
By: **Delegate Hammen**
Introduced and read first time: February 7, 2001
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2001

CHAPTER _____

1 AN ACT concerning

2 **Nursing Staff Agencies - Quality Oversight and Improvement**

3 FOR the purpose of transferring oversight of nursing staff agencies from the Board of
4 Nursing to the Office of Health Care Quality; requiring nursing staff agencies to
5 ~~register with~~ be licensed by the Office; providing for the procedures and
6 requirements for licensing nursing staff agencies ~~registering with~~ by the Office;
7 requiring nursing staff agencies to submit certain information to the Office;
8 ~~requiring the Office to conduct periodic site visits and surveys of nursing staff~~
9 ~~agencies; requiring the Office to investigate certain factors during the survey;~~
10 ~~requiring the Office to maintain a report of each survey; providing for certain~~
11 ~~penalties for certain nursing staff agencies; requiring that fines collected by the~~
12 ~~Office be deposited into a certain account; requiring the Office to ensure that all~~
13 ~~surveys are unannounced; requiring the Department of Health and Mental~~
14 ~~Hygiene to make certain reports to the General Assembly on or before certain~~
15 ~~dates; authorizing the Office to adopt certain regulations and conduct certain~~
16 inspections; requiring a nursing staff agency to perform certain personnel duties
17 and verify certain conditions; providing certain penalties for certain violations;
18 requiring a nursing staff agency to attest to compliance with certain federal
19 laws; providing for a delayed effective date; and generally relating to quality
20 oversight and improvement of nursing staff agencies.

21 BY transferring
22 Article - Health Occupations
23 Section 8-507
24 Annotated Code of Maryland
25 (2000 Replacement Volume)
26 to be

1 Article - Health - General
 2 Section 19-2001
 3 Annotated Code of Maryland
 4 (2000 Replacement Volume)

5 BY repealing and reenacting, with amendments,

6 Article - Health - General
 7 Section 19-2001 to be under the new subtitle "Subtitle 20. Nursing Staff
 8 Agencies"
 9 Annotated Code of Maryland
 10 (2000 Replacement Volume)
 11 (As enacted by Section 1 of this Act)

12 BY adding to

13 Article - Health - General
 14 Section 19-2002
 15 Annotated Code of Maryland
 16 (2000 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 18 MARYLAND, That Section(s) 8-507 of Article - Health Occupations of the Annotated
 19 Code of Maryland be transferred to be Section(s) 19-2001 of Article - Health -
 20 General of the Annotated Code of Maryland.

21 SECTION 2. BE IT FURTHER ENACTED, That the Laws of Maryland read as
 22 follows:

23 **Article - Health - General**

24 **SUBTITLE 20. NURSING STAFF AGENCIES.**

25 19-2001.

26 (a) (1) In this [section] SUBTITLE the following words have the meanings
 27 indicated.

28 (2) "CLIENT FACILITY" MEANS A HEALTH CARE FACILITY THAT
 29 CONTRACTS WITH A NURSING STAFF AGENCY FOR THE REFERRAL OF NURSING
 30 PERSONNEL.

31 [(2)] (3) "Health care facility" means a hospital or related institution as
 32 defined in § 19-301 of [the Health - General Article] THIS ARTICLE.

33 [(3)] (4) "Initially providing or referring" means the first time a nursing
 34 staff agency provides or refers a particular licensed practical nurse, registered nurse,
 35 or [geriatric] CERTIFIED nursing assistant to a health care facility.

- 1 ~~(2)~~ 2. Business address;
- 2 ~~(3)~~ 3. Business telephone number; ~~and~~
- 3 ~~(4)~~ 4. Responsible party; AND

4 (II) ANY OTHER INFORMATION THE OFFICE REQUIRES BY
 5 REGULATION TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.

6 (c) (1) A nursing staff agency ~~registration~~ LICENSE expires on the 28th day
 7 of the month in which the agency was originally ~~registered~~ LICENSED unless the
 8 license is renewed for a 1-year term as provided in this section.

9 (2) At least 1 month before the ~~registration~~ LICENSE expires, the
 10 [Board] OFFICE shall send to the nursing staff agency, by first-class mail to the last
 11 known address of the nursing staff agency, a renewal notice that states:

12 (i) The date on which the current ~~registration~~ LICENSE expires;

13 (ii) The date by which the renewal application must be received by
 14 the [Board] OFFICE for the renewal to be issued and mailed before the ~~registration~~
 15 LICENSE expires; and

16 (iii) The amount of the renewal fee.

17 (3) Before a ~~registration~~ LICENSE expires, the nursing staff agency
 18 periodically may renew it for an additional term, if the nursing staff agency:

19 (i) Otherwise is entitled to be ~~registered~~ LICENSED; and

20 (ii) Pays to the [Board] OFFICE the renewal fee set by the [Board]
 21 OFFICE.

