

HOUSE BILL 602

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2004 Regular Session
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By: **Delegates Nathan-Pulliam, Eckardt, Goldwater, Mandel, and Walkup**
Introduced and read first time: February 4, 2004
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing - Nursing Assistants and Medication Technicians -**
3 **Certification**

4 FOR the purpose of requiring an individual to be certified by the State Board of
5 Nursing before practicing as a medication technician, using certain titles, and
6 making certain representations; making a certain exception to the requirement
7 for certification as a medication technician; requiring the Board to set certain
8 fees relating to the certification of medication technicians; requiring the Board
9 to adopt certain regulations; establishing certain qualifications that an
10 individual must meet to qualify for certain certificates; repealing a certain
11 procedure for granting a nursing assistant certificate by waiver; establishing
12 procedures for the certification of medication technicians and the issuance and
13 renewal of medication technician certificates; altering certain requirements for
14 the renewal of a nursing assistant certificate; requiring certain certificate
15 holders to notify the Board in a certain manner and within a certain time period
16 after a certain change has occurred; authorizing the Board to impose a certain
17 administrative penalty on certain certificate holders under certain
18 circumstances; requiring the Board to pay certain penalties to the General Fund
19 of the State; authorizing the Board to impose a certain fine on a certified
20 medication technician; establishing grounds for the denial of a medication
21 technician certificate and the discipline of certified medication technicians;
22 authorizing the Board to reinstate certain certificates under certain
23 circumstances; providing for the surrender of a medication technician certificate
24 under certain circumstances; requiring the Board's advisory committee to
25 review certain investigations of complaints and make certain recommendations
26 for disciplinary action; requiring certain individuals to submit to certain
27 examinations under certain circumstances; prohibiting a director of nursing
28 from employing certain individuals under certain circumstances; defining
29 certain terms; and generally relating to the State Board of Nursing and the
30 certification of nursing assistants and medication technicians.

31 BY repealing and reenacting, with amendments,
32 Article - Health Occupations
33 Section 8-6A-01, 8-6A-02(a) and (b), 8-6A-03, 8-6A-04(a), 8-6A-05, 8-6A-07
34 through 8-6A-10, 8-6A-12, 8-6A-13(e), and 8-6A-15 to be under the

1 amended subtitle "Subtitle 6A. Certification of Nursing Assistants and
2 Medication Technicians"; and 8-706
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2003 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article - Health Occupations
7 Section 8-6A-13(a)
8 Annotated Code of Maryland
9 (2000 Replacement Volume and 2003 Supplement)

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

12 **Article - Health Occupations**

13 Subtitle 6A. Certification of Nursing Assistants AND MEDICATION TECHNICIANS.

14 8-6A-01.

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

16 (B) "APPROVED MEDICATION TECHNICIAN TRAINING PROGRAM" MEANS A
17 COURSE OF TRAINING THAT MEETS THE BASIC MEDICATION TECHNICIAN
18 CURRICULUM PRESCRIBED AND APPROVED BY THE BOARD.

19 [(b)] (C) "Approved nursing assistant training program" means a course of
20 training that meets the basic nursing assistant curriculum prescribed and approved
21 by the Board.

22 [(c)] (D) "Board" means the State Board of Nursing.

23 [(d)] (E) "Certificate" means a certificate issued by the Board to practice as a
24 certified nursing assistant OR A CERTIFIED MEDICATION TECHNICIAN in the State.

25 (F) "CERTIFIED MEDICATION TECHNICIAN" MEANS AN INDIVIDUAL WHO:

26 (1) HAS COMPLETED A BOARD-APPROVED COURSE IN MEDICATION
27 ADMINISTRATION; AND

28 (2) IS CERTIFIED BY THE BOARD AS A MEDICATION TECHNICIAN.

29 [(e)] (G) "Certified medicine aide" means a geriatric nursing assistant who
30 has completed a [60-hour, State-approved] BOARD-APPROVED course in medication
31 administration.

32 [(f)] (H) "Certified nursing assistant":

1 (1) Means an individual regardless of title who routinely performs
2 nursing tasks delegated by a registered nurse or licensed practical nurse for
3 [compensation or satisfies the criteria contained in § 8-6A-05(d) of this subtitle]
4 COMPENSATION; and

5 (2) Does not include a [medication assistant] CERTIFIED MEDICATION
6 TECHNICIAN.

