

Chapter 585

(Senate Bill 632)

AN ACT concerning

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

FOR the purpose of requiring that if the State Board of Nursing has reason to believe and objective evidence that a certain applicant, licensee, or certificate holder may cause harm to certain individuals, the Board require the applicant, licensee, or certificate holder to submit to a certain examination; adding certain individuals who have applied for a certain license, have passed a certain examination, and are awaiting receipt of certain criminal history record information to those individuals who are exempt from certain licensure requirements; adding certain individuals who provide gratuitous care for friends and family to those individuals who are exempt from certain licensure requirements; requiring that certain applicants pass a certain national examination; providing that practicing nursing in certain states or territories for at least a certain number of years is acceptable proof of proficiency in English; repealing the requirement that the Board give certain examinations; requiring the Board to issue certain licensees and certificate holders a license or certification number and a registration certificate that indicates certain information; requiring the Board to record electronically certain licenses and certificates, including inactive status, in certain databases and on certain websites; extending the period of time the Board has to send certain renewal notices; altering the term of certain licenses; authorizing the Board to send certain renewal notices by electronic means; requiring the Board to send certain renewal applicants certain documents necessary for initiating criminal history records checks in conjunction with certain renewal notices; authorizing certain licensees to submit certain renewal applications by paper application or electronic means; extending the period of time between criminal history records checks for certain renewal applicants; repealing provisions concerning skilled nursing assistants; extending the period of time certain certificate holders have to notify the Board of certain changes in name or address; requiring the Board to stagger certain renewals of licenses in a certain manner; and generally relating to registered nurses, licensed practical nurses, nursing assistants, and medication technicians.

BY repealing and reenacting, with amendments,

Article – Health Occupations

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

Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing

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

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

Article – Health Occupations

8-205.1.

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

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

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

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

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

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

8-301.

(c) This section does not apply to:

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

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

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

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

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

1. But has not taken the examination required under this title; [or]

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

3. **HAS TAKEN AND PASSED ~~THE~~ AN EXAMINATION ~~REQUIRED~~ UNDER THIS TITLE AND, BUT IS WAITING FOR THE COMPLETION OF THE CRIMINAL HISTORY ~~RECORD INFORMATION~~ RECORDS CHECK;**

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

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

8-302.

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

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

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

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

(III) COMPLETION OF AT LEAST 5 YEARS OF PRACTICING NURSING IN ANOTHER STATE OR ENGLISH-SPEAKING TERRITORY OF THE UNITED STATES.

8-305.

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

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

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

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

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

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

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

8-308.

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

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

(2) A licensed practical nurse under this title.

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

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

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

(2) EACH LICENSE SHALL INCLUDE:

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

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

[(3)] (III) Any certification.

8-309.

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

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

(ii) Chooses inactive status;

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

(3) Pays the fee established by the Board.

8-312.

(a) **(1) [A] ON OR BEFORE DECEMBER 31, 2013 2012, A license expires on the 28th day of the birth month of the licensee, unless the license is renewed for a 1-year term as provided in this section.**

(2) ON OR AFTER JANUARY 1, 2013, A LICENSE EXPIRES ON THE 28TH DAY OF THE BIRTH MONTH OF THE LICENSEE, UNLESS THE LICENSE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

(2) ON OR AFTER JANUARY 1, 2013, A LICENSE EXPIRES ON THE DATE SET BY THE BOARD AND MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

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

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

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

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

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

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board:

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

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

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

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

(ii) Satisfactory evidence of completion of:

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

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

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

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

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

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

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

8-6A-01.

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

8-6A-05.

(a) The Board shall adopt regulations establishing:

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

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

(i) Licensed nursing homes; and

(ii) Licensed developmental disabilities administration group homes;]

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

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

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

8-6A-07.

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

(B) (1) THE BOARD SHALL:

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

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

(2) EACH CERTIFICATE SHALL INCLUDE:

(I) ANY EXPIRATION DATE;

(II) THE TYPE OF CERTIFICATE; AND

(III) ANY SPECIFIC CATEGORY OF NURSING ASSISTANT.

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The circumstances surrounding the crime;

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

(iv) Subsequent work history;

(v) Employment and character references; and

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

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

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

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

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

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

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

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

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

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

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

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

(1) Otherwise is entitled to be certified;

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

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

(4) Provides satisfactory evidence of completion of:

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

- (ii) An approved nursing assistant training program.

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

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

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

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

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

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

[(f)] (E) Before a certificate expires, a medication technician periodically may renew it for an additional term, if the certificate holder:

- (1) Otherwise is entitled to be certified;

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

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

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

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

[(g)] (F) (1) The Board may grant a 30-day extension, beyond a certificate's expiration date, to a certificate holder so that the certificate holder may renew the certificate before it expires.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The circumstances surrounding the crime;

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

(iv) Subsequent work history;

- (v) Employment and character references; and
- (vi) Other evidence that demonstrates whether the certificate holder poses a threat to the public health or safety.

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

8–6A–15.

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
Nursing shall stagger the renewal of licenses required under § 8–312(a) of the Health

Occupations Article as enacted by this Act so that licensees born in even years renew in even years and licensees born in odd years renew in odd years.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.