22 (d) If a nursing staff agency fails to renew, the nursing staff agency must
 23 immediately stop referring personnel to health care facilities.

24 (e) (1) A nursing staff agency shall notify the [Board] OFFICE of any change
 25 in ownership, agency name, or address within 30 days of the change.

26 (2) Notwithstanding the provisions of subsection ~~(j)(4)~~ (I)(1) of this
 27 section, if a nursing staff agency fails to notify the [Board] OFFICE within the time
 28 required under this subsection, the [Board] OFFICE may impose a fine of \$100.

29 (f) (1) Before initially providing or referring a licensed practical nurse, ~~or~~
 30 registered nurse, OR CERTIFIED NURSING ASSISTANT to health care facilities to
 31 render temporary nursing services the nursing staff agency shall:

32 (i) ~~Submit the name and license number of the licensed practical~~
 33 ~~nurse or registered nurse to the [Board] OFFICE; and~~

1 (ii) ~~Verify~~ VERIFY the licensure status of the licensed practical
2 nurse, ~~or~~ registered nurse, OR CERTIFIED NURSING ASSISTANT.

3 (2) At the time a licensed practical nurse, ~~or~~ registered nurse, OR
4 CERTIFIED NURSING ASSISTANT who is being referred to health care facilities by a
5 nursing staff agency must renew their license to practice licensed practical nursing,
6 ~~or~~ registered nursing OR CERTIFIED NURSING ASSISTANCE, the nursing staff agency
7 shall:

8 (i) Submit the name and license number of the licensed practical
9 nurse, ~~or~~ registered nurse, OR CERTIFIED NURSING ASSISTANT to the [Board]
10 OFFICE; and

11 (ii) Verify the licensure status of the licensed practical nurse, ~~or~~
12 registered nurse, OR CERTIFIED NURSING ASSISTANT.

13 [(3) (i) On the request of a nursing staff agency, the Board shall verify
14 by telephone or other electronic means the licensure status of any licensed practical
15 nurse or registered nurse that the nursing staff agency plans to refer to health care
16 facilities within 24 hours of the request.

17 (ii) The Board shall provide written confirmation of the information
18 provided in accordance with the provisions of item (i) of this paragraph to the nursing
19 staff agency within 10 working days of the request.

20 (4) (i) At least quarterly, the Board shall report by telephone or other
21 electronic means to a nursing staff agency any disciplinary action taken against a
22 licensed practical nurse or registered nurse who is being referred to health care
23 facilities by that nursing staff agency within the previous quarter.

24 (ii) The Board shall provide written confirmation of the information
25 provided in accordance with the provisions of item (i) of this paragraph to the nursing
26 staff agency within 10 working days of the disciplinary action being taken.

27 (g) Before initially providing or referring a geriatric nursing assistant to
28 related institutions to render temporary services, the nursing staff agency shall verify
29 with the Office of Licensing and Certification Programs of the Department that the
30 geriatric nursing assistant complies with the applicable standards under the
31 regulations adopted under § 19-308.1 of the Health - General Article.]

32 [(h)] (G) (1) A nursing staff agency may not knowingly provide or refer a
33 licensed practical nurse who is not authorized to practice licensed practical nursing
34 under [this title] TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE to a health care
35 facility to render temporary nursing services.

36 (2) A nursing staff agency may not knowingly provide or refer a
37 registered nurse who is not authorized to practice registered nursing under [this
38 title] TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE to a health care facility to
39 render temporary nursing services.

1 (3) A NURSING STAFF AGENCY MAY ~~NOT KNOWINGLY PROVIDE OR ONLY~~
2 ~~REFER A CERTIFIED~~ NURSING ASSISTANT WHO IS CERTIFIED UNDER TITLE 8,
3 SUBTITLE 6A OF THE HEALTH OCCUPATIONS ARTICLE TO PERFORM DELEGATED
4 NURSING FUNCTIONS TO PRACTICE CERTIFIED NURSING UNDER TITLE 8 OF THE
5 HEALTH OCCUPATIONS ARTICLE TO A HEALTH CARE FACILITY TO RENDER
6 TEMPORARY DELEGATED NURSING SERVICES.

7 [(i)] (H) (1) Except as provided in paragraph (2) of this subsection:

8 (i) If a nursing staff agency knows of an action or condition
9 performed by a licensed practical nurse [or], registered nurse OR CERTIFIED
10 NURSING ASSISTANT provided or referred by that nursing staff agency that might be
11 grounds for action under § 8-316 of [this title] THE HEALTH OCCUPATIONS ARTICLE,
12 the nursing staff agency shall report the action or condition to the Board; and

13 (ii) An individual shall have immunity from liability described
14 under § 5-709 of the Courts and Judicial Proceedings Article for making a report as
15 required under this paragraph.