7 [(g)] (I) "Department" means the Department of Health and Mental Hygiene.

8 [(h)] (J) "Geriatric nursing assistant" means a certified nursing assistant who
9 has successfully completed the requirements for geriatric nursing assistant mandated
10 under federal law and the regulations of the Board.

11 [(i)] "Medication assistant" means an individual who has completed the
12 16-hour course in medication administration approved by the Board.]

13 8-6A-02.

14 (a) Except as otherwise provided in this subtitle, an individual shall be
15 certified by the Board to practice as a nursing assistant OR MEDICATION TECHNICIAN
16 before the individual may practice as a nursing assistant OR MEDICATION
17 TECHNICIAN in the State.

18 (b) This subtitle does not apply to an individual who:

19 (1) Practices a health occupation that the individual is authorized to
20 practice under this article;

21 (2) Provides for the gratuitous care of friends or family members;

22 (3) Performs nursing assistant tasks while a nursing student enrolled in
23 an accredited nursing program and practicing under the direct supervision of
24 qualified faculty or preceptors; [or]

25 (4) Performs nursing assistant tasks as a student while:

26 (i) Enrolled in a Board approved nursing assistant training
27 program;

28 (ii) Practicing under the direct supervision of qualified faculty or
29 preceptors; or

30 (iii) Practicing under the direct supervision of a licensed nurse while
31 working as a nursing assistant; OR

32 (5) PERFORMS MEDICATION TECHNICIAN TASKS AS A STUDENT WHILE
33 PRACTICING UNDER THE DIRECT SUPERVISION OF QUALIFIED FACULTY.

1 8-6A-03.

2 (a) An individual shall be certified as a nursing assistant by the Board before
3 the individual may:

- 4 (1) Use the title "certified nursing assistant";
- 5 (2) Use the initials "C.N.A." after the name of the individual; or
- 6 (3) Represent to the public that the individual is certified as a nursing
7 assistant.

8 (b) [A medication assistant shall be required to register with the Board.] AN
9 INDIVIDUAL SHALL BE CERTIFIED AS A MEDICATION TECHNICIAN BY THE BOARD
10 BEFORE THE INDIVIDUAL MAY:

- 11 (1) USE THE TITLE "CERTIFIED MEDICATION TECHNICIAN";
- 12 (2) USE THE INITIALS "C.M.T." AFTER THE NAME OF THE INDIVIDUAL; OR
- 13 (3) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS
14 A MEDICATION TECHNICIAN.

15 (C) AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER
16 TO PRACTICE AS A CERTIFIED MEDICATION TECHNICIAN WITHOUT CERTIFICATION
17 FROM THE BOARD.

18 8-6A-04.

19 (a) (1) The Board shall set reasonable fees for the issuance and renewal of
20 certificates and other services it provides to certified nursing assistants AND
21 CERTIFIED MEDICATION TECHNICIANS.

22 (2) The fees charged shall be set to produce funds to approximate the
23 cost of maintaining the certification program and the other services provided to
24 certified nursing assistants AND CERTIFIED MEDICATION TECHNICIANS.

25 8-6A-05.

26 (a) The Board shall adopt regulations establishing:

- 27 (1) Categories of certified nursing assistants, including geriatric nursing
28 assistants, home health aides, school health aides, dialysis technicians, individuals
29 working in developmental disabilities administration facilities, and medicine aides;
- 30 (2) Qualifications for each category of certified nursing assistant; [and]
- 31 (3) QUALIFICATIONS FOR CERTIFIED MEDICATION TECHNICIANS; AND

1 [(3)] (4) Standards for qualification of applicants for certification,
2 including the applicant's criminal history, work record, and prohibitions against
3 behavior which may be potentially harmful to patients.

4 (b) To qualify for certification as a nursing [assistant or] ASSISTANT, a
5 nursing assistant in a specific category, OR A MEDICATION TECHNICIAN, an applicant
6 shall meet the requirements set by the Board.

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

8 (i) Submit an application to the Board on the form that the Board
9 requires;

10 (ii) Provide evidence, as required by the Board, of successful
11 completion of an approved nursing assistant training program OR AN APPROVED
12 COURSE IN MEDICATION ADMINISTRATION;

13 (iii) Pay to the Board an application fee set by the Board; [and]

14 (iv) Be of good moral character; AND

15 (V) BE AT LEAST 18 YEARS OLD.

