

ENROLLED BILL

-- Health and Government Operations/Education, Health, and Environmental Affairs --

Introduced by **Delegates Murray, Benson, Costa, Hubbard, Rudolph, and V. Turner**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Nursing - Nurses, ~~Certified~~ Nursing Assistants, and**
3 **Medication Technicians, and Electrologists - Licensing and Regulation**

4 FOR the purpose of altering the powers and duties of the State Board of Nursing to
5 include setting the standards for the practice of certified nursing assistants and
6 certified medication technicians; authorizing the Rehabilitation Committee in
7 the Board to provide for the rehabilitation of or provide assistance to certain
8 medication technicians, electrologists, and certain applicants; ~~altering the term~~
9 ~~for the renewal of certain requirements for sending renewal notices for certain~~
10 licenses and certificates; authorizing the Board to grant a certain extension to a
11 certain licensee or certificate holder for the renewal of a certain license or
12 certificate; authorizing the Board to send certain licensees and certificate
13 holders a certain advisory letter of education in certain circumstances;
14 ~~authorizing the Board to send a certain advisory letter to a certain complainant~~
15 ~~in certain circumstances;~~ authorizing the Board to make a certain letter
16 available to the public ~~under certain circumstances;~~ providing that ~~sending a~~

1 ~~certain letter of education or the issuance of a certain advisory letter is not~~ may
 2 not be considered a disciplinary act; action and may not be reported to certain
 3 persons; clarifying that completion of a certain portion of a certain nursing
 4 education program satisfies a certain qualification standard for certification of
 5 certain applicants; altering the grounds for which certain certificate holders
 6 may be disciplined; authorizing the Board to make certain unannounced survey
 7 visits to certain certified nursing assistant training programs and
 8 Board-approved medication technician training programs; defining a certain
 9 term; ~~repealing certain provisions of law relating to an electrologist~~
 10 rehabilitation committee; and generally relating to the licensing and regulation
 11 of nurses, ~~certified~~ nursing assistants, ~~and certified~~ medication technicians, and
 12 ~~certified~~ electrologists by the State Board of Nursing.

13 BY repealing and reenacting, with amendments,
 14 Article - Health Occupations
 15 Section 8-205(a), 8-208(a) and (j) through (p), 8-301, 8-312, 8-317(a), 8-6A-02,
 16 8-6A-05(c)(1), 8-6A-08, 8-6A-10, and 8-6A-14
 17 Annotated Code of Maryland
 18 (2005 Replacement Volume)

19 BY repealing and reenacting, without amendments,
 20 Article - Health Occupations
 21 Section 8-208(b)
 22 Annotated Code of Maryland
 23 (2005 Replacement Volume)

24 BY adding to
 25 Article - Health Occupations
 26 Section ~~8-316.1, 8-6A-10.1, and 8-317(h)~~, 8-6A-14.1, and 8-6B-19(h)
 27 Annotated Code of Maryland
 28 (2005 Replacement Volume)

29 BY repealing
 30 Article - Health Occupations
 31 Section 8-6B-25
 32 Annotated Code of Maryland
 33 (2005 Replacement Volume)

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 35 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, CERTIFIED NURSING ASSISTANTS, AND CERTIFIED MEDICATION
8 TECHNICIANS;

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

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

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

16 (ii) Require education and clinical experience;

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

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

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

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

24 (i) Require formal education and clinical experience;

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

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

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

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

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

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

3 (i) Registered nurses licensed under this title;

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

5 (iii) Nurse midwives certified under this title;

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

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

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

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

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

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

20 (15) To maintain a nurse aide registry that complies with federal law.

21 8-208.

22 (a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "APPLICANT" MEANS AN INDIVIDUAL WHO HAS SUBMITTED AN
25 APPLICATION TO THE BOARD TO BE LICENSED AS A REGISTERED NURSE ~~OR~~
26 LICENSED PRACTICAL NURSE, OR ELECTROLOGIST OR TO BE CERTIFIED AS A
27 NURSING ASSISTANT; OR MEDICATION TECHNICIAN; OR ELECTROLOGIST IN THIS
28 STATE.

