

SENATE BILL 999

J2
SB 370/23 – FIN

4lr2458
CF HB 1125

By: **Senator Beidle**

Introduced and read first time: February 2, 2024

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 29, 2024

CHAPTER _____

1 AN ACT concerning

2 **Certified Nursing Assistants – Licensing Requirements and Administrative**
3 **Updates**

4 FOR the purpose of exempting an individual who practices as a certain nursing assistant
5 for less than a certain number of months under federal regulations from the State's
6 certification requirement; altering the designation of, and licensure requirements
7 for, certified nursing assistants and geriatric nursing assistants; requiring an
8 applicant for certification as a certified nursing assistant to complete a nursing
9 assistant competency evaluation; authorizing an approved acute care nursing
10 assistant training program to request a waiver of certain federal requirements; and
11 generally relating to the licensing of certified nursing assistants.

12 BY repealing and reenacting, with amendments,
13 Article – Health – General
14 Section 19–1410(b)(2)(vi), 19–1410.2, and 24–1901(e)
15 Annotated Code of Maryland
16 (2023 Replacement Volume)

17 BY repealing and reenacting, without amendments,
18 Article – Health – General
19 Section 24–1901(a)
20 Annotated Code of Maryland
21 (2023 Replacement Volume)

22 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Health Occupations

Section 8–6A–01, 8–6A–02(b) and (c), 8–6A–05, 8–6A–07(b) and (c), 8–6A–08(c) and (n), 8–6A–14, 8–701(c), and 8–703(a)(6) and (7)

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 8–6A–02(a) and 8–6A–07(a)

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY repealing

Article – Health Occupations

Section 8–703(a)(5)

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Health – General

19–1410.

(b) (2) Each nursing home shall establish a quality assurance committee and shall include at least the following members:

(vi) A [geriatric] **CERTIFIED** nursing [assistant] **ASSISTANT–I**.

19–1410.2.

(a) In this section, “workplace safety” means the prevention of any physical assault or threatening behavior against an employee in a nursing home.

(b) This section applies to nursing homes that are licensed for 45 beds or more.

(c) Each nursing home shall assign to an appropriate committee the task of:

(1) Conducting an annual assessment of workplace safety issues; and

(2) Making recommendations to the nursing home for reducing workplace injuries.

(d) In conducting an annual assessment of workplace safety issues, the committee assigned to conduct the assessment under subsection (c)(1) of this section shall consult with

[geriatric] **CERTIFIED** nursing assistants and other employees of the nursing home who are involved in assisting residents with activities of daily living.

24–1901.

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

(e) “Nursing support staff” includes:

(1) A certified medication technician, as defined in [§ 8–6A–01(j)] **§ 8–6A–01** of the Health Occupations Article;

(2) A certified medicine aide, as defined in [§ 8–6A–01(k)] **§ 8–6A–01** of the Health Occupations Article; **AND**

(3) A certified nursing assistant, as defined in [§ 8–6A–01(l)] **§ 8–6A–01** of the Health Occupations Article[; and

(4) A geriatric nursing assistant, as defined in § 8–6A–01(o) of the Health Occupations Article].

Article – Health Occupations

8–6A–01.

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

(b) “Applicant” means, unless the context requires otherwise:

(1) An individual applying for an initial certificate by examination or endorsement;

(2) A certificate holder applying for renewal of a certificate; or

(3) An individual applying for reinstatement of a certificate in accordance with § 8–6A–10 of this subtitle.

(C) “APPROVED ACUTE CARE NURSING ASSISTANT TRAINING PROGRAM” MEANS A COURSE OF TRAINING THAT MEETS THE ACUTE CARE NURSING ASSISTANT CURRICULUM APPROVED BY THE BOARD.

[(c)] (D) (1) “Approved dialysis technician training program” means a course of training approved by the Board that:

(i) Prepares the applicant for national certification;

(ii) Meets the requirements of 42 C.F.R. § 494.140(e)(3); and

(iii) Meets the requirements set by the Board in regulation.

(2) “Approved dialysis technician training program” includes the courses required for national certification as:

(i) A Certified Clinical Hemodialysis Technician by the Nephrology Nursing Certification Commission;

(ii) A Clinical Nephrology Technician by the National Nephrology Certification Organization; or

(iii) A Certified Hemodialysis Technician by the Board of Nephrology Examiners Nursing Technology.

