

House Bill 50 (COMMITTEE SUBSTITUTE)

By: Representatives Cooper of the 43rd, Watson of the 166th, Kaiser of the 59th, Lindsey of the 54th, and Rynders of the 152nd

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 require mandatory reporting for nurses; to provide for definitions; to provide
3 for enforcement; to provide for limited liability; to provide for related matters; to provide for
4 contingent effectiveness; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

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

9 "ARTICLE 3

10 43-26-50.

11 As used in this article, the term:

12 (1) 'Board' means the Georgia Board of Nursing, with respect to registered professional
13 nurses and advanced practice registered nurses, and the Georgia Board of Examiners of
14 Licensed Practical Nurses, with respect to licensed practical nurses.

15 (2) 'Nurse' means a registered professional nurse licensed pursuant to Article 1 of this
16 chapter, an advanced practice registered nurse, as defined in paragraph (1.1) of Code
17 Section 43-26-3, or a licensed practical nurse licensed pursuant to Article 2 of this
18 chapter.

19 43-26-51.

20 A nurse shall report names of subject individuals to the applicable board if the nurse has
21 reasonable cause to believe that any other nurse has violated any of the grounds for
22 discipline provided for in Code Section 43-26-53. A nurse need not duplicate a report if

23 he or she has reasonable cause to believe that such report has been made to the applicable
 24 board. A licensed health care professional shall not be required to report a nurse to the
 25 board under this Code section as a result of professional knowledge obtained in the course
 26 of the health care professional-patient relationship when the nurse is the patient.

27 43-26-52.

28 (a) Hospitals, nursing homes, temporary staffing agencies, and other employers of
 29 registered professional nurses, advanced practice registered nurses, or licensed practical
 30 nurses shall report to the applicable board, or ensure that such report has in fact been made
 31 to such board, the name of any nurse whose employment has been terminated or who has
 32 resigned in order to avoid termination for any reasons stipulated in Code Section 43-26-53.

33 (b) A state agency that licenses, registers, or certifies hospitals, nursing homes, home
 34 health agencies, or other types of health care facilities, or surveys one of these facilities or
 35 agencies, shall report to the applicable board when such state agency has evidence that a
 36 nurse has violated Code Section 43-26-53 or ensure that such a report has in fact been
 37 made to such board.

38 (c) In the event a nurse enters a voluntary alternative to discipline program approved by
 39 the board, reporting to the applicable board shall not be required for such nurse by a person
 40 under this Code section. Each board may approve alternative to discipline programs for
 41 monitoring of nurses who agree to seek treatment for impairment by chemical dependency
 42 or mental illness that could lead to disciplinary action by such board. The costs for any
 43 treatment programs shall be borne by the nurse.

44 (d) Each board shall inform, in the manner such board determines appropriate, nurses,
 45 facilities, agencies, and other persons of their duty to report under this article.

46 43-26-53.

47 (a) The following incidents shall be reported to the applicable board in the event any
 48 person is:

49 (1) Practicing nursing as a registered professional nurse, an advanced practice registered
 50 nurse, or a licensed practical nurse, without a valid, current license, except as otherwise
 51 permitted under Code Section 43-26-12 or 43-26-41, as applicable;

52 (2) Practicing nursing as a registered professional nurse, an advanced practice registered
 53 nurse, or a licensed practical nurse under cover of any diploma, license, or record
 54 illegally or fraudulently obtained, signed, or issued;

55 (3) Practicing nursing as a registered professional nurse, an advanced practice registered
 56 nurse, or a licensed practical nurse during the time the applicable license is suspended,
 57 revoked, surrendered, or administratively revoked for failure to renew;

58 (4) Using any words, abbreviations, figures, letters, title, sign, card, or device implying
59 that such person is a registered professional nurse, an advanced practice registered nurse,
60 or a licensed practical nurse unless such person is duly licensed or recognized by the
61 applicable board to practice as such under the provisions of this chapter;

62 (5) Fraudulently furnishing a license to practice nursing as a registered professional
63 nurse, an advanced practice registered nurse, or a licensed practical nurse;

64 (6) Knowingly aiding or abetting any person in violating this chapter;

65 (7) While holding a license as a nurse, convicted of any felony, crime involving moral
66 turpitude, or crime violating a federal or state law relating to controlled substances or
67 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
68 courts of the United States, including but not limited to a plea of nolo contendere entered
69 to the charge; or

70 (8) While holding a license as a nurse, currently or previously displaying an inability to
71 practice nursing as a registered professional nurse, an advanced practice registered nurse,
72 a licensed undergraduate nurse, or a licensed practical nurse with reasonable skill and
73 safety due to use of alcohol, drugs, narcotics, or chemicals.

74 (b) Minor incidents, as defined by the applicable board, shall not be required to be reported
75 pursuant to this article when the continuing practice by the subject nurse does not pose a
76 risk of harm to a patient or others and can be addressed through corrective action by the
77 nurse's employer. The applicable board shall adopt rules governing reporting of minor
78 incidents. The applicable board may evaluate a complaint and determine that it is a minor
79 incident under this Code section.

80 43-26-54.

81 The applicable board may seek an order from a court of competent jurisdiction for a report
82 from a nurse as required by Code Section 43-26-51 if one is not forthcoming voluntarily.
83 The applicable board may seek a citation for civil contempt if a court order for a report is
84 not obeyed by such nurse.

85 43-26-55.

86 (a) No nurse, hospital, nursing home, temporary staffing agency, employer, state agency,
87 or other person required to report a nurse to the applicable board under this article, who,
88 in good faith, either reports or fails to report, shall be subject to civil or criminal liability
89 or discipline for unprofessional conduct for such action or inaction.

90 (b) A physician or other licensed health care professional who, at the request of the
91 applicable board, examines a nurse shall be immune from suit for damages by the nurse

92 examined if the examining physician or examining health care professional conducted the
93 examination and made findings or diagnoses in good faith."

94 **SECTION 2.**

95 This Act shall become effective only when funds are specifically appropriated for purposes
96 of this Act in an appropriations Act making specific reference to this Act.

97 **SECTION 3.**

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