

SENATE BILL 772

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CF HB 717

By: **Senator Lam**

Introduced and read first time: February 6, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing – Peer Advisory Committees, Scopes of Practice, and**
3 **Licensure Requirements**

4 FOR the purpose of authorizing the State Board of Nursing to appoint peer advisory
5 committees to provide advice related to midwifery; authorizing licensed nurses
6 certified as nurse–midwives and licensed certified midwives to personally prepare
7 and dispense a starter dosage of certain drugs under certain circumstances;
8 authorizing licensed nurses certified as nurse–midwives and licensed certified
9 midwives to delegate certain tasks to certified medication technicians and certified
10 nursing assistants under certain circumstances; altering the exceptions to the
11 certified midwifery licensure requirement and the qualifications required for a
12 license; requiring the Maryland Department of Health, in consultation with
13 stakeholders, to develop recommendations to expand access to birthing services in
14 birthing centers; and generally relating to health care practitioners licensed by the
15 State Board of Nursing.

16 BY repealing and reenacting, without amendments,
17 Article – Health Occupations
18 Section 8–6A–01(a) and 8–6D–01(a)
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Health Occupations
23 Section 8–503(a), 8–508(a) and (b), 8–601, 8–6A–01(j) and (l), 8–6A–02, 8–6D–01(h),
24 8–6D–02, 8–6D–03, and 12–102(a), (c)(2)(iv) and (v), (e), (f), and (g)
25 Annotated Code of Maryland
26 (2021 Replacement Volume and 2022 Supplement)

27 BY adding to
28 Article – Health Occupations

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 12–102(c)(2)(vi)
2 Annotated Code of Maryland
3 (2021 Replacement Volume and 2022 Supplement)

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

6 **Article – Health Occupations**

7 8–503.

8 (a) The Board may appoint peer advisory committees to provide the Board with
9 expert advice related to the practice of nursing by advance practice nurses **AND THE**
10 **PRACTICE OF MIDWIFERY BY LICENSED CERTIFIED MIDWIVES.**

11 8–508.

12 (a) (1) In this section the following words have the meanings indicated.

13 **(2) “MIDWIFE” MEANS A LICENSED NURSE CERTIFIED AS A**
14 **NURSE–MIDWIFE OR A LICENSED CERTIFIED MIDWIFE.**

15 **[(2)] (3)** “Nurse practitioner” means a registered nurse who is:

16 (i) Certified as a nurse practitioner; and

17 (ii) Authorized to prescribe drugs under regulations adopted by the
18 Board.

19 **[(3)] (3)** “Starter dosage” means an amount of drug sufficient to begin therapy:

20 (i) Of short duration of 72 hours or less; or

21 (ii) Prior to obtaining a larger quantity of the drug to complete
22 therapy.]

23 (4) “Personally prepare and dispense” means that a nurse practitioner:

24 (i) Is physically present on the premises where the prescription is
25 filled; and

26 (ii) Performs a final check of the prescription before it is provided to
27 the patient.

28 **(5) “STARTER DOSAGE” MEANS AN AMOUNT OF DRUG SUFFICIENT TO**
29 **BEGIN THERAPY:**

1 (I) OF SHORT DURATION OF 72 HOURS OR LESS; OR

2 (II) PRIOR TO OBTAINING A LARGER QUANTITY OF THE DRUG TO
3 COMPLETE THERAPY.

4 (b) A nurse practitioner OR MIDWIFE may personally prepare and dispense a
5 starter dosage of any drug the nurse practitioner OR MIDWIFE is authorized to prescribe
6 to a patient of the nurse practitioner OR MIDWIFE if:

7 (1) The starter dosage complies with the labeling requirements of § 12–505
8 of this article;

9 (2) No charge is made for the starter dosage; and

10 (3) The nurse practitioner OR MIDWIFE enters an appropriate record in
11 the patient’s medical record.

12 8–601.

13 In this subtitle:

14 (1) “Practice nurse midwifery” means the management and care of
15 essentially normal newborns and of essentially normal women antepartally, intrapartally
16 and postpartally.