[(d)] (E) “Approved medication technician training program” means a course of training approved by the Board that meets the basic medication technician core curriculum and the medication technician content training specific to the setting in which the medication technician will work.

[(e)] (F) “Approved nursing assistant training program” means a course of training that [meets]:

(1) MEETS the [basic nursing assistant curriculum prescribed and] REQUIREMENTS UNDER FEDERAL AND STATE LAW; AND

(2) IS approved by the Board.

[(f)] (G) “Board” means the State Board of Nursing.

[(g)] (H) “Certificate” means a certificate issued by the Board to practice as a certified nursing assistant, a certified dialysis technician, or a certified medication technician in the State.

[(h)] (I) “Certificate holder” means a certified nursing assistant, dialysis technician, or medication technician who has:

(1) An active certificate;

(2) An inactive certificate;

(3) A temporary certificate;

(4) An expired temporary certificate;

- (5) An expired certificate;
- (6) A lapsed certificate;
- (7) A suspended certificate; or
- (8) A certificate subject to a reprimand, probation, or suspension.

[(i)] (J) “Certified dialysis technician” means an individual who:

- (1) Has completed a Board–approved dialysis technician program; and
- (2) Is certified by the Board as a dialysis technician.

[(j)] (K) “Certified medication technician” means an individual who:

- (1) Has completed a Board–approved medication technician training program;
- (2) Is certified by the Board as a medication technician; and
- (3) Subject to regulations adopted by the Board, routinely performs:
 - (i) Nursing tasks related to the administration of medication, delegated by a registered nurse, licensed practical nurse, or advanced practice nurse; or
 - (ii) Technical tasks related to the administration of medication delegated by a licensed certified midwife.

[(k)] (L) “Certified medicine aide” means a certified nursing assistant who **[has]:**

- (1) HAS** completed a Board–approved course in medication administration; **AND**
- (2) IS CERTIFIED AS A MEDICINE AIDE BY THE BOARD.**

[(l)] (M) **(1)** “Certified nursing assistant”**[:**

- (1) Means] MEANS** an individual regardless of title who, for compensation and subject to regulations adopted by the Board, routinely performs:
 - (i) Nursing tasks delegated by a registered nurse, licensed practical nurse, or advanced practice registered nurse; or
 - (ii) Technical tasks delegated by a licensed certified midwife**[: and].**

(2) [Does] “CERTIFIED NURSING ASSISTANT” DOES not include a certified dialysis technician or a certified medication technician.

(N) (1) “CERTIFIED NURSING ASSISTANT–I” MEANS A CERTIFIED NURSING ASSISTANT WHO MEETS THE REQUIREMENTS SET BY THE BOARD AND UNDER FEDERAL LAW TO PRACTICE IN ANY SETTING.

(2) “CERTIFIED NURSING ASSISTANT–I” INCLUDES:

(I) A CERTIFIED NURSING ASSISTANT WHO WAS CERTIFIED AS A GERIATRIC NURSING ASSISTANT ON ~~MAY 31, 2024~~ SEPTEMBER 30, 2025;

(II) A CERTIFIED MEDICINE AIDE; AND

(III) A CERTIFIED NURSING ASSISTANT WHO IS APPROVED UNDER § 8–6A–05(C)(5) OF THIS SUBTITLE.

(O) “CERTIFIED NURSING ASSISTANT–II” MEANS A CERTIFIED NURSING ASSISTANT:

(1) WHO, ON ~~MAY 31, 2024~~ SEPTEMBER 30, 2025, WAS CERTIFIED AS A NURSING ASSISTANT AND WAS NOT AUTHORIZED TO PRACTICE IN A NURSING FACILITY OR SKILLED NURSING FACILITY; AND

(2) WHOSE AUTHORITY TO PRACTICE IN A NURSING FACILITY OR SKILLED NURSING FACILITY CONTINUES TO BE RESTRICTED BECAUSE THE CERTIFIED NURSING ASSISTANT HAS NOT BEEN APPROVED AS A CERTIFIED NURSING ASSISTANT–I UNDER § 8–6A–05(C)(5) OF THIS SUBTITLE.

[(m)] (P) “Department” means the Maryland Department of Health.

[(n)] (Q) “Expired certificate” means a certificate that was not renewed before the expiration date of the certificate as established under § 8–6A–08(a) of this title.

