

SENATE BILL 118

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71r1511
CF 71r0585

By: **Senator Conway**

Introduced and read first time: January 24, 2007

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing – Licensing, Certification, and Reinstatement**
3 **Requirements**

4 FOR the purpose of repealing certain authorization for certain unlicensed individuals
5 to perform certain acts of registered nursing and licensed practical nursing;
6 requiring the State Board of Nursing to begin a process of requiring certain
7 criminal history records checks as a condition of certain licensure reinstatement
8 and certain certificate reinstatement; altering certain grounds for revoking
9 certain temporary licenses or temporary certificates if a criminal history records
10 check reveals certain information; authorizing the Board to reinstate certain
11 licenses or certain certificates if the licensee or certificate holder meets certain
12 requirements for reinstatement and submits to a certain criminal history
13 records check; providing that a certain subtitle does not apply to certain
14 individuals who perform certain nursing assistant tasks while enrolled in
15 certain nursing assistant training programs and practicing under certain
16 supervision; requiring certain certified medicine aides and certain certified
17 medication technicians who are renewing certain certificates to provide certain
18 evidence of completion of a certain amount of practice within a certain time
19 period; and generally relating to licensing, certification, and reinstatement
20 requirements for nurses, nursing assistants, medicine aides, and medication
21 technicians.

22 BY repealing and reenacting, with amendments,
23 Article – Health Occupations
24 Section 8–102, 8–312(g), 8–315(e), 8–319, 8–6A–02, 8–6A–10(e), and 8–705
25 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2005 Replacement Volume and 2006 Supplement)

2 BY repealing and reenacting, without amendments,
 3 Article – Health Occupations
 4 Section 8–313
 5 Annotated Code of Maryland
 6 (2005 Replacement Volume and 2006 Supplement)

7 BY repealing and reenacting, with amendments,
 8 Article – Health Occupations
 9 Section 8–6A–08
 10 Annotated Code of Maryland
 11 (2005 Replacement Volume and 2006 Supplement)
 12 (As enacted by Chapter 390 of the Acts of the General Assembly of 2006)

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

15 **Article – Health Occupations**

16 8–102.

17 (a) In this section, “Christian Science nurse” means an individual who is
 18 registered as a Christian Science nurse in the Christian Science Journal of the
 19 Christian Science Publishing Society.

20 (b) Except as specifically provided in this title, this title does not limit the
 21 right of:

22 (1) An individual to practice a health occupation that the individual is
 23 authorized to practice under this article; **OR**

24 (2) A Christian Science nurse to care for an individual who is ill,
 25 injured, or infirm, if the Christian Science nurse does not administer any drug or
 26 medicine[]; or

27 (3) An unlicensed individual to perform acts of registered nursing or
 28 acts of licensed practical nursing:

29 (i) While supervised by an individual who is authorized by this
 30 State to practice medicine, dentistry, registered nursing, or licensed practical nursing;
 31 and

1 (ii) If the unlicensed individual performs only acts that are in
2 the area of responsibility of the supervisor and under the instruction of the
3 supervisor].

4 8-312.

5 (g) (1) (i) Beginning January 2008, the Board shall begin a process
6 requiring criminal history records checks **IN ACCORDANCE WITH § 8-303 OF THIS**
7 **SUBTITLE** on [selected]:

8 **1. SELECTED** annual renewal applicants as determined
9 by regulations adopted by the Board [in accordance with § 8-303 of this subtitle]; **AND**

10 **2. EACH FORMER LICENSEE WHO FILES FOR**
11 **REINSTATEMENT UNDER § 8-313 OF THIS SUBTITLE AFTER FAILING TO RENEW**
12 **THE LICENSE FOR A PERIOD OF 1 YEAR OR MORE.**

13 (ii) An additional criminal history records check shall be
14 performed every 10 years thereafter.

