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By: **Senator Hollinger**

Introduced and read first time: January 18, 2001

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Nurses - Certified Nursing Assistants**

3 FOR the purpose of requiring the State Board of Nursing to maintain a certain  
4 registry; altering certain reporting requirements; altering certain verification  
5 procedures; altering the regulations that the Board must adopt; establishing a  
6 certain qualification for certification; increasing the disciplinary measures that  
7 the Board may invoke; providing that the Board may impose a probationary  
8 certificate for the abandonment of a patient; increasing certain curriculum  
9 content; prohibiting certain misrepresentations; clarifying certain definitions;  
10 defining a term; requiring that the Board adopt regulations to implement this  
11 Act on or before a certain date; and generally relating to certified nursing  
12 assistants.

13 BY repealing and reenacting, with amendments,  
14 Article - Health Occupations  
15 Section 8-205(a), 8-505, 8-507(a) and (g) through (i), 8-6A-01, 8-6A-05(a)  
16 through (c), 8-6A-10(a), 8-6A-14(c), and 8-703(a)  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume)

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

21 **Article - Health Occupations**

22 8-205.

23 (a) In addition to the powers and duties set forth elsewhere in this title, the  
24 Board has the following powers and duties:

25 (1) To adopt rules and regulations to carry out the provisions of this title;

26 (2) To set standards for the practice of registered nursing and licensed  
27 practical nursing;

1           (3)     To adopt rules and regulations for the performance of delegated  
2 medical functions which are recognized jointly by the State Board of Physician  
3 Quality Assurance and the State Board of Nursing, under § 14-306(d) of this article;

4           (4)     To adopt rules and regulations for the performance of additional  
5 nursing acts that:

6                   (i)     May be performed under any condition authorized by the Board,  
7 including emergencies; and

8                   (ii)    Require education and clinical experience;

9           (5)     To adopt rules and regulations for registered nurses to perform  
10 independent nursing functions that:

11                   (i)     Require formal education and clinical experience; and

12                   (ii)    May be performed under any condition authorized by the Board,  
13 including emergencies;

14           (6)     To adopt rules and regulations for licensed practical nurses to  
15 perform additional acts in the practice of registered nursing that:

16                   (i)     Require formal education and clinical experience;

17                   (ii)    May be performed under any condition authorized by the Board,  
18 including emergencies; and

19                   (iii)    Are recognized by the Nursing Board as proper for licensed  
20 practical nurses to perform;

21           (7)     To keep a record of its proceedings;

22           (8)     To submit an annual report to the Governor and Secretary;

23           (9)     To enforce the employment record requirements of this title;

24           (10)    To keep separate lists, which lists are open to reasonable public  
25 inspection, of all:

26                   (i)     Registered nurses licensed under this title;

27                   (ii)    Licensed practical nurses licensed under this title;

28                   (iii)   Nurse midwives certified under this title;

29                   (iv)   Nurse practitioners certified under this title; and

30                   (v)     Other licensees with a nursing specialty that is certified under  
31 this title;

1 (11) To collect any funds of the Board;

2 (12) To report any alleged violation of this title to the State's Attorney of  
3 the county where the alleged violation occurred;

4 (13) In accordance with the State budget, to incur any necessary expense  
5 for prosecution of an alleged violation of this title; [and]

6 (14) On receipt of a written and signed complaint, including a referral  
7 from the Commissioner of Labor and Industry, conduct an unannounced inspection of  
8 the office of a nurse in independent practice, other than an office of a nurse in  
9 independent practice in a hospital, related institution, freestanding medical facility,  
10 or a freestanding birthing center, to determine compliance at that office with the  
11 Centers for Disease Control's guidelines on universal precautions; AND

12 (15) TO MAINTAIN A NURSE AIDE REGISTRY THAT COMPLIES WITH  
13 FEDERAL LAW.

14 8-505.