[(o)] “Geriatric nursing assistant” means a certified nursing assistant who has successfully completed the requirements for geriatric nursing assistant mandated under federal law and the regulations of the Board.]

[(p)] (R) “Lapsed certificate” means a certificate that was not renewed because a certificate holder failed to renew the certificate or otherwise did not meet the renewal requirements of this subtitle.

(S) “NURSING ASSISTANT COMPETENCY EVALUATION” MEANS AN EXAMINATION APPROVED BY THE BOARD THAT:

(1) DETERMINES THE COMPETENCY OF THE INDIVIDUAL TO PRACTICE AS A CERTIFIED NURSING ASSISTANT-I; AND

(2) MEETS THE REQUIREMENTS UNDER FEDERAL LAW.

8-6A-02.

(a) Subject to subsection (f) of this section and except as otherwise provided in this subtitle, an individual shall be certified by the Board to practice as a nursing assistant, dialysis technician, or medication technician before the individual may practice as a nursing assistant, dialysis technician, or medication technician in the State.

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

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

(2) Provides for the gratuitous care of friends, domestic partners, or family members;

(3) Performs nursing assistant tasks while a nursing student enrolled in an accredited nursing program and practicing under the direct supervision of qualified faculty or preceptors;

(4) Performs nursing assistant tasks as a student while:

(i) 1. Enrolled in a Board-approved nursing assistant training program; ~~and~~ OR

2. ENROLLED IN AN ACUTE CARE NURSING ASSISTANT TRAINING PROGRAM; AND

(ii) Practicing under the direct supervision of qualified faculty or preceptors; ~~ENROLLED IN AN ACCREDITED NURSING PROGRAM AFTER THE SUCCESSFUL COMPLETION OF A PORTION OF AN APPROVED NURSING EDUCATION PROGRAM THAT THE BOARD DETERMINES MEETS THE REQUIREMENTS OF AN APPROVED NURSING ASSISTANT TRAINING PROGRAM OR MEDICATION ADMINISTRATION COURSE;~~

(5) PERFORMS NURSING ASSISTANT TASKS AS A STUDENT WHILE ENROLLED IN AN ACCREDITED NURSING PROGRAM AFTER THE SUCCESSFUL COMPLETION OF THE PORTION OF THE APPROVED NURSING EDUCATION PROGRAM THAT THE BOARD DETERMINES MEETS THE REQUIREMENTS OF AN APPROVED NURSING ASSISTANT TRAINING PROGRAM OR MEDICATION ADMINISTRATION COURSE;

~~(5)~~ **(6)** Performs medication technician tasks as a student while practicing under the direct supervision of qualified faculty;

~~(6)~~ **(7)** Performs dialysis technician tasks as a student while under the direct supervision of qualified faculty; [or]

~~(7)~~ **(8)** Works as a principal or school secretary, does not administer medication as a routine part of the position, and has completed training by the delegating nurse for the occasion where the individual may need to administer medication in the absence of the nurse or medication technician; **OR**

~~(8)~~ **(9) PRACTICES AS A CERTIFIED NURSING ASSISTANT–I FOR LESS THAN 4 MONTHS IN ACCORDANCE WITH 42 C.F.R. § 483.35(D).**

(c) [Nothing in this section shall] **THIS SECTION DOES NOT** preclude a registered nurse or licensed practical nurse from delegating a nursing or other technical task to an unlicensed individual ~~[provided that]~~ **IF** acceptance of delegated nursing or other technical tasks does not become a routine part of the unlicensed individual's job duties~~].~~

8–6A–05.

(a) The Board, ~~IN COLLABORATION~~ **AFTER CONSULTATION WITH RELEVANT STAKEHOLDERS,** shall adopt regulations establishing:

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

(2) Qualifications for [each category of] certified nursing [assistant] **ASSISTANTS, INCLUDING CERTIFIED MEDICINE AIDES;**

[(3)] (2) Qualifications for certified dialysis technicians;

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

[(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; and

[(6)] (5) Standards for the online provision of didactic instruction in a nursing assistant training program that meets the requirements established by the Board.

(b) (1) To qualify for certification as a nursing assistant, a [nursing assistant in a specific category] **CERTIFIED MEDICINE AIDE**, a dialysis technician, or a medication technician, an applicant shall meet the requirements set by the Board.