15 (2) On receipt of the criminal history record information of a licensee
16 forwarded to the Board in accordance with § 8-303 of this subtitle, in determining
17 whether to renew a license, the Board shall consider:

18 (i) The age at which the crime was committed;

19 (ii) The circumstances surrounding the crime;

20 (iii) The length of time that has passed since the crime;

21 (iv) Subsequent work history;

22 (v) Employment and character references; and

23 (vi) Other evidence that demonstrates that the licensee does not
24 pose a threat to the public health or safety.

25 (3) The Board may not renew a license if the criminal history record
26 information required under § 8-303 of this subtitle has not been received.

1 8-313.

2 The Board shall reinstate the license of a former licensee who has failed to
3 renew the license for any reason if the former licensee meets the renewal
4 requirements of § 8-312 of this subtitle.

5 8-315.

6 (e) The Board shall revoke a temporary license or temporary certificate if the
7 criminal history record information forwarded to the Board in accordance with § 8-303
8 of this subtitle reveals that the applicant, certificate holder, or licensee [pleaded] **HAS**
9 **BEEN CONVICTED OR PLED** guilty or [pleaded] nolo contendere to [an act that, if
10 committed in this State, would be a violation under § 8-316(a) of this subtitle or to an
11 act that, if committed in this State, would be a violation under § 8-6A-10(a) or
12 § 8-6B-18(a) of this title] **A FELONY OR TO A CRIME INVOLVING MORAL**
13 **TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS**
14 **PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.**

15 8-319.

16 If a license is suspended or revoked for a period of more than 1 year, the Board
17 may reinstate the license after 1 year **IF THE LICENSEE:**

18 **(1) MEETS THE REQUIREMENTS FOR REINSTATEMENT AS**
19 **ESTABLISHED BY THE BOARD; AND**

20 **(2) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN**
21 **ACCORDANCE WITH § 8-303 OF THIS SUBTITLE.**

22 8-6A-02.

23 (a) Except as otherwise provided in this subtitle, an individual shall be
24 certified by the Board to practice as a nursing assistant or medication technician
25 before the individual may practice as a nursing assistant or medication technician in
26 the State.

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

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

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

1 (3) Performs nursing assistant tasks while a nursing student enrolled
2 in 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] **AND**

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

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

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

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

19 8–6A–08.

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

23 (b) At least 3 months before the certificate expires, the Board shall send to
24 the nursing assistant or medication technician a renewal notice that 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.

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

3 (1) Otherwise is entitled to be certified;

4 (2) Submits to the Board a renewal application on the form that the
5 Board requires;

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

7 (4) Provides satisfactory evidence of completion of:

8 (i) 16 hours of active nursing assistant practice within the
9 2-year period immediately preceding the date of renewal; or

10 (ii) An approved nursing assistant training program.

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

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

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

18 **(E) IN ADDITION TO THE REQUIREMENTS IN SUBSECTION (C)(1), (2),**
19 **AND (3) OF THIS SECTION, A CERTIFIED MEDICINE AIDE SHALL:**

20 **(1) PROVIDE SATISFACTORY EVIDENCE OF COMPLETION OF 200**
21 **HOURS OF PRACTICE AS A CERTIFIED MEDICINE AIDE IN THE 2-YEAR PERIOD**
22 **PRECEDING THE DATE OF RENEWAL; AND**

23 **(2) SUCCESSFULLY COMPLETE A BOARD-APPROVED MEDICINE**
24 **AIDE CONTINUING EDUCATION PROGRAM.**

25 **[(e)](F)** Before a certificate expires, a medication technician periodically
26 may renew it for an additional term, if the certificate holder:

27 (1) Otherwise is entitled to be certified;

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

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

4 (4) Every 2 years, provides satisfactory evidence of completion of a
5 Board–approved clinical refresher course; **AND**

6 **(5) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF 200**
7 **HOURS OF PRACTICE AS A CERTIFIED MEDICATION TECHNICIAN WITHIN THE**
8 **2–YEAR PERIOD PRECEDING THE DATE OF RENEWAL.**

9 [(f)](G) The Board may grant a 30–day extension, beyond a certificate’s
10 expiration date, to a certificate holder so that the certificate holder may renew the
11 certificate before it expires.

