

SENATE BILL 146

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2001 Regular Session  
11r0788  
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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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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 6, 2001

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CHAPTER \_\_\_\_\_

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; altering a certain renewal provision for  
7 certificates; increasing the disciplinary measures that the Board may invoke;  
8 providing that the Board may impose a probationary certificate for the  
9 abandonment of a patient; increasing certain curriculum content; prohibiting  
10 certain misrepresentations; clarifying certain definitions; defining a term;  
11 requiring that the Board adopt regulations to implement this Act on or before a  
12 certain date; requiring the Board to submit certain reports by a certain date;  
13 and generally relating to certified nursing assistants.

14 BY repealing and reenacting, with amendments,  
15 Article - Health Occupations  
16 Section 8-205(a), 8-505, 8-507(a) and (g) through (i), 8-6A-01, 8-6A-05(a)  
17 through (c), 8-6A-08(a), 8-6A-10(a), 8-6A-14(c), and 8-703(a)  
18 Annotated Code of Maryland  
19 (2000 Replacement Volume)

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

1

**Article - Health Occupations**

2 8-205.

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

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

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

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

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

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

15 (ii) Require education and clinical experience;

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

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

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

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

23 (i) Require formal education and clinical experience;

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

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

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

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

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

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

- 1 (i) Registered nurses licensed under this title;
- 2 (ii) Licensed practical nurses licensed under this title;
- 3 (iii) Nurse midwives certified under this title;
- 4 (iv) Nurse practitioners certified under this title; and
- 5 (v) Other licensees with a nursing specialty that is certified under  
6 this title;
- 7 (11) To collect any funds of the Board;
- 8 (12) To report any alleged violation of this title to the State's Attorney of  
9 the county where the alleged violation occurred;
- 10 (13) In accordance with the State budget, to incur any necessary expense  
11 for prosecution of an alleged violation of this title; [and]
- 12 (14) On receipt of a written and signed complaint, including a referral  
13 from the Commissioner of Labor and Industry, conduct an unannounced inspection of  
14 the office of a nurse in independent practice, other than an office of a nurse in  
15 independent practice in a hospital, related institution, freestanding medical facility,  
16 or a freestanding birthing center, to determine compliance at that office with the  
17 Centers for Disease Control's guidelines on universal precautions; AND
- 18 (15) TO MAINTAIN A NURSE AIDE REGISTRY THAT COMPLIES WITH  
19 FEDERAL LAW.
- 20 8-505.
- 21 (a) Except as provided in subsection (b) of this section, the following applies:
- 22 (1) If a nursing administrator, registered nurse, [or] licensed practical  
23 nurse, OR CERTIFIED NURSING ASSISTANT knows of an action or condition that might  
24 be grounds for action under § 8-316 OR SUBTITLE 6A of this title, the nursing  
25 administrator, registered nurse, [or] licensed practical nurse, OR CERTIFIED  
26 NURSING ASSISTANT shall report the action or condition to the Board; and
- 27 (2) An individual shall have the immunity from liability described under  
28 § 5-709 of the Courts and Judicial Proceedings Article for making a report as required  
29 by this subsection.
- 30 (b) If a nurse administrator, registered nurse, [or] licensed practical nurse,  
31 OR CERTIFIED NURSING ASSISTANT has reason to know that a licensee OR  
32 CERTIFICATE HOLDER has committed an action or has a condition that might be  
33 grounds for reprimand or probation of the licensee OR CERTIFICATE HOLDER or  
34 suspension or revocation of the license under § 8-316 OR § 8-6A-10 of this title because  
35 the licensee OR CERTIFICATE HOLDER is alcohol impaired or drug impaired, the nurse  
36 administrator, registered nurse, [or] licensed practical nurse, OR CERTIFIED

1 NURSING ASSISTANT is not required to report the licensee OR CERTIFICATE HOLDER  
2 to the Board if:

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

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

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

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

19 8-507.

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

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

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

26 (4) "Nursing personnel" means:

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

28 1. Licensed practical nurse; or

29 2. Registered nurse; [or]

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

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

35 (5) (i) "Nursing staff agency" means any person, firm, corporation,  
36 partnership, or other business entity engaged in the business of providing or referring

1 nursing personnel to render temporary nursing services at a health care facility in the  
2 State.

