

SENATE BILL 407

J1, J2

EMERGENCY BILL

2lr0152
CF HB 407

By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Corderman, Eckardt, Edwards, Elfreth, Gallion, Hershey, Hough, Jennings, Ready, Salling, Simonaire, and West**

Introduced and read first time: January 24, 2022

Assigned to: Finance and Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Health Care Staffing Shortage Emergency – Declaration**
3 **and Licensing and Practice Requirements**
4 **(Health Care Heroes Act of 2022)**

5 FOR the purpose of authorizing the Secretary of Health to declare a health care staffing
6 shortage emergency in the State; requiring each health occupations board to
7 establish processes for the issuance of initial licenses, temporary licenses, and
8 temporary practice letters on an expedited basis during a health care staffing
9 shortage emergency; providing that certain health care practitioners qualify for
10 initial or temporary health occupation licenses or temporary practice letters or to be
11 practicing a certain health occupation at a health care facility without a license or
12 temporary practice letter under certain circumstances; and generally relating to a
13 health care staffing shortage emergency and health occupational licensing and
14 practice.

15 BY adding to
16 Article – Health – General
17 Section 2–109
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2021 Supplement)

20 BY adding to
21 Article – Health Occupations
22 Section 1–227
23 Annotated Code of Maryland
24 (2021 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

2–109.

(A) IN THIS SECTION, “HEALTH CARE FACILITY” MEANS:

(1) A HOSPITAL AS DEFINED IN § 19–301 OF THIS ARTICLE;

(2) A HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19–701(G) OF THIS ARTICLE;

(3) A FREESTANDING AMBULATORY CARE FACILITY AS DEFINED IN § 19–3B–01 OF THIS ARTICLE;

(4) AN ASSISTED LIVING FACILITY AS DEFINED IN § 19–1801 OF THIS ARTICLE;

(5) A LABORATORY AS DEFINED IN § 17–201 OF THIS ARTICLE;

(6) A HOME HEALTH AGENCY AS DEFINED IN § 19–401 OF THIS ARTICLE;

(7) A RESIDENTIAL TREATMENT CENTER AS DEFINED IN § 19–301 OF THIS ARTICLE;

(8) A COMPREHENSIVE REHABILITATION FACILITY AS DEFINED IN § 19–1201 OF THIS ARTICLE;

(9) A FORENSIC LABORATORY AS DEFINED IN § 17–2A–01 OF THIS ARTICLE;

(10) A SUBSTANCE–RELATED DISORDER PROGRAM AS DEFINED IN § 7.5–101 OF THIS ARTICLE;

(11) A MENTAL HEALTH PROGRAM AS DEFINED IN § 7.5–101 OF THIS ARTICLE;

(12) A NURSING HOME AS DEFINED IN § 19–401 OF THIS ARTICLE;

(13) A PHARMACY; OR

(14) ANY OTHER FACILITY AS DETERMINED BY THE SECRETARY.

1 **(B) IF THE SECRETARY FINDS THAT AN EMERGENCY HAS DEVELOPED**
2 **REGARDING THE ABILITY OF HEALTH CARE FACILITIES IN THE STATE TO**
3 **APPROPRIATELY RESPOND TO THE CLINICAL NEEDS OF PATIENTS BECAUSE OF**
4 **INSUFFICIENT STAFF AND THAT THE STAFFING SHORTAGE ENDANGERS THE PUBLIC**
5 **HEALTH IN THE STATE, THE SECRETARY MAY DECLARE A HEALTH CARE STAFFING**
6 **SHORTAGE EMERGENCY.**

7 **(C) THE SECRETARY SHALL ESTABLISH THE CRITERIA FOR DETERMINING**
8 **THE EMERGENCY CONDITIONS THAT WOULD REQUIRE THE DECLARATION OF A**
9 **HEALTH CARE STAFFING SHORTAGE EMERGENCY.**

10 **(D) THE CRITERIA ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION**
11 **SHALL INCLUDE CONSIDERATION OF THE FOLLOWING FACTORS:**

12 **(1) STAFFED BED OCCUPANCY RATE;**

13 **(2) STAFF VACANCY RATE FOR THE SPECIFIC CATEGORY OF HEALTH**
14 **CARE PRACTITIONER INCLUDED IN THE STAFFING SHORTAGE;**

