

House Bill 935 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Burmeister of the 119th, Ehrhart of the 36th, Hembree of the 67th, Henson of the 87th, Buckner of the 130th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to
2 definitions relative to regulation of controlled substances, so as to revise the definition of
3 "practitioner"; to amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated,
4 relating to nurses, so as to provide for a definition; to provide for enactment of rules and
5 regulations affecting advanced practice registered nurses; to provide for a change in certain
6 prohibited activities; to change a provision relating to a Drug Enforcement Administration
7 license applicability to nurses and physician's assistants; to amend Article 2 of Chapter 34
8 of Title 43 of the Official Code of Georgia Annotated, relating to the physicians, so as to
9 provide for a physician to delegate certain medical acts to allow an advanced practice
10 registered nurse to issue prescription drug orders and provide professional samples, order
11 diagnostic studies, medical devices, and in certain life-threatening situations to order
12 radiographic imaging; to provide for construction and limitations related to such delegation;
13 to provide for definitions; to provide for the conditions of a nurse protocol agreement; to
14 provide for execution of prescription drug orders; to provide for related matters; to repeal
15 conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to definitions
19 relative to regulation of controlled substances, is amended by striking paragraph (23) and
20 inserting in its place the following:

21 "(23) 'Practitioner' means:

22 (A) A physician, dentist, pharmacist, podiatrist, veterinarian, scientific investigator, or
23 other person licensed, registered, or otherwise authorized under the laws of this state
24 to distribute, dispense, conduct research with respect to, or to administer a controlled
25 substance in the course of professional practice or research in this state;

1 (B) A pharmacy, hospital, or other institution licensed, registered, or otherwise
 2 authorized by law to distribute, dispense, conduct research with respect to, or to
 3 administer a controlled substance in the course of professional practice or research in
 4 this state; ~~or~~

5 (C) An advanced practice registered nurse acting pursuant to the authority of Code
 6 Section 43-34-26.3. For purposes of this chapter and Code Section 43-34-26.3, an
 7 advanced practice registered nurse is authorized to register with the federal Drug
 8 Enforcement Administration and appropriate state authorities; or

9 ~~(C)(D)~~ (D) A physician's assistant acting pursuant to the authority of subsection (e.1) of
 10 Code Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code
 11 Section 43-34-103 ~~and notwithstanding the provisions of subsection (g) of Code~~
 12 ~~Section 43-34-26.1~~, a physician's assistant is authorized to register with the federal
 13 Drug Enforcement Administration and appropriate state authorities."

14 SECTION 2.

15 Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is
 16 amended by adding a new paragraph to Code Section 43-26-3, relating to definitions, to read
 17 as follows:

18 "(1.1) 'Advanced practice registered nurse' means a registered professional nurse licensed
 19 under this chapter who is recognized by the board as having met the requirements
 20 established by the board to engage in advanced nursing practice and who holds a master's
 21 degree and national board certification in his or her area of speciality, or a person who
 22 was recognized as an advanced practice registered nurse by the board on or before
 23 January 1, 2006."

24 SECTION 3.

25 Said chapter is further amended by striking paragraph (12) of subsection (a) of Code Section
 26 43-26-5, relating to general powers of the board, and inserting in lieu thereof the following:

27 "(12) Be authorized to enact rules and regulations for registered professional nurses in
 28 their performing acts under a nurse protocol as authorized in Code Section 43-34-26.1
 29 and enact rules and regulations for advanced practice registered nurses in performing acts
 30 as authorized in Code Section 43-34-26.3;"

31 SECTION 4.

32 Said chapter is further amended by striking paragraph (4) of Code Section 43-26-10, relating
 33 to the prohibition of practicing as a registered professional nurse without a license, and
 34 inserting in lieu thereof the following:

1 (10) 'Nurse protocol agreement' means a written document mutually agreed upon and
2 signed by an advanced practice registered nurse and a physician, by which document the
3 physician delegates to that advanced practice registered nurse the authority to perform
4 certain medical acts pursuant to this Code section, and which acts may include, without
5 being limited to, the ordering of drugs, medical devices, medical treatments, diagnostic
6 studies, or in life-threatening situations radiographic imaging tests. Such agreements
7 shall conform to the provisions set forth in subsection (c) of this Code section.

8 (11) 'Order' means to select pursuant to a nurse protocol agreement which drug, medical
9 device, medical treatment, diagnostic study, or in life-threatening situations radiographic
10 imaging test is appropriate for a patient and to communicate the same in writing, orally,
11 via facsimile, or electronically.

12 (12) 'Physician' means a person licensed to practice medicine under this chapter and:

13 (A) Whose principal place of practice is within this state; or

14 (B) Whose principal place of practice is outside this state but is within 50 miles from
15 the location where the nurse protocol agreement is being utilized within this state.

16 (13) 'Prescription drug order' means a written or oral order of an advanced practice
17 registered nurse for a drug or medical device for a specific patient. Such term includes
18 an electronic visual image prescription drug order and an electronic data prescription drug
19 order.

20 (14) 'Professional sample' means a complimentary dose of a drug, medication,
21 medication voucher, or medical device provided by the manufacturer for use in patient
22 care.

23 (15) 'Radiographic imaging test' means a computed tomography, magnetic resonance
24 imaging, positron emission tomography, or nuclear medicine.

25 (b) In addition to and without limiting the authority granted pursuant to Code Section
26 43-34-26.1, a physician may delegate to an advanced practice registered nurse in
27 accordance with a nurse protocol agreement the authority to order drugs, medical devices,
28 medical treatments, diagnostic studies or in life-threatening situations radiographic imaging
29 tests.

