

HOUSE BILL 1208

J2, Q3

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By: **Delegate Kelly**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Health Care Workforce Expansion**

3 FOR the purpose of establishing requirements on the State Board of Nursing related to the
4 expansion of the workforce in nursing–related fields; establishing a State income tax
5 credit for certain licensed practical nurses, nurse practitioners, and registered
6 nurses; establishing the Licensed Practical Nurse and Registered Nurse
7 Preceptorship Tax Credit Fund as a special, nonlapsing fund; requiring the
8 Maryland Department of Health to work with the Division of Workforce
9 Development and Adult Learning in the Maryland Department of Labor to convene
10 a stakeholder workgroup to study expanding the State apprenticeship programs to
11 the health care workforce; and generally relating to expansion of the health care
12 workforce in the State.

13 BY repealing and reenacting, with amendments,
14 Article – Health Occupations
15 Section 8–205, 8–312(c), and 8–6A–05(b)
16 Annotated Code of Maryland
17 (2021 Replacement Volume)

18 BY adding to
19 Article – Health Occupations
20 Section 8–205.2 and 8–514
21 Annotated Code of Maryland
22 (2021 Replacement Volume)

23 BY adding to
24 Article – Tax – General
25 Section 10–739.1
26 Annotated Code of Maryland
27 (2016 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Health Occupations

8–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To set standards for the practice of registered nursing, advanced practice registered nursing, licensed practical nursing, certified nursing assistants, certified medication technicians, electrology, direct-entry midwifery, and certified midwifery;

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

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

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

(ii) Require education and clinical experience;

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

(i) Require formal education and clinical experience; and

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

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

(i) Require formal education and clinical experience;

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

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

**(7) TO ADOPT RULES AND REGULATIONS FOR CLINICAL EXTERN
CERTIFICATES AUTHORIZED UNDER § 8-514 OF THIS TITLE;**

[(7)] (8) To keep a record of its proceedings;

[(8)] (9) To submit to the Governor, the Secretary, and, in accordance with § 2-1257 of the State Government Article, the General Assembly, an annual report that includes [the]:

(I) THE following data calculated on a fiscal year basis:

[(i)] 1. The number of initial and renewal licenses and certificates issued;

[(ii)] 2. The number of positive and negative criminal history records checks results received;

[(iii)] 3. The number of individuals denied initial or renewal licensure or certification due to positive criminal history records checks results;

[(iv)] 4. The number of individuals denied licensure or certification due to reasons other than a positive criminal history records check;

[(v)] 5. The number of new complaints received;

[(vi)] 6. The number of complaints carried over from year to year;

[(vii)] 7. The most common grounds for complaints; and

[(viii)] 8. The number and types of disciplinary actions taken by the Board; AND

(II) BY ANALYZING INFORMATION GATHERED FROM RENEWAL APPLICATIONS SUBMITTED UNDER § 8-312 OF THIS TITLE, AN EVALUATION OF THE STATE'S NURSING WORKFORCE BY CERTIFICATION LEVEL, REGION, AND TYPE OF WORKPLACE, INCLUDING HOSPITALS AND HOME HEALTH WORKERS;

[(9)] (10) To enforce the employment record requirements of this title;

[(10)] (11) To keep separate lists, which lists are open to reasonable public inspection, of all:

(i) Registered nurses licensed under this title;

- (ii) Licensed practical nurses licensed under this title;
- (iii) Nurse midwives certified under this title;
- (iv) Nurse practitioners certified under this title;
- (v) Nurse anesthetists certified under this title;
- (vi) Clinical nurse specialists certified under this title;
- (vii) Certified medication technicians certified under this title;
- (viii) Electrologists licensed under this title;
- (ix) Direct-entry midwives licensed under this title;
- (x) Certified midwives licensed under this title; and
- (xi) Other licensees with a nursing specialty that is certified under this title;

[(11)] (12) To collect any funds of the Board;

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

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

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

[(15)] (16) To maintain a nurse aide registry that complies with federal law;

[(16)] (17) To appoint standing and ad hoc committees from among Board members as necessary; and

[(17)] (18) To delegate to the executive director of the Board the authority to discharge Board duties deemed appropriate and necessary by the Board and to hold the executive director accountable to the Board.

