

House Bill 369

By: Representatives Powell of the 32nd, Nix of the 69th, Pirkle of the 155th, Bentley of the 139th, Prince of the 127th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
2 physicians, assistants, and others, so as to provide that job descriptions entered into between
3 physicians and physician assistants are not required to be submitted to or approved by the
4 Georgia Composite Medical Board; to authorize physicians to delegate the authority to
5 physician assistants and advanced practice registered nurses to prescribe Schedule II
6 controlled substances under certain conditions; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians,
11 assistants, and others, is amended by revising subsections (b) and (c) of Code Section
12 43-34-23, relating to delegation of authority to nurse or physician assistant, as follows:

13 "(b)(1)(A) A physician may delegate the authority contained in subparagraph (B) of
14 this paragraph to:

15 (i) A physician assistant in accordance with a job description; or

16 (ii) A nurse recognized by the Georgia Board of Nursing as a certified nurse midwife,
17 certified registered nurse anesthetist, certified nurse practitioner, or clinical nurse
18 specialist, psychiatric/mental health in accordance with a nurse protocol.

19 (B) A physician may delegate to those health care professionals identified in
20 subparagraph (A) of this paragraph:

21 (i) The authority to order controlled substances selected from a formulary of such
22 drugs established by the board and the authority to order dangerous drugs, medical
23 treatments, and diagnostic studies;

24 (ii) The authority to request, receive, and sign for professional samples and to
25 distribute professional samples to patients. The office or facility at which the health
26 care professional identified in subparagraph (A) of this paragraph is working shall
27 maintain a general list of the professional samples approved by the delegating
28 physician for request, receipt, and distribution by the health care professional
29 identified in subparagraph (A) of this paragraph as well as a complete list of the
30 specific number and dosage of each professional sample and medication voucher
31 received. Professional samples that are distributed by a health care professional
32 identified in subparagraph (A) of this paragraph shall be so noted in the patient's
33 medical record. In addition to the requirements of this Code section, all professional
34 samples shall be maintained as required by applicable state and federal laws and
35 regulations; and

36 (iii) The authority to sign, certify, and endorse all documents relating to health care
37 provided to a patient within his or her scope of authorized practice, including, but not
38 limited to, documents relating to physical examination forms of all state agencies and
39 verification and evaluation forms of the Department of Human Services, the State
40 Board of Education, local boards of education, the Department of Community Health,
41 and the Department of Corrections; provided, however, that a health care professional

42 identified in subparagraph (A) of this paragraph shall not have the authority to sign
43 death certificates or assign a percentage of a disability rating.

44 (2) A physician may delegate to a nurse or physician assistant the authority to order
45 dangerous drugs, medical treatments, or diagnostic studies and a nurse or physician
46 assistant is authorized to dispense dangerous drugs, in accordance with a dispensing
47 procedure and under the authority of an order issued in conformity with a nurse protocol
48 or job description, if that nurse or physician assistant orders or dispenses those dangerous
49 drugs, medical treatments, or diagnostic studies:

50 (A) As an agent or employee of:

51 (i) The Department of Public Health;

52 (ii) Any county board of health; or

53 (iii) Any organization:

54 (I) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal
55 Revenue Code, as defined in Code Section 48-1-2, other than an organization which
56 is a hospital, preferred provider organization, health maintenance organization, or
57 similar organization; or

58 (II) Established under the authority of or receiving funds pursuant to 42 U.S.C.
59 Section 254b or 254c of the United States Public Health Service Act,
60 which organization provides that those medical services and dangerous drugs which
61 are ordered or dispensed by its physician assistants and nurses will be provided at no
62 cost to the patient or at a cost based solely upon the patient's ability to pay; and

63 (B) In conformity with subsection (b) of Code Section 26-4-130 and the rules and
64 regulations established pursuant thereto by the State Board of Pharmacy.

65 (3) In addition, a physician may delegate to a nurse or physician assistant the authority
66 to order dangerous drugs, medical treatments, or diagnostic studies and a nurse or
67 physician assistant is authorized to dispense dangerous drugs, in accordance with a
68 dispensing procedure and under the authority of an order issued in conformity with a

69 nurse protocol or job description, if that nurse or physician assistant orders or dispenses
70 such drugs, treatments, or studies to a patient of an outpatient clinic:

71 (A) Which is owned or operated by a licensed hospital;

72 (B) Which provides such drugs, treatments, or studies free or at a charge to the patient
73 based solely upon the patient's ability to pay; provided, however, that such charge shall
74 not exceed the actual cost to the outpatient clinic; and

75 (C) Whose services are primarily provided to the medically disadvantaged

76 and that nurse or physician assistant orders or dispenses such drugs in conformity with
77 subsection (b) of Code Section 26-4-130 and the rules and regulations established
78 pursuant thereto by the State Board of Pharmacy.

