

HOUSE BILL 1140

J2, J1

8lr2695

By: **Delegate Kullen**

Introduced and read first time: February 7, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Nurse Practitioners – Authority to Certify**

3 FOR the purpose of authorizing certain nurse practitioners to make a certain
4 determination of incapacity or debilitation under certain circumstances;
5 requiring a certain nurse practitioner to provide a copy of a certain
6 determination to a certain standby guardian; authorizing certain nurse
7 practitioners to certify that a certain minor is pregnant or has given birth under
8 certain circumstances; authorizing certain nurse practitioners or certain nurse
9 midwives to provide certain information about the birth of a child for purposes
10 of filing a birth certificate; authorizing certain nurse practitioners to complete
11 and sign a certain death certificate under certain circumstances; requiring
12 certain nurse practitioners who complete a certain death certificate to give or
13 transmit the certificate to a certain mortician within a certain period of time;
14 authorizing certain nurse practitioners to serve as a witness to a certain
15 advance directive under certain circumstances; authorizing certain nurse
16 practitioners to issue a certain oral emergency medical services “do not
17 resuscitate order” under certain circumstances; authorizing certain nurse
18 practitioners to conduct a certain examination for purposes of a certain
19 involuntary admission; requiring the Department of Health and Mental
20 Hygiene to pay for a certain examination conducted by a certain nurse
21 practitioner; authorizing certain nurse practitioners to conduct certain
22 educational training programs for applicants for certification for the Insect
23 Sting Emergency Treatment Program; authorizing certain nurse practitioners
24 to certify that certain applicants for assignment of a certain special disability
25 registration number or plates to a certain vehicle have certain conditions;
26 defining certain terms; and generally relating to the certifying authority of
27 nurse practitioners.

28 BY repealing and reenacting, with amendments,
29 Article – Estates and Trusts
30 Section 13–906

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2001 Replacement Volume and 2007 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Family Law
5 Section 2–301
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2007 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 4–208(a), 4–212, 5–601(h) and (o) through (q), 5–602(c) through (e),
11 5–608(c), 10–616(a), 10–628, and 13–704
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2007 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Health – General
16 Section 5–601(a), 5–602(a), and 13–701
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2007 Supplement)

19 BY adding to
20 Article – Health – General
21 Section 5–601(o)
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2007 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Transportation
26 Section 13–616(a) and (b)
27 Annotated Code of Maryland
28 (2006 Replacement Volume and 2007 Supplement)

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

31 **Article – Estates and Trusts**

32 13–906.

33 (a) (1) A determination of incapacity or debilitation under this subtitle
34 shall:

35 (i) Be made by the attending physician **OR NURSE**
36 **PRACTITIONER** to a reasonable degree of medical certainty;

1 (ii) Be in writing; and

2 (iii) Contain the attending physician's **OR NURSE**
3 **PRACTITIONER'S** opinion regarding the cause and nature of the parent's incapacity or
4 debilitation, and the extent and probable duration of the incapacity or debilitation.

5 (2) If a standby guardian's identity is known to an attending physician
6 **OR NURSE PRACTITIONER**, the attending physician **OR NURSE PRACTITIONER**
7 shall provide a copy of a determination of incapacity or debilitation to the standby
8 guardian.

9 (b) If requested by a standby guardian, an attending physician **OR NURSE**
10 **PRACTITIONER** shall make a determination regarding the parent's incapacity or
11 debilitation for purposes of this subtitle.

12 (c) If the parent is able to comprehend the information, a standby guardian
13 shall inform the parent of:

14 (1) The beginning of the standby guardian's authority as a result of a
15 determination of incapacity; and

16 (2) The parent's right to revoke the authority promptly after receipt of
17 the determination of incapacity.

18 **Article - Family Law**

19 2-301.

