

# SENATE BILL 632

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CF HB 624

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By: **Senator Conway**

Introduced and read first time: February 5, 2010

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Registered Nurses, Licensed Practical Nurses, Nursing Assistants, and**  
3 **Medication Technicians – Changes to Licensure Requirements**

4 FOR the purpose of requiring that if the State Board of Nursing has reason to believe  
5 that a certain applicant, licensee, or certificate holder may cause harm to  
6 certain individuals, the Board require the applicant, licensee, or certificate  
7 holder to submit to a certain examination; adding certain individuals who have  
8 applied for a certain license, have passed a certain examination, and are  
9 awaiting receipt of certain criminal history record information to those  
10 individuals who are exempt from certain licensure requirements; adding certain  
11 individuals who provide gratuitous care for friends and family to those  
12 individuals who are exempt from certain licensure requirements; requiring that  
13 certain applicants pass a certain national examination; providing that  
14 practicing nursing in certain states or territories for at least a certain number of  
15 years is acceptable proof of proficiency in English; repealing the requirement  
16 that the Board give certain examinations; requiring the Board to issue certain  
17 licenses and certificate holders a license or certification number and a  
18 registration certificate that indicates certain information; requiring the Board  
19 to record electronically certain licenses and certificates, including inactive  
20 status, in certain databases and on certain websites; extending the period of time  
21 the Board has to send certain renewal notices; authorizing the Board to send  
22 certain renewal notices by electronic means; requiring the Board to send certain  
23 renewal applicants certain documents necessary for initiating criminal history  
24 records checks in conjunction with certain renewal notices; authorizing certain  
25 licensees to submit certain renewal applications by paper application or electronic  
26 means; extending the period of time between criminal history records checks for  
27 certain renewal applicants; repealing provisions concerning skilled nursing  
28 assistants; extending the period of time certain certificate holders have to notify the  
29 Board of certain changes in name or address; and generally relating to registered  
30 nurses, licensed practical nurses, nursing assistants, and medication technicians.

31 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health Occupations

2 Section 8–205.1, 8–301(c), 8–302(e) and (f)(2), 8–305(d) through (f), 8–308(a) and  
3 (b), 8–309(b), 8–312(b), (c), and (g)(1), 8–6A–05(a), 8–6A–07, 8–6A–08,  
4 and 8–6A–15

5 Annotated Code of Maryland  
6 (2009 Replacement Volume)

7 BY repealing

8 Article – Health Occupations  
9 Section 8–305(c) and 8–6A–01(k)  
10 Annotated Code of Maryland  
11 (2009 Replacement Volume)

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

14 **Article – Health Occupations**

15 8–205.1.

16 (a) If the Board, while **REVIEWING AN APPLICATION FOR LICENSURE OR**  
17 investigating an allegation brought against a licensee under this title, has reason to  
18 believe that the **APPLICANT OR** licensee may cause harm to individuals affected by  
19 the **APPLICANT’S OR** licensee’s practice of nursing, the Board shall require the  
20 **APPLICANT OR** licensee to submit to an appropriate examination by a health care  
21 provider designated by the Board.

22 (b) In return for the privilege [given to a licensee] to practice nursing in the  
23 State, the **APPLICANT OR** licensee is deemed to have:

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

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

28 (c) The failure or refusal of the **APPLICANT OR** licensee to submit to an  
29 examination required under subsection (b) of this section is prima facie evidence of the  
30 **APPLICANT’S OR** licensee’s inability to practice nursing competently, unless the  
31 Board finds that the failure or refusal was beyond the control of the licensee.

32 (d) The Board shall pay the cost of any examination made under this section.

33 8–301.

34 (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  
14 this title; [or]

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

17 **3. HAS TAKEN AND PASSED THE EXAMINATION**  
18 **REQUIRED UNDER THIS TITLE AND IS WAITING FOR THE COMPLETION OF THE**  
19 **CRIMINAL HISTORY RECORD INFORMATION;**

20 **(4) AN INDIVIDUAL WHO PROVIDES GRATUITOUS CARE FOR**  
21 **FRIENDS OR FAMILY; OR**

22 **[(4)] (5)** An individual who is assigned by the American Red Cross to  
23 a disaster situation in this State to practice registered nursing or licensed practical  
24 nursing, if the individual is licensed to practice registered nursing or licensed practical  
25 nursing in another state.