15 **(3) AVERAGE EMERGENCY DEPARTMENT WAIT TIMES;**

16 **(4) DURATION OF VACANCY RATE FOR THE SPECIFIC CATEGORY OF**
17 **HEALTH CARE PRACTITIONER INCLUDED IN THE STAFFING SHORTAGE;**

18 **(5) AVERAGE STAFF VACANCY RATE FOR THE IMMEDIATELY**
19 **PRECEDING 12 MONTHS FOR THE SPECIFIC CATEGORY OF HEALTH CARE**
20 **PRACTITIONER INCLUDED IN THE STAFFING SHORTAGE; AND**

21 **(6) ANY OTHER FACTOR DETERMINED RELEVANT BY THE**
22 **SECRETARY.**

23 **(E) ON THE DECLARATION OF A HEALTH CARE STAFFING SHORTAGE**
24 **EMERGENCY, THE SECRETARY MAY DIRECT THE HEALTH OCCUPATIONS BOARDS**
25 **THAT REGULATE THE CATEGORIES OF HEALTH CARE PRACTITIONERS INCLUDED IN**
26 **THE IDENTIFIED STAFFING SHORTAGE TO IMPLEMENT THE EXPEDITED LICENSING**
27 **PROCESSES UNDER § 1-227 OF THE HEALTH OCCUPATIONS ARTICLE.**

28 **(F) A DECLARED HEALTH CARE STAFFING SHORTAGE EMERGENCY MAY NOT**
29 **EXCEED 180 DAYS.**

30 **(G) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
31 **SECTION.**

Article – Health Occupations

1–227.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “HEALTH OCCUPATION LICENSE” MEANS A LICENSE OR CERTIFICATE ISSUED BY A HEALTH OCCUPATIONS BOARD TO PRACTICE A HEALTH OCCUPATION IN THE STATE.

(3) “INACTIVE LICENSEE” MEANS A LICENSEE WHO HOLDS A HEALTH OCCUPATION LICENSE ISSUED BY A HEALTH OCCUPATIONS BOARD THAT HAS BEEN PLACED ON INACTIVE STATUS WITHIN THE PAST 8 YEARS.

(4) “NURSING GRADUATE” MEANS AN INDIVIDUAL WHO HAS SATISFACTORILY COMPLETED ALL THE REQUIREMENTS FOR A DIPLOMA OR DEGREE FROM:

(I) A REGISTERED NURSING EDUCATION PROGRAM APPROVED BY THE STATE BOARD OF NURSING; OR

(II) AN OUT-OF-STATE NURSING EDUCATION PROGRAM DETERMINED TO BE EQUIVALENT TO A PROGRAM UNDER ITEM (I) OF THIS PARAGRAPH BY THE STATE BOARD OF NURSING.

(5) “RETIRED HEALTH CARE PRACTITIONER” MEANS AN INDIVIDUAL WHO HELD A VALID HEALTH OCCUPATION LICENSE ISSUED BY A HEALTH OCCUPATIONS BOARD WITHIN THE PAST 8 YEARS THAT IS NOT ACTIVE AND HAS NOT BEEN PLACED ON INACTIVE STATUS.

(6) “TEMPORARY HEALTH OCCUPATION LICENSE” AND “TEMPORARY PRACTICE LETTER” MEANS A HEALTH OCCUPATION LICENSE OR PRACTICE LETTER ISSUED BY A HEALTH OCCUPATIONS BOARD AUTHORIZING THE HOLDER TO PRACTICE A SPECIFIED HEALTH OCCUPATION IN THE STATE FOR A TEMPORARY PERIOD OF TIME.

(B) EACH HEALTH OCCUPATIONS BOARD SHALL ESTABLISH PROCESSES FOR THE ISSUANCE OF AN INITIAL HEALTH OCCUPATION LICENSE, A TEMPORARY HEALTH OCCUPATION LICENSE, AND A TEMPORARY PRACTICE LETTER ON AN EXPEDITED BASIS DURING A HEALTH CARE STAFFING SHORTAGE EMERGENCY DECLARED BY THE SECRETARY UNDER § 2–109 OF THE HEALTH – GENERAL ARTICLE.

