

Senate Bill 480

By: Senators Unterman of the 45th, Thomas of the 54th and Goggans of the 7th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to
 2 nurses, so as to provide for the certification of qualified medication aides; to provide for a
 3 short title; to provide legislative findings; to provide for definitions; to provide for the
 4 delegation of certain nursing tasks; to provide for powers and responsibilities of the Georgia
 5 Board of Examiners of Licensed Practical Nurses; to provide for certification standards and
 6 requirements; to provide for the issuance and renewal of certificates; to provide for permitted
 7 and prohibited activities; to provide for requirements of community living arrangements
 8 which utilize qualified medication aides; to provide for sanctions; to provide for construction;
 9 to provide for automatic repeal; to provide for related matters; to repeal conflicting laws; and
 10 for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is
 14 amended by adding a new article to read as follows:

15 "ARTICLE 3

16 43-26-50.

17 This article shall be known and may be cited as the 'Georgia Qualified Medication Aide
 18 Act.'

19 43-26-51.

20 The purpose of this article is to protect, promote, and preserve the public health, safety, and
 21 welfare through the delegation of certain activities performed by registered professional
 22 nurses and licensed practical nurses to persons who are certified as qualified medication
 23 aides and who are employed by and working in community living arrangements established

1 by the Department of Human Resources pursuant to paragraphs (15) and (16) of subsection
2 (b) of Code Section 37-1-20.

3 43-26-52.

4 As used in this article, the term:

5 (1) 'Applicant' means any person seeking certification under this article.

6 (2) 'Board' means the Georgia Board of Examiners of Licensed Practical Nurses
7 established pursuant to Article 2 of this chapter.

8 (3) 'Community living arrangement' means any residence, whether operated for profit or
9 not for profit, which undertakes through its ownership or management to provide or
10 arrange for the provision of daily personal services, support, care, or treatment
11 exclusively for two or more adults who are not related to the owner or administrator by
12 blood or marriage which is established by the Department of Human Resources pursuant
13 to paragraph (16) of subsection (b) of Code Section 37-1-20 and whose services are
14 financially supported, in whole or part, by funds authorized through the Division of
15 Mental Health, Developmental Disabilities, and Addictive Diseases of the Department
16 of Human Resources. A community living arrangement is also referred to as a
17 'residence.'

18 (4) 'Licensed practical nurse' means an individual who is licensed to practice nursing
19 under Article 2 of this chapter.

20 (5) 'Medication administration record' means a written record of medication ordered for
21 and received by a resident of a community living arrangement.

22 (6) 'Qualified medication aide' means a person who meets the qualifications specified in
23 this article and who is currently certified by the board.

24 (7) 'Physician' means an individual who is licensed to practice medicine under Article
25 2 of Chapter 34 of this title.

26 (8) 'Registered professional nurse' means an individual who is licensed to practice
27 nursing under Article 1 of this chapter.

28 (9) 'Resident' means an individual in a community living arrangement.

29 (10) 'Supervising nurse' means the registered professional nurse who is responsible for
30 the supervision of a qualified medication aide in a community living arrangement.

31 (11) 'Supervision' means initial and ongoing direction, procedural guidance, and
32 observation and evaluation of the qualified medication aide by a registered professional
33 nurse.

1 43-26-53.

2 (a) A registered professional nurse or a licensed practical nurse may delegate certain
3 nursing tasks, as set out in Code Section 43-26-56, to no more than 15 qualified medication
4 aides who are working at and employed by community living arrangements.

5 (b) Certification as a qualified medication aide by the board shall constitute a presumption
6 that the qualified medication aide has acquired the necessary knowledge, skills, and
7 experience to perform the delegated nursing task with reasonable skill and safety upon the
8 residents of community living arrangements. The presumption may be overcome or
9 rebutted by evidence to the contrary, including, but not limited to, the determination that
10 deceptive or fraudulent information was used to obtain certification as a qualified
11 medication aide.

12 43-26-54.