(b) With regard to any list kept by the Board under subsection **[(a)(10)] (A)(11)**

of this section, upon written request from an individual licensee the Board shall delete that individual's name from any licensee list purchased from the Board.

(c) (1) The Board is the only unit of the Department that is responsible for adopting rules and regulations to determine:

(i) Individuals to whom any act of the practice of registered nursing and licensed practical nursing may be delegated; and

(ii) The acts that may be delegated safely.

(2) The Department shall retain its authority to require training for nonlicensed patient care personnel under § 19–308.1 of the Health – General Article.

8–205.2.

THE BOARD SHALL:

(1) CREATE AND IMPLEMENT A MARKETING PLAN TO ATTRACT INDIVIDUALS TO SEEK LICENSURE AND CERTIFICATION UNDER THIS TITLE; AND

(2) CREATE AND MAINTAIN ON ITS PUBLICLY ACCESSIBLE WEBSITE A SINGLE LOCATION THAT HAS INFORMATION FOR INDIVIDUALS SEEKING LICENSURE OR CERTIFICATION UNDER THIS TITLE ON:

(I) PATHWAYS TO LICENSURE OR CERTIFICATION;

(II) FUNDING AND FINANCING OPTIONS TO PAY FOR REQUIRED EDUCATION AND TRAINING; AND

(III) ACCREDITED SCHOOLS AND TRAINING PROGRAMS.

8–312.

(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 **THAT INCLUDES WORKFORCE DATA INFORMATION NECESSARY FOR THE REPORT REQUIRED UNDER § 8-205(A) OF THIS TITLE**; 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;

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

4. A minimum number of continuing education units as required by regulations adopted by the Board.

8-514.

(A) IN THIS SECTION, "CLINICAL EXTERN" MEANS A STUDENT AT AN ACCREDITED SCHOOL OF NURSING APPROVED BY THE BOARD WHO HAS BEEN CERTIFIED BY THE BOARD TO AUGMENT THE HEALTH SERVICES WORKFORCE.

(B) THE BOARD SHALL ISSUE A CLINICAL EXTERN CERTIFICATE TO A NURSING STUDENT WHO:

(1) SUBMITS TO THE BOARD:

(I) AN APPLICATION ON THE FORM REQUIRED BY THE BOARD;
AND

(II) A SUPERVISOR AGREEMENT SIGNED BY THE APPLICANT'S PROPOSED LICENSEE SUPERVISOR;

(2) HAS MET THE EDUCATIONAL CRITERIA ESTABLISHED BY THE BOARD; AND

(3) MEETS ANY OTHER CRITERIA ESTABLISHED BY THE BOARD FOR CERTIFICATION AS A CLINICAL EXTERN.

(C) A CLINICAL EXTERN MAY:

**(1) PRACTICE AT A HOSPITAL OR AUXILIARY TREATMENT SITE
APPROVED BY THE BOARD;**

1 OF THE HEALTH OCCUPATIONS ARTICLE.

2 (5) "PRECEPTORSHIP PROGRAM" MEANS AN ORGANIZED SYSTEM OF
3 CLINICAL EXPERIENCE THAT, FOR THE PURPOSE OF ATTAINING SPECIFIED
4 LEARNING OBJECTIVES, PAIRS A LICENSED PRACTICAL NURSE OR REGISTERED
5 NURSE STUDENT ENROLLED IN A NURSING EDUCATION PROGRAM THAT IS
6 RECOGNIZED BY THE STATE BOARD OF NURSING WITH A LICENSED PRACTICAL
7 NURSE, NURSE PRACTITIONER, OR REGISTERED NURSE WHO MEETS THE
8 QUALIFICATIONS AS A PRECEPTOR.

9 (6) "REGISTERED NURSE" HAS THE MEANING STATED IN § 8-101 OF
10 THE HEALTH OCCUPATIONS ARTICLE.

