

Senate Bill 603

By: Senators Thomas of the 54th, Goggans of the 7th, Balfour of the 9th, Williams of the 19th, Unterman of the 45th and others

AS PASSED SENATE

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 require that applicants for
 6 licensure as registered professional nurses undergo a criminal background check; to provide
 7 for a change in certain prohibited activities; to change a provision relating to a Drug
 8 Enforcement Administration license applicability to nurses and physician's assistants; to
 9 amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating
 10 to the physicians, so as to provide for a physician to delegate certain medical acts to allow
 11 an advanced practice registered nurse to issue prescription drug orders and provide
 12 professional samples, order diagnostic studies, medical devices, and in certain
 13 life-threatening situations to order radiographic imaging; to provide for construction and
 14 limitations related to such delegation; to provide for definitions; to provide for the conditions
 15 of a nurse protocol agreement; to provide for patients receiving certain care to be examined
 16 by a physician on a determinative basis; to provide for execution of prescription drug orders;
 17 to prohibit certain activities in certain business establishments; to require that applicants for
 18 licensure as a physician undergo a criminal background check; to provide for related matters;
 19 to repeal conflicting laws; and for other purposes.

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

21 **SECTION 1.**

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

1 and enact rules and regulations for advanced practice registered nurses in performing acts
 2 as authorized in Code Section 43-34-26.3;"

3 SECTION 4.

4 Said chapter is further amended by striking Code Section 43-26-7, relating to requirements
 5 for licensure as a registered professional nurse, and inserting in lieu thereof the following:
 6 "43-26-7.

7 (a) Any applicant who meets the requirements of this Code section shall be eligible for
 8 licensure as a registered professional nurse.

9 (b) An applicant for licensure by examination shall:

10 (1) Submit a completed written application and fee;

11 (2) Have graduated from a nursing education program, approved by this board, or which
 12 meets criteria similar to, and not less stringent than, those established by this board;

13 (3) Pass a board recognized licensing examination; provided, however, such examination
 14 may not be taken prior to graduation from the nursing education program; and

15 (4) Provide the board with any and all information necessary, including but not limited
 16 to classifiable sets of fingerprints, to perform a criminal background check and expressly
 17 consent and authorize the board or its representative to perform such a check. The
 18 applicant's fingerprints shall be forwarded to the Georgia Crime Information Center
 19 which shall run a criminal background check on the applicant and provide the results of
 20 the background check to the board. Additionally, the applicant's fingerprints will be
 21 forwarded to the Federal Bureau of Investigation for a national criminal history record
 22 check. The applicant shall be responsible for all fees associated with the performance of
 23 a background check; and

24 (5) Meet such other criteria as established by the board.

25 (c) An applicant for licensure by endorsement shall:

26 (1) Submit a completed written application and fee;

27 (2) Have passed a board recognized licensing examination following graduation from the
 28 nursing education program;

29 (3) Submit verification of initial and current licensure in any other licensing jurisdiction
 30 administering a board recognized licensing examination;

31 (4) Have practiced nursing as a registered professional nurse for a period of time as
 32 determined by the board or have graduated from a nursing education program within the
 33 four years immediately preceding the date of the application; and

34 (5) Meet such other criteria as established by the board.

35 (d) An applicant for reinstatement who has previously held a valid license in Georgia shall:

36 (1) Submit a completed written application and fee;

1 (2) Have practiced nursing as a registered professional nurse for a period of time as
 2 determined by the board or have graduated from a nursing education program within the
 3 four years immediately preceding the date of the application; and

4 (3) Provide the board with any and all information necessary, including but not limited
 5 to classifiable sets of fingerprints, to perform a criminal background check and expressly
 6 consent and authorize the board or its representative to perform such a check. The
 7 applicant's fingerprints shall be forwarded to the Georgia Crime Information Center
 8 which shall run a criminal background check on the applicant and provide the results of
 9 the background check to the board. Additionally, the applicant's fingerprints will be
 10 forwarded to the Federal Bureau of Investigation for a national criminal history record
 11 check. The applicant shall be responsible for all fees associated with the performance of
 12 a background check; and

13 (4) Meet such other criteria as established by the board."