13 The board shall have the power and responsibility to:

14 (1) Determine the qualifications and fitness of applicants for certification as a qualified
15 medication aide and renewal of the certificate;

16 (2) Adopt rules and regulations consistent with this article necessary to enable it to carry
17 into effect the provisions of this article, including disciplinary rules;

18 (3) Examine for, approve, issue, deny, revoke, suspend, and renew the certification of
19 qualified medication aide certificate holders and applicants under this article;

20 (4) Conduct hearings in accordance with the Georgia Administrative Procedure Act
21 regarding the regulation and enforcement of this article;

22 (5) Regulate the acts and practices that are allowed or prohibited for qualified medication
23 aides, in accordance with the provisions of this article;

24 (6) Establish application, examination, and certification fees;

25 (7) Establish requirements for the education and training of qualified medication aides;
26 and

27 (8) Establish continuing education requirements.

28 43-26-55.

29 (a) The board shall receive applications for certification to be qualified medication aides
30 in Georgia. Each applicant shall meet the following qualifications:

31 (1) Be at least 18 years of age;

32 (2) Be able to read, write, speak, and understand the English language;

33 (3) Have attained a high school diploma or a general educational development (GED)
34 diploma or the equivalent thereof;

1 (4) Have satisfactory results from a fingerprint record check report conducted by the
2 Georgia Crime Information Center, as determined by the board. Application for a
3 certificate under this Code section shall constitute consent for performance of a criminal
4 background check. Each applicant who submits an application to the board for
5 certification agrees to provide the board with any and all information necessary to run a
6 criminal background check, including, but not limited to, classifiable sets of fingerprints.
7 The applicant shall be responsible for all fees associated with the performance of a
8 background check;

9 (5) Have completed a prescribed course of study in a qualified medication aide program
10 conducted by the Department of Technical and Adult Education;

11 (6) Have successfully passed a board approved or administered competency exam for
12 qualified medication aides; and

13 (7) Have met such other requirements as may be prescribed by the board.

14 (b) Each qualified medication aide shall, in order to maintain certification, work under the
15 supervision of a registered professional nurse.

16 (c) Certificates issued under this article shall be renewed biennially according to schedules
17 and fees approved by the board.

18
19 43-26-56.

20 (a) The following tasks are permitted activities that may be delegated to a qualified
21 medication aide under supervision and are subject to the rules and regulations promulgated
22 by the board:

23 (1) Administer physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and rectal
24 medications and medications by gastric ('G' or 'J') tube;

25 (2) Administer insulin under physician direction and protocol;

26 (3) Administer medication via metered dose inhaler;

27 (4) Conduct finger stick blood glucose testing following established protocol;

28 (5) Administer commercially prepared disposable enema as ordered by a physician;

29 (6) Administer treatment for skin conditions, including stage I and II decubitus ulcers,
30 following a designated protocol;

31 (7) Assist residents in supervised self-administration of medication;

32 (8) Record in the medication administration record all medications that the qualified
33 medication aide has personally administered, including a resident's refusal to take
34 medication; and

35 (9) Observe and report to the supervising nurse any changes in the resident's condition.

36 (b) The board shall promulgate rules and regulations regarding the activities permitted by
37 this Code section and any other permitted activities, as determined by the board, and those

1 activities that the supervising nurse is prohibited from delegating to a qualified medication
2 aide and that the qualified medication aide is prohibited from performing.

3 43-26-57.

4 A community living arrangement which utilizes the services of a qualified medication aide
5 shall employ or contract with a registered professional nurse who has responsibility for the
6 supervision of the qualified medication aide. A registered professional nurse under
7 discipline, sanction, or restriction by the Georgia Board of Nursing shall not provide
8 supervision for a qualified medication aide.

9 43-26-58.