29 (3) ["program"] "PROGRAM" means the rehabilitation program.

30 (b) (1) There is a Rehabilitation Committee in the Board.

31 (2) The Board may create 1 or more rehabilitation committees.

32 (j) In addition to the powers set forth elsewhere in this subtitle, the
33 Committee may:

- 1 (1) Evaluate those nurses, [or] nursing assistants, MEDICATION
2 TECHNICIANS, ELECTROLOGISTS, OR APPLICANTS who request participation in the
3 program according to the guidelines prescribed by the Board and consider the
4 recommendations for admission into the program;
- 5 (2) Review and designate those treatment facilities and services to which
6 nurses, [or] nursing assistants, MEDICATION TECHNICIANS, ELECTROLOGISTS, OR
7 APPLICANTS in the program may be referred;
- 8 (3) Receive and review information concerning a nurse, [or] nursing
9 assistant, MEDICATION TECHNICIAN, ELECTROLOGIST, OR APPLICANT participating
10 in the program;
- 11 (4) Consider in the case of each nurse, [or] nursing assistant,
12 MEDICATION TECHNICIAN, ELECTROLOGIST, OR APPLICANT participating in a
13 program whether the nurse, [or] nursing assistant, MEDICATION TECHNICIAN,
14 ELECTROLOGIST, OR APPLICANT may with safety continue or resume the practice of
15 nursing OR DELEGATED NURSING FUNCTIONS OR ELECTROLOGY; and
- 16 (5) Have meetings as necessary to consider the requests of nurses, [or]
17 nursing assistants, MEDICATION TECHNICIANS, ELECTROLOGISTS, OR APPLICANTS
18 to participate in the program, and consider reports regarding nurses, [or] nursing
19 assistants, MEDICATION TECHNICIANS, ELECTROLOGISTS, OR APPLICANTS
20 participating in the program.
- 21 (k) In addition to the duties set forth elsewhere in this subtitle, the Committee
22 shall:
- 23 (1) Prepare reports to be submitted to the Board; and
- 24 (2) Set forth in writing for each nurse, [or] nursing assistant,
25 MEDICATION TECHNICIAN, ELECTROLOGIST, OR APPLICANT participating in the
26 program a rehabilitation program established for that nurse, [or] nursing assistant,
27 MEDICATION TECHNICIAN, ELECTROLOGIST, OR APPLICANT, including the
28 requirements for supervision and surveillance.
- 29 (l) The Committee shall inform each nurse, [or] nursing assistant,
30 MEDICATION TECHNICIAN, ELECTROLOGIST, OR APPLICANT who requests
31 participation in the program of:
- 32 (1) The procedures followed in the program;
- 33 (2) The rights and responsibilities of the nurse, [or] nursing assistant,
34 MEDICATION TECHNICIAN, ELECTROLOGIST, OR APPLICANT in the program; and
- 35 (3) The possible results of noncompliance with the program.
- 36 (m) (1) Each nurse, [or] nursing assistant, MEDICATION TECHNICIAN,
37 ELECTROLOGIST, OR APPLICANT who requests to participate in the program shall

1 agree to cooperate with the individual rehabilitation program designed by the
2 Committee.

3 (2) Any failure to comply with the provisions of a rehabilitation program
4 may result in termination of the nurse's, [or] nursing assistant's, MEDICATION
5 TECHNICIAN'S, ELECTROLOGIST'S, OR APPLICANT'S participation in the program.

6 (3) The Committee shall report the name and license number of a nurse
7 OR ELECTROLOGIST, [or] the name and certificate number of a nursing assistant ~~OR~~
8 OR MEDICATION TECHNICIAN, OR ELECTROLOGIST, OR THE NAME OF AN APPLICANT
9 who is expelled from the program for failure to comply with the conditions of the
10 program.

