

Senate Bill 323

By: Senators Kirkpatrick of the 32nd, Burke of the 11th, Hufstetler of the 52nd, Cowser of the 46th, Watson of the 1st and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide patient protection measures for patients undergoing sedation in certain settings; to provide for patients under conscious sedation in dental settings and for dental procedures; to provide for patients under varying levels of sedation in physician offices and medispas; to provide for definitions; to provide for rules and regulations; to provide for enforcement; to provide for statutory construction; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended in Article 1 of Chapter 11, relating to general provisions relative to dentists, dental hygienists, and dental assistants, by revising Code Section 43-11-21, relating to conscious sedation, as follows:

"43-11-21.

(a) No dentist licensed and practicing in the State of Georgia shall administer either single or multiple pharmacologic agents by oral, parenteral, enteral, transdermal, or transmucosal route that renders a patient to a state of conscious sedation as defined in Code Section 43-11-1, unless such dentist has been issued a permit by the board under the conditions specified therefor in this Code section. The dentist shall ensure that the pharmacologic agents and methods used to administer such agents shall include a margin of safety so that loss of consciousness of the patient is unlikely. This Code section shall not restrict the use of nitrous oxide or pharmacological agents that do not render a patient to a state of conscious sedation. Such permit shall be subject to biennial renewal at the time the dentist is required to renew that dentist's license to practice dentistry. It shall be the responsibility of the dentist to provide such information as the board may require and

to pay the separate initial issuance and renewal fees for the permit as may be established by the board.

(b) No dentist shall be issued a permit under this Code section unless the board has received satisfactory evidence that such dentist:

(1) Has received formal training in the use of conscious sedation at an institution accredited by the Commission on Dental Accreditation of the American Dental Association (ADA), its successor agency, or other board approved organization and is certified by such organization as competent in the administration of pharmacologic agents for conscious sedation and the handling of emergencies relating to conscious sedation. Such certification shall specify the type, number of hours, and length of training. The minimum didactic hours, patient contact hours, and number of patients sedated under supervision shall be established by rule or regulation of the board;

(2) Utilizes a properly equipped facility for the administration of conscious sedation, including physical plant and equipment, which has been evaluated and certified by an on-site examination; and

(3) Has demonstrated to the satisfaction of the board or any designee thereof proficiency in administering sedative techniques in the dentist's office on a patient or patients in a safe and effective manner.

(c) In enforcing the provisions of this Code section, the board is authorized to designate qualified persons to perform the on-site examinations and is further authorized to provide by rule or regulation for standards for physical plant, equipment, and personnel to be utilized in the induction of conscious sedation.

(d) The board or its appointed designee may, upon reasonable notice, make on-site inspections of the facility, equipment, and personnel of a dentist issued a permit under this Code section to determine if the standards of paragraph (2) of subsection (b) of this Code section are being maintained.

(e)(1) The board may, upon proper application, grant a provisional permit to administer conscious sedation to any dentist who meets the requirements of paragraph (1) of subsection (b) of this Code section.

(2) A provisional permit issued under this subsection shall expire six months after its issuance or upon the board's determination by site visit that the requirements of paragraph (2) or (3) of subsection (b) of this Code section have not been met, whichever occurs earlier. The provisional permit may be renewed once, at the discretion of the board, for a period not to exceed six months following the original expiration date.

(f) A dentist holding a current, valid permit to administer general anesthesia as provided in this chapter shall not be required to obtain a permit under this Code section in order to administer conscious sedation.

(g) A permit issued under this Code section may be revoked or not renewed if the board determines that the dentist holding such permit no longer meets any requirement of subsection (b) of this Code section. The board shall provide notice and opportunity for hearing under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in any case in which it revokes or refuses to renew a permit, provided that summary action regarding such permit shall be authorized under Code Section 50-13-18.

(h)(1) Any person who administers conscious sedation in this state in a dental facility or during the practice of dentistry in a medspa, without a license to practice dentistry from the board, shall be deemed to be engaged in the unlawful practice of dentistry and subject to the provisions of subsection (e) of Code Section 43-11-2 and Code Section 43-11-50.

As used in this paragraph, the term 'medspa' means a facility that offers a range of services for the purpose of improving an individual's well-being or appearance, including medical and surgical procedures such as liposuction, laser procedures, intense pulsed light, and injection of cosmetic filling agents and neurotoxins, in a nontraditional setting.

(2) Nothing in this subsection shall be construed to prevent a physician licensed in this state from administering conscious sedation or to deem a physician licensed in this state to be engaged in the unlawful practice of dentistry.

(3) Nothing in this subsection shall be construed to expand the scope of the practice of dentistry.

~~(h)~~(i)(1) This Code section shall not prohibit a person who is duly licensed to practice medicine in this state and who is a member of the anesthesiology staff of an institution classified as a hospital and issued a permit as an institution under Code Section 31-7-1 from administering conscious sedation in a dental facility, except that such anesthesiologist shall remain on the premises of the dental facility until any patient given conscious sedation by such anesthesiologist is stabilized and has regained consciousness.