(2) Requirements set by the Board under paragraph (1) of this subsection regarding qualifications for certification as a [geriatric nursing assistant] **CERTIFIED NURSING ASSISTANT–I** shall include provisions to allow an individual who has been practicing as a temporary nursing assistant, in accordance with the waiver of the requirements of 42 C.F.R. § 483.35(d) issued by the Centers for Medicare and Medicaid Services on March 6, 2020, to apply on-the-job experience as a nursing assistant toward the total number of training hours required for certification as a [geriatric nursing assistant] **CERTIFIED NURSING ASSISTANT–I**.

(c) (1) An applicant for a certificate shall:

(i) Submit an application to the Board on the form that the Board requires;

(ii) Provide evidence, as required by the Board, of successful completion of:

1. An approved nursing assistant training program **OR APPROVED ACUTE CARE NURSING ASSISTANT TRAINING PROGRAM**;

2. An approved dialysis technician training program;

3. An approved course in medication administration; or

4. A portion of an approved nursing education program that the Board determines meets the requirements of [a] **AN APPROVED** nursing assistant training program or medication administration course;

(iii) Pay to the Board an application fee set by the Board;

(iv) Be of good moral character;

(v) Be at least 16 years old to apply for certification as a nursing assistant;

(vi) Be at least 18 years old to apply for certification as a dialysis technician; and

(vii) Be at least 18 years old to apply for certification as a medication technician.

(2) Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant or dialysis technician shall submit to the Board:

(i) A criminal history records check in accordance with § 8–303 of this title and § 8–6A–08(k) of this subtitle; and

(ii) On the form required by the Board, written, verified evidence that the requirement of item (i) of this paragraph is being met or has been met.

[(3) An applicant for certification as a certified medicine aide, in addition to the requirements under paragraph (1) of this subsection, shall submit an additional application to that effect to the Board on the form that the Board requires.]

(3) (I) AN APPLICANT FOR CERTIFICATION AS A CERTIFIED NURSING ASSISTANT SHALL SUBMIT TO THE BOARD SATISFACTORY EVIDENCE OF PASSING A NURSING ASSISTANT COMPETENCY EVALUATION.

(II) AN APPLICANT WHO HAS COMPLETED AN APPROVED ACUTE CARE NURSING ASSISTANT TRAINING PROGRAM SHALL BE DEEMED TO HAVE FULFILLED THE CLASSROOM AND CLINICAL STANDARDS TO SIT FOR THE NURSING ASSISTANT COMPETENCY EVALUATION.

(4) An applicant for a certificate may not:

(i) Have committed any act or omission that would be grounds for discipline or denial of certification under this subtitle; and

(ii) Have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant or medication technician in the state or territory.

(5) BEGINNING ~~JUNE 1, 2024~~ OCTOBER 1, 2025, A CERTIFIED NURSING ASSISTANT–II MAY BE CERTIFIED AS A CERTIFIED NURSING ASSISTANT–I BY:

(I) SUBMITTING AN APPLICATION TO THE BOARD ON THE FORM THAT THE BOARD REQUIRES; AND

(II) PROVIDING SATISFACTORY EVIDENCE OF:

1. SUCCESSFUL COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING PROGRAM; AND

1 **2. PASSING A NURSING ASSISTANT COMPETENCY**
2 **EVALUATION.**

3 8-6A-07.

4 (a) Subject to subsection (f) of this section, the Board shall certify any applicant
5 who meets the requirements of this subtitle.

6 (b) (1) The Board shall:

7 (i) Issue each new certified nursing assistant, dialysis technician, or
8 medication technician a certificate number and ~~registration~~ certificate that indicates the
9 initial certificate was issued by the Board; and

10 (ii) Electronically record each certificate in the Board's database and
11 on the Board's website.

12 (2) Each certificate **AVAILABLE THROUGH THE BOARD'S WEBSITE** shall
13 include:

14 (i) Any expiration date;

15 (ii) The type of certificate; and

16 (iii) Any specific category of nursing assistant.

17 (c) An individual who has met the requirements for a certified nursing assistant
18 **ON OR AFTER ~~JUNE 1, 2024~~ OCTOBER 1, 2025**, shall be certified with the title of
19 "certified nursing [assistant"] **ASSISTANT-I**".

20 8-6A-08.