1 **(C) THE FOLLOWING INDIVIDUALS QUALIFY FOR A HEALTH OCCUPATION**
2 **LICENSE ISSUED ON AN EXPEDITED BASIS UNDER SUBSECTION (B) OF THIS SECTION**
3 **DURING A HEALTH CARE STAFFING SHORTAGE EMERGENCY:**

4 **(1) AN APPLICANT FOR AN INITIAL HEALTH OCCUPATION LICENSE;**

5 **(2) AN INDIVIDUAL WHO HOLDS A VALID, UNEXPIRED HEALTH**
6 **OCCUPATION LICENSE ISSUED IN ANOTHER STATE;**

7 **(3) AN INACTIVE LICENSEE;**

8 **(4) A RETIRED HEALTH CARE PRACTITIONER; AND**

9 **(5) A NURSING GRADUATE.**

10 **(D) (1) TO APPLY FOR AN INITIAL HEALTH OCCUPATION LICENSE, A**
11 **TEMPORARY HEALTH OCCUPATION LICENSE, OR A TEMPORARY PRACTICE LETTER**
12 **UNDER SUBSECTION (B) OF THIS SECTION, AN APPLICANT SHALL SUBMIT TO THE**
13 **APPROPRIATE HEALTH OCCUPATIONS BOARD:**

14 **(I) AN APPLICATION;**

15 **(II) ANY DOCUMENTATION REQUIRED BY THE BOARD;**

16 **(III) IF A CRIMINAL HISTORY RECORDS CHECK IS REQUIRED BY**
17 **THE BOARD FOR LICENSURE, PROOF OF APPLICATION FOR A CRIMINAL HISTORY**
18 **RECORDS CHECK;**

19 **(IV) ANY APPLICATION FEE; AND**

20 **(V) ANY OTHER INFORMATION REQUIRED BY THE BOARD.**

21 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A**
22 **HEALTH OCCUPATIONS BOARD SHALL PROCESS AND ISSUE A LICENSE OR**
23 **TEMPORARY PRACTICE LETTER TO AN APPLICANT WHO MEETS THE REQUIREMENTS**
24 **OF THIS SUBSECTION USING THE EXPEDITED PROCESS ESTABLISHED UNDER**
25 **SUBSECTION (B) OF THIS SECTION.**

26 **(3) A HEALTH OCCUPATIONS BOARD MAY NOT ISSUE A LICENSE OR**
27 **TEMPORARY PRACTICE LETTER UNDER THIS SECTION IF THE ISSUANCE OF THE**
28 **LICENSE OR TEMPORARY PRACTICE LETTER WOULD POSE A RISK TO PUBLIC**
29 **HEALTH, WELFARE, OR SAFETY.**

(E) (1) A TEMPORARY HEALTH OCCUPATION LICENSE OR TEMPORARY PRACTICE LETTER ISSUED UNDER THIS SECTION AUTHORIZES THE HEALTH CARE PRACTITIONER TO PRACTICE THE SPECIFIED HEALTH OCCUPATION FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE HEALTH OCCUPATIONS BOARD AND SUBJECT TO THE DURATION OF THE HEALTH CARE STAFFING SHORTAGE EMERGENCY.

(2) A HEALTH OCCUPATION LICENSE ISSUED UNDER THIS SECTION AUTHORIZES THE LICENSEE TO PRACTICE THE SPECIFIED HEALTH OCCUPATION FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE HEALTH OCCUPATIONS BOARD, WHILE THE LICENSEE COMPLETES ADDITIONAL REQUIREMENTS FOR LICENSURE IN THE STATE, IF REQUIRED.

(F) (1) DURING A HEALTH CARE STAFFING SHORTAGE EMERGENCY, A HEALTH CARE PRACTITIONER MAY PRACTICE THE SPECIFIED HEALTH OCCUPATION THAT IS INCLUDED IN THE STAFFING SHORTAGE IN A HEALTH CARE FACILITY IN THE STATE WITHOUT FIRST OBTAINING A LICENSE OR PRACTICE LETTER FROM THE RELEVANT HEALTH OCCUPATIONS BOARD ONLY IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION.

