

SENATE BILL 445

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SB 661/97 - EEA

1998 Regular Session
8r1378

By: **Senator Hollinger**

Introduced and read first time: February 6, 1998
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 20, 1998

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~~
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

1 Article - Health Occupations
2 Section 8-6A-01 through 8-6A-16
3 Annotated Code of Maryland
4 (1994 Replacement Volume and 1997 Supplement)

5 ~~BY repealing and reenacting, with amendments,~~
6 ~~Article - Health Occupations~~
7 ~~Section 8-703(f)~~
8 ~~Annotated Code of Maryland~~
9 ~~(1994 Replacement Volume and 1997 Supplement)~~

10 Preamble

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

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

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

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

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

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

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

31 **Article - Health Occupations**

32 [8-6A-01.

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

1 (b) The Department shall establish an advisory committee to make
2 recommendations relating to:

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

5 (2) The clinical and administrative procedures for the regulation of
6 nursing assistants; and

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

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

10 (1) Nursing assistants;

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

13 (3) The Board;

14 (4) The Maryland Higher Education Commission;

15 (5) Organizations that represent nursing assistants in their relations
16 with their employers; and

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

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

23 8-6A-01.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (B) "APPROVED NURSING ASSISTANT TRAINING PROGRAM" MEANS A COURSE
27 OF TRAINING THAT MEETS THE BASIC NURSING ASSISTANT CURRICULUM
28 PRESCRIBED AND APPROVED BY THE BOARD.

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

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

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

1 (F) "CERTIFIED NURSING ASSISTANT":

2 (1) MEANS AN INDIVIDUAL REGARDLESS OF TITLE WHO ROUTINELY
 3 ~~PROVIDES NURSING AND NURSING RELATED~~ PERFORMS NURSING TASKS
 4 DELEGATED BY A REGISTERED NURSE OR LICENSED PRACTICAL NURSE FOR
 5 COMPENSATION; AND

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

7 (G) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL
 8 HYGIENE.

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

12 8-6A-02.

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

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

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

19 (2) PROVIDES FOR THE GRATUITOUS CARE OF FRIENDS OR FAMILY
 20 MEMBERS;

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

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

25 ~~(5)~~ (4) PERFORMS NURSING ASSISTANT TASKS AS A STUDENT WHILE:

26 (I) ENROLLED IN A BOARD APPROVED NURSING ASSISTANT
 27 TRAINING PROGRAM; ~~AND~~

28 (II) PRACTICING UNDER THE DIRECT SUPERVISION OF QUALIFIED
 29 FACULTY OR PRECEPTORS; OR

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

32 (C) NOTHING IN THIS SECTION SHALL PRECLUDE A REGISTERED NURSE OR
 33 LICENSED PRACTICAL NURSE FROM DELEGATING A NURSING TASK TO AN
 34 UNLICENSED INDIVIDUAL PROVIDED THAT ACCEPTANCE OF DELEGATED NURSING

1 TASKS DOES NOT BECOME A ROUTINE PART OF THE UNLICENCED INDIVIDUAL'S JOB
2 DUTIES.

3 8-6A-03.

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

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

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

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

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

12 8-6A-04.

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

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

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

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

23 8-6A-05.

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

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

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

29 (I) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT
30 THE BOARD REQUIRES;

31 (II) PROVIDE EVIDENCE, AS REQUIRED BY THE BOARD, OF
32 SUCCESSFUL COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING
33 PROGRAM; AND

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

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

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

7 (I) HAVE COMMITTED ANY ACT OR OMISSION THAT WOULD BE
8 GROUNDS FOR DISCIPLINE OR DENIAL OF CERTIFICATION UNDER THIS SUBTITLE;
9 AND

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

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

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

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

24 8-6A-06.

25 EVERY APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL:

26 (1) PAY THE REQUIRED APPLICATION FEE;

27 (2) SUBMIT THE INFORMATION REQUIRED BY THE BOARD IN THE
28 MANNER AND FORM SPECIFIED BY THE BOARD; AND

29 (3) SUBMIT WRITTEN EVIDENCE THAT THE APPLICANT:

30 (I) IS CERTIFIED TO PRACTICE AS A NURSING ASSISTANT BY
31 ANOTHER STATE OR TERRITORY OF THE UNITED STATES WITH REQUIREMENTS THAT
32 ARE ESSENTIALLY SIMILAR TO THE REQUIREMENTS FOR CERTIFICATION
33 ESTABLISHED IN THIS SUBTITLE AND THAT THE CERTIFICATION IS IN GOOD
34 STANDING;

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

1 (III) HAS SUCCESSFULLY COMPLETED NURSING ASSISTANT
2 TRAINING THAT MEETS THE STANDARDS FOR AN APPROVED NURSING ASSISTANT
3 TRAINING PROGRAM ESTABLISHED UNDER THIS SUBTITLE AND THE STANDARDS
4 ADOPTED BY THE BOARD; AND

5 (IV) HAS NO RECORD OF ABUSE, NEGLIGENCE, OR
6 MISAPPROPRIATION OF A RESIDENT'S PROPERTY OR ANY DISCIPLINARY ACTION
7 TAKEN OR PENDING IN ANY OTHER STATE OR TERRITORY OF THE UNITED STATES
8 AGAINST THE CERTIFICATION OF THE NURSING ASSISTANT IN THE STATE OR
9 TERRITORY.