11 (B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A LICENSED
12 PRACTICAL NURSE, NURSE PRACTITIONER, OR REGISTERED NURSE MAY CLAIM A
13 CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT STATED ON THE TAX
14 CREDIT CERTIFICATE ISSUED UNDER SUBSECTION (C) OF THIS SECTION FOR THE
15 TAXABLE YEAR IN WHICH THE LICENSED PRACTICAL NURSE, NURSE PRACTITIONER,
16 OR REGISTERED NURSE SERVED WITHOUT COMPENSATION AS A PRECEPTOR IN A
17 PRECEPTORSHIP PROGRAM APPROVED BY THE STATE BOARD OF NURSING AND
18 WORKED:

19 (I) A MINIMUM OF THREE ROTATIONS, EACH CONSISTING OF AT
20 LEAST 100 HOURS OF COMMUNITY-BASED CLINICAL TRAINING; AND

21 (II) IN AN AREA OF THE STATE IDENTIFIED AS HAVING A
22 HEALTH CARE WORKFORCE SHORTAGE BY THE DEPARTMENT, IN CONSULTATION
23 WITH THE GOVERNOR'S WORKFORCE DEVELOPMENT BOARD.

24 (2) (I) THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS
25 SECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED THE STATE INCOME TAX
26 IMPOSED FOR THAT TAXABLE YEAR.

27 (II) ANY UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE
28 YEAR MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

29 (C) (1) ON APPLICATION BY A LICENSED PRACTICAL NURSE, NURSE
30 PRACTITIONER, OR REGISTERED NURSE, THE DEPARTMENT SHALL ISSUE A CREDIT
31 CERTIFICATE IN THE AMOUNT OF \$1,000 FOR EACH STUDENT ROTATION OF THE
32 MINIMUM NUMBER OF HOURS REQUIRED UNDER SUBSECTION (B)(1)(I) OF THIS
33 SECTION FOR WHICH THE LICENSED PRACTICAL NURSE, NURSE PRACTITIONER, OR
34 REGISTERED NURSE SERVED AS A PRECEPTOR WITHOUT COMPENSATION.

(2) THE APPLICATION SHALL CONTAIN:

(I) THE NAME OF THE APPLICANT;

(II) INFORMATION IDENTIFYING THE PRECEPTORSHIP IN WHICH THE APPLICANT PARTICIPATED;

(III) THE NUMBER AND NAMES OF THE STUDENTS FOR WHOM THE INDIVIDUAL SERVED AS A PRECEPTOR WITHOUT COMPENSATION; AND

(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

(3) FOR ANY TAXABLE YEAR, THE AMOUNT OF TAX CREDIT STATED IN THE TAX CREDIT CERTIFICATE MAY NOT EXCEED \$10,000.

(4) THE DEPARTMENT SHALL:

(I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR A TAX CREDIT CERTIFICATE UNDER THIS SUBSECTION ON A FIRST-COME, FIRST-SERVED BASIS; AND

(II) NOTIFY A TAXPAYER WITHIN 45 DAYS OF RECEIPT OF THE TAXPAYER'S APPLICATION OF ITS APPROVAL OR DENIAL.

(5) (I) FOR EACH TAXABLE YEAR, THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES THAT MAY BE ISSUED BY THE DEPARTMENT UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

1. THE TOTAL FUNDS IN THE LICENSED PRACTICAL NURSE AND REGISTERED NURSE PRECEPTORSHIP TAX CREDIT FUND FOR THAT YEAR; OR

2. \$100,000.

(II) IF THE AGGREGATE AMOUNT OF TAX CREDIT CERTIFICATES ISSUED UNDER THIS SECTION DURING A TAXABLE YEAR TOTALS LESS THAN THE AMOUNT AUTHORIZED UNDER THIS PARAGRAPH, ANY EXCESS AMOUNT MAY BE ISSUED UNDER TAX CREDIT CERTIFICATES IN THE NEXT TAXABLE YEAR.