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

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

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

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

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

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

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

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

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

29 (3) A NURSING STAFF AGENCY MAY NOT KNOWINGLY PROVIDE OR  
30 REFER A NURSING ASSISTANT WHO IS NOT AUTHORIZED TO PROVIDE PATIENT CARE  
31 UNDER THIS TITLE TO A HEALTH CARE FACILITY TO RENDER TEMPORARY PATIENT  
32 CARE.

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

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

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

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

7 8-6A-01.

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

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

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

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

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

17 (f) "Certified nursing assistant":

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

21 (2) Does not include a medication assistant.

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

23 (H) "GERIATRIC NURSING ASSISTANT" MEANS A CERTIFIED NURSING  
24 ASSISTANT WHO HAS SUCCESSFULLY COMPLETED THE REQUIREMENTS FOR  
25 GERIATRIC NURSING ASSISTANT MANDATED UNDER FEDERAL LAW AND THE  
26 REGULATIONS OF THE BOARD.

27 [(h)] (I) "Medication assistant" means an individual who has completed the  
28 16-hour course in medication administration approved by the Board.

29 8-6A-05.

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

32 (1) CATEGORIES OF CERTIFIED NURSING ASSISTANTS, INCLUDING ~~BUT~~  
33 ~~NOT LIMITED TO~~ GERIATRIC NURSING ASSISTANTS, HOME HEALTH AIDES, SCHOOL  
34 HEALTH AIDES, DIALYSIS TECHNICIANS, INDIVIDUALS WORKING IN

1 DEVELOPMENTAL DISABILITIES ADMINISTRATION FACILITIES, AND MEDICINE  
2 AIDES;

3 (2) QUALIFICATIONS FOR EACH CATEGORY OF CERTIFIED NURSING  
4 ASSISTANT; AND

5 (3) STANDARDS FOR QUALIFICATION OF APPLICANTS FOR  
6 CERTIFICATION, INCLUDING THE APPLICANT'S CRIMINAL HISTORY, WORK RECORD,  
7 AND PROHIBITIONS AGAINST BEHAVIOR WHICH MAY BE POTENTIALLY HARMFUL TO  
8 PATIENTS.

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

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

13 (i) Submit an application to the Board on the form that the Board  
14 requires;

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

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

18 (IV) BE OF GOOD MORAL CHARACTER.

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

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

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

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

29 8-6A-08.

30 (a) A certificate expires on the 28th day of the birth month of the nursing  
31 assistant, unless the certificate is renewed for a [1-year] 2-YEAR term as provided in  
32 this section.

33 8-6A-10.

34 (a) Subject to the hearing provisions of § 8-317 of this title, the Board may  
35 deny a certificate OR ISSUE A PROBATIONARY CERTIFICATE to any applicant,

1 reprimand any certificate holder, place any certificate holder on probation, or suspend  
2 or revoke the certificate of a certificate holder, if the applicant or certificate holder:

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

5 (2) Fraudulently or deceptively uses a certificate;

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

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

13 (5) Files a false report or record of an individual under the certificate  
14 holder's care;

15 (6) Gives any false or misleading information about a material matter in  
16 an employment application;

17 (7) Fails to file or record any health record that is required by law;

18 (8) Induces another person to fail to file or record any health record that  
19 is required by law;

20 (9) Has violated any order, rule, or regulation of the Board relating to the  
21 practice or certification of a nursing assistant;

22 (10) Provides services as a nursing assistant while:

23 (i) Under the influence of alcohol; or

24 (ii) Using any narcotic or controlled dangerous substance, as  
25 defined in Article 27 of the Code, or other drug that is in excess of therapeutic  
26 amounts or without valid medical indication;

27 (11) Is habitually intoxicated;

28 (12) Is addicted to, or habitually abuses, any narcotic or controlled  
29 dangerous substance as defined in Article 27 of the Code;

30 (13) Has acted in a manner inconsistent with the health or safety of a  
31 person under the applicant or certificate holder's care;