15 (a) Except as provided in subsection (b) of this section, the following applies:

16 (1) If a nursing administrator, registered nurse, [or] licensed practical  
17 nurse, OR CERTIFIED NURSING ASSISTANT knows of an action or condition that might  
18 be grounds for action under § 8-316 OR SUBTITLE 6A of this title, the nursing  
19 administrator, registered nurse, [or] licensed practical nurse, OR CERTIFIED  
20 NURSING ASSISTANT shall report the action or condition to the Board; and

21 (2) An individual shall have the immunity from liability described under  
22 § 5-709 of the Courts and Judicial Proceedings Article for making a report as required  
23 by this subsection.

24 (b) If a nurse administrator, registered nurse, [or] licensed practical nurse,  
25 OR CERTIFIED NURSING ASSISTANT has reason to know that a licensee OR  
26 CERTIFICATE HOLDER has committed an action or has a condition that might be  
27 grounds for reprimand or probation of the licensee OR CERTIFICATE HOLDER or  
28 suspension or revocation of the license under § 8-316 OR § 8-6A-10 of this title because  
29 the licensee OR CERTIFICATE HOLDER is alcohol impaired or drug impaired, the nurse  
30 administrator, registered nurse, [or] licensed practical nurse, OR CERTIFIED  
31 NURSING ASSISTANT is not required to report the licensee OR CERTIFICATE HOLDER  
32 to the Board if:

33 (1) The nurse administrator, registered nurse, [or] licensed practical  
34 nurse, OR CERTIFIED NURSING ASSISTANT knows that the licensee OR CERTIFICATE  
35 HOLDER is in an alcohol or drug treatment program that is accredited by the Joint  
36 Commission on the Accreditation of Healthcare Organizations, is certified by the  
37 Department, or is under the care of a health care practitioner who is competent and  
38 capable of dealing with alcoholism and drug abuse;

1 (2) The nurse administrator, registered nurse, [or] licensed practical  
2 nurse, OR CERTIFIED NURSING ASSISTANT is able to verify that the licensee OR  
3 CERTIFICATE HOLDER remains in the treatment program until discharge; and

4 (3) The action or condition of the licensee OR CERTIFICATE HOLDER has  
5 not caused injury to any person while the licensee is practicing registered nursing or  
6 licensed practical nursing OR THE CERTIFICATE HOLDER IS WORKING AS A NURSING  
7 ASSISTANT.

8 (c) A person is not required under this section to make any report that would  
9 be in violation of any federal or State law, rule, or regulation concerning the  
10 confidentiality of alcohol and drug abuse patient records.

11 8-507.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) "Health care facility" means a hospital or related institution as  
14 defined in § 19-301 of the Health - General Article.

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

18 (4) "Nursing personnel" means:

19 (i) Any individual licensed by the State Board of Nursing as a:

20 1. Licensed practical nurse; or

21 2. Registered nurse; [or]

22 (ii) [A geriatric nursing assistant] ANY PATIENT CARE PERSONNEL  
23 who complies with the provisions of § 19-308.1 of the Health - General Article for  
24 patient care personnel; OR

25 (III) ANY INDIVIDUAL AUTHORIZED TO PROVIDE PATIENT CARE  
26 UNDER SUBTITLE 6A OF THIS TITLE.

27 (5) (i) "Nursing staff agency" means any person, firm, corporation,  
28 partnership, or other business entity engaged in the business of providing or referring  
29 nursing personnel to render temporary nursing services at a health care facility in the  
30 State.

31 (ii) "Nursing staff agency" does not include:

32 1. Any person, firm, corporation, partnership, or other  
33 business entity engaged solely in the business of providing or referring nursing  
34 personnel to render private duty nursing care at a health care facility;

1 2. A nursing staff agency operated by a health care facility  
 2 solely for the purpose of procuring, furnishing, or referring temporary or permanent  
 3 nursing personnel for employment at that health care facility;

4 3. A home health agency regulated under Title 19, Subtitle 4  
 5 of the Health - General Article; or

6 4. Any nursing personnel procuring, furnishing, or referring  
 7 their own services to a health care facility without the direct or indirect assistance of  
 8 a nursing staff agency.