20 (a) An individual 16 or 17 years old may not marry unless:

21 (1) the individual has the consent of a parent or guardian and the
22 parent or guardian swears that the individual is at least 16 years old; or

23 (2) if the individual does not have the consent of a parent or guardian,
24 either party to be married gives the clerk a certificate from a licensed physician **OR**
25 **CERTIFIED NURSE PRACTITIONER** stating that the physician **OR NURSE**
26 **PRACTITIONER** has examined the woman to be married and has found that she is
27 pregnant or has given birth to a child.

28 (b) An individual 15 years old may not marry unless:

29 (1) the individual has the consent of a parent or guardian; and

30 (2) either party to be married gives the clerk a certificate from a
31 licensed physician **OR CERTIFIED NURSE PRACTITIONER** stating that the physician
32 **OR NURSE PRACTITIONER** has examined the woman to be married and has found
33 that she is pregnant or has given birth to a child.

1 (c) An individual under the age of 15 may not marry.

2 **Article - Health - General**

3 4-208.

4 (a) (1) Within 72 hours after a birth occurs in an institution, or en route
5 to the institution, the administrative head of the institution or a designee of the
6 administrative head shall:

7 (i) Prepare, on the form that the Secretary provides, a
8 certificate of birth;

9 (ii) Secure each signature that is required on the certificate; and

10 (iii) File the certificate.

11 (2) The attending physician, **NURSE PRACTITIONER, OR NURSE**
12 **MIDWIFE** shall provide the date of birth and medical information that are required on
13 the certificate within 72 hours after the birth.

14 4-212.

15 (a) This section does not apply to a fetal death.

16 (b) (1) A certificate of death regardless of age of decedent shall be filled
17 out and signed by:

18 (i) The medical examiner, if the medical examiner takes charge
19 of the body; or

20 (ii) If the medical examiner does not take charge of the body, the
21 physician **OR NURSE PRACTITIONER** who last attended the deceased.

22 (2) The medical examiner [or], physician, **OR NURSE PRACTITIONER**
23 shall fill in only the following information on the certificate of death:

24 (i) The name of the deceased.

25 (ii) The cause of death and medical certification.

26 (iii) The date and hour of death.

27 (iv) The place where death occurred.

1 (3) Any other information that is required on the certificate of death
2 regardless of age of decedent shall be filled in:

3 (i) By the person who has charge of the body; or

4 (ii) If the State Anatomy Board has charge of the body, by the
5 person who last had charge of the body before it was sent to the State Anatomy Board.

6 (4) The medical certification shall be completed within 24 hours after
7 receipt of the death certificate by the physician **OR NURSE PRACTITIONER** in charge
8 of the patient's care for the illness or condition which resulted in death, except when
9 inquiry is required by the medical examiner.

10 (5) In the absence or inability of the attending physician **OR NURSE**
11 **PRACTITIONER** or with the attending physician's **OR NURSE PRACTITIONER'S**
12 approval, the certificate may be completed by:

13 (i) The attending physician's **OR NURSE PRACTITIONER'S**
14 associate;

15 (ii) The chief medical officer or designee of the institution in
16 which death occurred; or

17 (iii) The physician who performed an autopsy upon the decedent,
18 provided the individual has access to the medical history of the case and death is due
19 to natural causes.

20 (6) The person completing the cause of death and medical certification
21 shall attest to the accuracy by signature or by an approved electronic process.

22 (7) The funeral director or person acting as the funeral director shall
23 in all cases obtain the medical certification from the person responsible for its
24 completion or obtain assurance that the medical certification has been provided to the
25 Secretary by an approved electronic process.

26 (c) Each individual concerned with carrying out this subtitle promptly shall
27 notify the medical examiner if:

28 (1) The deceased was not under treatment by a physician during the
29 terminal illness;

30 (2) The cause of death is unknown; or

31 (3) The individual considers any of the following conditions to be the
32 cause of death or to have contributed to the death:

33 (i) An accident, including a fall with a fracture or other injury.

