

# SENATE BILL 772

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CF HB 717

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By: **Senator Lam**

Introduced and read first time: February 6, 2023

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2023

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## CHAPTER \_\_\_\_\_

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

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### 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.



1 Section 8–503(a), 8–508(a) and (b), 8–601, 8–6A–01(j) and (l), 8–6A–02, 8–6D–01(h),  
 2 8–6D–02, 8–6D–03, and 12–102(a), (c)(2)(iv) and (v), (e), (f), and (g)  
 3 Annotated Code of Maryland  
 4 (2021 Replacement Volume and 2022 Supplement)

5 BY adding to  
 6 Article – Health Occupations  
 7 Section 12–102(c)(2)(vi)  
 8 Annotated Code of Maryland  
 9 (2021 Replacement Volume and 2022 Supplement)

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

### 12 Article – Health Occupations

13 8–503.

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

17 8–508.

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

19 **(2) “MIDWIFE” MEANS A LICENSED NURSE CERTIFIED AS A**  
 20 **NURSE–MIDWIFE OR A ~~LICENSED~~ REGISTERED CERTIFIED MIDWIFE.**

21 **[(2)] (3)** “Nurse practitioner” means a registered nurse who is:

22 (i) Certified as a nurse practitioner; and

23 (ii) Authorized to prescribe drugs under regulations adopted by the  
 24 Board.

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

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

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

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

1 (i) Is physically present on the premises where the prescription is  
2 filled; and

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

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

7 **(I) OF SHORT DURATION OF 72 HOURS OR LESS; OR**

8 **(II) PRIOR TO OBTAINING A LARGER QUANTITY OF THE DRUG TO**  
9 **COMPLETE THERAPY.**

10 (b) A nurse practitioner **OR MIDWIFE** may personally prepare and dispense a  
11 starter dosage of any drug the nurse practitioner **OR MIDWIFE** is authorized to prescribe  
12 to a patient of the nurse practitioner **OR MIDWIFE** if:

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

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

16 (3) The nurse practitioner **OR MIDWIFE** enters an appropriate record in  
17 the patient’s medical record.

18 8–601.

19 In this subtitle:

20 (1) “Practice nurse midwifery” means the management and care of  
21 essentially normal newborns and of essentially normal women antepartally, intrapartally  
22 and postpartally.

23 (2) “Practice nurse midwifery” includes:

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

25 (ii) The prescribing of substances commonly used in the practice of  
26 nurse midwifery;

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

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

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

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

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

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

8-6A-01.

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

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

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

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

(3) ~~PERFORMS MEDICATION TECHNICIAN TASKS~~ 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 LICENSED CERTIFIED MIDWIFE ADVANCED PRACTICE NURSE; OR

(II) TECHNICAL TASKS RELATED TO THE ADMINISTRATION OF MEDICATION DELEGATED BY A LICENSED CERTIFIED MIDWIFE.

(l) “Certified nursing assistant”:

(1) Means an individual regardless of title who, FOR COMPENSATION AND SUBJECT TO REGULATIONS ADOPTED BY THE BOARD, routinely performs [nursing]:

(I) NURSING tasks delegated by a registered nurse ~~or~~, licensed practical nurse, OR ADVANCED PRACTICE REGISTERED NURSE [for compensation]; OR

1                                   **(II) TECHNICAL TASKS DELEGATED BY A LICENSED CERTIFIED**  
2 **MIDWIFE; and**

3                   (2)   Does not include a certified dialysis technician or a certified medication  
4 technician.

5 8–6A–02.

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

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

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

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

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

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

19                                   (i)   Enrolled in a Board–approved nursing assistant training  
20 program; and

21                                   (ii)   Practicing under the direct supervision of qualified faculty or  
22 preceptors;

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

25                   (6)   Performs dialysis technician tasks as a student while under the direct  
26 supervision of qualified faculty; or

27                   (7)   Works as a principal or school secretary, does not administer  
28 medication as a routine part of the position, and has completed training by the delegating  
29 nurse for the occasion where the individual may need to administer medication in the  
30 absence of the nurse or medication technician.