26 8–302.

27 (e) Except as otherwise provided in this title, the applicant shall pass an  
28 examination [approved by the Board] **DEVELOPED BY THE NATIONAL COUNCIL OF**  
29 **STATE BOARDS OF NURSING AND ADMINISTERED AT A TESTING SITE APPROVED**  
30 **BY THE NATIONAL COUNCIL.**

31 (f) (2) [Graduation from a recognized English-speaking undergraduate  
32 school after at least 3 years of enrollment, or from a recognized English-speaking  
33 professional school is acceptable as] **ACCEPTABLE** proof of proficiency in the oral  
34 communication of the English language under this section **INCLUDES:**

1                   **(I) AFTER AT LEAST 3 YEARS OF ENROLLMENT,**  
 2 **GRADUATION FROM A RECOGNIZED ENGLISH-SPEAKING UNDERGRADUATE**  
 3 **SCHOOL;**

4                   **(II) GRADUATION FROM A RECOGNIZED**  
 5 **ENGLISH-SPEAKING PROFESSIONAL SCHOOL; OR**

6                   **(III) COMPLETION OF AT LEAST 5 YEARS OF PRACTICING**  
 7 **NURSING IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES.**

8 8-305.

9           **[(c) The Board shall give examinations to applicants at least once each**  
 10 **calendar year at the times and places that the Board determines.]**

11           **[(d) (C) The Board shall determine the subjects, scope, form, and passing**  
 12 **score for each examination given under this title.**

13           **[(e) (D) An applicant whose nursing education program was completed 5 or**  
 14 **more years prior to passing the licensure examination and who has not practiced for at**  
 15 **least 1,000 hours in the previous 5 years may only be issued an inactive license until**  
 16 **submission to the Board of satisfactory evidence that the applicant has successfully**  
 17 **completed:**

18                   (1) A nursing review course approved by the Board; or

19                   (2) A preceptorship program provided by an employer and approved by  
 20 the Board.

21           **[(f) (E) (1) Except as provided in paragraph (2) of this subsection, an**  
 22 **applicant who fails an examination may retake the examination if the applicant pays**  
 23 **the reexamination fee set by the Board for each reexamination.**

24                   (2) The Board, by rule or regulation, may limit the number of times  
 25 that an applicant may be reexamined after two failures and may limit the interval of  
 26 time between reexaminations.

27 8-308.

28           (a) Subject to subsection (c) of this section, the Board shall **[issue the**  
 29 **appropriate] license [to] any applicant who meets the requirements for a license as:**

30                   (1) A registered nurse under this title; **[and] OR**

31                   (2) A licensed practical nurse under this title.

1 (b) (1) The Board shall [show on each license]:

2 (I) ISSUE EACH NEW LICENSEE A LICENSE NUMBER AND  
3 REGISTRATION CERTIFICATE THAT INDICATES THAT THE INITIAL LICENSE WAS  
4 ISSUED BY THE BOARD; AND

5 (II) ELECTRONICALLY RECORD EACH LICENSE IN THE  
6 BOARD'S DATABASE AND ON THE BOARD'S WEBSITE.

7 (2) EACH LICENSE SHALL INCLUDE:

8 [(1)] (I) Any expiration date;

9 [(2)] (II) The type of license; and

10 [(3)] (III) Any certification.

11 8-309.

12 (b) The Board shall place a licensee on inactive status and [issue an]  
13 RECORD THE inactive status [registration certificate] IN THE BOARD'S DATABASE  
14 AND ON THE BOARD'S WEBSITE if the licensee:

15 (1) (i) Has not satisfactorily completed 1,000 hours of active  
16 nursing practice within the 5-year period immediately preceding the date of  
17 anticipated renewal; or

18 (ii) Chooses inactive status;

19 (2) Completes the annual application for inactive status; and

20 (3) Pays the fee established by the Board.

21 8-312.

22 (b) (1) At least [1 month] 3 MONTHS before [the] A license expires, the  
23 Board shall send to the licensee a renewal notice BY:

24 (I) FIRST-CLASS MAIL TO THE LAST KNOWN MAILING  
25 ADDRESS OF THE LICENSEE; OR

26 (II) ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC  
27 ADDRESS OF THE LICENSEE.