79 (4) Delegation of authority to a physician assistant pursuant to this subsection shall be
80 authorized only if that delegation is contained in the job description ~~approved for that~~
81 ~~physician assistant by the board~~ entered into between the physician assistant and the
82 primary supervising physician.

83 (5) Delegation of authority to a nurse pursuant to this subsection shall be authorized only
84 if that delegation is contained in a nurse protocol for that nurse.

85 (c) The board shall be empowered to promulgate rules and regulations governing
86 physicians and physician assistants to carry out the intents and purposes of this Code
87 section, including establishing criteria and standards governing physicians; and physician
88 assistants, ~~job descriptions, and nurse protocols. The board shall be authorized to require~~
89 ~~that protocols not falling within such established criteria and standards be submitted to the~~
90 ~~board for review and approval or rejection."~~

91 **SECTION 2.**

92 Said chapter is further amended by revising paragraph (3) of subsection (a), paragraph (10)
93 of subsection (g), subsections (k) and (m), and by adding a new subsection to Code Section
94 43-34-25, relating to delegation of certain medical acts to advanced practice registered nurse,

95 construction and limitations of such delegation, definitions, conditions of nurse protocol, and
96 issuance of prescription drug orders, as follows:

97 "(3) 'Controlled substance' means any controlled substance as defined in Code Section
98 16-13-21 but shall not include any Schedule I controlled substance included in Code
99 Section 16-13-25 ~~or any~~ and shall only include Schedule II controlled substance substances
100 included in Code Section 16-13-26, if authorized pursuant to subsection (d.1) of this Code
101 section."

102 "(d.1) An advanced practice registered nurse may be authorized under a nurse protocol
103 agreement to issue prescription drug orders for Schedule II controlled substances in
104 emergency situations pursuant to the following requirements:

105 (1) The authorization is specifically included in the nurse protocol agreement;

106 (2) The advanced practice registered nurse has directly evaluated the patient;

107 (3) The prescription drug order is limited to an initial prescription not to exceed a
108 five-day supply;

109 (4) Any subsequent prescription drug orders after the initial prescription must be in
110 consultation with and approved by the delegating physician, and such approval must be
111 documented in the patient's chart; and

112 (5) The advanced practice registered nurse completes one hour of continuing education
113 biennially in the appropriate ordering and use of Schedule II controlled substances."

114 "(10) In any emergency medical services system operated by, or on behalf of, any
115 county, municipality, or hospital authority with a full-time physician medical director and
116 who does not order drugs, except that he or she may order up to a 14 day supply of drugs
117 as necessary in an emergency situation, excluding ~~Schedule II controlled substances and~~
118 benzodiazepines; provided, however, that an advanced practice registered nurse shall not
119 order radiographic imaging, diagnostic studies, or medical devices pursuant to this
120 paragraph; and provided, further, that a patient shall be referred to a physician, a dentist,
121 or a federally qualified health center."

122 "(k) Nothing in this Code section shall be construed to authorize an advanced practice
123 registered nurse to issue a prescription drug order for a Schedule I or II controlled
124 substance, except as otherwise authorized pursuant to subsection (d.1) of this Code section,
125 or authorize refills of any drug for more than 12 months from the date of the original order
126 except in the case of oral contraceptives, hormone replacement therapy, or prenatal
127 vitamins which may be refilled for a period of 24 months."

128 "(m) The board shall have the authority to promulgate rules and regulations governing a
129 delegating physician in order to carry out the intents and purposes of this Code section.
130 ~~Further, the board shall be authorized to:~~

131 ~~(1) Require that a nurse protocol agreement shall be filed by the delegating physician~~
132 ~~with the board within a reasonable time from the date of execution;~~

133 ~~(2) Determine, after review of a filed nurse protocol agreement, if such nurse protocol~~
134 ~~agreement fails to meet accepted standards of medical practice as established by the~~
135 ~~board; and~~

136 ~~(3) Require the delegating physician to amend any such noncompliant nurse protocol~~
137 ~~agreement in order to meet such accepted standards."~~

138 SECTION 3.

139 Said chapter is further amended by revising paragraph (9) of Code Section 43-34-102,
140 relating to definitions relative to physician assistants, as follows:

141 "(9) 'Primary supervising physician' means the physician ~~to whom the board licenses a~~
142 with whom the physician assistant pursuant to a board approved has entered into a job
143 description and who has the primary responsibility for supervising the practice of a such
144 physician assistant pursuant to that physician assistant's job description."