32 (14) Has practiced as a nursing assistant in a manner which fails to meet  
33 generally accepted standards for the practice of a nursing assistant;



- 1           (15)    Has physically, verbally, or psychologically abused, neglected, or  
2 otherwise harmed a person under the applicant or certificate holder's care;
- 3           (16)    Has a physical or mental disability which renders the applicant or  
4 certificate holder unable to practice as a certified nursing assistant with reasonable  
5 skill and safety to the patients and which may endanger the health or safety of  
6 persons under the care of the applicant or certificate holder;
- 7           (17)    Has violated the confidentiality of information or knowledge as  
8 prescribed by law concerning any patient;
- 9           (18)    Has misappropriated patient or facility property;
- 10          (19)    Performs certified nursing assistant functions incompetently;
- 11          (20)    Has violated any provision of this title or has aided or knowingly  
12 permitted any person to violate any provision of this title;
- 13          (21)    Submits a false statement to collect a fee;
- 14          (22)    Refuses, withholds from, denies, or discriminates against an  
15 individual with regard to the provision of professional services for which the applicant  
16 or certificate holder is certified and qualified to render because the individual is HIV  
17 positive;
- 18          (23)    Except in an emergency life-threatening situation where it is not  
19 feasible or practicable, fails to comply with the Centers for Disease Control's  
20 guidelines on universal precautions;
- 21          (24)    Fails to cooperate with a lawful investigation conducted by the  
22 Board;
- 23          (25)    Fails to comply with instructions and directions of the supervising  
24 registered nurse or licensed practical nurse;
- 25          (26)    After failing to renew a certificate, commits any act that would be  
26 grounds for disciplinary action under this section;
- 27          (27)    Practices as a nursing assistant before obtaining or renewing the  
28 certificate, including any time period when the certificate has lapsed;
- 29          (28)    Impersonates another individual:
- 30               (i)     Licensed under the provisions of this title; or
- 31               (ii)    Who holds a certificate issued under the provisions of this title;
- 32          (29)    Has acted in a manner inconsistent with the health or safety of a  
33 person under the certified nursing assistant's care;

1 (30) Performs activities that exceed the education and training of the  
2 certified nursing assistant; [or]

3 (31) Is expelled from the rehabilitation program established pursuant to §  
4 8-208 of this title for failure to comply with the conditions of the program; OR

5 (32) ABANDONS A PATIENT.

6 8-6A-14.

7 (c) The curriculum content for an approved nursing assistant training  
8 program shall include:

9 (1) Content consistent with State licensing requirements in the Health -  
10 General Article and all federal requirements; [and]

11 (2) All basic skills required of a nursing assistant regardless of the  
12 setting of the practice; AND

13 (3) ANY SKILLS REQUIRED FOR CERTIFICATION IN A SPECIFIC  
14 CATEGORY.

15 8-703.

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

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

24 (3) UNLESS AUTHORIZED TO PROVIDE PATIENT CARE AS A CERTIFIED  
25 NURSING ASSISTANT OR MEDICATION ASSISTANT UNDER THIS TITLE, A PERSON MAY  
26 NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES,  
27 METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO  
28 PROVIDE CARE AS A CERTIFIED NURSING ASSISTANT OR MEDICATION ASSISTANT IN  
29 THIS STATE.

30 (4) UNLESS AUTHORIZED TO PROVIDE PATIENT CARE IN A SPECIFIC  
31 CATEGORY OF CERTIFIED NURSING ASSISTANT, A PERSON MAY NOT REPRESENT TO  
32 THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES,  
33 OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PROVIDE CARE AS A  
34 CERTIFIED NURSING ASSISTANT IN A SPECIFIC CATEGORY IN THIS STATE.

35 SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 31,  
36 2002, the Board of Nursing shall adopt regulations to implement this Act.

1     SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1,  
2 2001, the Board of Nursing shall report to the Nursing Home Quality Oversight  
3 Committee and to the General Assembly, in accordance with § 2-1246 of the State  
4 Government Article, on the implementation of this Act.

5     SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
6 effect July 1, 2001.