1           **(2) IF A LICENSEE IS REQUIRED TO HAVE A CRIMINAL HISTORY**  
2 **RECORDS CHECK BEFORE A LICENSE MAY BE RENEWED, THE BOARD SHALL**  
3 **SEND THE LICENSEE THE DOCUMENTS NECESSARY FOR INITIATING THE**  
4 **CRIMINAL HISTORY RECORDS CHECK IN CONJUNCTION WITH THE RENEWAL**  
5 **NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

6           (c) Before a license expires, the licensee periodically may renew it for an  
7 additional term, if the licensee:

8           (1) Otherwise is entitled to be licensed;

9           (2) Pays to the Board:

10           (i) A renewal fee set by the Board; or

11           (ii) A renewal fee that is set by the Board if the licensee certifies  
12 to the Board that the licensee provides professional services only as a volunteer; and

13           (3) Submits to the Board **BY PAPER APPLICATION OR ELECTRONIC**  
14 **MEANS:**

15           (i) A renewal application on the form that the Board requires;  
16 and

17           (ii) Satisfactory evidence of completion of:

18                   1. 1,000 hours of active nursing practice within the  
19 5-year period immediately preceding the date of renewal;

20                   2. A course of instruction, commonly known as a  
21 refresher course, approved by the Board; or

22                   3. A preceptorship program provided by an employer  
23 and approved by the Board.

24           (g) (1) (i) Beginning July 2009, the Board shall begin a process  
25 requiring criminal history records checks in accordance with § 8-303 of this subtitle  
26 on:

27                   1. Selected annual renewal applicants as determined by  
28 regulations adopted by the Board; and

29                   2. Each former licensee who files for reinstatement  
30 under § 8-313 of this subtitle after failing to renew the license for a period of 1 year or  
31 more.

1 (ii) An additional criminal history records check shall be  
2 performed every [10] 12 years thereafter.

3 8-6A-01.

4 [(k) "Skilled nursing assistant" means a certified nursing assistant who may  
5 perform additional tasks based on the successful completion of a Board-approved  
6 supplemental training program within a specific category of nursing assistant.]

7 8-6A-05.

8 (a) The Board shall adopt regulations establishing:

9 (1) Categories of certified nursing assistants, including geriatric  
10 nursing assistants, home health aides, school health aides, dialysis technicians,  
11 individuals working in developmental disabilities administration facilities, and  
12 medicine aides;

13 [(2) Categories of skilled nursing assistants in the following settings:

14 (i) Licensed nursing homes; and

15 (ii) Licensed developmental disabilities administration group  
16 homes;]

17 [(3) (2) Qualifications for each category of certified nursing assistant  
18 [and skilled nursing assistant];

19 [(4) (3) Qualifications for certified medication technicians; and

20 [(5) (4) Standards for qualification of applicants for certification,  
21 including the applicant's criminal history, work record, and prohibitions against  
22 behavior which may be potentially harmful to patients.

23 8-6A-07.

24 (a) Subject to subsection (g) of this section, the Board shall [issue a  
25 certificate to] CERTIFY any applicant who meets the requirements of this subtitle.

26 (B) (1) THE BOARD SHALL:

27 (I) ISSUE EACH NEW CERTIFIED NURSING ASSISTANT OR  
28 MEDICATION TECHNICIAN A CERTIFICATE NUMBER AND REGISTRATION  
29 CERTIFICATE THAT INDICATES THE INITIAL CERTIFICATE WAS ISSUED BY THE  
30 BOARD; AND

1                   **(II) ELECTRONICALLY RECORD EACH CERTIFICATE IN THE**  
2 **BOARD’S DATABASE AND ON THE BOARD’S WEBSITE.**

3                   **(2) EACH CERTIFICATE SHALL INCLUDE:**

4                   **(I) ANY EXPIRATION DATE;**

5                   **(II) THE TYPE OF CERTIFICATE; AND**

6                   **(III) ANY SPECIFIC CATEGORY OF NURSING ASSISTANT.**

7           **[(b)] (C)**    [The certificate of an] **AN** individual who has met the  
8 requirements for a certified nursing assistant shall [include] **BE CERTIFIED WITH** the  
9 title **OF** “certified nursing assistant”.