(2) This Code section shall not prohibit a person who is duly licensed as a certified registered nurse anesthetist in this state from administering conscious sedation in a dental facility nor deem a certified registered nurse anesthetist to be engaged in the unlawful practice of dentistry, provided that such sedation is administered under the direction and responsibility of a dentist duly permitted under this Code section and that such nurse anesthetist shall remain on the premises of the dental facility until any patient given conscious sedation by such nurse anesthetist is stabilized and has regained consciousness."

SECTION 2.

Said title is further amended in Article 2 of Chapter 34, relating to the "Medical Practice Act of the State of Georgia," by adding a new Code section to read as follows:

99 "43-34-47.

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

101 (1) 'Deep sedation/analgesia' means a drug-induced depression of consciousness during
102 which patients cannot be easily aroused but can respond purposefully following repeated
103 or painful stimulation.

104 (2) 'General anesthesia' means a state of unconsciousness intentionally produced by
105 anesthetic agents, with absence of pain sensation over the entire body, in which the
106 patient's protective airway reflexes may be impaired and the patient may be unable to
107 maintain a patent natural airway. Sedation that progresses to the point at which the
108 patient's protective airway reflexes are impaired and the patient is unable to maintain a
109 patent natural airway is considered general anesthesia.

110 (3) 'Medspa' means a facility that offers a range of services for the purpose of improving
111 an individual's well-being or appearance, including medical and surgical procedures such
112 as liposuction, laser procedures, intense pulsed light, and injection of cosmetic filling
113 agents and neurotoxins, in a nontraditional setting.

114 (4) 'Minimal sedation' means a drug-induced state during which patients respond
115 normally to verbal commands.

116 (5) 'Moderate sedation/analgesia' means a drug-induced depression of consciousness
117 during which patients respond purposefully to verbal commands, either alone or
118 accompanied by tactile stimulation.

119 (6) 'Office based surgery' means any surgery or invasive medical procedure requiring
120 sedation, when performed in a location other than a hospital or hospital associated
121 surgical center or an ambulatory surgical facility, including but not limited to physicians'
122 offices and medispas.

123 (7) 'Rescue' means an intervention by a practitioner proficient in airway management and
124 advanced life support to correct adverse physiologic consequences of the
125 deeper-than-intended level of sedation and to return the patient to the originally intended
126 level of sedation.

127 (8) 'Sedation' means minimal sedation, moderate sedation/analgesia, deep
128 sedation/analgesia, or general anesthesia. This term shall not include local infiltration.

129 (b) No later than December 31, 2020, the board shall establish rules and regulations for the
130 administration of sedation and rescue in office based surgeries to establish consistent
131 standards, ensure continuing competency, and promote patient safety. Such rules and
132 regulations shall include requirements on:

133 (1) A properly equipped and maintained facility to ensure patient safety, which may be
134 demonstrated by appropriate accreditation or certification;

(2) Competency of the physician using sedation in the absence of an anesthesiologist or certified registered nurse anesthetist, including education and relevant training;
(3) Sedation assessment and management;
(4) Separation of surgical and sedation monitoring functions;
(5) Emergency care and transfer protocols in the event of a complication or emergency;
(6) Maintenance of complete and accurate medical records relating specifically to the sedation of the patient;
(7) Appropriate training and education in the safe and effective performance of all office based surgical procedures performed;
(8) Reporting of adverse events to the board; and
(9) Truth in advertising regarding the credentials, education, and training of the individuals administering sedation.

(c) Any physician administering sedation during office based surgery shall be subject to the rules and regulations established by the board pursuant to this Code section.

(d) Except as otherwise provided in subsection (e) of this Code section, any person who administers sedation during office based surgery in this state without a license to practice medicine from the board shall be deemed to be engaged in the unlawful practice of medicine and subject to the provisions of Code Sections 43-34-39 and 43-34-42.

(e)(1) Nothing in this Code section shall be construed to prevent a dentist licensed in this state with a permit issued by the Georgia Board of Dentistry pursuant to Code Section 43-11-21 from administering conscious sedation in a dental facility or during the practice of dentistry in a medspa or to deem a dentist licensed in this state to be engaged in the unlawful practice of medicine.

(2) Nothing in this Code section shall be construed to prevent a certified registered nurse anesthetist licensed in this state from administering conscious sedation or anesthesia pursuant to Code Section 43-26-11.1, subsection (h) of Code Section 43-11-21, or paragraph (2) of subsection (d) of Code Section 43-11-21.1 or to deem a certified registered nurse anesthetist licensed in this state to be engaged in the unlawful practice of medicine.

(3) Nothing in this Code section shall be construed to prevent a physician assistant licensed in this state who has completed a board approved anesthesiologist assistant program from administering conscious sedation or anesthesia or to deem such physician assistant to be engaged in the unlawful practice of medicine."

SECTION 3.

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