

Senate Bill 334

By: Senators Unterman of the 45th, Miller of the 49th and Shafer of the 48th

**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 transfer the Georgia Board of Nursing from the jurisdiction of the Secretary  
3 of State to the Department of Community Health for administrative purposes only; to provide  
4 for a definition; to provide for the powers and duties of the board; to authorize the board to  
5 appoint an executive director; to provide for the powers and duties of such executive director;  
6 to revise certain provisions related to the division director; to provide for related matters; to  
7 repeal conflicting laws; and for other purposes.

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

9                   **SECTION 1.**

10 Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is  
11 amended in Code Section 43-26-3, relating to definitions relative to the "Georgia Registered  
12 Professional Nurse Practice Act," by adding a new paragraph to read as follows:

13         "(3.1) 'Executive director' means the executive director appointed by the board pursuant  
14         to Code Section 43-26-4.1."

15                   **SECTION 2.**

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

17         "43-26-4.1.

18         (a) The board shall not be under the jurisdiction of the Secretary of State but shall be an  
19         independent state agency assigned to the Department of Community Health for  
20         administrative purposes only, as provided in Code Section 50-4-3, except that such  
21         department shall prepare and submit the budget for the board. The board shall have, with  
22         respect to all matters within the jurisdiction of the board as provided under this chapter, the  
23         powers, duties, and functions of professional licensing boards as provided in Chapter 1 of  
24         this title.

25       (b) The board shall appoint and fix the compensation of an executive director of such  
26       board who shall serve at the pleasure of the board. The executive director shall have those  
27       duties and powers prescribed by the board and any power, duty, and function granted to the  
28       division director with respect to professional licensing boards under Chapter 1 of this  
29       title but shall not be subject to any approval or other powers exercised by the Secretary of  
30       State.

31       (c) Meetings and hearings of the board shall be held at the site of the office of the board  
32       or at such other site as may be specified by the president of the board. A majority of the  
33       members of the board shall constitute a quorum for the transaction of business of the board.

34       (d) The board, through the executive director, may hire investigators for the purpose of  
35       conducting investigations. Any person so employed, if a P.O.S.T. certified peace officer  
36       under Chapter 8 of Title 35, shall be considered to be a peace officer and shall have all  
37       powers, duties, and status of a peace officer of this state; provided, however, that such  
38       investigators shall only be authorized, upon written approval of the executive director,  
39       notwithstanding Code Sections 16-11-126 and 16-11-129, to carry firearms in the  
40       performance of their duties and exercise the powers of arrest in the performance of their  
41       duties.

42       (e) The venue of any action involving members of the board shall be the county in which  
43       is found the primary office of the governmental entity of which the defendant is an officer.  
44       The executive director shall not be considered a member of the board in determining the  
45       venue of any such action, and no court shall have jurisdiction of any such action solely by  
46       virtue of the executive director residing or maintaining a residence within its jurisdiction.

47       (f) The board shall give point credit to veterans in the same manner as required under Code  
48       Sections 43-1-9 through 43-1-13.

49       (g) Initial judicial review of a final decision of the board shall be held solely in the  
50       superior court of the county of domicile of the board.

51       (h) The executive director shall make a report no later than December 31 of each year  
52       covering the activities of the board for that calendar year, which shall be made available  
53       to any member of the General Assembly upon request.

54       (i) The executive director shall prepare and maintain a public roster containing the names  
55       and business addresses of all current licensees, registration holders, and permit holders for  
56       each of the various registrants regulated by the board. A copy of the roster shall be  
57       available to any person upon request at a fee prescribed by the board sufficient to cover the  
58       cost of printing and distribution. The following shall be treated as confidential, not subject  
59       to Article 4 of Chapter 18 of Title 50, relating to inspection of public records, and shall not  
60       be disclosed without the approval of the board:

(1) Applications and other personal information submitted by applicants, except to the applicant, the staff, and the board;

(2) Information, favorable or unfavorable, submitted by a reference source concerning an applicant, except to the staff and the board;

(3) Examination questions and other examination materials, except to the staff and the board; and

(4) The deliberations of the board with respect to an application, an examination, a

complaint, an investigation, or a disciplinary proceeding, except as may be contained in official board minutes; provided, however, that such deliberations may be released to a law enforcement agency or prosecuting attorney of this state or to another state or federal enforcement agency or lawful licensing authority. Releasing the documents pursuant to this paragraph shall not subject any otherwise privileged documents to the provisions of Code Section 50-18-70.

(j) The executive director, with the approval of the board, notwithstanding any other provisions of law to the contrary, shall enter into such contracts as are deemed necessary to carry out this article to provide for all services required of the board.

(k) It shall be the duty of the executive director to keep minutes and a record of all acts of the board and such other books and records as may be necessary to show the acts of the board."

### SECTION 3.

Said chapter is further amended by revising Code Section 43-26-5, relating to general powers and responsibilities of the board, as follows:

"43-26-5.