11 (4) (i) The program shall transfer to the Board all the records of any
12 nurse, [or] nursing assistant, MEDICATION TECHNICIAN, ELECTROLOGIST, OR
13 APPLICANT expelled from the program.

14 (ii) The Board may initiate disciplinary action based on the failure
15 of the nurse, [or] nursing assistant, MEDICATION TECHNICIAN, ELECTROLOGIST, OR
16 APPLICANT to comply with the conditions of the program in accordance with the
17 provisions of §§ 8-316 and 8-317 OR §§ 8-6B-18 AND 8-6B-19 of this title.

18 (n) After the Committee has determined that a nurse, [or] nursing assistant,
19 MEDICATION TECHNICIAN, ELECTROLOGIST, OR APPLICANT has been rehabilitated,
20 the Committee shall purge and destroy all records concerning a nurse's, [or] nursing
21 assistant's, MEDICATION TECHNICIAN'S, ELECTROLOGIST'S, OR APPLICANT'S
22 participation in the program.

23 (o) All Board and Committee records of a proceeding concerning the
24 rehabilitation of a nurse, [or] nursing assistant, MEDICATION TECHNICIAN,
25 ELECTROLOGIST, OR APPLICANT in the program are confidential and are not subject
26 to discovery or subpoena in any civil or criminal action.

27 (p) The Board shall provide for the representation of any person making
28 reports to the Committee or the Board under this section in any action for defamation
29 directly resulting from reports or information given to the Committee or the Board
30 regarding a nurse's, [or] nursing assistant's, MEDICATION TECHNICIAN'S,
31 ELECTROLOGIST'S, OR APPLICANT'S participation in the program.

32 8-301.

33 (a) Except as otherwise provided in this title, an individual shall be licensed
34 by the Board before the individual may practice registered nursing in this State.

35 (b) Except as otherwise provided in this title, an individual shall be licensed
36 by the Board before the individual may practice licensed practical nursing in this
37 State.

38 (c) This section does not apply to:

1 (1) A student enrolled in an approved education program while
2 practicing registered nursing or licensed practical nursing in that program;

3 (2) An individual employed by the federal government to practice
4 registered nursing or licensed practical nursing while practicing within the scope of
5 that employment, if the individual is authorized by any state to practice registered
6 nursing or licensed practical nursing;

7 (3) An individual permitted to practice registered nursing or licensed
8 practical nursing under rules and regulations adopted by the Board, if the individual:

9 (i) Otherwise has qualified to practice registered nursing or
10 licensed practical nursing in any other state or country and is in this State
11 temporarily; or

12 (ii) Has an application for a license pending before the Board:

13 1. But has not taken the examination required under this
14 title; or

15 2. Has taken an examination under this title, but the results
16 of the examination are not yet known; and

17 (4) An individual who is assigned by the American Red Cross to a
18 disaster situation in this State to practice registered nursing or licensed practical
19 nursing, if the individual is licensed to practice registered nursing or licensed
20 practical nursing in another state.

21 (d) A registered nurse who has been granted multistate licensing privileges by
22 a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of
23 this title may practice registered nursing in the State.

24 (e) A licensed practical nurse who has been granted multistate licensing
25 privileges by a party state to the Nurse Multistate Licensure Compact set forth in
26 Subtitle 7A of this title may practice practical nursing in the State.

27 [(f) A nurse who has been granted multistate licensing privileges as described
28 in subsection (d) or (e) shall notify the Board, prior to commencing any nursing
29 employment in the State, of the identity and location of the nurse's prospective
30 employer.]

31 8-312.

32 (a) A license expires on the last day of the birth month of the licensee, unless
33 the license is renewed for a 1-year term as provided in this section.

