

LOST

1 Senator Thomas of the 10th offered the following amendment:

2 Amend the committee substitute to HB 1028 (LC 14 8858S) by inserting on line 1 of page
3 1 immediately following "as," the following:

4 "to provide for legislative findings with respect to problems with access to health care and
5 a crisis in liability claims due to medication transmission errors; to address such access
6 problems by improving the availability of physician's assistants and advanced practice
7 registered nurses to deliver health care; to respond to medication transmission errors by
8 providing for written and electronic prescriptive authority for physician's assistants and
9 advanced practice registered nurses;"

10 By inserting on line 10 of page 1 immediately following "actions;" the following:

11 "to provide for the repeal and reserving of Code Section 43-34-26.1, relating to delegation
12 of authority to nurse or physician's assistant; to amend the Official Code of Georgia
13 Annotated so as to change references to Code section for conformity;"

14 By inserting between lines 12 and 13 of page 1 the following:

15 **"SECTION 0.5.**

16 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking
17 Chapter 37, which is reserved, and inserting in its place a new Chapter 37 to read as follows:

18 **'CHAPTER 37**

19 31-37-1.

20 The General Assembly finds that there presently exists a crisis due to the shortage of health
21 care providers available to serve the citizens of this state. The United States Department
22 of Health and Human Services has designated no less than 147 of the 159 counties in
23 Georgia to be medically underserved areas or populations. Despite efforts to educate
24 additional health professionals in the form of advanced practice registered nurses and
25 physician's assistants and attempts to distribute them in such underserved areas, artificial
26 practice barriers exist which limit the ability of these providers to practice as they are
27 trained. Removing these practice barriers would improve access to health care in the
28 underserved areas of the state. The General Assembly further finds that claims based on
29 medication transmission errors contribute to the health care liability problem which exists

1 in the state. By expanding the prescriptive authority of advanced practice registered nurses
2 and physician's assistants to allow for written and electronic orders, it is anticipated that
3 medication transmission errors will decrease and that liability claims based on transmission
4 errors will decrease. These improvements in the delivery of health care through the full
5 utilization of advanced practice registered nurses and physician's assistants will result in
6 a substantial benefit to the state and its citizens.

7 31-37-2.

8 As used in this chapter, the term:

9 (1) "Advanced practice registered nurse" means a person licensed as a registered
10 professional nurse licensed under Article 1 of Chapter 26 of Title 43 who is authorized
11 by the Georgia Board of Nursing to practice as an advanced practice registered nurse as
12 that term is defined and used in Chapter 13 of Title 16.

13 (2) "Device" means a device as defined in Code Section 26-4-5.

14 (3) "Drug" means any dangerous drug as defined in Code Section 16-13-71 and any
15 Schedule II, III, IV, or V controlled substance as defined in Code Section 16-13-21.

16 (4) "Job description" means a written document, signed by the primary physician and the
17 physician's assistant whom the primary physician is supervising, which document
18 describes the professional background, scope of practice, and specialty of the primary
19 supervising physician; the qualifications, including related experience of the physician's
20 assistant; and a general description of how the physician's assistant will be utilized in the
21 practice. A job description shall not be required to contain every activity the primary
22 physician deems the physician's assistant qualified to perform but shall confine the
23 activities of the physician's assistant to those in the scope of practice of the primary
24 supervising physician.

25 (5) "Order" means by verbal, written, or electronic means to select a drug, device,
26 medical treatment, or diagnostic study and transmit by verbal, written, or electronic
27 means and through physician delegation in accordance with a prescription protocol for
28 an advanced practice registered nurse or a job description for a physician's assistant.

29 (6) "Physician's assistant" means a person defined in paragraph (6) of Code Section
30 43-34-102 who is qualified by academic and practical training and certification
31 requirements to provide patients' services not necessarily with the physical presence but
32 under the personal direction or supervision of the applying physician.