- 1 (ii) Homicide.
- 2 (iii) Suicide.
- 3 (iv) Other external manner of death.
- 4 (v) Alcoholism.
- 5 (vi) Criminal or suspected criminal abortion.

6 (d) (1) If, within 24 hours after taking charge of a body, the medical
7 examiner has not determined the cause of death, the medical examiner shall enter
8 “investigation pending” in the cause of death section of the death certificate.

9 (2) As soon as the medical examiner determines the cause of death,
10 the medical examiner shall send to the Secretary a report of the cause of death, for
11 entry on the certificate.

12 (e) (1) A physician **OR A NURSE PRACTITIONER** who fills out a
13 certificate of death shall give it or transmit it by approved electronic media, including
14 facsimile, to the mortician within 24 hours after the death occurred.

15 (2) A medical examiner who fills out a certificate of death shall give it
16 or transmit it by approved electronic media, including facsimile, to the mortician
17 within 24 hours after the medical examiner took charge of the body.

18 (f) (1) If a death occurs on a common carrier in the United States and the
19 body is removed from the carrier in this State, the death shall be registered in this
20 State, and the place where it is first removed shall be considered the place of death.
21 When a death occurs on a common carrier while in international waters or air space or
22 in a foreign country or its air space and the body is first removed from the carrier in
23 this State, the death shall be registered in this State, but the certificate shall show the
24 actual place of death insofar as can be determined.

25 (2) The individual in charge or the owner of the common carrier or a
26 designee shall file a certificate of death within 24 hours after the body is removed from
27 the carrier.

28 (3) If the death occurred under any of the conditions or circumstances
29 set forth in subsection (c) of this section, the medical examiner shall be notified.

30 (g) A mortician who obtains a certificate of death under this section shall file
31 the certificate within 72 hours after the death.

32 (h) (1) Except as authorized under this subtitle, an individual who has a
33 duty to fill out and sign a certificate of death may not execute more than one
34 certificate for a death.

1 (2) The attending physician, **THE NURSE PRACTITIONER**, or a
2 medical examiner who takes charge of a body may file a replacement death certificate
3 if a correction that the physician, **THE NURSE PRACTITIONER**, or medical examiner
4 authorizes cannot be entered legibly on the original certificate.

5 5-601.

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

7 (h) “Emergency medical services ‘do not resuscitate order’” means a
8 physician’s **OR NURSE PRACTITIONER’S** written order in a form established by
9 protocol issued by the Maryland Institute for Emergency Medical Services in
10 conjunction with the State Board of Physicians which, in the event of a cardiac or
11 respiratory arrest of a particular patient, authorizes certified or licensed emergency
12 medical services personnel to withhold or withdraw cardiopulmonary resuscitation
13 including cardiac compression, endotracheal intubation, other advanced airway
14 management techniques, artificial ventilation, defibrillation, and other related
15 life-sustaining procedures.

16 (o) **“NURSE PRACTITIONER” MEANS AN INDIVIDUAL LICENSED TO**
17 **PRACTICE REGISTERED NURSING IN THE STATE AND WHO IS CERTIFIED AS A**
18 **NURSE PRACTITIONER JOINTLY BY THE STATE BOARD OF NURSING AND THE**
19 **STATE BOARD OF PHYSICIANS UNDER TITLE 8 AND TITLE 14 OF THE HEALTH**
20 **OCCUPATIONS ARTICLE.**

21 [(o)] (P) “Persistent vegetative state” means a condition caused by injury,
22 disease, or illness:

23 (1) In which a patient has suffered a loss of consciousness, exhibiting
24 no behavioral evidence of self-awareness or awareness of surroundings in a learned
25 manner other than reflex activity of muscles and nerves for low level conditioned
26 response; and

27 (2) From which, after the passage of a medically appropriate period of
28 time, it can be determined, to a reasonable degree of medical certainty, that there can
29 be no recovery.