34 (b) At least 1 month before the license expires, the Board shall send to the
35 licensee[, by first-class mail to the last known address of the licensee,] a renewal
36 notice [that states:

- 1 (1) The date on which the current license expires;
- 2 (2) The date by which the renewal application must be received by the
3 Board for the renewal to be issued and mailed before the license expires; and
- 4 (3) The amount of the renewal fee].
- 5 (c) Before a license expires, the licensee periodically may renew it for an
6 additional term, if the licensee:
- 7 (1) Otherwise is entitled to be licensed;
- 8 (2) Pays to the Board:
- 9 (i) A renewal fee set by the Board; or
- 10 (ii) A renewal fee that is set by the Board if the licensee certifies to
11 the Board that the licensee provides professional services only as a volunteer; and
- 12 (3) Submits to the Board:
- 13 (i) A renewal application on the form that the Board requires; and
- 14 (ii) Satisfactory evidence of completion of:
- 15 1. 1,000 hours of active nursing practice within the 5-year
16 period immediately preceding the date of renewal;
- 17 2. A course of instruction, commonly known as a refresher
18 course, approved by the Board; or
- 19 3. A preceptorship program provided by an employer and
20 approved by the Board.
- 21 (d) THE BOARD MAY GRANT A 30-DAY EXTENSION, BEYOND A LICENSE'S
22 EXPIRATION DATE, TO A LICENSEE SO THAT A THE LICENSEE MAY RENEW A THE
23 LICENSE BEFORE THE LICENSE IT EXPIRES.
- 24 (E) (1) Each licensee shall notify the Board in writing of any change in the
25 name or address of the licensee within 60 days after the change occurred.
- 26 (2) If a licensee fails to notify the Board within the time required under
27 this subsection, subject to the hearing provisions of § 8-317 of this subtitle, the Board
28 may impose an administrative penalty of \$100.
- 29 [(e)] (F) (1) The Board shall renew the license of each licensee who meets
30 the requirements of this section.
- 31 (2) A volunteer's license issued under paragraph (c)(2)(ii) of this section
32 shall be clearly designated as a volunteer's license.

1 ~~8-316.1. 8-317.~~

2 (a) Except as otherwise provided in the Administrative Procedure Act and in
3 subsection (g) of this section, before the Board takes any action under § 8-312, §
4 8-316, [or] § 8-404, OR § 8-6A-10 of this title, it shall give the person against whom
5 the action is contemplated an opportunity for a hearing before the Board.

6 ~~(A) (H) (1) IF AFTER THE BOARD CONDUCTS AN INVESTIGATION UNDER~~
7 ~~THIS TITLE AND FINDS THAT THERE ARE NO GROUNDS FOR DISCIPLINE UNDER §~~
8 ~~8-316 OF THIS SUBTITLE, THE BOARD MAY:~~

9 ~~(1) SEND THE LICENSEE A LETTER OF EDUCATION THAT ADVISES THE~~
10 ~~LICENSEE OF THE WAYS IN WHICH THE LICENSEE MAY IMPROVE THE QUALITY OF~~
11 ~~CARE THE LICENSEE PROVIDES TO PATIENTS; AND~~

12 ~~(2) SEND THE PERSON WHO FILED A COMPLAINT AGAINST THE~~
13 ~~LICENSEE UNDER INVESTIGATION AN ADVISORY LETTER THAT INFORMS THE~~
14 ~~PERSON OF THE ACTION TAKEN BY THE BOARD.~~

15 ~~(B) THE BOARD MAY SEND THE LICENSEE NOTICE OF AN ADVISORY LETTER~~
16 ~~SENT UNDER SUBSECTION (A)(2) OF THIS SECTION, THE BOARD MAY ISSUE AN~~
17 ~~ADVISORY LETTER TO THE LICENSEE OR CERTIFICATE HOLDER.~~

18 ~~(C) (2) ON REQUEST, THE BOARD MAY MAKE AVAILABLE DISCLOSE AN~~
19 ~~ADVISORY LETTER ISSUED UNDER THIS SUBSECTION TO THE PUBLIC AN ADVISORY~~
20 ~~LETTER SENT UNDER SUBSECTION (A)(2) OF THIS SECTION.~~

