  
29 CARE FACILITY;

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

31 (5) ONE SHALL BE AN INDIVIDUAL WHO TEACHES A NURSING  
32 ASSISTANT COURSE;

1 (6) ONE SHALL BE A CONSUMER MEMBER WHO HAS RECEIVED CARE, OR  
2 HAS A FAMILY MEMBER WHO HAS RECEIVED CARE FROM A NURSING ASSISTANT;  
3 AND

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

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

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

9 (E) THE ADVISORY COMMITTEE SHALL:

10 (1) EVALUATE TRAINING PROGRAMS AND MAKE RECOMMENDATIONS  
11 FOR APPROVAL BY THE BOARD;

12 (2) DEVELOP AND RECOMMEND REGULATIONS TO ENFORCE THE  
13 PROVISIONS OF THIS SUBTITLE;

14 (3) EVALUATE CANDIDATES AS REQUIRED AND RECOMMEND ACTION TO  
15 THE BOARD;

16 (4) REVIEW INVESTIGATIONS OF COMPLAINTS AGAINST NURSING  
17 ASSISTANTS AND MAKE RECOMMENDATIONS TO THE BOARD FOR DISCIPLINARY  
18 ACTION;

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

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

21 8-6A-14.

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

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

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

31 (1) ALL CONTENT REQUIRED TO MEET THE FEDERAL REQUIREMENTS  
32 FOR PRACTICE AS A GERIATRIC NURSING ASSISTANT AND HOME HEALTH AIDE; AND

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

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

4 8-6A-15.

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

12 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A CERTIFIED NURSING  
13 ASSISTANT TO PRACTICE IN THE STATE, THE CERTIFIED NURSING ASSISTANT IS  
14 DEEMED TO HAVE:

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

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

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

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

27 8-6A-16.

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

34 8-703.

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

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