16 (2) A nursing staff agency is not required under this subsection to make
17 any report that would be in violation of any federal or State law, rule, or regulation
18 concerning the confidentiality of alcohol and drug abuse patient records.

19 [(j)] (I) (1) Subject to the provisions of Title 10, Subtitle 2 of the State
20 Government Article, the [Board] OFFICE may impose a penalty ~~of up to \$2,000~~ for a
21 violation of any provision of this section;

22 (I) FOR A FIRST OFFENSE, UP TO \$2,500 PER VIOLATION OR UP TO
23 \$2,500 PER DAY UNTIL THE NURSING STAFF AGENCY COMPLIES WITH THE
24 REQUIREMENTS OF THIS SUBTITLE;

25 (II) FOR A SECOND OFFENSE, UP TO \$5,000 PER VIOLATION OR UP
26 TO \$5,000 PER DAY UNTIL THE NURSING STAFF AGENCY COMPLIES WITH THE
27 REQUIREMENTS OF THIS SUBTITLE; AND

28 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, UP TO \$10,000 PER
29 VIOLATION OR UP TO \$10,000 PER DAY UNTIL THE NURSING STAFF AGENCY
30 COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE.

31 (2) Each day a violation continues is a separate violation.

32 (J) A NURSING STAFF AGENCY IS NOT A HEALTH CARE PROVIDER.

33 19-2002.

34 (A) IN THIS SECTION, "OFFICE" MEANS THE OFFICE OF HEALTH CARE
35 QUALITY IN THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

1 (B) ~~THE OFFICE SHALL MAKE A SITE VISIT AND CONDUCT A FULL SURVEY OF~~
2 ~~EACH REGISTERED NURSING STAFF AGENCY PERIODICALLY MAY INSPECT A~~
3 ~~NURSING STAFF AGENCY TO VERIFY COMPLIANCE WITH THIS SUBTITLE.~~

4 (C) ~~WHEN THE OFFICE CONDUCTS A SURVEY AN INSPECTION,~~ THE OFFICE
5 SHALL VERIFY THAT THE NURSING PERSONNEL REFERRED BY THE NURSING STAFF
6 AGENCY:

7 (1) (I) IF REGISTERED NURSES OR LICENSED PRACTICAL NURSES,
8 ARE LICENSED BY THE BOARD; OR

9 (II) IF CERTIFIED NURSING ASSISTANTS, ARE CERTIFIED BY THE
10 BOARD; AND

11 (2) ~~ARE COMPLETING~~ HAVE COMPLETED CONTINUING EDUCATION
12 REQUIREMENTS.

13 (D) ~~WHEN THE OFFICE CONDUCTS A SURVEY AN INSPECTION,~~ THE OFFICE
14 SHALL VERIFY THAT THE NURSING STAFF AGENCY HAS DEVELOPED, DOCUMENTED,
15 AND IMPLEMENTED PROCEDURES FOR:

16 (1) ~~SELECTING AND CREDENTIALING~~ VERIFYING THE CREDENTIALS OF
17 NURSING PERSONNEL PROVIDED BY THE AGENCY;

18 (2) ~~VALIDATING COMPETENCIES AND PROCEDURES FOR PERFORMANCE~~
19 ~~EVALUATION~~ SKILLS PRIOR TO REFERRING NURSING PERSONNEL TO A CLIENT
20 FACILITY;

21 (3) ~~DISCIPLINING NURSING PERSONNEL PROVIDED BY THE AGENCY;~~

22 (3) TRACKING OR ACTING ON SERIOUS OR LIFE-THREATENING
23 COMPLAINTS RECEIVED BY A CLIENT OR THE CLIENT'S AGENT;

24 (4) REFERRAL OF AN ACTION OR CONDITION UNDER § 19-2001(H) OF
25 THIS SUBTITLE;

26 (4) (5) VERIFYING THAT NURSING PERSONNEL REFERRED BY THE
27 NURSING STAFF AGENCY ARE OF SATISFACTORY HEALTH STATUS AND CURRENT
28 IMMUNIZATION STATUS HAVE RECEIVED THE NECESSARY TESTING AND
29 IMMUNIZATION AS REQUIRED OR REQUESTED BY THE CLIENT FACILITY;

30 (5) (6) ~~VERIFYING THAT NON UNITED STATES CITIZENS NURSING~~
31 ~~PERSONNEL REFERRED BY THE NURSING STAFF AGENCY HAVE I-9 STATUS;~~