21 ~~(D) (3) IF THE BOARD SENDS A LETTER OF EDUCATION OR THE ISSUANCE~~
22 ~~OF AN ADVISORY LETTER UNDER THIS SECTION, THE ACTION SUBSECTION MAY NOT:~~

23 ~~(I) BE CONSIDERED A DISCIPLINARY ACTION BY THE BOARD~~
24 ~~UNDER §§ 8-316 AND 8-6A-10 OF THIS TITLE; AND~~

25 ~~(II) AND MAY NOT BE REPORTED TO ANY LICENSING ENTITY,~~
26 ~~EMPLOYER, OR INSURANCE COMPANY AS A DISCIPLINARY ACTION.~~

27 8-6A-02.

28 (a) Except as otherwise provided in this subtitle, an individual shall be
29 certified by the Board to practice as a nursing assistant or medication technician
30 before the individual may practice as a nursing assistant or medication technician in
31 the State.

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

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

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

1 (3) Performs nursing assistant tasks while a nursing student enrolled in
 2 an accredited nursing program and practicing under the direct supervision of
 3 qualified faculty or preceptors;

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

5 (i) Enrolled in a Board-approved nursing assistant training
 6 program; OR

7 (ii) Practicing under the direct supervision of qualified faculty or
 8 preceptors; [or

9 (iii) Practicing under the direct supervision of a licensed nurse while
 10 working as a nursing assistant;]

11 (5) Performs medication technician tasks as a student while practicing
 12 under the direct supervision of qualified faculty; or

13 (6) Works as a principal or school secretary, does not administer
 14 medication as a routine part of the position, and has completed training by the
 15 delegating nurse for the occasion where the individual may need to administer
 16 medication in the absence of the nurse or medication technician.

17 (c) Nothing in this section shall preclude a registered nurse or licensed
 18 practical nurse from delegating a nursing task to an unlicensed individual provided
 19 that acceptance of delegated nursing tasks does not become a routine part of the
 20 unlicensed individual's job duties.

21 [(d) Nothing in this subtitle may be construed as creating a scope of practice for
 22 nursing assistants.]

23 8-6A-05.

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

25 (i) Submit an application to the Board on the form that the Board
 26 requires;

27 (ii) Provide evidence, as required by the Board, of successful
 28 completion of [an];

29 1. AN approved nursing assistant training program [or an];

30 2. AN approved course in medication administration; OR

31 3. A PORTION OF AN APPROVED NURSING EDUCATION
 32 PROGRAM THAT THE BOARD DETERMINES MEETS THE REQUIREMENTS OF A
 33 NURSING ASSISTANT TRAINING PROGRAM OR MEDICATION ADMINISTRATION
 34 COURSE;

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

- 1 (iv) Be of good moral character;
2 (v) Be at least 16 years old to apply for certification as a nursing
3 assistant; and
4 (vi) Be at least 18 years old to apply for certification as a medication
5 technician.

6 8-6A-08.

7 (a) A certificate expires on the 28th day of the birth month of the nursing
8 assistant or medication technician, unless the certificate is renewed for a 2-year term
9 as provided in this section.

10 (b) At least 3 months before the certificate expires, the Board shall send to the
11 nursing assistant or medication technician[, by first-class mail to the last known
12 address of the nursing assistant or medication technician,] a renewal notice that
13 states:

- 14 (1) The date on which the current certificate expires;
15 (2) The date by which the renewal application must be received by the
16 Board for the renewal to be issued and mailed before the certificate expires; and
17 (3) The amount of the renewal fee.

18 (c) Before a certificate expires, a nursing assistant periodically may renew it
19 for an additional term, if the certificate holder:

- 20 (1) Otherwise is entitled to be certified;
21 (2) Submits to the Board a renewal application on the form that the
22 Board requires;
23 (3) Pays to the Board a renewal fee set by the Board; and
24 (4) Provides satisfactory evidence of completion of:
25 (i) 16 hours of active nursing assistant practice within the 2-year
26 period immediately preceding the date of renewal; or
27 (ii) An approved nursing assistant training program.