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

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

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

22 (ii) Have a record of abuse, negligence, misappropriation of a
23 resident's property, or any disciplinary action taken or pending in any other state or
24 territory of the United States against the certification of the nursing assistant OR
25 MEDICATION TECHNICIAN in the state or territory.

26 [(d) The Board shall waive the requirement for successful completion of an
27 approved nursing assistant training program under subsection (c) of this section for
28 any applicant who applies for certification under this subtitle by July 1, 2002 and
29 submits evidence satisfactory to the Board that the applicant:

30 (1) Holds current registration in good standing as a geriatric nursing
31 assistant in accordance with regulations adopted by the Department under §
32 19-308.1 of the Health - General Article; or

33 (2) In the last 2 years has practiced for at least 1,000 hours as a nursing
34 assistant.]

1 8-6A-07.

2 (a) The Board shall issue a certificate to any applicant who meets the
3 requirements of this subtitle.

4 (b) The certificate OF AN INDIVIDUAL WHO HAS MET THE REQUIREMENTS
5 FOR A CERTIFIED NURSING ASSISTANT shall include the title "certified nursing
6 assistant".

7 (c) The certificate of an individual who routinely performs nursing tasks
8 delegated by a registered nurse or licensed practical nurse for compensation and has
9 also completed [the 60-hour, State-approved] A BOARD-APPROVED course in
10 medication administration shall also include the title "certified medicine aide".

11 (D) THE CERTIFICATE OF AN INDIVIDUAL WHO HAS MET THE REQUIREMENTS
12 FOR A CERTIFIED MEDICATION TECHNICIAN SHALL INCLUDE THE TITLE "CERTIFIED
13 MEDICATION TECHNICIAN".

14 [(d)] (E) The Board may issue a certificate to replace a lost, destroyed, or
15 mutilated certificate, if the certificate holder pays the certificate replacement fee set
16 by the Board.

17 8-6A-08.

18 (a) A certificate expires on the 28th day of the birth month of the nursing
19 assistant OR MEDICATION TECHNICIAN, unless the certificate is renewed for a 2-year
20 term as provided in this section.

21 (b) At least 3 months before the certificate expires, the Board shall send to the
22 nursing assistant OR MEDICATION TECHNICIAN, by first-class mail to the last known
23 address of the nursing assistant OR MEDICATION TECHNICIAN, a renewal notice that
24 states:

25 (1) The date on which the current certificate expires;

26 (2) The date by which the renewal application must be received by the
27 Board for the renewal to be issued and mailed before the certificate expires; and

28 (3) The amount of the renewal fee.

29 (c) Before a certificate expires, [the] A nursing assistant periodically may
30 renew it for an additional term, if the certificate holder:

31 (1) Otherwise is entitled to be certified;

32 (2) Submits to the Board a renewal application on the form that the
33 Board requires;

34 (3) Pays to the Board a renewal fee set by the Board; and

35 (4) Provides satisfactory evidence of completion of:

1 (i) [8] 16 hours of active nursing assistant practice within the
2 [1-year] 2-YEAR period immediately preceding the date of renewal; or

3 (ii) An approved nursing assistant training program.

4 (D) BEFORE A CERTIFICATE EXPIRES, A MEDICATION TECHNICIAN
5 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE CERTIFICATE
6 HOLDER:

7 (1) OTHERWISE IS ENTITLED TO BE CERTIFIED;

8 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
9 THAT THE BOARD REQUIRES;

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

11 (4) EVERY 2 YEARS, PROVIDES SATISFACTORY EVIDENCE OF
12 COMPLETION OF A BOARD-APPROVED CLINICAL REFRESHER COURSE.

13 [(d)] (E) The Board shall renew the certificate of each nursing assistant OR
14 MEDICATION TECHNICIAN who meets the requirements of this section.

15 (F) (1) WITHIN 30 DAYS AFTER A CHANGE HAS OCCURRED, EACH
16 CERTIFICATE HOLDER SHALL NOTIFY THE BOARD IN WRITING OF ANY CHANGE IN A
17 NAME OR ADDRESS.

18 (2) IF THE CERTIFICATE HOLDER FAILS TO NOTIFY THE BOARD WITHIN
19 THE TIME REQUIRED UNDER THIS SUBSECTION, THE BOARD MAY IMPOSE AN
20 ADMINISTRATIVE PENALTY OF \$25 ON THE CERTIFICATE HOLDER.