9 (6) "Responsible party" means the individual at a nursing staff agency  
 10 who controls the day to day operation of the nursing staff agency.

11 (g) Before initially providing or referring a [geriatric] CERTIFIED nursing  
 12 assistant to related institutions to render temporary services, the nursing staff  
 13 agency shall verify with the [Office of Licensing and Certification Programs of the  
 14 Department] BOARD that the [geriatric] nursing assistant [complies with the  
 15 applicable standards under the regulations adopted under § 19-308.1 of the Health -  
 16 General Article] IS DULY CERTIFIED AND QUALIFIED TO PROVIDE PATIENT CARE.

17 (h) (1) A nursing staff agency may not knowingly provide or refer a licensed  
 18 practical nurse who is not authorized to practice licensed practical nursing under this  
 19 title to a health care facility to render temporary nursing services.

20 (2) A nursing staff agency may not knowingly provide or refer a  
 21 registered nurse who is not authorized to practice registered nursing under this title  
 22 to a health care facility to render temporary nursing services.

23 (3) A NURSING STAFF AGENCY MAY NOT KNOWINGLY PROVIDE OR  
 24 REFER A NURSING ASSISTANT WHO IS NOT AUTHORIZED TO PROVIDE PATIENT CARE  
 25 UNDER THIS TITLE TO A HEALTH CARE FACILITY TO RENDER TEMPORARY PATIENT  
 26 CARE.

27 (i) (1) Except as provided in paragraph (2) of this subsection:

28 (i) If a nursing staff agency knows of an action or condition  
 29 performed by a licensed practical nurse [or], registered nurse, OR CERTIFIED  
 30 NURSING ASSISTANT provided or referred by that nursing staff agency that might be  
 31 grounds for action under § 8-316 of this title, the nursing staff agency shall report the  
 32 action or condition to the Board; and

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

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

1 8-6A-01.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) "Approved nursing assistant training program" means a course of training  
4 that meets the basic nursing assistant curriculum prescribed and approved by the  
5 Board.

6 (c) "Board" means the State Board of Nursing.

7 (d) "Certificate" means a certificate issued by the Board to practice as a  
8 certified nursing assistant in the State.

9 (e) "Certified medicine aide" means a [certified] GERIATRIC nursing assistant  
10 who has completed a 60-hour, State-approved course in medication administration.

11 (f) "Certified nursing assistant":

12 (1) Means an individual regardless of title who routinely performs  
13 nursing tasks delegated by a registered nurse or licensed practical nurse for  
14 compensation; and

15 (2) Does not include a medication assistant.

16 (g) "Department" means the Department of Health and Mental Hygiene.

17 (H) "GERIATRIC NURSING ASSISTANT" MEANS A CERTIFIED NURSING  
18 ASSISTANT WHO HAS SUCCESSFULLY COMPLETED THE REQUIREMENTS FOR  
19 GERIATRIC NURSING ASSISTANT MANDATED UNDER FEDERAL LAW AND THE  
20 REGULATIONS OF THE BOARD.

21 [(h)] (I) "Medication assistant" means an individual who has completed the  
22 16-hour course in medication administration approved by the Board.

23 8-6A-05.

