
By: **Delegates Wood, Krysiak, Love, McHale, and Moe**
Introduced and read first time: February 7, 2003
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Nurse Registry - Covered Employment - Unemployment Insurance and**
3 **Workers' Compensation**

4 FOR the purpose of providing that certain services provided by a health care
5 practitioner, in a home or other location, pursuant to a referral from a licensed
6 nurse registry is work that is not covered employment for purposes of
7 unemployment insurance and workers' compensation claims if certain
8 conditions are met; defining certain terms; and generally relating to nurse
9 registry referrals and covered employment under unemployment insurance and
10 workers' compensation law.

11 BY adding to
12 Article - Labor and Employment
13 Section 8-224 and 9-237
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2002 Supplement)

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

18 **Article - Labor and Employment**

19 8-224.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (2) "LICENSED NURSE REGISTRY" MEANS A NURSE REGISTRY THAT IS
23 LICENSED UNDER THE MARYLAND EMPLOYMENT AGENCY ACT.

24 (3) "HEALTH CARE PRACTITIONER" MEANS ANY INDIVIDUAL WHO IS
25 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH
26 OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.

27 (4) "HOME HEALTH CARE" HAS THE MEANING STATED IN § 19-401(C) OF
28 THE HEALTH - GENERAL ARTICLE.

1 (B) FOR A HEALTH CARE PRACTITIONER WHO PROVIDES HOME HEALTH CARE
2 SERVICES OR HEALTH CARE SERVICES TO AN INDIVIDUAL, INSTITUTION, OR OTHER
3 RELATED ENTITY PURSUANT TO A REFERRAL BY A LICENSED NURSE REGISTRY,
4 WORK IS NOT COVERED EMPLOYMENT IF:

5 (1) THE HEALTH CARE PRACTITIONER HAS THE OPTION OF REJECTING
6 OR ACCEPTING THE REFERRAL;

7 (2) THE HEALTH CARE PRACTITIONER IS FREE FROM CONTROL AND
8 DIRECTION BY THE LICENSED NURSE REGISTRY IN SETTING PERSONAL WORK
9 HOURS, RATE OF COMPENSATION, AND THE LEVEL OF SERVICE AND STANDARD OF
10 CARE TO BE PROVIDED BY THE PRACTITIONER;

11 (3) THE REFERRAL IS MADE TO THE FIRST AVAILABLE HEALTH CARE
12 PRACTITIONER WHO MEETS THE CRITERIA ESTABLISHED BY THE INDIVIDUAL,
13 INSTITUTION, OR ENTITY;

14 (4) THE HEALTH CARE PRACTITIONER IS PAID BY THE INDIVIDUAL,
15 INSTITUTION, OR OTHER ENTITY AND NOT BY THE LICENSED NURSE REGISTRY;

16 (5) THE HEALTH CARE PRACTITIONER AND LICENSED NURSE REGISTRY
17 ENTER INTO A WRITTEN AGREEMENT THAT CLEARLY AND CONSPICUOUSLY
18 PROVIDES IN AT LEAST 14 POINT TYPE THAT:

19 (I) IT IS THE RESPONSIBILITY OF THE HEALTH CARE
20 PRACTITIONER TO PAY STATE AND FEDERAL INCOME TAXES AND TO MAKE
21 CONTRIBUTIONS TO SOCIAL SECURITY FOR SELF-EMPLOYMENT; AND

22 (II) THE HEALTH CARE PRACTITIONER IS NOT A COVERED
23 EMPLOYEE THROUGH THE LICENSED NURSE REGISTRY; AND

24 (6) THE HEALTH CARE PRACTITIONER HAS AN ONGOING RIGHT TO
25 ACCEPT REFERRALS FROM OTHER AGENCIES OR TO OTHERWISE MAKE THE
26 PRACTITIONER'S SERVICES AVAILABLE TO THE GENERAL PUBLIC.

27 9-237.

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25 ACCEPT REFERRALS FROM OTHER AGENCIES OR TO OTHERWISE MAKE THE
26 PRACTITIONER'S SERVICES AVAILABLE TO THE GENERAL PUBLIC.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2003.