10 8-6A-07.

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

13 (B) THE CERTIFICATE SHALL INCLUDE THE TITLE "CERTIFIED NURSING
14 ASSISTANT".

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

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

23 8-6A-08.

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

27 (B) AT LEAST ~~4 MONTH~~ 3 MONTHS BEFORE THE CERTIFICATE EXPIRES, THE
28 BOARD SHALL SEND TO THE NURSING ASSISTANT, BY FIRST-CLASS MAIL TO THE
29 LAST KNOWN ADDRESS OF THE NURSING ASSISTANT, A RENEWAL NOTICE THAT
30 STATES:

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

32 (2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE
33 RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE
34 THE CERTIFICATE EXPIRES; AND

35 (3) THE AMOUNT OF THE RENEWAL FEE.

1 (C) BEFORE A CERTIFICATE EXPIRES, THE NURSING ASSISTANT
2 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE CERTIFICATE
3 HOLDER:

4 (1) OTHERWISE IS ENTITLED TO BE CERTIFIED;

5 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
6 THAT THE BOARD REQUIRES;

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

8 (4) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF:

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

11 (II) AN APPROVED NURSING ASSISTANT TRAINING PROGRAM.

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

14 8-6A-09.

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

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

21 8-6A-10.

22 (A) SUBJECT TO THE HEARING PROVISIONS OF § 8-317 OF THIS TITLE, THE
23 BOARD MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY
24 CERTIFICATE HOLDER, PLACE ANY CERTIFICATE HOLDER ON PROBATION, OR
25 SUSPEND OR REVOKE THE CERTIFICATE OF A CERTIFICATE HOLDER, IF THE
26 APPLICANT OR CERTIFICATE HOLDER:

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

29 (2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;

30 (3) IS DISCIPLINED BY A LICENSING, MILITARY, OR DISCIPLINARY
31 AUTHORITY IN THIS STATE OR IN ANY OTHER STATE OR COUNTRY OR CONVICTED OR
32 DISCIPLINED BY A COURT IN THIS STATE OR IN ANY OTHER STATE OR COUNTRY FOR
33 AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S
34 DISCIPLINARY STATUTES;

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

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

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

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

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

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

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

16 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

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

20 (11) IS HABITUALLY INTOXICATED;

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

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

25 (14) HAS PRACTICED AS A NURSING ASSISTANT IN A MANNER WHICH
26 FAILS TO MEET GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF A
27 NURSING ASSISTANT;

28 (15) HAS PHYSICALLY, VERBALLY, OR PSYCHOLOGICALLY ABUSED,
29 NEGLECTED, OR OTHERWISE HARMED A PERSON UNDER THE APPLICANT OR
30 CERTIFICATE HOLDER'S CARE;

31 (16) HAS A PHYSICAL OR MENTAL DISABILITY WHICH RENDERS THE
32 APPLICANT OR CERTIFICATE HOLDER UNABLE TO PRACTICE AS A CERTIFIED
33 NURSING ASSISTANT WITH REASONABLE SKILL AND SAFETY TO THE PATIENTS AND
34 WHICH MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE CARE OF
35 THE APPLICANT OR CERTIFICATE HOLDER;

1 (17) HAS VIOLATED THE CONFIDENTIALITY OF INFORMATION OR
2 KNOWLEDGE AS PRESCRIBED BY LAW CONCERNING ANY PATIENT;

3 (18) HAS MISAPPROPRIATED PATIENT OR FACILITY PROPERTY;

4 (19) PERFORMS CERTIFIED NURSING ASSISTANT FUNCTIONS
5 INCOMPETENTLY;

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

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

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

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

16 (24) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED
17 BY THE BOARD;

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

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

22 (27) PRACTICES AS A NURSING ASSISTANT BEFORE OBTAINING OR
23 RENEWING THE CERTIFICATE, INCLUDING ANY TIME PERIOD WHEN THE
24 CERTIFICATE HAS LAPSED;

25 (28) IMPERSONATES ANOTHER INDIVIDUAL:

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

27 (II) WHO HOLDS A CERTIFICATE ISSUED UNDER THE PROVISIONS
28 OF THIS TITLE;

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

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

33 (B) IF, AFTER A HEARING UNDER § 8-317 OF THIS TITLE, THE BOARD FINDS
34 THAT THERE ARE GROUNDS UNDER SUBSECTION (A) OF THIS SECTION TO SUSPEND
35 OR REVOKE A CERTIFICATE TO PRACTICE AS A CERTIFIED NURSING ASSISTANT, TO

1 REPRIMAND A CERTIFICATE HOLDER, OR PLACE A CERTIFICATE HOLDER ON
2 PROBATION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$500 INSTEAD OF
3 OR IN ADDITION TO SUSPENDING OR REVOKING THE CERTIFICATE, REPRIMANDING
4 THE CERTIFICATE HOLDER, OR PLACING THE CERTIFICATE HOLDER ON PROBATION.