24 (a) The Board shall adopt regulations establishing [the qualifications for  
25 certification as a certified nursing assistant]:

26 (1) CATEGORIES OF CERTIFIED NURSING ASSISTANTS, INCLUDING BUT  
27 NOT LIMITED TO GERIATRIC NURSING ASSISTANTS, HOME HEALTH AIDES, SCHOOL  
28 HEALTH AIDES, DIALYSIS TECHNICIANS, AND MEDICINE AIDES;

29 (2) QUALIFICATIONS FOR EACH CATEGORY OF CERTIFIED NURSING  
30 ASSISTANT; AND

31 (3) STANDARDS FOR QUALIFICATION OF APPLICANTS FOR  
32 CERTIFICATION, INCLUDING THE APPLICANT'S CRIMINAL HISTORY, WORK RECORD,  
33 AND PROHIBITIONS AGAINST BEHAVIOR WHICH MAY BE POTENTIALLY HARMFUL TO  
34 PATIENTS.

1 (b) To qualify for certification AS A NURSING ASSISTANT OR A NURSING  
2 ASSISTANT IN A SPECIFIC CATEGORY, an applicant shall meet the requirements set  
3 by the Board.

4 (c) (1) An applicant for a certificate shall:

5 (i) Submit an application to the Board on the form that the Board  
6 requires;

7 (ii) Provide evidence, as required by the Board, of successful  
8 completion of an approved nursing assistant training program; [and]

9 (iii) Pay to the Board an application fee set by the Board; AND

10 (IV) BE OF GOOD MORAL CHARACTER.

11 (2) An applicant for certification as a certified medicine aide, in addition  
12 to the requirements under subsection (c)(1) of this section, shall submit an additional  
13 application to that effect to the Board on the form that the Board requires.

14 (3) An applicant for a certificate may not:

15 (i) Have committed any act or omission that would be grounds for  
16 discipline or denial of certification under this subtitle; and

17 (ii) Have a record of abuse, negligence, misappropriation of a  
18 resident's property, or any disciplinary action taken or pending in any other state or  
19 territory of the United States against the certification of the nursing assistant in the  
20 state or territory.

21 8-6A-10.

22 (a) Subject to the hearing provisions of § 8-317 of this title, the Board may  
23 deny a certificate OR ISSUE A PROBATIONARY CERTIFICATE to any applicant,  
24 reprimand any certificate holder, place any certificate holder on probation, or suspend  
25 or revoke the certificate of a certificate holder, if the applicant or certificate holder:

26 (1) Fraudulently or deceptively obtains or attempts to obtain a  
27 certificate for the applicant or for another;

28 (2) Fraudulently or deceptively uses a certificate;

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

33 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a  
34 crime involving moral turpitude, whether or not any appeal or other proceeding is  
35 pending to have the conviction or plea set aside;

- 1                   (5)     Files a false report or record of an individual under the certificate  
2 holder's care;
- 3                   (6)     Gives any false or misleading information about a material matter in  
4 an employment application;
- 5                   (7)     Fails to file or record any health record that is required by law;
- 6                   (8)     Induces another person to fail to file or record any health record that  
7 is required by law;
- 8                   (9)     Has violated any order, rule, or regulation of the Board relating to the  
9 practice or certification of a nursing assistant;
- 10                  (10)    Provides services as a nursing assistant while:
- 11                           (i)     Under the influence of alcohol; or
- 12                           (ii)    Using any narcotic or controlled dangerous substance, as  
13 defined in Article 27 of the Code, or other drug that is in excess of therapeutic  
14 amounts or without valid medical indication;
- 15                  (11)    Is habitually intoxicated;
- 16                  (12)    Is addicted to, or habitually abuses, any narcotic or controlled  
17 dangerous substance as defined in Article 27 of the Code;
- 18                  (13)    Has acted in a manner inconsistent with the health or safety of a  
19 person under the applicant or certificate holder's care;
- 20                  (14)    Has practiced as a nursing assistant in a manner which fails to meet  
21 generally accepted standards for the practice of a nursing assistant;
- 22                  (15)    Has physically, verbally, or psychologically abused, neglected, or  
23 otherwise harmed a person under the applicant or certificate holder's care;
- 24                  (16)    Has a physical or mental disability which renders the applicant or  
25 certificate holder unable to practice as a certified nursing assistant with reasonable  
26 skill and safety to the patients and which may endanger the health or safety of  
27 persons under the care of the applicant or certificate holder;
- 28                  (17)    Has violated the confidentiality of information or knowledge as  
29 prescribed by law concerning any patient;
- 30                  (18)    Has misappropriated patient or facility property;
- 31                  (19)    Performs certified nursing assistant functions incompetently;
- 32                  (20)    Has violated any provision of this title or has aided or knowingly  
33 permitted any person to violate any provision of this title;