(D) (1) IN THIS SECTION, "FUND" MEANS THE LICENSED PRACTICAL NURSE AND REGISTERED NURSE PRECEPTORSHIP TAX CREDIT FUND ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

1 **(2) THERE IS A LICENSED PRACTICAL NURSE AND REGISTERED**
2 **NURSE PRECEPTORSHIP TAX CREDIT FUND.**

3 **(3) THE DEPARTMENT SHALL ADMINISTER THE FUND.**

4 **(4) THE PURPOSE OF THE FUND IS TO OFFSET THE COSTS OF THE TAX**
5 **CREDIT AVAILABLE UNDER THIS SECTION.**

6 **(5) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
7 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

8 **(6) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
9 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

10 **(7) THE FUND CONSISTS OF:**

11 **(I) FEDERAL FUNDING PROVIDED UNDER:**

12 1. **THE FEDERAL CORONAVIRUS AID, RELIEF, AND**
13 **ECONOMIC SECURITY ACT;**

14 2. **THE FEDERAL CONSOLIDATED APPROPRIATIONS**
15 **ACT, 2021; OR**

16 3. **ANY OTHER FEDERAL COVID-19 PANDEMIC RELIEF**
17 **FUNDING;**

18 **(II) MONEY APPROPRIATED IN THE STATE BUDGET TO THE**
19 **FUND; AND**

20 **(III) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
21 **FOR THE BENEFIT OF THE FUND.**

22 **(8) THE MONEY IN THE FUND SHALL BE INVESTED AND REINVESTED**
23 **BY THE STATE TREASURER, AND INTEREST AND EARNINGS SHALL BE CREDITED TO**
24 **THE GENERAL FUND OF THE STATE.**

25 **(9) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH,**
26 **MONEY CREDITED OR APPROPRIATED TO THE FUND SHALL REMAIN IN THE FUND.**

27 **(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR**
28 **QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH**

1 CREDIT CERTIFICATE ISSUED DURING THE QUARTER.

2 **2. ON NOTIFICATION THAT A CREDIT CERTIFICATE HAS**
3 **BEEN ISSUED BY THE DEPARTMENT, THE COMPTROLLER SHALL TRANSFER AN**
4 **AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE TAX CREDIT CERTIFICATE**
5 **FROM THE FUND TO THE GENERAL FUND OF THE STATE.**

6 **(E) ON OR BEFORE JANUARY 31 EACH TAXABLE YEAR, THE DEPARTMENT**
7 **SHALL:**

8 **(1) REPORT TO THE COMPTROLLER ON THE TAX CREDIT**
9 **CERTIFICATES ISSUED UNDER THIS SECTION DURING THE PRIOR TAXABLE YEAR;**
10 **AND**

11 **(2) REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §**
12 **2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE UTILIZATION OF THE**
13 **CREDIT ESTABLISHED UNDER THIS SECTION.**

14 **(F) THE DEPARTMENT, IN CONSULTATION WITH THE GOVERNOR'S**
15 **WORKFORCE DEVELOPMENT BOARD, SHALL ADOPT REGULATIONS TO CARRY OUT**
16 **THE PROVISIONS OF THIS SECTION, INCLUDING THE CRITERIA AND PROCEDURES**
17 **FOR APPLICATION FOR, APPROVAL OF, AND MONITORING ELIGIBILITY FOR THE TAX**
18 **CREDIT AUTHORIZED UNDER THIS SECTION.**

19 SECTION 3. AND BE IT FURTHER ENACTED, That:

20 (a) The Maryland Department of Health shall work with the Division of
21 Workforce Development and Adult Learning in the Maryland Department of Labor to
22 convene a stakeholder workgroup to:

23 (1) study expanding the State apprenticeship programs to the health care
24 workforce; and

25 (2) make recommendations on:

26 (i) health care fields that could be best served by introducing a
27 health care apprenticeship program, including health-related fields that do not require
28 licensure or certification under the Health Occupations Article;

29 (ii) options to provide incentives to experienced health care
30 practitioners to work with health care apprentices;

31 (iii) safeguards needed to ensure the safety of the public when
32 receiving health care services from health care apprentices; and

(iv) funding needed to support a health care apprenticeship program.

(b) On or before December 1, 2022, the Maryland Department of Health shall report the findings and recommendations of the workgroup to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1257 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That the State Board of Nursing shall adopt the regulations required under § 8–6A–05(b)(2) of the Health Occupations Article, as enacted under Section 1 of this Act, on or before December 31, 2022.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2022. Section 2 of this Act shall remain effective for a period of 3 years and, at the end of May 31, 2025, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.