17 (2) “Practice nurse midwifery” includes:

18 (i) Family planning and well woman reproductive care;

19 (ii) The prescribing of substances commonly used in the practice of
20 nurse midwifery;

21 (iii) The prescribing of controlled substances on Schedules II, III, IV,
22 and V commonly used in the practice of nurse midwifery; and

23 (iv) The dispensing of the substances prescribed in accordance with
24 the provisions of [subparagraphs] ITEMS (ii) and (iii) of this paragraph in the course of
25 treating a patient [at]:

26 1. [A] AT A medical facility or clinic that is operated on a
27 nonprofit basis;

28 2. [A] AT A health center that operates on a campus of an
29 institution of higher education; [or]

1 3. **[A] AT A** public health facility, a medical facility under
2 contract with a State or local health department, or a facility funded with public funds; **OR**

3 4. **WITH A STARTER DOSAGE OF A DRUG AS AUTHORIZED**
4 **UNDER § 8-508 OF THIS TITLE.**

5 8-6A-01.

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

7 (j) “Certified medication technician” means an individual who:

8 (1) Has completed a Board-approved medication technician training
9 program; **[and]**

10 (2) Is certified by the Board as a medication technician; **AND**

11 **(3) PERFORMS MEDICATION TECHNICIAN TASKS DELEGATED BY A**
12 **REGISTERED NURSE, LICENSED PRACTICAL NURSE, OR LICENSED CERTIFIED**
13 **MIDWIFE.**

14 (l) “Certified nursing assistant”:

15 (1) Means an individual regardless of title who, **FOR COMPENSATION,**
16 routinely performs **[nursing]:**

17 **(I) NURSING** tasks delegated by a registered nurse or licensed
18 practical nurse **[for compensation]; OR**

19 **(II) TECHNICAL TASKS DELEGATED BY A LICENSED CERTIFIED**
20 **MIDWIFE; and**

21 (2) Does not include a certified dialysis technician or a certified medication
22 technician.

23 8-6A-02.

24 (a) Subject to subsection **[(e)] (F)** of this section and except as otherwise provided
25 in this subtitle, an individual shall be certified by the Board to practice as a nursing
26 assistant, dialysis technician, or medication technician before the individual may practice
27 as a nursing assistant, dialysis technician, or medication technician in the State.

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

- 1 (1) Practices a health occupation that the individual is authorized to
2 practice under this article;
- 3 (2) Provides for the gratuitous care of friends, domestic partners, or family
4 members;
- 5 (3) Performs nursing assistant tasks while a nursing student enrolled in
6 an accredited nursing program and practicing under the direct supervision of qualified
7 faculty or preceptors;
- 8 (4) Performs nursing assistant tasks as a student while:
- 9 (i) Enrolled in a Board–approved nursing assistant training
10 program; and
- 11 (ii) Practicing under the direct supervision of qualified faculty or
12 preceptors;
- 13 (5) Performs medication technician tasks as a student while practicing
14 under the direct supervision of qualified faculty;
- 15 (6) Performs dialysis technician tasks as a student while under the direct
16 supervision of qualified faculty; or
- 17 (7) Works as a principal or school secretary, does not administer
18 medication as a routine part of the position, and has completed training by the delegating
19 nurse for the occasion where the individual may need to administer medication in the
20 absence of the nurse or medication technician.
- 21 (c) Nothing in this section shall preclude a registered nurse or licensed practical
22 nurse from delegating a nursing or other technical task to an unlicensed individual
23 provided that acceptance of delegated nursing or other technical tasks does not become a
24 routine part of the unlicensed individual’s job duties.
- 25 (d) (1) Subject to regulations adopted by the Board under paragraph (2) of this
26 subsection, this section does not preclude an advanced practice registered nurse from
27 delegating a nursing or other technical task to an assistant if:
- 28 (i) The assistant performs only tasks that the assistant is trained to
29 perform; and
- 30 (ii) The delegating advanced practice registered nurse provides:
- 31 1. Instruction to the assistant on the delegated task; and
- 32 2. On–site supervision of the assistant performing the
33 delegated task.

1 (2) The Board shall adopt regulations to carry out this subsection,
2 including regulations that:

3 (i) Provide for the manner in which an advanced practice registered
4 nurse delegates a nursing or other technical task to an assistant;

5 (ii) Establish limitations on the authority of an advanced practice
6 registered nurse to delegate nursing or other technical tasks to an assistant; and

7 (iii) Otherwise clarify the scope of this subsection.