- 1           (21)   Submits a false statement to collect a fee;
- 2           (22)   Refuses, withholds from, denies, or discriminates against an  
3 individual with regard to the provision of professional services for which the applicant  
4 or certificate holder is certified and qualified to render because the individual is HIV  
5 positive;
- 6           (23)   Except in an emergency life-threatening situation where it is not  
7 feasible or practicable, fails to comply with the Centers for Disease Control's  
8 guidelines on universal precautions;
- 9           (24)   Fails to cooperate with a lawful investigation conducted by the  
10 Board;
- 11          (25)   Fails to comply with instructions and directions of the supervising  
12 registered nurse or licensed practical nurse;
- 13          (26)   After failing to renew a certificate, commits any act that would be  
14 grounds for disciplinary action under this section;
- 15          (27)   Practices as a nursing assistant before obtaining or renewing the  
16 certificate, including any time period when the certificate has lapsed;
- 17          (28)   Impersonates another individual:
- 18               (i)    Licensed under the provisions of this title; or
- 19               (ii)   Who holds a certificate issued under the provisions of this title;
- 20          (29)   Has acted in a manner inconsistent with the health or safety of a  
21 person under the certified nursing assistant's care;
- 22          (30)   Performs activities that exceed the education and training of the  
23 certified nursing assistant; [or]
- 24          (31)   Is expelled from the rehabilitation program established pursuant to §  
25 8-208 of this title for failure to comply with the conditions of the program; OR
- 26          (32)   ABANDONS A PATIENT.
- 27 8-6A-14.
- 28   (c)   The curriculum content for an approved nursing assistant training  
29 program shall include:
- 30           (1)   Content consistent with State licensing requirements in the Health -  
31 General Article and all federal requirements; [and]
- 32           (2)   All basic skills required of a nursing assistant regardless of the  
33 setting of the practice; AND

1 (3) ANY SKILLS REQUIRED FOR CERTIFICATION IN A SPECIFIC  
2 CATEGORY.

3 8-703.

4 (a) (1) Unless authorized to practice registered nursing under this title, a  
5 person may not represent to the public by title, by description of services, methods, or  
6 procedures, or otherwise, that the person is authorized to practice registered nursing  
7 in this State.

8 (2) Unless authorized to practice licensed practical nursing under this  
9 title, a person may not represent to the public by title, by description of services,  
10 methods, or procedures, or otherwise, that the person is authorized to practice  
11 licensed practical nursing in this State.

12 (3) UNLESS AUTHORIZED TO PROVIDE PATIENT CARE AS A CERTIFIED  
13 NURSING ASSISTANT OR MEDICATION ASSISTANT UNDER THIS TITLE, A PERSON MAY  
14 NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES,  
15 METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO  
16 PROVIDE CARE AS A CERTIFIED NURSING ASSISTANT OR MEDICATION ASSISTANT IN  
17 THIS STATE.

18 (4) UNLESS AUTHORIZED TO PROVIDE PATIENT CARE IN A SPECIFIC  
19 CATEGORY OF CERTIFIED NURSING ASSISTANT, A PERSON MAY NOT REPRESENT TO  
20 THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES,  
21 OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PROVIDE CARE AS A  
22 CERTIFIED NURSING ASSISTANT IN A SPECIFIC CATEGORY IN THIS STATE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 31,  
24 2002, the Board of Nursing shall adopt regulations to implement this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2001.