30 [(p)] (Q) “Physician” means a person licensed to practice medicine in the
31 State or in the jurisdiction where the treatment is to be rendered or withheld.

32 [(q)] (R) “Terminal condition” means an incurable condition caused by
33 injury, disease, or illness which, to a reasonable degree of medical certainty, makes
34 death imminent and from which, despite the application of life-sustaining procedures,
35 there can be no recovery.

36 5-602.

1 (a) Any competent individual may, at any time, make a written advance
2 directive regarding the provision of health care to that individual, or the withholding
3 or withdrawal of health care from that individual.

4 (c) (1) A written advance directive shall be dated, signed by or at the
5 express direction of the declarant, and subscribed by two witnesses.

6 (2) (i) Except as provided in items (ii) and (iii) of this paragraph,
7 any competent individual may serve as a witness to an advance directive, including an
8 employee of a health care facility, **NURSE PRACTITIONER**, or physician caring for the
9 declarant if acting in good faith.

10 (ii) The health care agent of the declarant may not serve as a
11 witness.

12 (iii) At least one of the witnesses must be an individual who is
13 not knowingly entitled to any portion of the estate of the declarant or knowingly
14 entitled to any financial benefit by reason of the death of the declarant.

15 (d) (1) Any competent individual may make an oral advance directive to
16 authorize the providing, withholding, or withdrawing of any life-sustaining procedure
17 or to appoint an agent to make health care decisions for the individual.

18 (2) An oral advance directive shall have the same effect as a written
19 advance directive if made in the presence of the attending physician **OR NURSE**
20 **PRACTITIONER** and one witness and if the substance of the oral advance directive is
21 documented as part of the individual's medical record. The documentation shall be
22 dated and signed by the attending physician **OR NURSE PRACTITIONER** and the
23 witness.

24 (e) (1) Unless otherwise provided in the document, an advance directive
25 shall become effective when the declarant's attending physician **OR NURSE**
26 **PRACTITIONER** and a second physician **OR NURSE PRACTITIONER** certify in writing
27 that the patient is incapable of making an informed decision.

28 (2) If a patient is unconscious, or unable to communicate by any
29 means, the certification of a second physician **OR NURSE PRACTITIONER** is not
30 required under paragraph (1) of this subsection.

31 5-608.

32 (c) This section does not authorize emergency medical services personnel in
33 the outpatient setting to follow an emergency medical services "do not resuscitate
34 order" that is in any form other than:

1 (1) An emergency medical services “do not resuscitate order” described
2 in subsection (a) of this section;

3 (2) An oral emergency medical services “do not resuscitate order”
4 provided by an on–line, emergency medical services medical command and control
5 physician; or

6 (3) An oral emergency medical services “do not resuscitate order”
7 provided by a physician, as defined in § 5–601 of this subtitle, **OR A NURSE**
8 **PRACTITIONER, AS DEFINED IN § 5–601 OF THIS SUBTITLE**, who is physically
9 present on the scene with the patient and the emergency medical services personnel in
10 the outpatient setting.

11 10–616.

12 (a) (1) A certificate for involuntary admission of an individual under Part
13 III of this subtitle shall:

14 (i) Be based on the personal examination of the physician [or],
15 psychologist, **OR NURSE PRACTITIONER** who signs the certificate; and

16 (ii) Be in the form that the Secretary adopts, by rule or
17 regulation.

18 (2) The rules and regulations shall require the form to include:

19 (i) A diagnosis of a mental disorder of the individual;

20 (ii) An opinion that the individual needs inpatient care or
21 treatment; and

22 (iii) An opinion that admission to a facility or Veterans’
23 Administration hospital is needed for the protection of the individual or another.

24 10–628.