33 (7) "Prescription protocol" means a written agreement by and between an advanced
34 practice registered nurse and a physician wherein the physician authorizes the advanced
35 practice registered nurse to dispense and order drugs, devices, medical treatments, and
36 diagnostic studies, and execute verbal, written, or electronic prescription drug or device

1 orders therefor, and which provides for the terms and conditions for the execution of such
 2 orders. Dispensing under such protocol shall be limited to dispensing pharmaceutical
 3 samples at no charge, except in those settings and circumstances except as provided in
 4 subsection (d) of Code Section 31-37-3.

5 31-37-3.

6 (a) A physician may delegate to an advanced practice registered nurse according to a
 7 prescription protocol and to a physician's assistant according to the physician's assistant's
 8 job description the authority to order and dispense a drug, device, medical treatment, or
 9 diagnostic study. The physician's authority to grant and the authority delegated to an
 10 advanced practice registered nurse or a physician's assistant are to be liberally construed
 11 to effectuate the intent and purposes of this chapter and the provisions set out in Code
 12 Section 16-13-41.

13 (b) The Composite State Board of Medical Examiners shall review and approve the
 14 physician's assistant's job description. The physician shall submit an application to said
 15 board. Such application shall include:

- 16 (1) Evidence submitted by the physician's assistant of his or her good moral character;
- 17 (2) Evidence of his or her competency in a health care area related to the job description
 18 which, as a minimum, shall include:

19 (A) Evidence of satisfactory completion of a training program approved by the board.
 20 If the applicant is not a graduate of an accredited school approved by the board, he or
 21 she shall be required to receive board approved refresher training and testing;

22 (B) A finding by the board approved evaluation agency that the physician's assistant
 23 is qualified to perform the tasks described in the job description; and

24 (C) Evidence that the person who is to be used as a physician's assistant has achieved
 25 a satisfactory score on an appropriate examination outlined, approved, or administered
 26 by the board. The board may issue a temporary permit to any applicant for licensure
 27 who has satisfied the provisions of subparagraphs (A) and (B) of this paragraph and
 28 who is an applicant for the next available board approved or administered examination
 29 or who has completed this examination and is awaiting the results of such examination.
 30 The temporary permit shall expire upon notification of the applicant's failure to achieve
 31 a satisfactory score on the board approved or administered examination;

- 32 (3) The job description for the physician's assistant as defined in Code Section 31-37-2;
 33 and

- 34 (4) A fee, established by the board; provided, however, that no fee will be required if the
 35 physician's assistant is an employee of the state or county government.

1 The Composite State Board of Medical Examiners is authorized to develop standard job
2 descriptions for use by supervising physicians and physician's assistants.

3 (c) The Georgia Board of Nursing is authorized to promulgate appropriate rules and
4 regulations to implement the intent and purposes of this chapter with regard to prescription
5 protocol.

6 (d)(1) A physician may delegate to a nurse or physician's assistant the authority to order
7 dangerous drugs, medical treatments, or diagnostic studies and a nurse or physician's
8 assistant is authorized to dispense dangerous drugs, in accordance with a dispensing
9 procedure and under the authority of an order issued in conformity with a nurse protocol
10 or job description, if that nurse or physician's assistant orders or dispenses those
11 dangerous drugs, medical treatments, or diagnostic studies:

12 (A) As an agent or employee of:

13 (i) The Division of Public Health of the Department of Human Resources;

14 (ii) Any county board of health; or

15 (iii) Any organization:

16 (I) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal
17 Revenue Code, as defined in Code Section 48-1-2, other than an organization which
18 is a hospital, preferred provider organization, health maintenance organization, or
19 similar organization; or

20 (II) Established under the authority of or receiving funds pursuant to 42 U.S.C.
21 Section 254b or 254c of the United States Public Health Service Act,

22 which organization provides that those medical services and dangerous drugs which
23 are ordered or dispensed by its physician's assistants and nurses will be provided at
24 no cost to the patient or at a cost based solely upon the patient's ability to pay; and

25 (B) In conformity with subsection (b) of Code Section 26-4-130 and the rules and
26 regulations established pursuant thereto by the State Board of Pharmacy.