32 (6) (7) PERFORMING PREEMPLOYMENT VERIFYING PRIOR TO AN
33 INITIAL REFERRAL BY A NURSING STAFF AGENCY, DRUG SCREENING AS A
34 CONDITION FOR ASSIGNMENT TO A FACILITY IF THE CLIENT FACILITY HAS A
35 SIMILAR REQUIREMENT FOR EMPLOYEES;

1 ~~(7)~~ (8) PERFORMING VERIFYING DRUG TESTING ON NURSING
 2 PERSONNEL REFERRED BY THE NURSING STAFF AGENCY, WHEN THERE IS
 3 PROBABLE CAUSE TO PERFORM A DRUG TEST BASED ON THE REQUEST OF A CLIENT;

4 ~~(8)~~ (9) CONDUCTING VERIFYING PRIOR TO AN INITIAL REFERRAL BY
 5 THE NURSING STAFF AGENCY, THE CRIMINAL BACKGROUND CHECKS IF THE CLIENT
 6 FACILITY HAS A SIMILAR REQUIREMENT FOR FACILITY EMPLOYEES; AND

7 ~~(9)~~ (10) VERIFYING THE REFERENCES OF NURSING PERSONNEL
 8 REFERRED BY THE NURSING STAFF AGENCY;

9 ~~(10)~~ COMMUNICATING SCHEDULING POLICIES AND PROCEDURES TO
 10 NURSES AND CLIENT FACILITIES, INCLUDING STATE REQUIREMENTS FOR
 11 STANDARDS OF CARE; AND

12 ~~(11)~~ COLLABORATING WITH CLIENT FACILITIES TO ASSURE THAT
 13 NURSING PERSONNEL REFERRED BY THE NURSING STAFF AGENCY COMPLETE
 14 CLIENT SPECIFIC ORIENTATION AS NEEDED FOR THE INDIVIDUAL PLACEMENT.

15 (E) A NURSING STAFF AGENCY SHALL ~~WARRANT~~ ATTEST THAT THE NURSING
 16 STAFF AGENCY IS IN COMPLIANCE WITH THE:

17 (1) CIVIL RIGHTS ACT OF 1964;

18 (2) REHABILITATION ACT OF 1973;

19 (3) AMERICANS WITH DISABILITIES ACT OF 1990; AND

20 (4) DRUG FREE WORKPLACE ACT OF 1988, IF APPLICABLE.

21 ~~(F) THE OFFICE SHALL KEEP A REPORT OF EACH INSPECTION.~~

22 ~~(G) A NURSING STAFF AGENCY THAT EMPLOYS NURSING PERSONNEL WHO~~
 23 ~~ARE IN VIOLATION OF THE REQUIREMENTS OF THIS TITLE IS SUBJECT TO A PENALTY~~
 24 ~~OF \$10,000 PER INCIDENT OR UP TO \$10,000 PER DAY PER VIOLATION UNTIL THE~~
 25 ~~NURSING STAFF AGENCY COMPLIES WITH THE REQUIREMENTS OF THIS TITLE.~~

26 ~~(H) FINES COLLECTED UNDER SUBSECTION (G) OF THIS SECTION SHALL BE~~
 27 ~~DEPOSITED INTO THE HEALTH CARE QUALITY ACCOUNT.~~

28 ~~(I)~~ (F) THE OFFICE MAY SURVEY INSPECT A NURSING STAFF AGENCY UPON
 29 RECEIVING A COMPLAINT, AND SHALL GIVE NOTICE OF THE INSPECTION TO THE
 30 NURSING STAFF AGENCY WITHIN AT LEAST 24 HOURS OF INSPECTING THE NURSING
 31 STAFF AGENCY.

32 ~~(J) THE OFFICE SHALL ENSURE THAT ALL SURVEYS ARE UNANNOUNCED.~~

33 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Department of~~
 34 ~~Health and Mental Hygiene, in consultation with the Health Services Cost Review~~
 35 ~~Commission and the Maryland Health Care Commission, shall report to the General~~

1 ~~Assembly on or before October 1, 2002, in accordance with § 2-1246 of the State~~
2 ~~Government Article on the prospect of setting rates for nursing staff agencies.~~

3 ~~SECTION 4. AND BE IT FURTHER ENACTED, That the Department of~~
4 ~~Health and Mental Hygiene, in consultation with the Health Services Cost Review~~
5 ~~Commission and the Maryland Health Care Commission, shall report to the General~~
6 ~~Assembly on or before October 1, 2002, in accordance with § 2-1246 of the State~~
7 ~~Government Article on the trends, utilization rates, and costs of using nursing staff~~
8 ~~agencies in hospitals and nursing homes.~~

9 ~~SECTION 5. 3. AND BE IT FURTHER ENACTED, That this Act shall take~~
10 ~~effect October 1, 2001. January 1, 2002.~~