10 (a) The board shall have the authority to refuse to grant or to renew a certificate to an
11 applicant, to revoke the certificate of a certificate holder, or to discipline a certificate holder
12 upon a finding by the board that the applicant or certificate holder has:

13 (1) Been convicted of a felony, a crime involving moral turpitude, or any crime violating
14 a federal or state law relating to controlled substances or dangerous drugs or marijuana
15 in the courts of this state, any other state, territory, or country, or in the courts of the
16 United States, including, but not limited to, a plea of nolo contendere entered to the
17 charge, the granting of first offender treatment without adjudication of guilt, or the
18 withholding of adjudication of guilt on the charges or crime;

19 (2) Had a certificate to practice as a qualified medication aide revoked, suspended, or
20 annulled by any lawful certifying authority of any state or county, had other
21 disciplinary action taken by any lawful certifying authority for any certification or
22 licensure to practice a business or profession, including refusal of certification or
23 licensure, or was denied a certificate by any lawful certifying authority;

24 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
25 practice harmful to the public, which conduct or practice need not have resulted in actual
26 injury to any person. As used in this paragraph, the term 'unprofessional conduct'
27 includes any departure from, or the failure to conform to, the minimum standards of
28 acceptable and prevailing practice as a qualified medication aide;

29 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
30 of the board, this state, any other state, the United States, or any other lawful authority,
31 without regard to whether the violation is criminally punishable, which statute, law, or
32 rule or regulation relates to or in part regulates the practice of a qualified medication aide,
33 when the qualified medication aide or applicant knows or should have known that such
34 action violates such law or rule or regulation;

1 (5) Violated a lawful order of the board previously entered by the board or the order of
2 any certifying or licensing authority; or

3 (6) Displayed an inability to practice as a qualified medication aide with reasonable skill
4 and safety due to illness; use of alcohol, drugs, narcotics, chemicals, or any other types
5 of material; or as a result of any mental or physical condition.

6 (A) In enforcement of this paragraph, the board may, upon reasonable grounds, require
7 a certificate holder or applicant to submit to a mental or physical examination by a
8 board approved health care professional. The expense of such mental or physical
9 examination shall be borne by the certificate holder or applicant. The results of such
10 examination shall be admissible in any hearing before the board, notwithstanding any
11 claim of privilege under contrary law or rule. Every certificate holder and applicant
12 shall be deemed to have given such person's consent to submit to such mental or
13 physical examination and to have waived all objections to the admissibility of the
14 results in any hearing before the board upon the grounds that the same constitutes a
15 privileged communication. If a certificate holder or applicant fails to submit to such
16 an examination when properly directed to do so by the board, unless such failure was
17 due to circumstances beyond that person's control, the board may enter a final order
18 upon proper notice, hearing, and proof of such refusal. Any certificate holder or
19 applicant who is prohibited from practicing under this paragraph shall at reasonable
20 intervals be afforded an opportunity to demonstrate to the board that such person can
21 resume or begin to practice as a qualified medication aide with reasonable skill and
22 safety.

23 (B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain
24 any and all records relating to the mental or physical condition of a certificate holder
25 or applicant, including psychiatric records; such records shall be admissible in any
26 hearing before the board, notwithstanding any privilege under a contrary law or rule.
27 Every person who is certificated in this state or who shall file an application for said
28 certificate shall be deemed to have given such person's consent to the board's obtaining
29 such records and to have waived all objections to the admissibility of such records in
30 any hearing before the board upon the grounds that the same constitute a privileged
31 communication.

32 (b) Neither denial of an initial certificate, the issuance of a private reprimand, nor the
33 denial of a request for reinstatement of a certificate on the grounds that the certificate
34 holder or applicant has failed to meet the minimum requirements shall be considered a
35 contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative
36 Procedure Act'; and notice and hearing within the meaning of Chapter 13 of Title 50 shall

1 not be required, but the certificate holder or applicant shall be allowed to appear before the
2 board if he or she so requests.

3 43-26-59.

4 (a) Nothing in this article shall be construed to limit or repeal Articles 1 and 2 of this
5 chapter, relating to registered professional nurses and licensed practical nurses,
6 respectively.

7 (b) Nothing in this article shall be construed to limit or repeal any existing authority of a
8 physician to delegate to a qualified person any acts, duties, or functions which are
9 otherwise permitted by law or established by custom.

10 43-26-60.

11 This article shall be repealed in its entirety on July 1, 2011."

12 **SECTION 2.**

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