8 **(E) (1) SUBJECT TO REGULATIONS ADOPTED BY THE BOARD UNDER**
9 **PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT PRECLUDE A**
10 **LICENSED CERTIFIED MIDWIFE FROM DELEGATING A TECHNICAL TASK TO AN**
11 **ASSISTANT IF:**

12 **(I) THE ASSISTANT PERFORMS ONLY TASKS THAT THE**
13 **ASSISTANT IS TRAINED TO PERFORM; AND**

14 **(II) THE DELEGATING LICENSED CERTIFIED MIDWIFE**
15 **PROVIDES:**

16 **1. INSTRUCTION TO THE ASSISTANT ON THE DELEGATED**
17 **TASK; AND**

18 **2. ON-SITE SUPERVISION OF THE ASSISTANT**
19 **PERFORMING THE DELEGATED TASK.**

20 **(2) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
21 **SUBSECTION, INCLUDING REGULATIONS THAT:**

22 **(I) PROVIDE FOR THE MANNER IN WHICH A LICENSED**
23 **CERTIFIED MIDWIFE DELEGATES A TECHNICAL TASK TO AN ASSISTANT;**

24 **(II) ESTABLISH LIMITATIONS ON THE AUTHORITY OF A**
25 **LICENSED CERTIFIED MIDWIFE TO DELEGATE TECHNICAL TASKS TO AN ASSISTANT;**
26 **AND**

27 **(III) OTHERWISE CLARIFY THE SCOPE OF THIS SUBSECTION.**

28 **[(e)] (F)** An individual shall be certified by the Board to practice as a nursing
29 assistant and as a dialysis technician before the individual may practice as a dialysis
30 technician in a State-owned hospital or State-owned facility.

1 8-6D-01.

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

3 (h) (1) "Practice certified midwifery" means the management and care of
4 essentially normal newborns and of essentially normal women antepartally, intrapartally,
5 and postpartally.

6 (2) "Practice certified midwifery" includes:

7 (i) Family planning and well woman reproductive care;

8 (ii) The prescribing of substances commonly used in the practice of
9 midwifery;

10 (iii) The prescribing of Schedule II, Schedule III, Schedule IV, and
11 Schedule V controlled dangerous substances commonly used in the practice of midwifery;
12 and

13 (iv) The dispensing of the substances prescribed in accordance with
14 the provisions of items (ii) and (iii) of this paragraph in the course of treating a patient [at]:

15 1. [A] AT A medical facility or clinic that is operated on a
16 nonprofit basis;

17 2. [A] AT A health center that operates on a campus of an
18 institution of higher education; [or]

19 3. [A] AT A public health facility, a medical facility under
20 contract with a state or local health department, or a facility funded with public funds; OR

21 4. WITH A STARTER DOSAGE OF A DRUG AS AUTHORIZED
22 UNDER § 8-508 OF THIS TITLE.

23 8-6D-02.

24 (a) Except as otherwise provided in this subtitle, an individual shall be licensed
25 by the Board before the individual may practice certified midwifery in the State.

26 (b) This section does not apply to:

27 (1) An individual who assists at a birth in an emergency;

28 (2) An individual who is licensed as a health care practitioner whose scope
29 of practice allows the individual to practice certified midwifery; [or]

1 (3) A student who is practicing certified midwifery while engaged in an
 2 approved clinical midwifery education experience under the supervision of a licensed
 3 certified midwife or a licensed nurse certified as a nurse–midwife; **OR**

4 (4) **AN INDIVIDUAL WHO HAS GRADUATED FROM AN APPROVED**
 5 **CLINICAL MIDWIFERY EDUCATION EXPERIENCE AND WHO IS:**

6 (I) **PRACTICING CERTIFIED MIDWIFERY UNDER THE**
 7 **SUPERVISION OF A LICENSED CERTIFIED MIDWIFE OR A LICENSED NURSE**
 8 **CERTIFIED AS A NURSE–MIDWIFE; AND**

9 (II) **MEETS ANY OTHER REQUIREMENTS SET BY THE BOARD.**

10 8–6D–03.

11 (a) In addition to the certification and education requirements under subsection
 12 (b) of this section, to qualify for a license, an applicant must:

13 (1) Be of good moral character; and

14 (2) Submit to a criminal history records check in accordance with § 8–303
 15 of this title.