10           **[(c)] (D)**   [The certificate of an] **AN** individual who routinely performs  
11 nursing tasks delegated by a registered nurse or licensed practical nurse for  
12 compensation and has also completed a Board–approved course in medication  
13 administration shall [also include] **BE CERTIFIED WITH** the title **OF** “certified  
14 medicine aide”.

15           **[(d)] (E)**   [The certificate of an] **AN** individual who has met the  
16 requirements for a certified medication technician shall [include] **BE CERTIFIED**  
17 **WITH** the title **OF** “certified medication technician”.

18           **[(e)] (F)**    The Board may issue a **REGISTRATION** certificate to replace a lost,  
19 destroyed, or mutilated certificate, if the certificate holder pays the certificate  
20 replacement fee set by the Board.

21           **[(f)] (G)**    (1)    The Board may issue a temporary practice certificate to an  
22 applicant who:

23                           (i)    Has met the appropriate certification requirements of this  
24 subtitle to the satisfaction of the Board;

25                           (ii)   Does not have a criminal record and has not been the subject  
26 of a health professional disciplinary action in this State or another jurisdiction; and

27                           (iii) Does not have a criminal charge or a health professional  
28 disciplinary action pending in this State or another jurisdiction.

29                   (2)    Unless the Board suspends or revokes a temporary practice  
30 certificate, the temporary practice certificate expires 90 days after issuance.



1           (3) A temporary practice certificate may be extended up to an  
2 additional 90 days if the applicant is awaiting the completion of criminal history  
3 record information.

4           **[(g)] (H)** A medication technician graduate may practice for no more than  
5 90 days from the date of completion of a medication technician training program  
6 without certification by the Board.

7           **[(h)] (I)** (1) On receipt of the criminal history record information of an  
8 applicant for certification as a certified nursing assistant forwarded to the Board in  
9 accordance with § 8–303 of this title, in determining whether to grant a certificate, the  
10 Board shall consider:

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

12                   (ii) The circumstances surrounding the crime;

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

14                   (iv) Subsequent work history;

15                   (v) Employment and character references; and

16                   (vi) Other evidence that demonstrates whether the applicant  
17 poses a threat to the public health or safety.

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

20 8–6A–08.

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

24           (b) **(1)** At least 3 months before **[the]** A certificate expires, the Board shall  
25 send **A RENEWAL NOTICE** to the nursing assistant or medication technician **BY:**

26                           **(I) FIRST–CLASS MAIL TO THE LAST KNOWN MAILING**  
27 **ADDRESS OF THE NURSING ASSISTANT OR MEDICATION TECHNICIAN; OR**

28                           **(II) ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC**  
29 **ADDRESS OF THE LICENSEE.**

30           **(2)** **[a] A renewal notice [that states] SHALL STATE:**

1                    **[(1)] (I)**        The date on which the current certificate expires;

2                    **[(2)] (II)**        The date by which the renewal application must be  
3 received by the Board for the renewal to be issued and mailed before the certificate  
4 expires; and

5                    **[(3)] (III)**        The amount of the renewal fee.

6                    **(3) IF A NURSING ASSISTANT OR MEDICATION TECHNICIAN IS**  
7 **REQUIRED TO HAVE A CRIMINAL HISTORY RECORDS CHECK BEFORE A**  
8 **CERTIFICATE MAY BE RENEWED, THE BOARD SHALL SEND THE NURSING**  
9 **ASSISTANT OR MEDICATION TECHNICIAN THE DOCUMENTS NECESSARY FOR**  
10 **INITIATING THE CRIMINAL HISTORY RECORDS CHECK IN CONJUNCTION WITH**  
11 **THE RENEWAL NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

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

14                    (1)        Otherwise is entitled to be certified;

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

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

18                    (4)        Provides satisfactory evidence of completion of:

19                    (i)        16 hours of active nursing assistant practice within the  
20 2–year period immediately preceding the date of renewal; or

21                    (ii)        An approved nursing assistant training program.

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

24                    (1)        Provide satisfactory evidence of completion of 1,000 hours of  
25 practice as a skilled nursing assistant within the individual’s specific category of  
26 nursing assistant, in the 2–year period preceding the date of renewal; and

27                    (2)        Successfully complete a Board–approved refresher course within  
28 the individual’s specific category of nursing assistant.]