21 (G) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
22 SUBSECTION TO THE GENERAL FUND OF THE STATE.

23 8-6A-09.

24 (a) The Board may impose a civil fine not exceeding \$50 on a certified nursing
25 assistant OR A CERTIFIED MEDICATION TECHNICIAN who fails to renew a certificate
26 within 30 days after its expiration date and practices as a certified nursing assistant
27 OR CERTIFIED MEDICATION TECHNICIAN during the period of expiration.

28 (b) The Board shall pay any penalty collected under this section to the General
29 Fund of the State.

30 8-6A-10.

31 (a) Subject to the hearing provisions of § 8-317 of this title, the Board may
32 deny a certificate or issue a probationary certificate to any applicant, reprimand any
33 certificate holder, place any certificate holder on probation, or suspend or revoke the
34 certificate of a certificate holder, if the applicant or certificate holder:

- 1 (1) Fraudulently or deceptively obtains or attempts to obtain a
2 certificate for the applicant or for another;
- 3 (2) Fraudulently or deceptively uses a certificate;
- 4 (3) Is disciplined by a licensing, military, or disciplinary authority in this
5 State or in any other state or country or convicted or disciplined by a court in this
6 State or in any other state or country for an act that would be grounds for disciplinary
7 action under the Board's disciplinary statutes;
- 8 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
9 crime involving moral turpitude, whether or not any appeal or other proceeding is
10 pending to have the conviction or plea set aside;
- 11 (5) Files a false report or record of an individual under the certificate
12 holder's care;
- 13 (6) Gives any false or misleading information about a material matter in
14 an employment application;
- 15 (7) Fails to file or record any health record that is required by law;
- 16 (8) Induces another person to fail to file or record any health record that
17 is required by law;
- 18 (9) Has violated any order, rule, or regulation of the Board relating to the
19 practice or certification of a nursing assistant OR MEDICATION TECHNICIAN;
- 20 (10) Provides services as a nursing assistant OR MEDICATION
21 TECHNICIAN while:
 - 22 (i) Under the influence of alcohol; or
 - 23 (ii) Using any narcotic or controlled dangerous substance, as
24 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
25 therapeutic amounts or without valid medical indication;
- 26 (11) Is habitually intoxicated;
- 27 (12) Is addicted to, or habitually abuses, any narcotic or controlled
28 dangerous substance as defined in § 5-101 of the Criminal Law Article;
- 29 (13) Has acted in a manner inconsistent with the health or safety of a
30 person under the applicant or certificate holder's care;
- 31 (14) Has practiced as a nursing assistant OR MEDICATION TECHNICIAN in
32 a manner which fails to meet generally accepted standards for the practice of a
33 nursing assistant OR MEDICATION TECHNICIAN;
- 34 (15) Has physically, verbally, or psychologically abused, neglected, or
35 otherwise harmed a person under the applicant or certificate holder's care;

- 1 (16) Has a physical or mental disability which renders the applicant or
2 certificate holder unable to practice as a certified nursing assistant OR CERTIFIED
3 MEDICATION TECHNICIAN with reasonable skill and safety to the patients and which
4 may endanger the health or safety of persons under the care of the applicant or
5 certificate holder;
- 6 (17) Has violated the confidentiality of information or knowledge as
7 prescribed by law concerning any patient;
- 8 (18) Has misappropriated patient or facility property;
- 9 (19) Performs certified nursing assistant OR CERTIFIED MEDICATION
10 TECHNICIAN 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 OR MEDICATION TECHNICIAN before
28 obtaining or renewing the certificate, including any time period when the certificate
29 has lapsed;
- 30 (28) Impersonates another individual:
- 31 (i) Licensed under the provisions of this title; or
- 32 (ii) Who holds a certificate issued under the provisions of this title;
- 33 (29) Has acted in a manner inconsistent with the health or safety of a
34 person under the certified nursing assistant's OR CERTIFIED MEDICATION
35 TECHNICIAN'S care;

1 (30) Performs activities that exceed the education and training of the
2 certified nursing assistant OR CERTIFIED MEDICATION technician;

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 (b) If, after a hearing under § 8-317 of this title, the Board finds that there
7 are grounds under subsection (a) of this section to suspend or revoke a certificate to
8 practice as a certified nursing assistant OR CERTIFIED MEDICATION TECHNICIAN, to
9 reprimand a certificate holder, or place a certificate holder on probation, the Board
10 may impose a penalty not exceeding \$500 instead of or in addition to suspending or
11 revoking the certificate, reprimanding the certificate holder, or placing the certificate
12 holder on probation.