145 **SECTION 4.**

146 Said chapter is further amended by revising subsections (a), (c), and (e.1) of Code Section
147 43-34-103, relating to delegation of authority to physician assistants, as follows:

148 "(a)(1) In order to obtain licensure as a physician assistant, an applicant shall submit an
149 application to the board. Such application shall include:

150 (A) Evidence submitted by the applicant of his or her good moral character; and

151 (B) Evidence of his or her competency in a health care area related to the job
152 description which, as a minimum, shall include:

153 (i) Evidence of satisfactory completion of a training program approved by the board.

154 If the applicant is not a graduate of an accredited school approved by the board, he or
155 she shall be required to receive board approved refresher training and testing; and

156 (ii) Evidence that the applicant has passed the Physician Assistant National
157 Certification Examination (PANCE) administered by the National Commission for
158 the Certification of Physician Assistants (NCCPA), or its successor, or the National
159 Association for the Certification of Anesthesia Assistants; (NACAA)₂ or its successor.

160 The board may issue a temporary permit to any applicant for licensure who has satisfied
161 the provisions of division (i) of this subparagraph and who is an applicant for the next
162 available board approved or administered examination or who has completed this
163 examination and is awaiting the results of such examination. The temporary permit shall
164 expire upon notification of the applicant's failure to achieve a satisfactory score on the
165 board approved or administered examination. A physician assistant licensed pursuant to
166 this paragraph shall not be authorized to perform any medical acts of any sort except as
167 approved for utilization by a physician in a job description pursuant to paragraph (2) of
168 this subsection. The board may grant an inactive licensure status to a physician assistant
169 who is licensed pursuant to this article but who is not practicing with the supervision of
170 a board approved primary supervising physician.

171 (2) In order to obtain approval for the utilization of a physician assistant, whether the
 172 utilization is in a private practice or through a public or private health care institution or
 173 organization, the licensed physician who will be responsible for the performance of such
 174 physician assistant shall submit an application to the board which shall include:

175 (A) Evidence that the physician assistant is licensed pursuant to paragraph (1) of this
 176 subsection;

177 (B) An attestation that a ~~A~~ job description meeting the requirements of paragraph (4)
 178 of Code Section 43-34-102 has been entered into by the physician and the physician
 179 assistant; and

180 (C) A fee, established by the board; provided, however, that no fee will be required if
 181 the physician assistant is an employee of the state or a county government."

182 "(c)(1) At all times while providing patient services, a physician assistant shall have a
 183 signed job description ~~submitted by his or her primary supervising physician and~~
 184 approved by the board in effect.

185 (2) Nothing in this article shall prevent a primary supervising physician and physician
 186 assistant from ~~submitting to the board a new or amended physician assistant~~ revising a
 187 job description."

188 "(e.1)(1)(A) In addition to and without limiting the authority granted by Code Section
 189 43-34-23, a physician may delegate to a physician assistant, in accordance with a job
 190 description, the authority to issue a prescription drug order or orders for any device as
 191 defined in Code Section 26-4-5 or to issue any dangerous drug as defined in Code
 192 Section 16-13-71, any Schedule II controlled substance in accordance with
 193 subparagraph (B) of this paragraph, or any Schedule III, IV, or V controlled substance
 194 as defined in Code Section 16-13-21 on a prescription drug order or prescription device
 195 order form as specified in paragraph (3) of this subsection. Delegation of such
 196 authority shall be contained in the job description required by this Code section. The
 197 delegating physician shall remain responsible for the medical acts of the physician

198 assistant performing such delegated acts and shall adequately supervise the physician
199 assistant. If an existing job description for a physician assistant does not contain such
200 authority to order a prescription drug or device order as provided by this subsection,
201 that physician assistant may not issue any such prescription drug or device order until
202 a new job description delegating such authority is ~~submitted to and approved by the~~
203 ~~board entered into between the physician and the physician assistant.~~ Nothing in this
204 Code section shall be construed to authorize the written prescription drug order of a
205 Schedule I ~~or H~~ controlled substance.

206 (B) A physician may delegate to a physician assistant the authority to issue
207 prescription drug orders for Schedule II controlled substances in emergency situations
208 pursuant to the following requirements:

209 (i) The authorization is specifically included in the job description;

210 (ii) The physician assistant has directly evaluated the patient;

211 (iii) The drug order is limited to an initial prescription not to exceed a five-day
212 supply; and

213 (iv) Any subsequent drug orders after the initial prescription must be in consultation
214 with and approved by the primary supervising physician, and such approval must be
215 documented in the patient's chart.

216 (2) Nothing in this subsection shall be construed to create a presumption of liability,
217 either civil or criminal, on the part of a pharmacist who is duly licensed under Title 26
218 and who in good faith fills a prescription drug or device order presented by a patient
219 pursuant to this subsection. The pharmacist shall presume that the prescription drug or
220 device order was issued by a physician assistant duly licensed under this article who has
221 qualified under this Code section to prescribe pharmaceutical agents. The pharmacist
222 shall also presume that the pharmaceutical agent prescribed by the physician assistant is
223 an approved pharmaceutical agent, unless the pharmacist has actual or constructive
224 knowledge to the contrary.

