

Chapter 367

(Senate Bill 772)

AN ACT concerning

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

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

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

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

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

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

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

Article – Health Occupations

8–503.

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

8–508.

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

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

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

- (i) Certified as a nurse practitioner; and
- (ii) Authorized to prescribe drugs under regulations adopted by the

Board.

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

- (i) Of short duration of 72 hours or less; or
- (ii) Prior to obtaining a larger quantity of the drug to complete

therapy.]

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

- (i) Is physically present on the premises where the prescription is filled; and
- (ii) Performs a final check of the prescription before it is provided to the patient.

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

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

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

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

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

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

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

8–601.

In this subtitle:

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

(2) “Practice nurse midwifery” includes:

(i) Family planning and well woman reproductive care;

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

(iii) The prescribing of controlled substances on Schedules II, III, IV, 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

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

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

8-6A-02.

(a) Subject to subsection [(e)] **(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) Enrolled in a Board–approved nursing assistant training program; and

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

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

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

(7) 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.

(c) Nothing in this section shall preclude a registered nurse or licensed practical nurse from delegating a nursing or other technical task to an unlicensed individual provided that acceptance of delegated nursing or other technical tasks does not become a routine part of the unlicensed individual’s job duties.

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

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

(ii) The delegating advanced practice registered nurse provides:

1. Instruction to the assistant on the delegated task; and
2. On-site supervision of the assistant performing the delegated task.

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

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

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

(iii) Otherwise clarify the scope of this subsection.

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

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

(II) THE DELEGATING LICENSED CERTIFIED MIDWIFE PROVIDES:

1. INSTRUCTION TO THE ASSISTANT ON THE DELEGATED TASK; AND

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

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

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

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

(III) OTHERWISE CLARIFY THE SCOPE OF THIS SUBSECTION.

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

8-6D-01.

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

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

(2) “Practice certified midwifery” includes:

(i) Family planning and well woman reproductive care;

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

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

(iv) The dispensing of the substances prescribed in accordance with the provisions of 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.**

8-6D-02.

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

(b) This section does not apply to:

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

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

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

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

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

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

8–6D–03.

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

(1) Be of good moral character; and

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

(b) An applicant must:

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

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

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

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

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

(4)] Have passed the AMCB examination.

12-102.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2023, the Maryland Department of Health, in consultation with relevant stakeholders,

shall develop recommendations to expand access to birthing services in birthing centers in the State and report its findings to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article.

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

Approved by the Governor, May 3, 2023.