

The Senate Health and Human Services Committee offered the following substitute to HB 315:

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 implement measures to ensure the integrity and quality of nursing
3 professionals; to provide for continuing competency requirements as a requirement for
4 license renewal for registered professional nurses and licensed practical nurses; to provide
5 for inactive licenses for registered professional nurses; to require mandatory reporting for
6 nurses; to provide for definitions; to provide for enforcement; to provide for limited liability;
7 to provide for related matters; to provide for effective dates and contingent effectiveness; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is
12 amended by revising Code Section 43-26-9, relating to renewal, surrender, failure to renew,
13 and restoration and reissuance of a license, as follows:

14 "43-26-9.

15 (a) Licenses issued under this article shall be renewed biennially according to schedules
16 and fees approved by the board.

17 (b) A renewed license shall be issued to a registered professional nurse or licensed
18 undergraduate nurse who remits the required fee and complies with requirements
19 established by the board.

20 (b.1) Beginning with the 2016 license renewal cycle, an applicant for license renewal
21 under this article shall meet one of the following continuing competency requirements
22 during the previous licensure period:

23 (1) Completion of 30 continuing education hours by a board approved provider;

24 (2) Maintenance of certification or recertification by a national certifying body
25 recognized by the board;

26 (3) Completion of an accredited academic program of study in nursing or a related field,
 27 as recognized by the board;

28 (4) Verification of competency by a health care facility or entity licensed under Chapter
 29 7 of Title 31 or by a physician's office that is part of a health system and at least 500
 30 hours practiced as evidenced by employer certification on a form approved by the board;

31 or

32 (5) Other activities as prescribed and approved by the board that show competency in the
 33 nursing field.

34 Failure to meet the minimum continuing competency requirement for renewal of a license
 35 shall be grounds for denial of a renewal application. The board may waive or modify the
 36 requirements contained in this subsection in cases of hardship, disability, or illness or under
 37 such other circumstances as the board, in its discretion, deems appropriate. An applicant
 38 who is renewing a license for the first time shall not be required to meet the requirements
 39 of this subsection until the time of the second renewal if the applicant's initial license
 40 period is six months or less.

41 (c) The voluntary surrender of a license or the failure to renew a license by the end of an
 42 established penalty period shall have the same effect as a revocation of said license, subject
 43 to reinstatement at the discretion of the board. The board may restore and reissue a license
 44 and, as a condition thereof, may impose any disciplinary sanction provided by Code
 45 Section 43-1-19 or 43-26-11 or Code Section 43-1-19."

46 **SECTION 2.**

47 Said chapter is further amended by adding a new Code section to read as follows:

48 "43-26-9.1.

49 (a) A registered professional nurse, subject to rules of the board and on forms prescribed
 50 by the board, may request that his or her license be placed on inactive status and to be
 51 excused from payment of renewal fees until he or she resumes active status.

52 (b) A licensee on inactive status may have his or her license restored by submitting an
 53 application to the board on a form prescribed by the board and paying the required
 54 restoration fee. The board shall require evidence of competency to resume the practice of
 55 nursing as a registered professional nurse in order to restore the license to active status.

56 (c) A registered professional nurse or advanced practice registered nurse whose license is
 57 on inactive status shall not practice nursing as a registered professional nurse or an
 58 advanced practice registered nurse in this state."

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SECTION 3.

Said chapter is further amended by revising Code Section 43-26-39, relating to license renewal, voluntary surrender, application for reinstatement, and temporary permits, as follows:

"43-26-39.

(a) Licenses issued under this article shall be renewed biennially prior to the expiration of the license according to schedules and fees decided by the board and approved by the division director.

(b) A license shall be renewed for any licensed practical nurse who remits the required fee and complies with the requirements established by the board.

(b.1) Beginning with the 2016 license renewal cycle, an applicant for license renewal under this article shall meet one of the following continuing competency requirements during the previous licensure period:

(1) Completion of 20 continuing education hours by a board approved provider; or

(2) Completion of an accredited academic program of study in registered professional nursing, as recognized by the board.

Failure to meet the minimum continuing competency requirement for renewal of a license shall be grounds for denial of a renewal application. The board may waive or modify the requirements contained in this subsection in cases of hardship, disability, or illness or under such other circumstances as the board, in its discretion, deems appropriate. An applicant who is renewing a license for the first time shall not be required to meet the requirements of this subsection until the time of the second renewal if the applicant's initial license period is six months or less.

(c) The voluntary surrender of a license or the failure to renew a license by the end of an established renewal period shall have the same effect as revocation of said license, subject to reinstatement at the discretion of the board. The board may restore and reissue a license; and, as a condition thereof, may impose any disciplinary sanction provided by Code Section 43-1-19 upon such grounds as specified in Code Sections 43-1-19 and 43-26-40.

(d) Any license that is not renewed by the end of the renewal period may not thereafter be renewed, and the licensee must apply for reinstatement. Applicants for reinstatement who have not been engaged in the active practice of practical nursing as licensed practical nurses for a period which exceeds five years shall be required to obtain such additional education and training as provided in the rules and regulations of the board, which may include, but not be limited to, returning to school for full training and taking the licensing examination. Upon completion of the program, an application may be made for licensure as a new applicant.

95 (e) The board may issue a temporary permit to qualified applicants under such terms and
 96 conditions as specified in the rules and regulations of the board, but in no event shall such
 97 a temporary permit be issued to an applicant who has failed to pass the required
 98 examination.

99 (f) Other criteria for reinstatement may be determined by the rules of the board, including,
 100 but not limited to, ~~the following~~: additional coursework, a refresher course, supervised
 101 clinical practice, or examination by the board."

102 **SECTION 4.**

103 Said chapter is further amended by adding a new article to read as follows:

104 "ARTICLE 3

105 43-26-50.

106 As used in this article, the term:

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

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

114 43-26-51.

115 A nurse shall report names of subject individuals to the applicable board if the nurse has
 116 reasonable cause to believe that any other nurse has violated any of the grounds for
 117 discipline provided for in Code Section 43-26-53. A nurse need not duplicate a report if
 118 he or she has reasonable cause to believe that such report has been made to the applicable
 119 board. A licensed health care professional shall not be required to report a nurse to the
 120 board under this Code section as a result of professional knowledge obtained in the course
 121 of the health care professional-patient relationship when the nurse is the patient.

122 43-26-52.

123 (a) Hospitals, nursing homes, temporary staffing agencies, and other employers of
 124 registered professional nurses, advanced practice registered nurses, or licensed practical
 125 nurses shall report to the applicable board, or ensure that such report has in fact been made

126 to such board, the name of any nurse whose employment has been terminated or who has
 127 resigned in order to avoid termination for any reasons stipulated in Code Section 43-26-53.

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

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

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

141 43-26-53.

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

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

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

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

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

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

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

160 (7) While holding a license as a nurse, convicted of any felony, crime involving moral
 161 turpitude, or crime violating a federal or state law relating to controlled substances or

162 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
 163 courts of the United States, including, but not limited to, a plea of nolo contendere
 164 entered to the charge; or

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

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

175 43-26-54.

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

180 43-26-55.

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

185 (b) A physician or other licensed health care professional who, at the request of the
 186 applicable board, examines a nurse shall be immune from suit for damages by the nurse
 187 examined if the examining physician or examining health care professional conducted the
 188 examination and made findings or diagnoses in good faith."

189 **SECTION 5.**

190 Section 4 of this Act shall become effective only when funds are specifically appropriated
 191 for purposes of Section 4 of this Act in an appropriations Act. All other provisions of this
 192 Act shall become effective on July 1, 2013.

193 **SECTION 6.**

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