12 **(H) THE BOARD SHALL REINSTATE THE CERTIFICATE OF A FORMER**
13 **CERTIFICATE HOLDER WHO HAS FAILED TO RENEW THE CERTIFICATE FOR ANY**
14 **REASON IF THE FORMER CERTIFICATE HOLDER MEETS THE APPLICABLE**
15 **RENEWAL REQUIREMENTS OF SUBSECTIONS (C) THROUGH (F) AND (L)(1)(I)2 OF**
16 **THIS SECTION.**

17 [(g)](I) Subject to subsection (j) of this section, the Board shall renew the
18 certificate of each nursing assistant or medication technician who meets the
19 requirements of this section.

20 [(h)](J) (1) Within 30 days after a change has occurred, each certificate
21 holder shall notify the Board in writing of any change in a name or address.

22 (2) If the certificate holder fails to notify the Board within the time
23 required under this subsection, the Board may impose an administrative penalty of
24 \$25 on the certificate holder.

25 [(i)](K) The Board shall pay any penalty collected under this subsection to
26 the General Fund of the State.

27 [(j)](L) (1) (i) Beginning January 2008, the Board shall begin a
28 process requiring criminal history records checks **IN ACCORDANCE WITH § 8–303 OF**
29 **THIS TITLE** on [selected]:

1 **1. SELECTED** applicants for certification as a certified
2 nursing assistant who renew their certificates every 2 years as determined by
3 regulations adopted by the Board [in accordance with § 8–303 of this title]; **AND**

4 **2. EACH FORMER CERTIFIED NURSING ASSISTANT**
5 **WHO FILES FOR REINSTATEMENT UNDER SUBSECTION (H) OF THIS SECTION**
6 **AFTER FAILING TO RENEW THE LICENSE FOR A PERIOD OF 1 YEAR OR MORE.**

7 (ii) An additional criminal history records check shall be
8 performed every 10 years thereafter.

9 (2) On receipt of the criminal history record information of a
10 certificate holder forwarded to the Board in accordance with § 8–303 of this title, in
11 determining whether to renew the certificate, the Board shall consider:

12 (i) The age at which the crime was committed;

13 (ii) The circumstances surrounding the crime;

14 (iii) The length of time that has passed since the crime;

15 (iv) Subsequent work history;

16 (v) Employment and character references; and

17 (vi) Other evidence that demonstrates that the certificate holder
18 does not pose a threat to the public health or safety.

19 (3) The Board may not renew a certificate if the criminal history
20 record information required under § 8–303 of this title has not been received.

21 8–6A–10.

22 (e) If a certificate issued under this subtitle is suspended or revoked for a
23 period of more than 1 year, the Board may reinstate the certificate after 1 year if the
24 certificate holder [meets]:

25 **(1) MEETS** the requirements for reinstatement as established by the
26 Board in regulations; **AND**

27 **(2) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN**
28 **ACCORDANCE WITH § 8–303 OF THIS SUBTITLE.**

1 8-705.

2 (a) A person may not practice registered nursing under color of any diploma,
3 license, or record that is:

4 (1) Illegally or fraudulently obtained; or

5 (2) Signed or issued unlawfully or by fraudulent representation.

6 (b) A person may not practice licensed practical nursing under color of any
7 diploma, license, or record that is:

8 (1) Illegally or fraudulently obtained; or

9 (2) Signed or issued unlawfully or by fraudulent representation.

10 (c) An individual may not practice as a nursing assistant under color of any
11 diploma, license, record, or certificate that is:

12 (1) Illegally or fraudulently obtained; or

13 (2) Signed or issued unlawfully or by fraudulent representation.

14 (d) An individual may not practice as a **CERTIFIED** medication technician
15 under color of any diploma, license, record, or certificate that is:

16 (1) Illegally or fraudulently obtained; or

17 (2) Signed or issued unlawfully or by fraudulent representation.

18 (e) An individual may not practice as a **CERTIFIED** medicine aide under
19 color of any diploma, license, record, or certificate that is:

20 (1) Illegally or fraudulently obtained; or

21 (2) Signed or issued unlawfully or by fraudulent representation.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2007.