27 (2) In addition, a physician may delegate to a nurse or physician's assistant the authority
28 to order dangerous drugs, medical treatments, or diagnostic studies and a nurse or
29 physician's assistant is authorized to dispense dangerous drugs, in accordance with a
30 dispensing procedure and under the authority of an order issued in conformity with a
31 nurse protocol or job description, if that nurse or physician's assistant orders or dispenses
32 such drugs, treatments, or studies to a patient of an outpatient clinic:

33 (A) Which is owned or operated by a licensed hospital;

34 (B) Which provides such drugs, treatments, or studies free or at a charge to the patient
35 based solely upon the patient's ability to pay; provided, however, such charge shall not
36 exceed the actual cost to the outpatient clinic; and

37 (C) Whose services are primarily provided to the medically disadvantaged

1 and that nurse or physician's assistant orders or dispenses such drugs in conformity with
2 subsection (b) of Code Section 26-4-130 and the rules and regulations established
3 pursuant thereto by the State Board of Pharmacy.

4 31-37-4.

5 (a) Physician's assistants shall wear at all times when performing his or her duties a name
6 badge which indicates that he or she is a physician's assistant and not a physician.

7 (b) A prescription drug or device order executed by a physician's assistant shall bear the
8 physician's assistant's name and the abbreviation "P.A." An order executed pursuant to
9 this chapter by an advanced practice registered nurse shall bear the advance practice
10 registered nurse's name and the abbreviation "A.P.R.N."

11 (c) For purposes of this chapter and Code Section 16-13-21, physician's assistants and
12 advance practice registered nurses are authorized to register with the federal Drug
13 Enforcement Administration and appropriate state authorities.

14 (d) Nothing in this chapter shall be construed to create the presumption of liability, either
15 civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title 26 who,
16 in good faith, fills a drug or device order of an advanced practice registered nurse pursuant
17 to a prescription protocol or a physician's assistant pursuant to a job description.

18 (e) This chapter shall take precedence over any conflicting provisions in Title 16, 31, 33,
19 or 43.

20 (f) The Composite State Board of Medical Examiners shall be empowered to promulgate
21 rules and regulations governing physicians and physician's assistants to carry out the
22 intents and purposes of this chapter, including establishing criteria and standards governing
23 physicians, physician's assistants, job descriptions, and nurse protocols. The board shall
24 be authorized to require that protocols not falling within such established criteria and
25 standards be submitted to the board for review and approval or rejection.

26 (g) Notwithstanding any other provision of law to the contrary, a physician's assistant or
27 nurse may perform any act authorized to be performed by that person pursuant to and in
28 conformity with this chapter without such act constituting the practice of medicine.

29 (h) Nothing in this chapter shall be construed to limit or repeal this article or Articles 2,
30 4, and 6 of Chapter 34 of Title 43, relating to physicians, osteopaths, physician's assistants,
31 and respiratory therapists, or Article 1 of Chapter 26 of Title 43, relating to registered
32 nurses.

33 (i) Nothing in this chapter shall be construed to limit or repeal any existing authority of a
34 licensed physician to delegate to a qualified person any acts, duties, or functions which are
35 otherwise permitted by law or established by custom.

1 (j) Nothing in this chapter shall be construed to authorize or permit the issuance of a
2 federal Drug Enforcement Administration license to a nurse or physician's assistant.

3 (k) Nothing in this chapter shall be construed to limit or repeal the authority of any
4 organization described in division (i) or (ii) of subparagraph (b)(2)(A) of this Code section
5 or any organization established under the authority of or receiving funds pursuant to 42
6 U.S.C. Section 254b or 254c of the United States Public Health Service Act to supervise
7 its agents or employees or interfere with the employer and employee relationship of any
8 such agents or employees.