13 (c) (1) An individual whose certificate has been suspended or revoked by the
14 Board shall return the certificate to the Board.

15 (2) If the suspended or revoked certificate has been lost, the individual
16 shall file with the Board a verified statement to that effect.

17 (d) The Board shall file a notice for publication in the earliest publication of
18 the Maryland Register of each revocation or suspension of a certificate under this
19 section within 24 hours of the revocation or suspension.

20 (E) IF A CERTIFICATE ISSUED UNDER THIS SUBTITLE IS SUSPENDED OR
21 REVOKED FOR A PERIOD OF MORE THAN 1 YEAR, THE BOARD MAY REINSTATE THE
22 CERTIFICATE AFTER 1 YEAR IF THE CERTIFICATE HOLDER MEETS THE
23 REQUIREMENTS FOR REINSTATEMENT AS ESTABLISHED BY THE BOARD IN
24 REGULATIONS.

25 8-6A-12.

26 (a) Unless the Board agrees to accept the surrender of a certificate, a certified
27 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN may not surrender the
28 certificate nor may the certificate lapse by operation of law while the certificate
29 holder is under investigation or while charges are pending against the certified
30 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN.

31 (b) The Board may set conditions on its agreement with the certified nursing
32 assistant OR CERTIFIED MEDICATION TECHNICIAN under investigation or against
33 whom charges are pending to accept surrender of the certificate.

34 8-6A-13.

35 (a) The Board shall appoint an advisory committee consisting of at least 13
36 members appointed by the Board.

37 (e) The advisory committee shall:

- 1 (1) Evaluate training programs and make recommendations for approval
2 by the Board;
- 3 (2) Develop and recommend regulations to enforce the provisions of this
4 subtitle;
- 5 (3) Evaluate candidates as required and recommend action to the Board;
- 6 (4) Review investigations of complaints against nursing assistants OR
7 MEDICATION TECHNICIANS and make recommendations to the Board for disciplinary
8 action;
- 9 (5) Keep a record of its proceedings; and
- 10 (6) Submit an annual report to the Board.

11 8-6A-15.

12 (a) If, during the investigation of an allegation brought against a certified
13 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN under this subtitle, the
14 Board has reason to believe that the certified nursing assistant OR CERTIFIED
15 MEDICATION TECHNICIAN may cause harm to a person affected by the practice of the
16 certified nursing assistant OR CERTIFIED MEDICATION TECHNICIAN, the Board, on
17 its own initiative, shall direct the certified nursing assistant OR CERTIFIED
18 MEDICATION TECHNICIAN to submit to an appropriate examination by a health care
19 provider designated by the Board.

20 (b) In return for the privilege given to a certified nursing assistant OR
21 CERTIFIED MEDICATION TECHNICIAN to practice in the State, the certified nursing
22 assistant OR CERTIFIED MEDICATION TECHNICIAN is deemed to have:

23 (1) Consented to submit to an examination under this section if
24 requested by the Board in writing; and

25 (2) Waived any legal claim of privilege as to the testimony or
26 examination reports of the examining health care provider.

27 (c) The failure or refusal of a certified nursing assistant OR CERTIFIED
28 MEDICATION TECHNICIAN to submit to an examination required under subsection (b)
29 of this section is prima facie evidence of the inability of the certified nursing assistant
30 OR CERTIFIED MEDICATION TECHNICIAN to competently practice as a certified
31 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN, unless the Board finds
32 that the failure or refusal was beyond the control of the certified nursing assistant OR
33 CERTIFIED MEDICATION TECHNICIAN.

34 (d) The Board shall pay the cost of any examination made in accordance with
35 the provisions of this section.

1 8-706.

2 (a) A person may not knowingly employ to practice registered nursing any
3 person who is not authorized to practice registered nursing under this title.

4 (b) A person may not knowingly employ to practice licensed practical nursing
5 any person who is not authorized to practice licensed practical nursing under this
6 subtitle.

7 (C) A DIRECTOR OF NURSING MAY NOT KNOWINGLY EMPLOY ANY
8 INDIVIDUAL WHO IS NOT AUTHORIZED TO PERFORM DELEGATED NURSING DUTIES
9 UNDER THIS SUBTITLE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2004.