14 SECTION 5.

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

18 "(4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying
 19 that such person is a registered professional nurse or advanced practice registered nurse
 20 unless such person is duly licensed so to practice under the provisions of this article;"

21 SECTION 6.

22 Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
 23 physicians, is amended by striking subsection (g) of Code section 43-34-26.1, relating to
 24 delegation of authority to a nurse or physician's assistant, and inserting in lieu thereof the
 25 following:

26 "(g) Nothing in this Code section shall be construed to authorize or permit the issuance of
 27 a Drug Enforcement Administration license to a nurse ~~or physician's assistant~~ who is not
 28 an advanced practice registered nurse."

29 SECTION 7.

30 Said article is further amended by adding a new Code Section 43-34-26.3 to read as follows:

31 "43-34-26.3.

32 (a) As used in this Code section, the term:

33 (1) 'Advanced practice registered nurse' shall have the same meaning as provided in
 34 paragraph (1.1) of Code Section 43-26-3.

- 1 (2) 'Controlled substance' means any controlled substance as defined in Code Section
2 16-13-21 but shall not include any Schedule I controlled substance included in Code
3 Section 16-13-25 or any Schedule II controlled substance included in Code Section
4 16-13-26.
- 5 (3) 'Dangerous drug' means any dangerous drug as defined in Code Section 16-13-71.
- 6 (4) 'Delegating physician' means a physician who has entered into a nurse protocol
7 agreement pursuant to this Code section.
- 8 (5) 'Designated teaching hospital' shall have the same meaning as provided in Code
9 Section 31-7-95.
- 10 (6) 'Diagnostic study' means a laboratory test, X-ray, ultrasound, or other procedure used
11 to identify a characteristic or distinguishing feature of a particular disease or condition.
- 12 (7) 'Drug' means any dangerous drug or controlled substance.
- 13 (8) 'Free health clinic' shall have the same meaning as provided in Code Section
14 51-1-29.4.
- 15 (9) 'Life threatening' means an emergency situation in which a patient's life or physical
16 well-being will be harmed if certain testing is not performed immediately.
- 17 (10) 'Nurse protocol agreement' means a written document mutually agreed upon and
18 signed by an advanced practice registered nurse and a physician, by which document the
19 physician delegates to that advanced practice registered nurse the authority to perform
20 certain medical acts pursuant to this Code section, and which acts may include, without
21 being limited to, the ordering of drugs, medical devices, medical treatments, or diagnostic
22 studies or in life-threatening situations radiographic imaging tests. Such agreements shall
23 conform to the provisions set forth in subsection (c) of this Code section.
- 24 (11) 'Order' means to select pursuant to a nurse protocol agreement which drug, medical
25 device, medical treatment, or diagnostic study or in life-threatening situations
26 radiographic imaging test is appropriate for a patient and to communicate the same in
27 writing, orally, via facsimile, or electronically.
- 28 (12) 'Physician' means a person licensed to practice medicine under this chapter and:
29 (A) Whose principal place of practice is within this state and is within 100 miles of the
30 location where the nurse protocol agreement is being utilized; or
31 (B) Whose principal place of practice is outside this state but is within 50 miles of the
32 location where the nurse protocol agreement is being utilized within this state.
- 33 (13) 'Prescription drug order' means a written or oral order of an advanced practice
34 registered nurse for a drug or medical device for a specific patient. Such term includes
35 an electronic visual image prescription drug order and an electronic data prescription drug
36 order.

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

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

6 (16) 'Routine preventive health maintenance' means evaluation and maintenance of an
7 individual's health including those medical acts appropriate to age and gender, medical
8 history, and risk factors such as examination, counseling, anticipatory guidance, risk
9 factor reduction intervention, and ordering of appropriate immunizations and laboratory
10 and diagnostic procedures.