25 (a) (1) If an emergency evaluatee cannot pay or does not have insurance
26 that covers the charges for emergency services, an initial consultant examination by a
27 physician **OR NURSE PRACTITIONER**, and transportation to an emergency facility
28 and, for an involuntary admission of the emergency evaluatee, to the admitting facility,
29 the Department shall pay the appropriate party the actual cost or a reasonable rate
30 for this service, whichever is lower, except that hospitals shall be paid at rates
31 approved by the Health Services Cost Review Commission.

32 (2) The reasonable rate for the services provided under an emergency
33 petition shall be calculated by using a methodology established by regulation and
34 reasonably related to the actual cost.

1 (b) With respect to emergency admissions, the Department shall be
2 subrogated against any insurance coverage available to the patient for charges
3 relating to emergency service, initial consultant examination by a physician **OR**
4 **NURSE PRACTITIONER**, and transportation to an emergency facility under Part IV of
5 this subtitle.

6 13-701.

7 The Insect Sting Emergency Treatment Program is a program in the
8 Department for the purpose of providing a means of authorizing certain individuals to
9 administer life-saving treatment to persons who have severe adverse reactions to
10 insect stings when physician services or emergency medical services are not
11 immediately available.

12 13-704.

13 (a) To qualify for a certificate, an individual shall meet the requirements of
14 this section.

15 (b) The applicant shall be of good moral character.

16 (c) The applicant shall be at least 18 years old.

17 (d) The applicant shall have, or reasonably expect to have, responsibility for
18 at least one other person as a result of the individual's occupation or volunteer status.

19 (e) (1) The applicant shall successfully complete an educational training
20 program approved by the Department.

21 (2) Educational training programs required under this subsection
22 shall:

23 (i) **1.** Be conducted by a physician licensed to practice
24 medicine in this State under Title 14 of the Health Occupations Article; [and] **OR**

25 **2. BE CONDUCTED BY A NURSE PRACTITIONER**
26 **LICENSED TO PRACTICE REGISTERED NURSING IN THIS STATE UNDER TITLE 8**
27 **OF THE HEALTH OCCUPATIONS ARTICLE AND WHO IS CERTIFIED AS A NURSE**
28 **PRACTITIONER JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE**
29 **BOARD OF PHYSICIANS; AND**

30 (ii) Include training in:

31 1. The recognition of the symptoms of systemic reactions
32 to insect stings; and

1 2. The proper administration of a subcutaneous injection
2 of epinephrine.

3 **Article – Transportation**

4 13–616.

5 (a) (1) In this subtitle the following words have the meanings indicated.

6 **(2) “CERTIFIED NURSE PRACTITIONER” MEANS AN INDIVIDUAL**
7 **WHO IS LICENSED BY THE STATE BOARD OF NURSING TO PRACTICE**
8 **REGISTERED NURSING AS DESCRIBED IN § 8–101 OF THE HEALTH**
9 **OCCUPATIONS ARTICLE AND WHO IS CERTIFIED AS A NURSE PRACTITIONER**
10 **JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE BOARD OF**
11 **PHYSICIANS.**

12 **[(2)] (3) “Licensed chiropractor” means a chiropractor who is licensed**
13 **by the State Board of Chiropractic Examiners to practice chiropractic or chiropractic**
14 **with the right to practice physical therapy as described in § 3–301 of the Health**
15 **Occupations Article.**

16 **[(3)] (4) “Licensed optometrist” means an optometrist who is licensed**
17 **by the State Board of Examiners in Optometry to practice optometry as described in §**
18 **11–101 of the Health Occupations Article.**

19 **[(4)] (5) “Licensed physician” means a physician, including a doctor**
20 **of osteopathy, who is licensed by the State Board of Physicians to practice medicine as**
21 **described in § 14–101 of the Health Occupations Article.**

22 **[(5)] (6) “Licensed podiatrist” means a podiatrist who is licensed by**
23 **the State Board of Podiatric Medical Examiners to practice podiatry as described in §**
24 **16–101 of the Health Occupations Article.**