(2) A HEALTH CARE PRACTITIONER WHO HOLDS A VALID, UNEXPIRED HEALTH OCCUPATION LICENSE ISSUED IN ANOTHER STATE MAY PRACTICE THE SPECIFIED HEALTH OCCUPATION IN A HEALTH CARE FACILITY UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) DOING SO IS NECESSARY TO ALLOW THE HEALTH CARE FACILITY TO MEET REQUIRED STAFFING RATIOS OR OTHERWISE ENSURE THE CONTINUED AND SAFE DELIVERY OF HEALTH CARE SERVICES TO PATIENTS IN THE FACILITY;

(II) THE HEALTH CARE PRACTITIONER REASONABLY BELIEVES A TEMPORARY HEALTH OCCUPATION LICENSE OR TEMPORARY PRACTICE LETTER COULD NOT BE OBTAINED IN SUFFICIENT TIME TO MEET THE IMMINENT NEEDS OF THE HEALTH CARE FACILITY; AND

(III) THE HEALTH CARE PRACTITIONER SUBMITS AN APPLICATION FOR A TEMPORARY HEALTH OCCUPATION LICENSE OR TEMPORARY PRACTICE LETTER WITHIN 10 DAYS OF THE DAY THE HEALTH CARE PRACTITIONER BEGINS WORKING AT A HEALTH CARE FACILITY.

(3) AN INACTIVE LICENSEE OR A RETIRED HEALTH CARE PRACTITIONER MAY PRACTICE A SPECIFIED HEALTH OCCUPATION IN A HEALTH CARE FACILITY UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

1 (I) QUALIFIED SUPERVISORY PERSONNEL AT THE HEALTH
2 CARE FACILITY REASONABLY CONCLUDE THAT THE INACTIVE LICENSEE OR
3 RETIRED HEALTH CARE PRACTITIONER CAN COMPETENTLY PRACTICE THE HEALTH
4 OCCUPATION;

5 (II) DOING SO IS NECESSARY TO ALLOW THE HEALTH CARE
6 FACILITY TO MEET REQUIRED STAFFING RATIOS OR OTHERWISE ENSURE THE
7 CONTINUED AND SAFE DELIVERY OF HEALTH CARE SERVICES TO PATIENTS IN THE
8 FACILITY;

9 (III) THE HEALTH CARE PRACTITIONER REASONABLY BELIEVES
10 THE INACTIVE LICENSE COULD NOT BE REACTIVATED OR A TEMPORARY HEALTH
11 OCCUPATION LICENSE OR TEMPORARY PRACTICE LETTER COULD NOT BE OBTAINED
12 IN SUFFICIENT TIME TO MEET THE IMMINENT NEEDS OF THE HEALTH CARE
13 FACILITY; AND

14 (IV) THE INACTIVE LICENSEE OR RETIRED HEALTH CARE
15 PRACTITIONER SUBMITS AN APPLICATION TO THE HEALTH OCCUPATIONS BOARD
16 WITHIN 10 DAYS OF THE DAY THE HEALTH CARE PRACTITIONER BEGINS WORKING
17 AT A HEALTH CARE FACILITY:

18 1. TO REACTIVATE AN INACTIVE LICENSE; OR

19 2. FOR A TEMPORARY HEALTH OCCUPATION LICENSE
20 OR TEMPORARY PRACTICE LETTER.

21 (4) A NURSING GRADUATE MAY PRACTICE REGISTERED NURSING, AS
22 DEFINED IN § 8-101(O) OF THIS ARTICLE, IN A HEALTH CARE FACILITY UNDER
23 PARAGRAPH (1) OF THIS SUBSECTION IF:

24 (I) DOING SO IS NECESSARY TO ALLOW THE HEALTH CARE
25 FACILITY TO MEET REQUIRED STAFFING RATIOS OR OTHERWISE ENSURE THE
26 CONTINUED AND SAFE DELIVERY OF HEALTH CARE SERVICES TO PATIENTS IN THE
27 FACILITY;

28 (II) QUALIFIED SUPERVISORY PERSONNEL AT THE HEALTH
29 CARE FACILITY:

30 1. REASONABLY CONCLUDE THAT THE NURSING
31 GRADUATE CAN COMPETENTLY PRACTICE REGISTERED NURSING; AND

1 **2. ACTIVELY SUPERVISE THE NURSING GRADUATE**
2 **WHILE PRACTICING REGISTERED NURSING AT THE HEALTH CARE FACILITY; AND**

3 **(III) THE NURSING GRADUATE SUBMITS AN APPLICATION TO**
4 **THE STATE BOARD OF NURSING WITHIN 10 DAYS OF THE DAY THE NURSING**
5 **GRADUATE BEGINS WORKING AT THE HEALTH CARE FACILITY.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
7 measure, is necessary for the immediate preservation of the public health or safety, has
8 been passed by a yea and nay vote supported by three-fifths of all the members elected to
9 each of the two Houses of the General Assembly, and shall take effect from the date it is
10 enacted.