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

23 (1) Otherwise is entitled to be certified;

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

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

27 (4) Provides satisfactory evidence of [completion of]:

(i) **COMPLETION OF** 16 hours of active **CERTIFIED** nursing assistant practice within the 2-year period immediately preceding the date of expiration; or

(ii) If the **CERTIFIED** nursing assistant did not complete 16 hours of active practice as required under item (i) of this item, [an approved nursing assistant training program or an approved nursing assistant refresher training program] as required in regulations adopted by the Board in accordance with subsection (m) of this section:

1. SUCCESSFUL COMPLETION OF AN APPROVED NURSING ASSISTANT TRAINING PROGRAM; OR

2. PASSING A NURSING ASSISTANT COMPETENCY EVALUATION.

(n) (1) The Board, ~~IN~~ AFTER **CONSULTATION WITH RELEVANT STAKEHOLDERS**, shall adopt regulations to specify[:

(i) The] **THE** circumstances under which a nursing assistant, as a condition of renewal, is required to complete [either] an approved nursing assistant training program or [an approved nursing assistant refresher training program; and

(ii) The number of didactic instruction hours and clinical training hours the nursing assistant training program or nursing assistant refresher training program must have to be approved] **PASS A NURSING ASSISTANT COMPETENCY EXAMINATION.**

(2) Regulations adopted under paragraph (1) of this subsection must be consistent with federal law.

8-6A-14.

(a) The Board, in conjunction with the Maryland Higher Education Commission, shall approve each nursing assistant training program prior to its implementation and provide periodic survey of all programs in the State.

(b) The Board in conjunction with the Department, Maryland Higher Education Commission, and the affected industry shall develop regulations for nursing assistant training programs.

(c) The curriculum content for an approved nursing assistant training program shall include:

(1) Content [consistent with State licensing requirements in the Health – General Article and] **THAT MEETS** all federal requirements **SET FORTH IN 42 C.F.R. § 483.152; AND**

(2) All basic skills required of a nursing assistant regardless of the setting of the practice[; and

(3) Any skills required for certification in a specific category].

(d) Any additional clinical practice skills specific to a setting of practice shall be taught in that setting as a part of the employment training process in that setting.

(e) The Board may make survey visits from time to time, without prior notice, to all certified nursing assistant training programs.

~~[(f) The provisions of this section may not be interpreted to impose additional requirements for geriatric nursing assistants~~ **A CERTIFIED NURSING ASSISTANT–I** beyond those required under federal law.

(g) **(1)** The Board shall approve the use of a nursing assistant training site by a nursing assistant training program within 45 days after the nursing assistant training program applies for approval if the nursing assistant training program had previously been approved to use the training site by the Board.]

(2) A NURSING ASSISTANT TRAINING PROGRAM UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY CONTINUE TO OPERATE DURING THE APPROVAL PROCESS.

~~**(F) AN APPROVED ACUTE CARE NURSING ASSISTANT TRAINING PROGRAM MAY REQUEST A WAIVER OF THE FEDERAL REQUIREMENT UNDER 42 C.F.R. § 483.152(C)(5) THAT INSTRUCTORS HAVE A MINIMUM OF 1 YEAR OF EXPERIENCE IN THE PROVISION OF LONG TERM CARE FACILITY SERVICES.**~~

8–701.

(c) **[(1)]** Except as otherwise provided in this title, an individual may not practice, attempt to practice, or offer to practice as a certified nursing assistant unless certified by the Board as a certified nursing assistant.

[(2) Except as otherwise provided in this title, an individual may not practice, attempt to practice, or offer to practice as a certified nursing assistant in a specific category unless certified by the Board as a certified nursing assistant in that category.]

8–703.

(a) [(5) Unless authorized to provide patient care in a specific category of certified nursing assistant, an individual may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is authorized to provide care as a certified nursing assistant in a specific category in this State.]

[(6)] (5) Unless authorized to administer medication as a medication technician under this title, an individual may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is authorized to administer medication as a certified medication technician in this State.

[(7)] (6) Unless authorized to administer medication as a medicine aide under this title, an individual may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is authorized to administer medication as a certified medicine aide in this State.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before ~~October 1, 2024~~ June 1, 2025, the State Board of Nursing shall:

(1) notify individuals who possess a nursing assistant certification of the licensing requirements established under Section 1 of this Act; and

(2) in consultation with the Office of Health Care Quality, update regulations to conform with Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect ~~June~~ October 1, 2024 ~~2025~~.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.