11 (b)(1) In addition to and without limiting the authority granted pursuant to Code Section
12 43-34-26.1, a physician may delegate to an advanced practice registered nurse in
13 accordance with a nurse protocol agreement the authority to order drugs, medical devices,
14 medical treatments, or diagnostic studies or in life-threatening situations radiographic
15 imaging tests.

16 (2) A physician who is a party to a nurse protocol agreement shall review on a regular
17 basis the medical acts delegated to an advanced practice registered nurse in a nurse
18 protocol agreement. An advanced practice registered nurse who is party to a nurse
19 protocol agreement shall be responsible for the nursing acts performed under such an
20 agreement and a delegating physician shall be responsible for the medical acts performed
21 under such an agreement.

22 (3) A patient who receives a prescription drug order from an advanced practice registered
23 nurse pursuant to a nurse protocol agreement shall be reviewed, evaluated, or examined
24 by a physician at intervals for such review, evaluation, or examination as determined by
25 the delegating physician.

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

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

30 (2) Contain a provision for immediate consultation between the advanced practice
31 registered nurse and the delegating physician; if the delegating physician is not available,
32 the delegating physician for purposes of consultation may designate another physician
33 who is aware of and in agreement with the nurse protocol agreement;

34 (3) Identify the parameters under which delegated acts may be performed by the
35 advanced practice registered nurse, including without limitation the number of refills
36 which may be ordered, the kinds of diagnostic studies which may be ordered, the extent,
37 if authorized, to which radiographic images may be ordered in life-threatening situations,

1 and the circumstances, if any, under which the advanced practice registered nurse may
2 execute a prescription drug order. The nurse protocol agreement may allow an advanced
3 practice registered nurse to review a report of diagnostic studies or radiographic images
4 but shall not authorize the advanced practice registered nurse to interpret such images and
5 shall require the advanced practice registered nurse to forward a copy of such report to
6 the delegating physician;

7 (4) Require documentation either in writing or by electronic means or other medium by
8 the advanced practice registered nurse of those acts performed by the advanced practice
9 registered nurse which are medical acts required to be authorized by the delegating
10 physician in the nurse protocol agreement;

11 (5) Include a schedule for periodic review by the delegating physician of patient records;

12 (6) Provide for patient review, evaluation, or follow-up by the delegating physician, with
13 the frequency of such review, evaluation, or follow-up based on the nature, extent, and
14 scope of the delegated act or acts as determined by the delegating physician and in
15 accordance with paragraphs (3) and (4) of subsection (b) of this Code section;

16 (7) Be reviewed, revised, or updated annually by the delegating physician and the
17 advanced practice registered nurse;

18 (8) Be available for review upon written request to the advanced practice registered nurse
19 by the Georgia Board of Nursing or to the delegating physician by the board.

20 (9) Be approved by the board and filed with the board by the delegating physician;

21 (10) Not allow an advanced practice registered nurse to perform an abortion; and

22 (11) Not allow an advanced practice registered nurse to issue a prescription drug order
23 that is intended to cause an abortion to occur pharmacologically.

24 (d) A written prescription drug order issued pursuant to this Code section shall be signed
25 by the advanced practice registered nurse and shall be on a form which shall include,
26 without limitation, the names of the advanced practice registered nurse and delegating
27 physician who are parties to the nurse protocol agreement, the patient's name and address,
28 the drug or device ordered, directions with regard to the taking and dosage of the drug or
29 use of the device, and the number of refills. A prescription drug order which is transmitted
30 either electronically or via facsimile shall conform to the requirements set out in paragraphs
31 (1) and (2) of subsection (c) of Code Section 26-4-80, respectively.

32 (e) An advanced practice registered nurse may be authorized under a nurse protocol
33 agreement to request, receive, and sign for professional samples and may distribute
34 professional samples to patients. The office or facility at which the advanced practice
35 registered nurse is working shall maintain a list of the professional samples approved by
36 the delegating physician for request, receipt, and distribution by the advanced practice
37 registered nurse as well as a complete list of the specific number and dosage of each

1 professional sample and medication voucher received and dispensed. In addition to the
2 requirements of this Code section, all professional samples shall be maintained as required
3 by applicable state and federal laws and regulations.