(a) The board shall:

(1) Be responsible for the enforcement of the provisions of this chapter and shall be specifically granted all of the necessary duties, powers, and authority to carry out this responsibility;

(2) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems necessary for the administration and enforcement of this chapter in the protection of public health, safety, and welfare;

(3) Enforce qualifications for licensure under this article or Article 2 or Article 4 of this chapter;

(4) Develop and enforce reasonable and uniform standards for nursing education and nursing practice;

(5) Periodically evaluate nursing education programs and approve such programs as meet the board's requirements;

- 97 (6) Deny or withdraw approval from noncompliant nursing education programs;
- 98 (7) License duly qualified applicants under this article or Article 2 of this chapter by  
99 examination, endorsement, or reinstatement;
- 100 (8) Be authorized to issue temporary permits;
- 101 (9) Renew licenses of registered professional nurses, licensed undergraduate nurses, and  
102 licensed practical nurses in accordance with this article or Article 2 of this chapter;
- 103 (10) Be authorized to set standards for competency of licensees under this article or  
104 Article 2 of this chapter continuing in or returning to practice;
- 105 (11) Set standards for and regulate advanced nursing practice;
- 106 (12) Be authorized to enact rules and regulations for registered professional nurses in  
107 their performing acts under a nurse protocol as authorized in Code Section 43-34-23 and  
108 enact rules and regulations for advanced practice registered nurses in performing acts as  
109 authorized in Code Section 43-34-25;
- 110 (13) Implement the disciplinary process;
- 111 (14) Be authorized to issue orders when a license under this article or Article 2 of this  
112 chapter is surrendered to the board while a complaint, investigation, or disciplinary action  
113 against such license is pending;
- 114 (15) Issue a limited license to practice nursing or licensed practical nursing subject to  
115 such terms and conditions as the board may impose;
- 116 (16) Provide consultation and conduct conferences, forums, studies, and research on  
117 nursing education and nursing practice;
- 118 ~~(17) Approve the selection of a qualified person to serve as executive director;~~
- 119 ~~(18)~~<sup>(17)</sup> Be authorized to appoint standing or ad hoc committees as necessary to inform  
120 and make recommendations to the board about issues and concerns and to facilitate  
121 communication amongst the board, licensees under this article or Article 2 of this chapter,  
122 and the community;
- 123 ~~(19)~~<sup>(18)</sup> Maintain membership in the national organization which develops and regulates  
124 the nursing licensing examination and the practical nursing licensing examination;
- 125 ~~(20)~~<sup>(19)</sup> Be authorized to collect data regarding existing nursing and licensed practical  
126 nursing resources in Georgia and coordinate planning for nursing education and nursing  
127 practice;
- 128 ~~(21)~~<sup>(20)</sup> Determine fees;
- 129 ~~(22)~~<sup>(21)</sup> Adopt a seal which shall be in the care of the executive director and shall be  
130 affixed only in such a manner as prescribed by the board;
- 131 ~~(23)~~<sup>(22)</sup> Be authorized to enforce all investigative and disciplinary orders issued by the  
132 former Georgia Board of Examiners of Licensed Practical Nurses;
- 133 ~~(24)~~<sup>(23)</sup> Issue and renew multistate licenses pursuant to Article 4 of this chapter; and

134       ~~(25)~~(24) Take any action with respect to a multistate license issued by this state pursuant  
135       to Article 4 of this chapter and with respect to the privilege to practice in this state under  
136       a multistate license issued by another party state pursuant to the compact in Code Section  
137       43-26-61 in the same manner as is authorized with respect to a license issued pursuant  
138       to this article or Article 2 of this chapter.

139 (b) The board shall be the sole professional licensing board for determining if a registered  
140 professional nurse, licensed practical nurse, or any other person has engaged illegally in  
141 the practice of nursing. If a registered professional nurse or licensed practical nurse is  
142 charged with the unauthorized practice of any other health profession by any other board,  
143 such board shall notify the Georgia Board of Nursing before conducting any hearing.  
144 Nothing contained in this chapter shall be construed to limit any powers of any other board.  
145 (c) Chapter 1 of this title is expressly adopted and incorporated by reference into this  
146 chapter as if all the provisions of such chapter were included in this chapter."

## SECTION 4.

148 Said chapter is further amended in Code Section 43-26-39, relating to renewal of license,  
149 continuing competency requirements, voluntary surrender, application for reinstatement, and  
150 temporary permit, by revising subsection (a) as follows:

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

## SECTION 5.

155 Said chapter is further amended in Code Section 43-26-40, relating to refusal to grant license,  
156 revocation of license, and disciplining of licensees, by revising the introductory language of  
157 subsection (a) as follows:

158 "a) In addition to the authority granted grounds included in Code Section 43-1-19, the  
159 board shall have the authority to refuse to grant a license to an applicant, to revoke the  
160 license of a licensee, or to discipline a licensee upon a finding by the board that the  
161 applicant or licensee has:"

## SECTION 6.

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