9 (l) Notwithstanding any other provision of law to the contrary, a physician's assistant or
10 nurse may perform any act deemed necessary to provide treatment to a hospital or nursing
11 home patient in a life-threatening situation when such act is authorized by standing
12 procedures established by the medical staff of the hospital or nursing home.

13 31-37-5.

14 (a) A physician's assistant licensed pursuant to this article or licensed, certified, or
15 otherwise authorized to practice in any other state or federal jurisdiction and whose license,
16 certification, or authorization is in good standing who voluntarily and gratuitously and
17 other than in the ordinary course of the physician's assistant's employment or practice
18 responds to a need for medical care created by a state of emergency or a disaster may
19 render such care that the physician's assistant is able to provide without supervision or with
20 such supervision as is available.

21 (b) A physician who supervises a physician's assistant providing medical care pursuant
22 to this subsection shall not be required to meet the requirements of this chapter relating to
23 supervision by physicians.

24 (c) For the purposes of this subsection, the term "state of emergency" has the same
25 meaning as in paragraph (7) of Code Section 38-3-3, and the term "disaster" has the same
26 meaning as in paragraph (1) of Code Section 38-3-91.

27 (d) A physician and a physician's assistant may enter into a temporary practice agreement
28 exempt from any filing fees with the board by which agreement the physician supervises
29 the services provided by the physician's assistant to patients at a specific facility or
30 program operated by any organization exempt from federal taxes pursuant to
31 Section 501(c)(3) of the federal Internal Revenue Code, provided that:

32 (1) Such services are provided primarily to financially disadvantaged patients;

33 (2) Services are free or at a charge to the patient based solely on the patient's ability to
34 pay and provided, further, that such charges do not exceed the actual cost to the facility
35 or program;

- 1 (3) The physician and the physician's assistant voluntarily and gratuitously donate their
 2 services;
- 3 (4) A copy of the temporary practice agreement, signed by both the physician and the
 4 physician's assistant, is on file at the facility or program and is sent to the Composite
 5 State Board of Medical Examiners;
- 6 (5) The temporary practice agreement is for a specified period of time, limits the services
 7 of the physician's assistant to those services within both his or her usual scope of practice
 8 and the scope of practice of the supervising physician, and is signed by both the physician
 9 and physician's assistant prior to the physician's assistant providing patient services; and
- 10 (6) The facility or program has notified the board of its intent to provide patient services
 11 and utilize licensed physicians and physician's assistants under the conditions set out in
 12 this subsection."

13 By inserting between lines 27 and 28 of page 16 the following:

14 **"SECTION 1A.**

15 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians,
 16 acupuncture, physician's assistants, cancer and glaucoma treatment, and respiratory care, is
 17 amended in Code Section 43-34-26.1, relating to delegation of authority to nurse or
 18 physician's assistant, by striking and reserving such Code section.

19 **SECTION 1B.**

20 The Official Code of Georgia Annotated is amended by striking from the following Code
 21 sections the reference to 'Code Section 43-34-26.1' wherever the same shall occur and
 22 inserting in lieu thereof the reference to 'Chapter 37 of Title 31':

- 23 (1) Code Section 16-13-21, relating to definitions relative to regulation of controlled
 24 substances;
- 25 (2) Code Section 16-13-72, relating to the sale, distribution, or possession of dangerous
 26 drugs;
- 27 (3) Code Section 26-4-85, relating to patient counseling and optimizing drug therapy
 28 relative to prescription drugs;
- 29 (4) Code Section 26-4-130, relating to dispensing drugs, compliance with labeling and
 30 packaging requirements, records available for inspection by board, and renewal of licenses;
- 31 (5) Code Section 43-26-5, relating to general powers of the Georgia Board of Nursing
 32 relative to registered professional nurses; and

1 (6) Code Section 43-34-103, relating to application for assistant, number of assistants, new
2 job descriptions, scope of duties, employment by nonpracticing physicians, and delegated
3 authority relative to physician's assistants."