29                    **[(e)] (D)**        In addition to the requirements in subsection (c)(1), (2), and (3) of  
30 this section, a certified medicine aide shall:

31                    (1)        Provide satisfactory evidence of completion of 100 hours of practice  
32 as a certified medicine aide in the 2–year period preceding the date of renewal; and

1           (2)    Successfully complete a Board–approved medicine aide continuing  
2 education program.

3           **[(f)] (E)**    Before a certificate expires, a medication technician periodically  
4 may 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;

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

11                   (5)    Provides satisfactory evidence of completion of 100 hours of  
12 practice as a certified medication technician within the 2–year period preceding the  
13 date of renewal.

14           **[(g)] (F)**    (1)    The Board may grant a 30–day extension, beyond a  
15 certificate’s expiration date, to a certificate holder so that the certificate holder may  
16 renew the certificate before it expires.

17                   (2)    The Board may grant two 90–day extensions beyond a certificate’s  
18 expiration date pending receipt of criminal history record information.

19           **[(h)] (G)**    The Board shall reinstate the certificate of a former certificate  
20 holder who has failed to renew the certificate for any reason if the former certificate  
21 holder meets the applicable renewal requirements of subsections (c) through **[(f)](E)**  
22 and **[(l)(1)(i)2] (K)(1)(I)2** of this section.

23           **[(i)] (H)**    Subject to subsection **[(j)] (I)** of this section, the Board shall renew  
24 the certificate of each nursing assistant or medication technician who meets the  
25 requirements of this section.

26           **[(j)] (I)**    (1)    Within **[30] 60** days after a change has occurred, each  
27 certificate holder shall notify the Board in writing of any change in a name or address.

28                   (2)    If the certificate holder fails to notify the Board within the time  
29 required under this subsection, the Board may impose an administrative penalty of  
30 \$25 on the certificate holder.

31           **[(k)] (J)**    The Board shall pay any penalty collected under this subsection to  
32 the General Fund of the State.

1            ~~[(L)]~~ **(K)**        (1)    (i)    Beginning July 2009, the Board shall begin a process  
2 requiring criminal history records checks in accordance with § 8–303 of this title on:

3                            1.    Selected applicants for certification as a certified  
4 nursing assistant who renew their certificates every 2 years as determined by  
5 regulations adopted by the Board; and

6                            2.    Each former certified nursing assistant who files for  
7 reinstatement under subsection ~~[(h)]~~ **(G)** of this section after failing to renew the  
8 license for a period of 1 year or more.

9                            (ii)   An additional criminal history records check shall be  
10 performed every ~~[10]~~ **12** years thereafter.

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

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

15                            (ii)   The circumstances surrounding the crime;

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

17                            (iv)   Subsequent work history;

18                            (v)    Employment and character references; and

19                            (vi)   Other evidence that demonstrates whether the certificate  
20 holder poses a threat to the public health or safety.

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

23    8–6A–15.

24            (a)    If, during the **REVIEW OF AN APPLICATION FOR CERTIFICATION OR**  
25 investigation of an allegation brought against a certified nursing assistant or certified  
26 medication technician under this subtitle, the Board has reason to believe that the  
27 **APPLICANT**, certified nursing assistant, or certified medication technician may cause  
28 harm to a person affected by the practice of the **APPLICANT**, certified nursing  
29 assistant, or certified medication technician, the Board, on its own initiative, shall  
30 direct the **APPLICANT**, certified nursing assistant, or certified medication technician  
31 to submit to an appropriate examination by a health care provider designated by the  
32 Board.

1           (b) In return for the privilege [given] to **PRACTICE AS** a certified nursing  
2 assistant or certified medication technician [to practice] in the State, [the] **AN**  
3 **APPLICANT**, certified nursing assistant, or certified medication technician is deemed  
4 to have:

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

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

9           (c) The failure or refusal of [a] **AN APPLICANT**, certified nursing assistant,  
10 or certified medication technician to submit to an examination required under  
11 subsection (b) of this section is prima facie evidence of the inability of the **APPLICANT**,  
12 certified nursing assistant, or certified medication technician to competently practice  
13 as a certified nursing assistant or certified medication technician, unless the Board  
14 finds that the failure or refusal was beyond the control of the **APPLICANT**, certified  
15 nursing assistant, or certified medication technician.

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

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2010.