28 (d) In addition to the requirements in subsection (c)(1), (2), and (3) of this
29 section, a skilled nursing assistant shall:

- 30 (1) Provide satisfactory evidence of completion of 1,000 hours of practice
31 as a skilled nursing assistant within the individual's specific category of nursing
32 assistant, in the 2-year period preceding the date of renewal; and

1 (2) Successfully complete a Board-approved refresher course within the
2 individual's specific category of nursing assistant.

3 (e) Before a certificate expires, a medication technician periodically may
4 renew it for an additional term, if the certificate holder:

5 (1) Otherwise is entitled to be certified;

6 (2) Submits to the Board a renewal application on the form that the
7 Board requires;

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

9 (4) Every 2 years, provides satisfactory evidence of completion of a
10 Board-approved clinical refresher course.

11 (f) THE BOARD MAY GRANT A 30-DAY EXTENSION, BEYOND A CERTIFICATE'S
12 EXPIRATION DATE, TO A CERTIFICATE HOLDER SO THAT A THE CERTIFICATE
13 HOLDER MAY RENEW A THE CERTIFICATE BEFORE THE CERTIFICATE IT EXPIRES.

14 (G) The Board shall renew the certificate of each nursing assistant or
15 medication technician who meets the requirements of this section.

16 [(g)] (H) (1) Within 30 days after a change has occurred, each certificate
17 holder shall notify the Board in writing of any change in a name or address.

18 (2) If the certificate holder fails to notify the Board within the time
19 required under this subsection, the Board may impose an administrative penalty of
20 \$25 on the certificate holder.

21 [(h)] (I) The Board shall pay any penalty collected under this subsection to
22 the General Fund of the State.

23 8-6A-10.

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

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

30 (2) Fraudulently or deceptively uses a certificate;

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

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

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

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

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

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

11 (9) Has violated any order, rule, or regulation of the Board relating to the
12 practice or certification of a nursing assistant or medication technician;

13 (10) Provides services as a nursing assistant or medication technician
14 while:

15 (i) Under the influence of alcohol; or

16 (ii) Using any narcotic or controlled dangerous substance, as
17 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
18 therapeutic amounts or without valid medical indication;

19 (11) Is habitually intoxicated;

20 (12) Is addicted to, or habitually abuses, any narcotic or controlled
21 dangerous substance as defined in § 5-101 of the Criminal Law Article;

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

24 (14) Has practiced as a nursing assistant or medication technician in a
25 manner which fails to meet generally accepted standards for the practice of a nursing
26 assistant or medication technician;

27 (15) Has physically, verbally, or psychologically abused, neglected, or
28 otherwise harmed a person under the applicant or certificate holder's care;

29 (16) Has a physical or mental disability which renders the applicant or
30 certificate holder unable to practice as a certified nursing assistant or certified
31 medication technician with reasonable skill and safety to the patients and which may
32 endanger the health or safety of persons under the care of the applicant or certificate
33 holder;

34 (17) Has violated the confidentiality of information or knowledge as
35 prescribed by law concerning any patient;