16 (b) An applicant must:

17 (1) Hold a current, valid certification as a certified midwife from AMCB;

18 (2) Have graduated from a graduate–level accredited program for
 19 midwifery education approved by ACME; **AND**

20 (3) **[Have completed coursework in health and sciences:**

21 (i) Before commencing a midwifery program described in item (2) of
 22 this subsection; or

23 (ii) As part of a midwifery program described in item (2) of this
 24 subsection; and

25 (4)] Have passed the AMCB examination.

26 12–102.

27 (a) (1) In this section the following terms have the meanings indicated.

1 (2) “In the public interest” means the dispensing of drugs or devices by a
2 licensed dentist, physician, **NURSE OR MIDWIFE**, or podiatrist to a patient when a
3 pharmacy is not conveniently available to the patient.

4 **(3) “NURSE OR MIDWIFE” MEANS AN INDIVIDUAL LICENSED OR**
5 **CERTIFIED BY THE BOARD OF NURSING UNDER TITLE 8 OF THIS ARTICLE.**

6 **[(3)] (4)** “Personally preparing and dispensing” means that the licensed
7 dentist, physician, **NURSE OR MIDWIFE**, or podiatrist:

8 (i) Is physically present on the premises where the prescription is
9 filled; and

10 (ii) Performs a final check of the prescription before it is provided to
11 the patient.

12 (c) (2) This title does not prohibit:

13 (iv) A licensed physician who complies with the requirements of item
14 (ii) of this paragraph from personally preparing and dispensing a prescription written by:

15 1. A physician assistant in accordance with a delegation
16 agreement that complies with Title 15, Subtitle 3 of this article; or

17 2. A nurse practitioner who is authorized to practice under
18 Title 8, Subtitle 3 of this article and is working with the physician in the same office setting;
19 **[or]**

20 (v) A hospital-based clinic from dispensing prescriptions to its
21 patients; **OR**

22 **(VI) AN INDIVIDUAL LICENSED OR CERTIFIED UNDER TITLE 8**
23 **OF THIS ARTICLE FROM PERSONALLY PREPARING AND DISPENSING A DRUG OR**
24 **DEVICE AS AUTHORIZED UNDER TITLE 8 OF THIS ARTICLE.**

25 (e) (1) This title does not prohibit:

26 (i) A dentist, physician, **NURSE OR MIDWIFE**, or podiatrist from
27 administering a prescription drug or device in the course of treating a patient;

28 (ii) A licensed dental hygienist from administering medication under
29 § 4-206.4 of this article; or

30 (iii) A nurse anesthetist from administering medication under §
31 8-513 of this article.

1 (2) For the purposes of paragraph (1)(i) of this subsection, “administering”
2 means the direct introduction of a single dosage of a drug or device at a given time, whether
3 by injection or other means, and whether in liquid, tablet, capsule, or other form.

4 (f) (1) This title does not prohibit a dentist, physician, **NURSE OR MIDWIFE**,
5 or podiatrist from personally dispensing a starter dosage of a prescription drug or device to
6 a patient of the dentist, physician, **NURSE OR MIDWIFE**, or podiatrist, provided that:

7 (i) The starter dosage complies with the labeling requirements of §
8 12–505 of this title;

9 (ii) No charge is made for the starter dosage; and

10 (iii) The dentist, physician, **NURSE OR MIDWIFE**, or podiatrist enters
11 an appropriate record on the patient’s chart.

12 (2) For the purposes of paragraph (1) of this subsection, “starter dosage”
13 means an amount of drug or device sufficient to begin therapy:

14 (i) Of short duration of 72 hours or less; or

15 (ii) Prior to obtaining a larger quantity of the drug or device to
16 complete the therapy.

17 (g) This title does not prohibit a dentist, physician, **NURSE OR MIDWIFE**, or
18 podiatrist from dispensing a prescription drug or device in the course of treating a patient:

19 (1) At a medical facility or clinic that is operated on a nonprofit basis;

20 (2) At a health center that operates on a campus of an institution of higher
21 education; or

22 (3) At a public health facility, a medical facility under contract with a State
23 or local health department, or a facility funded with public funds.

24 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
25 2023, the Maryland Department of Health, in consultation with relevant stakeholders,
26 shall develop recommendations to expand access to birthing services in birthing centers in
27 the State and report its findings to the Senate Finance Committee and the House Health
28 and Government Operations Committee, in accordance with § 2–1257 of the State
29 Government Article.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2023.