31           (c)   Nothing in this section shall preclude a registered nurse or licensed practical  
32 nurse from delegating a nursing or other technical task to an unlicensed individual

1 provided that acceptance of delegated nursing or other technical tasks does not become a  
2 routine part of the unlicensed individual's job duties.

3 (d) (1) Subject to regulations adopted by the Board under paragraph (2) of this  
4 subsection, this section does not preclude an advanced practice registered nurse from  
5 delegating a nursing or other technical task to an assistant if:

6 (i) The assistant performs only tasks that the assistant is trained to  
7 perform; and

8 (ii) The delegating advanced practice registered nurse provides:

9 1. Instruction to the assistant on the delegated task; and

10 2. On-site supervision of the assistant performing the  
11 delegated task.

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

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

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

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

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

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

25 (II) **THE DELEGATING LICENSED CERTIFIED MIDWIFE**  
26 **PROVIDES:**

27 1. **INSTRUCTION TO THE ASSISTANT ON THE DELEGATED**  
28 **TASK; AND**

29 2. **ON-SITE SUPERVISION OF THE ASSISTANT**  
30 **PERFORMING THE DELEGATED TASK.**

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

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

5                   **(II) ESTABLISH LIMITATIONS ON THE AUTHORITY OF A**  
6 **LICENSED CERTIFIED MIDWIFE TO DELEGATE TECHNICAL TASKS TO AN ASSISTANT;**  
7 **AND**

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

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

12 8-6D-01.

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

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

17           (2) “Practice certified midwifery” includes:

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

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

21                   (iii) The prescribing of Schedule II, Schedule III, Schedule IV, and  
22 Schedule V controlled dangerous substances commonly used in the practice of midwifery;  
23 and

24                   (iv) The dispensing of the substances prescribed in accordance with  
25 the provisions of items (ii) and (iii) of this paragraph in the course of 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]**

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

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

3 8-6D-02.

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

6           (b) This section does not apply to:

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

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

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

13                                   **(4) AN INDIVIDUAL WHO HAS GRADUATED FROM ~~AN APPROVED~~**  
 14 **~~CLINICAL~~ A GRADUATE LEVEL ACCREDITED PROGRAM FOR MIDWIFERY EDUCATION**  
 15 **~~EXPERIENCE~~ APPROVED BY ACME, AND WHO IS:**

16                                   **(I) PRACTICING CERTIFIED MIDWIFERY UNDER THE**  
 17 **SUPERVISION OF A LICENSED CERTIFIED MIDWIFE OR A LICENSED NURSE**  
 18 **CERTIFIED AS A NURSE-MIDWIFE; AND**

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

20 8-6D-03.

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

23               (1) Be of good moral character; and

24               (2) Submit to a criminal history records check in accordance with § 8-303  
 25 of this title.

26           (b) An applicant must:

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

28               (2) Have graduated from a graduate-level accredited program for  
 29 midwifery education approved by ACME; **AND**



- 1           (3)   [Have completed coursework in health and sciences:  
2                   (i)    Before commencing a midwifery program described in item (2) of  
3 this subsection; or  
4                   (ii)   As part of a midwifery program described in item (2) of this  
5 subsection; and  
6           (4)]   Have passed the AMCB examination.

7 12–102.

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

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

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

14                   **[(3)] (4)   “Personally preparing and dispensing”** means that the licensed  
15 dentist, physician, **NURSE OR MIDWIFE**, or podiatrist:

16                   (i)    Is physically present on the premises where the prescription is  
17 filled; and

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

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

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

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

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

28                   (v)    A hospital–based clinic from dispensing prescriptions to its  
29 patients; **OR**

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

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

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

7                   (ii)   A licensed dental hygienist from administering medication under  
8 § 4–206.4 of this article; or

9                   (iii)   A nurse anesthetist from administering medication under §  
10 8–513 of this article.

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

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

17                   (i)   The starter dosage complies with the labeling requirements of §  
18 12–505 of this title;

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

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

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

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

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

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

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

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

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

3           SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,  
4 2023, the Maryland Department of Health, in consultation with relevant stakeholders,  
5 shall develop recommendations to expand access to birthing services in birthing centers in  
6 the State and report its findings to the Senate Finance Committee and the House Health  
7 and Government Operations Committee, in accordance with § 2-1257 of the State  
8 Government Article.

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.