- 1 (18) Has misappropriated patient or facility property;
- 2 (19) Performs certified nursing assistant or certified medication
3 technician functions incompetently;
- 4 (20) Has violated any provision of this title or has aided or knowingly
5 permitted any person to violate any provision of this title;
- 6 (21) Submits a false statement to collect a fee;
- 7 (22) Refuses, withholds from, denies, or discriminates against an
8 individual with regard to the provision of professional services for which the applicant
9 or certificate holder is certified and qualified to render because the individual is HIV
10 positive;
- 11 (23) Except in an emergency life-threatening situation where it is not
12 feasible or practicable, fails to comply with the Centers for Disease Control's
13 guidelines on universal precautions;
- 14 (24) Fails to cooperate with a lawful investigation conducted by the
15 Board;
- 16 (25) Fails to comply with instructions and directions of the supervising
17 registered nurse or licensed practical nurse;
- 18 (26) After failing to renew a certificate, commits any act that would be
19 grounds for disciplinary action under this section;
- 20 (27) Practices as a nursing assistant or medication technician before
21 obtaining or renewing the certificate, including any time period when the certificate
22 has lapsed;
- 23 (28) Impersonates another individual:
- 24 (i) Licensed under the provisions of this title; or
- 25 (ii) Who holds a certificate issued under the provisions of this title;
- 26 (29) [Has acted in a manner inconsistent with the health or safety of a
27 person under the certified nursing assistant's or certified medication technician's
28 care] ENGAGES IN CONDUCT THAT VIOLATES THE CODE OF ETHICS;
- 29 (30) Performs activities that exceed the education and training of the
30 certified nursing assistant or certified medication technician;
- 31 (31) Is expelled from the rehabilitation program established pursuant to §
32 8-208 of this title for failure to comply with the conditions of the program;
- 33 (32) Abandons a patient; or

1 (33) Is a director of nursing, or acts in the capacity of a director of nursing
2 and knowingly employs an individual who is not authorized to perform delegated
3 nursing duties under this subtitle.

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

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

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

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

18 (e) If a certificate issued under this subtitle is suspended or revoked for a
19 period of more than 1 year, the Board may reinstate the certificate after 1 year if the
20 certificate holder meets the requirements for reinstatement as established by the
21 Board in regulations.

22 ~~§ 6A-10.1.~~

23 ~~(A) IF THE BOARD CONDUCTS AN INVESTIGATION UNDER THIS TITLE AND~~
24 ~~FINDS THAT THERE ARE NO GROUNDS FOR DISCIPLINE UNDER § 8-6A-10 OF THIS~~
25 ~~SUBTITLE, THE BOARD MAY:~~

26 ~~(1) SEND THE CERTIFICATE HOLDER A LETTER OF EDUCATION THAT~~
27 ~~ADVISES THE CERTIFICATE HOLDER OF THE WAYS IN WHICH THE CERTIFICATE~~
28 ~~HOLDER MAY IMPROVE THE QUALITY OF CARE THE CERTIFICATE HOLDER PROVIDES~~
29 ~~TO PATIENTS; AND~~

30 ~~(2) SEND THE PERSON WHO FILED A COMPLAINT AGAINST THE~~
31 ~~CERTIFICATE HOLDER UNDER INVESTIGATION AN ADVISORY LETTER THAT INFORMS~~
32 ~~THE PERSON OF THE ACTION TAKEN BY THE BOARD.~~

33 ~~(B) THE BOARD MAY SEND THE CERTIFICATE HOLDER NOTICE OF AN~~
34 ~~ADVISORY LETTER SENT UNDER SUBSECTION (A)(2) OF THIS SECTION.~~

35 ~~(C) ON REQUEST, THE BOARD MAY MAKE AVAILABLE TO THE PUBLIC AN~~
36 ~~ADVISORY LETTER SENT UNDER SUBSECTION (A)(2) OF THIS SECTION.~~

37 ~~(D) IF THE BOARD SENDS A LETTER OF EDUCATION OR AN ADVISORY LETTER~~
38 ~~UNDER THIS SECTION, THE ACTION MAY NOT BE CONSIDERED A DISCIPLINARY~~

~~1 ACTION BY THE BOARD AND MAY NOT BE REPORTED TO ANY LICENSING ENTITY,
2 EMPLOYER, OR INSURANCE COMPANY AS A DISCIPLINARY ACTION.~~

3 8-6A-14.

4 (a) The Board, in conjunction with the Maryland Higher Education
5 Commission, shall approve each nursing assistant training program prior to its
6 implementation and provide periodic survey of all programs in the State.