30 (c) A nurse protocol agreement between a physician and an advanced practice registered
31 nurse pursuant to this Code section shall:

32 (1) Be between an advanced practice registered nurse who is in a comparable specialty
33 area or field as that of the delegating physician;

34 (2) Contain a provision for immediate consultation between the advanced practice
35 registered nurse and the delegating physician; if the delegating physician is not available,
36 the delegating physician for purposes of consultation may designate another physician
37 who is aware of and concurs with the nurse protocol agreement;

- 1 (3) Identify the parameters under which delegated acts may be performed by the
2 advanced practice registered nurse, including without limitation the number of refills
3 which may be ordered, the kinds of diagnostic studies which may be ordered, the extent
4 to which radiographic image tests may be ordered, and the circumstances under which
5 a prescription drug order may be executed. In the event the delegating physician
6 authorizes the advanced practice registered nurse to order an X-ray, ultrasound, or
7 radiographic imaging test, the nurse protocol agreement shall contain provisions whereby
8 such X-ray, ultrasound, or radiographic imaging test shall be read and interpreted by a
9 physician who is trained in the reading and interpretation of such tests; a report of such
10 X-ray, ultrasound, or radiographic imaging test may be reviewed by the advanced
11 practice registered nurse; and a copy of such report shall be forwarded to the delegating
12 physician, except that such provision for an ultrasound shall not be required for an
13 advanced practice registered nurse acting within his or her scope of practice as authorized
14 by Code Sections 43-26-3 and 43-26-5.
- 15 (4) Require documentation either in writing or by electronic means or other medium by
16 the advanced practice registered nurse of those acts performed by the advanced practice
17 registered nurse which are specific to the medical acts authorized by the delegating
18 physician;
- 19 (5) Include a schedule for periodic review by the delegating physician of patient records.
20 Such patient records review may be achieved with a sampling of such records as
21 determined by the delegating physician;
- 22 (6) Provide for patient review, evaluation, or follow-up by the delegating physician, with
23 the frequency of such review, evaluation, or follow-up based on the nature, extent, and
24 scope of the delegated act or acts as determined by the delegating physician;
- 25 (7) Be reviewed, revised, or updated annually by the delegating physician and the
26 advanced practice registered nurse; and
- 27 (8) Be available for review upon written request to the advanced practice registered nurse
28 by the Georgia Board of Nursing or to the physician by the board.
- 29 (d) A written prescription drug order issued pursuant to this Code section shall be signed
30 by the advanced practice registered nurse and shall be on a form which shall include,
31 without limitation, the names of the advanced practice registered nurse and delegating
32 physician who are parties to the nurse protocol agreement, the patient's name and address,
33 the drug or device ordered, directions with regard to the taking and dosage of the drug or
34 use of the device, and the number of refills. A prescription drug order which is transmitted
35 either electronically or via facsimile shall conform to the requirements set out in paragraphs
36 (1) and (2) of subsection (c) of Code Section 26-4-80, respectively.

1 (e) An advanced practice registered nurse may be authorized under a nurse protocol
2 agreement to request, receive, and sign for professional samples and may distribute
3 professional samples to patients. The office or facility at which the advanced practice
4 registered nurse is working shall maintain a list of the professional samples approved by
5 the delegating physician for request, receipt, and distribution by the advanced practice
6 registered nurse as well as a complete list of the specific number and dosage of each
7 professional sample and medication voucher received and dispensed. In addition to the
8 requirements of this Code section, all professional samples shall be maintained as required
9 by applicable state and federal laws and regulations.

10 (f) A managed care system, health plan, hospital, insurance company, or other similar
11 entity shall not require a physician or advanced practice registered nurse to be a party to
12 a nurse protocol agreement as a condition for participation in or reimbursement from such
13 entity.

14 (g) A delegating physician may not enter into a nurse protocol agreement pursuant to this
15 Code section with more than four advanced practice registered nurses at any one time as
16 calculated on a full-time equivalency basis, except this limitation shall not apply to an
17 advanced practice registered nurse that is practicing:

18 (1) In a hospital licensed under Title 31;

19 (2) In any college or university as defined in Code Section 20-8-1;

20 (3) In the Department of Human Resources;

21 (4) In any county board of health;

22 (5) In any free health clinic;

23 (6) In a birthing center;

24 (7) In any organization:

25 (A) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal
26 Revenue Code, as defined in Code Section 48-1-2; or

27 (B) Which has been established under the authority of or is receiving funds pursuant
28 to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act; or

29 (8) In any local board of education which has a school nurse program.

30 (h) Nothing in this Code section shall be construed to create a presumption of liability,
31 either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title
32 26 who, in good faith, fills a prescription drug order of an advanced practice registered
33 nurse issued pursuant to a nurse protocol agreement.

34 (i) Nothing in this Code section shall be construed to apply to the practice of a certified
35 registered nurse anesthetist.

36 (j) Nothing in this Code section shall be construed to require an advanced practice
37 registered nurse to be a party to a nurse protocol agreement in order to practice as a

1 registered professional nurse or an advanced practice registered nurse as otherwise
2 permitted by Article 1 of Chapter 26 of this title.

3 (k) Nothing in this Code section shall be construed to authorize an advanced practice
4 registered nurse to issue a prescription drug order for a Schedule I or II controlled
5 substance or authorize refills of any drug for more than 12 months from the date of the
6 original order except in the case of oral contraceptives, hormone replacement therapy, or
7 prenatal vitamins which may be refilled for a period of 24 months.

8 (l) Nothing in this Code section shall be construed to authorize or permit any practitioner
9 to authorize an advanced practice registered nurse to perform an abortion or administer
10 abortion-inducing prescriptions other than as authorized in Code Section 16-12-141."

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SECTION 7.

12 All laws and parts of laws in conflict with this Act are repealed.