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

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

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

14 8-6A-11.

15 ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER §
16 8-6A-12 OF THIS SUBTITLE MAY ONLY TAKE A DIRECT JUDICIAL APPEAL AS
17 ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.

18 8-6A-12.

19 (A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A
20 CERTIFICATE, A CERTIFIED NURSING ASSISTANT MAY NOT SURRENDER THE
21 CERTIFICATE NOR MAY THE CERTIFICATE LAPSE BY OPERATION OF LAW WHILE THE
22 CERTIFICATE HOLDER IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING
23 AGAINST THE CERTIFIED NURSING ASSISTANT.

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

27 8-6A-13.

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

30 (B) OF THE ~~44~~ 13 COMMITTEE MEMBERS:

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

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

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

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

- 1 (IV) AT LEAST ONE OF THE NURSING ASSISTANT MEMBERS SHALL
2 BE A MEMBER OF A UNION; AND
- 3 (V) ONE SHALL BE AN INDEPENDENT CONTRACTOR;
- 4 (2) THREE SHALL BE REGISTERED NURSES;
- 5 (I) ONE SHALL BE AN ACUTE CARE REGISTERED NURSE;
- 6 (II) ONE SHALL BE A HOME CARE REGISTERED NURSE; AND
- 7 (III) ONE SHALL BE A LONG-TERM CARE REGISTERED NURSE;
- 8 (3) ONE SHALL BE AN ADMINISTRATOR FROM A LICENSED HEALTH
9 CARE FACILITY;
- 10 (4) ONE SHALL BE A LICENSED PRACTICAL NURSE;
- 11 (5) ONE SHALL BE AN INDIVIDUAL WHO TEACHES A NURSING
12 ASSISTANT COURSE;
- 13 (6) ONE SHALL BE A CONSUMER MEMBER WHO HAS RECEIVED CARE, OR
14 HAS A FAMILY MEMBER WHO HAS RECEIVED CARE FROM A NURSING ASSISTANT;
15 AND
- 16 (7) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT.
- 17 (C) THE BOARD SHALL APPOINT AN ALTERNATE FOR EACH OF THE THREE
18 NURSING ASSISTANT MEMBERS IN THE EVENT THAT THE NURSING ASSISTANT
19 MEMBER IS UNABLE TO DISCHARGE THE DUTIES OF THE COMMITTEE.
- 20 (D) AN ADVISORY COMMITTEE MEMBER SHALL SERVE A TERM OF 4 YEARS.
- 21 (E) THE ADVISORY COMMITTEE SHALL:
- 22 (1) EVALUATE TRAINING PROGRAMS AND MAKE RECOMMENDATIONS
23 FOR APPROVAL BY THE BOARD;
- 24 (2) DEVELOP AND RECOMMEND REGULATIONS TO ENFORCE THE
25 PROVISIONS OF THIS SUBTITLE;
- 26 (3) EVALUATE CANDIDATES AS REQUIRED AND RECOMMEND ACTION TO
27 THE BOARD;
- 28 (4) REVIEW INVESTIGATIONS OF COMPLAINTS AGAINST NURSING
29 ASSISTANTS AND MAKE RECOMMENDATIONS TO THE BOARD FOR DISCIPLINARY
30 ACTION;
- 31 (5) KEEP A RECORD OF ITS PROCEEDINGS; AND
- 32 (6) SUBMIT AN ANNUAL REPORT TO THE BOARD.

1 8-6A-14.

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

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

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

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

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

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

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

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

23 8-6A-15.

24 (A) IF, DURING THE INVESTIGATION OF AN ALLEGATION BROUGHT AGAINST A
25 CERTIFIED NURSING ASSISTANT UNDER THIS SUBTITLE, THE BOARD HAS REASON
26 TO BELIEVE THAT THE CERTIFIED NURSING ASSISTANT MAY CAUSE HARM TO A
27 PERSON AFFECTED BY THE PRACTICE OF THE CERTIFIED NURSING ASSISTANT, THE
28 BOARD, ON ITS OWN INITIATIVE, SHALL DIRECT THE CERTIFIED NURSING ASSISTANT
29 TO SUBMIT TO AN APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER
30 DESIGNATED BY THE BOARD.

31 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A CERTIFIED NURSING
32 ASSISTANT TO PRACTICE IN THE STATE, THE CERTIFIED NURSING ASSISTANT IS
33 DEEMED TO HAVE:

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

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

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

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

9 8-6A-16.

10 IF THE BOARD DETERMINES THAT THE INFORMATION CONTAINED IN A RECORD
11 CONCERNS POSSIBLE CRIMINAL ACTIVITY OF AN INDIVIDUAL WHO ROUTINELY
12 PROVIDES NURSING AND NURSING RELATED TASKS DELEGATED BY A REGISTERED
13 NURSE OR LICENSED PRACTICAL NURSE FOR COMPENSATION, THE BOARD SHALL
14 DISCLOSE THE INFORMATION TO A LAW ENFORCEMENT OR PROSECUTORIAL
15 OFFICIAL.

16 ~~8-703.~~

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

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