7 (b) The Board in conjunction with the Department, Maryland Higher
8 Education Commission, and the affected industry shall develop regulations for
9 nursing assistant training programs.

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

12 (1) Content consistent with State licensing requirements in the Health -
13 General Article and all federal requirements;

14 (2) All basic skills required of a nursing assistant regardless of the
15 setting of the practice; and

16 (3) Any skills required for certification in a specific category.

17 (d) Any additional clinical practice skills specific to a setting of practice shall
18 be taught in that setting as a part of the employment training process in that setting.

19 (e) ~~THE BOARD MAY MAKE SURVEY VISITS FROM TIME TO TIME, WITHOUT
20 PRIOR NOTICE, TO ALL CERTIFIED NURSING ASSISTANT TRAINING PROGRAMS.~~

21 (F) The provisions of this section may not be interpreted to impose additional
22 requirements for geriatric nursing assistants beyond those required under federal
23 law.

24 8-6A-14.1.

25 THE BOARD MAY MAKE SURVEY VISITS FROM TIME TO TIME, WITHOUT PRIOR
26 NOTICE, TO ALL BOARD-APPROVED MEDICATION TECHNICIAN TRAINING PROGRAMS.
27 8-6B-19.

28 (H) (1) AFTER THE BOARD CONDUCTS AN INVESTIGATION UNDER THIS
29 SUBTITLE, THE BOARD MAY ISSUE AN ADVISORY LETTER TO THE CERTIFICATE
30 HOLDER.

31 (2) THE BOARD MAY DISCLOSE AN ADVISORY LETTER ISSUED UNDER
32 THIS SUBSECTION TO THE PUBLIC.

33 (3) THE ISSUANCE OF AN ADVISORY LETTER UNDER THIS SUBSECTION
34 MAY NOT:

- 1 (I) BE CONSIDERED A DISCIPLINARY ACTION UNDER § 8-6B-18 OF
2 THIS SUBTITLE; AND
- 3 (II) BE REPORTED TO ANY LICENSING ENTITY, EMPLOYER, OR
4 INSURANCE COMPANY AS A DISCIPLINARY ACTION.
- 5 [8-6B-25.
- 6 (a) In this section, "electrologist rehabilitation committee" means a committee
7 that:
- 8 (1) Is defined in subsection (b) of this section; and
- 9 (2) Performs any of the functions listed in subsection (d) of this section.
- 10 (b) For purposes of this section, an electrologist rehabilitation committee is a
11 committee that:
- 12 (1) Is recognized by the Board; and
- 13 (2) Includes but is not limited to electrologists.
- 14 (c) An electrologist rehabilitation committee recognized by the Board may
15 function:
- 16 (1) Solely for the committee; or
- 17 (2) Jointly with a rehabilitation committee representing another
18 committee, the Board, or another board or boards.
- 19 (d) For purposes of this section, an electrologist rehabilitation committee
20 evaluates and provides assistance to an electrologist in need of treatment and
21 rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical,
22 emotional, or mental condition.
- 23 (e) (1) Except as otherwise provided in this subsection, the proceedings,
24 records, and files of the electrologist rehabilitation committee are not discoverable
25 and are not admissible in evidence in any civil action arising out of matters that are
26 being or have been reviewed and evaluated by the electrologist rehabilitation
27 committee.
- 28 (2) Paragraph (1) of this subsection does not apply to a record or
29 document that is considered by the electrologist rehabilitation committee and that
30 otherwise would be subject to discovery or introduction into evidence in a civil action.
- 31 (3) For purposes of this subsection, civil action does not include a
32 proceeding before the Board or judicial review of a proceeding before the Board.
- 33 (f) A person who acts in good faith and within the scope of jurisdiction of an
34 electrologist rehabilitation committee is not civilly liable for any action as a member

1 of the electrologist rehabilitation committee or for giving information to, participating
2 in, or contributing to the function of the electrologist rehabilitation committee.]

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2006.