25 (b) (1) The owner of any vehicle described in paragraph (3) of this
26 subsection may apply to the Administration for the assignment to that vehicle of a
27 special disability registration number and special disability registration plates, if a
28 **CERTIFIED NURSE PRACTITIONER**, licensed physician, licensed chiropractor,
29 licensed optometrist, or licensed podiatrist certifies, in accordance with paragraph (2)
30 of this subsection, that the applicant:

31 (i) Has lung disease to such an extent that forced (respiratory)
32 expiratory volume for one second when measured by spirometry is less than one liter,
33 or arterial oxygen tension (PO₂) is less than 60 mm/hg on room air at rest;

34 (ii) Has cardiovascular disease limitations classified in severity
35 as Class III or Class IV according to standards accepted by the American Heart
36 Association;

- 1 (iii) Is unable to walk 200 feet without stopping to rest;
- 2 (iv) Is unable to walk without the use of, or assistance from, a
3 brace, cane, crutch, another person, prosthetic device, or other assistive device;
- 4 (v) Requires a wheelchair for mobility;
- 5 (vi) Has lost a foot, leg, hand, or arm;
- 6 (vii) Has lost the use of a foot, leg, hand, or arm;
- 7 (viii) Has a permanent impairment of both eyes so that:
- 8 1. The central visual acuity is 20/200 or less in the better
9 eye, with corrective glasses; or
- 10 2. There is a field defect in which the peripheral field
11 has contracted to such an extent that the widest diameter of visual field subtends an
12 angular distance no greater than 20 degrees in the better eye; or
- 13 (ix) Has a permanent disability that adversely impacts the
14 ambulatory ability of the applicant and which is so severe that the person would
15 endure a hardship or be subject to a risk of injury if the privileges accorded a person
16 for whom a vehicle is specially registered under this section were denied.
- 17 (2) For the purposes of this section, the qualifying disabilities specified
18 in paragraph (1) of this subsection shall be certified as follows:
- 19 (i) A licensed physician **OR CERTIFIED NURSE**
20 **PRACTITIONER** may certify conditions specified in paragraph (1)(i) through (ix) of this
21 subsection;
- 22 (ii) A licensed chiropractor or a licensed podiatrist may certify
23 conditions specified in paragraph (1)(iii) through (vii) and (ix) of this subsection;
- 24 (iii) A licensed optometrist may certify the condition specified in
25 paragraph (1)(viii) of this subsection; and
- 26 (iv) Notwithstanding any provision of paragraph (1) of this
27 subsection, the applicant may self-certify conditions specified in paragraph (1)(vi) of
28 this subsection by appearing in person with proper identification at a full-service
29 Motor Vehicle Administration office during normal business hours.
- 30 (3) This section applies only to:
- 31 (i) A Class A (passenger) vehicle;

- 1 (ii) A Class D (motorcycle) vehicle;
- 2 (iii) A Class M (multipurpose) vehicle;
- 3 (iv) A Class E (truck) vehicle with a one ton or less
4 manufacturer's rated capacity; or
- 5 (v) A Class H, I, or J vehicle that is specially equipped for the
6 transportation of individuals with disabilities and is used exclusively for the
7 transportation of individuals with disabilities.

8 (4) (i) Notwithstanding the provisions of paragraph (1) of this
9 subsection, a nursing home, health care facility, adult day care facility, retirement
10 home, or other facility that regularly provides transportation for individuals with
11 disabilities may apply to the Administration for special disability registration for
12 vehicles owned by the facility.

13 (ii) An application for special disability registration under this
14 paragraph shall contain:

15 1. The certification of the owner or operator of the
16 facility that the vehicle for which the registration is sought is used exclusively for the
17 transportation of individuals with disabilities as described in paragraph (1) of this
18 subsection; and

19 2. Any other information or documentation concerning
20 the facility or the vehicle that the Administration requires.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2008.