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

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

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

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

14 (3) In the Department of Human Resources;

15 (4) In any county board of health;

16 (5) In any free health clinic;

17 (6) In a birthing center;

18 (7) In any entity which:

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

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

23 (8) In a school nurse program of any local board of education; or

24 (9) In a health maintenance organization that has an exclusive contract with a medical
25 group practice or arrange for the provision of substantially all physician services to
26 enrollees in health benefits of the health maintenance organization.

27 (h) Nothing in this Code section shall be construed to create a presumption of liability,
28 either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title
29 26 who, in good faith, fills a prescription drug order of an advanced practice registered
30 nurse issued pursuant to a nurse protocol agreement.

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

33 (j) Nothing in this Code section shall be construed to require an advanced practice
34 registered nurse to be a party to a nurse protocol agreement in order to practice as a
35 registered professional nurse or an advanced practice registered nurse as otherwise
36 permitted by Article 1 of Chapter 26 of this title.

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

6 (l) Except for practice settings identified in paragraphs (1) through (9) of subsection (g)
 7 of this Code section, it shall be unlawful for a physician to be an employee of an advanced
 8 practice registered nurse, alone or in combination with others, if the physician is required
 9 to supervise the medical acts of the employing advanced practice registered nurse. Such
 10 practice shall be subject to sanctions by the Georgia Board of Nursing as to the advanced
 11 practice registered nurse and the board as to the physician."

12 SECTION 8.

13 Said article is further amended by adding a new Code section to read as follows:

14 "43-34-26.4.

15 No advanced practice registered nurse or physician's assistant shall exercise authority
 16 delegated pursuant to Code Section 43-34-26.1 or 43-34-26.3 while located within a
 17 general merchandising establishment or business establishment, a portion of which is
 18 licensed as a pharmacy pursuant to Article 6 of Chapter 4 of Title 26. This Code section
 19 shall not apply to the office of a physician licensed pursuant to this chapter, a hospital
 20 licensed pursuant to Title 31, or in a health maintenance organization that has an exclusive
 21 contract with a medical group practice to provide or arrange for the provision of
 22 substantially all physician service to enrollees in health benefit plans of the health
 23 maintenance organization."

24 SECTION 9.

25 Said article is further amended by striking subparagraph (a)(1)(A) of Code Section 43-34-27,
 26 relating to license requirement for persons engaged in the practice of medicine, and inserting
 27 in lieu thereof the following:

28 "(a)(1)(A) Any person who wishes to obtain the right to practice medicine in this state
 29 and who was not, prior to March 16, 1970, registered or licensed to practice medicine,
 30 either by the State Board of Medical Examiners or the State Board of Examiners in
 31 Osteopathy, shall, before it shall be lawful for him to practice medicine in this state,
 32 make application to the board through the executive director, upon such forms and in
 33 such manner as shall be adopted and prescribed by the board, and shall obtain from the
 34 board a license to practice medicine. All applicants shall provide the board with any
 35 and all information necessary, including but not limited to classifiable sets of

1 fingerprints, to perform a criminal background check and expressly consent and
2 authorize the board or its representative to perform such a check. The applicant's
3 fingerprints shall be forwarded to the Georgia Crime Information Center which shall
4 run a criminal background check on the applicant and provide the results of the
5 background check to the board. Additionally, the applicant's fingerprints will be
6 forwarded to the Federal Bureau of Investigation for a national criminal history record
7 check. The applicant shall be responsible for all fees associated with the performance
8 of a background check. Any person who practices medicine without first having
9 obtained a license shall be deemed to have violated this chapter. All applicants for a
10 license to practice medicine or for a renewal of any such license which has been
11 revoked shall furnish the board with evidence of good moral character. Applications
12 from candidates to practice medicine or surgery in any of its branches shall be
13 accompanied by proof that the applicant is a graduate of one of the two colleges of
14 medicine now existing in this state, or from some other legally incorporated medical
15 college or osteopathic college."

16 **SECTION 10.**

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