225 (3) The physician assistant shall only be authorized to exercise the rights granted under
226 this subsection using a prescription drug or device order form which includes the name,
227 address, and telephone number of the prescribing supervising or alternate supervising
228 physician, the patient's name and address, the drug or device prescribed, the number of
229 refills, and directions to the patient with regard to the taking and dosage of the drug. A
230 prescription drug order which is transmitted either electronically or via facsimile shall
231 conform to the requirements set out in paragraphs (1) and (2) of subsection (c) of Code
232 Section 26-4-80, respectively. Any form containing less information than that described
233 in this paragraph shall not be offered to or accepted by any pharmacist who is duly
234 licensed under Title 26.

235 (4) Nothing in this Code section shall be construed to authorize a physician assistant to
236 authorize refills of any drug for more than 12 months from the date of the original
237 prescription drug or device order.

238 (5) A supervising physician or alternate supervising physician shall evaluate or examine,
239 at least every three months, any patient receiving controlled substances.

240 (6) In addition to the copy of the prescription drug or device order delivered to the
241 patient, a record of such prescription shall be maintained in the patient's medical record
242 in the following manner:

243 (A) The physician assistant carrying out a prescription drug or device order shall
244 document such order either in writing or by electronic means; and

245 (B) The supervising physician shall periodically review patient records. Such review
246 may be achieved with a sampling of such records as determined by the supervising
247 physician.

248 (7) A physician assistant is not permitted to prescribe drugs or devices except as
249 authorized in the physician assistant's job description and in accordance with this article.

250 ~~(8) The board shall adopt rules establishing procedures to evaluate an application for a~~
251 ~~job description containing the authority to order a prescription drug or device and any~~

252 ~~other rules the board deems necessary or appropriate to regulate the practice of physician~~
 253 ~~assistants, to carry out the intent and purpose of this article, or to protect the public~~
 254 ~~welfare.~~

255 ~~(9)~~(8) A physician assistant authorized by a primary supervising physician to order
 256 controlled substances pursuant to this Code section is authorized to register with the
 257 federal Drug Enforcement Administration.

258 ~~(10)~~(9)(A) A physician assistant delegated the authority by the primary supervising
 259 physician to issue a prescription drug or device order shall be required to complete a
 260 minimum of three hours of continuing education biennially in practice specific
 261 pharmaceuticals in which the physician assistant has prescriptive order privileges.

262 (B) A physician assistant delegated the authority by the primary supervising physician
 263 to issue a prescription drug or device order for a Schedule II controlled substance shall
 264 be required to complete one additional hour of continuing education biennially in the
 265 appropriate ordering and use of Schedule II controlled substances.

266 ~~(11)~~(10) A managed care system, health plan, hospital, insurance company, or other
 267 similar entity shall not require a physician to be a party to a job description as a condition
 268 for participation in or reimbursement from such entity."

269 **SECTION 5.**

270 Said chapter is further amended by revising Code Section 43-34-105, relating to performance
 271 of tasks in accordance with job description, as follows:

272 "43-34-105.

273 A ~~On receipt of notice of the board's approval,~~ a physician assistant, under the direction of
 274 the applying physician, may perform the tasks described in the job description, provided
 275 that nothing in this Code section shall make unlawful the performance of a medical task
 276 by the physician assistant, whether or not such task is specified in the general job

277 description, when it is performed under the direct supervision and in the presence of the
278 physician utilizing him or her."

279 **SECTION 6.**

280 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section
281 43-34-248, relating to agreement with consulting physician relating to cosmetic laser
282 services, as follows:

283 "(3) Examine each patient prior to any cosmetic laser service other than hair removal
284 using lasers or pulsed light devices being performed; provided, however, that a consulting
285 physician may delegate the authority to perform such examination to a physician assistant
286 who is a licensed cosmetic laser practitioner, in accordance with a job description
287 ~~approved by the board~~, or to a registered professional nurse who is also an advanced
288 practice registered nurse as defined in paragraph (1.1) of Code Section 43-26-3 and who
289 is a licensed cosmetic laser practitioner, pursuant to a protocol ~~approved by the board~~;
290 and provided, further, that in facilities subject to the provisions of Code Section
291 43-34-249.1 such delegation may be to: (A) a physician assistant who is not required to
292 be a licensed cosmetic laser practitioner, in accordance with a job description ~~approved~~
293 ~~by the board~~ entered into between the physician assistant and a physician; or (B) a
294 registered professional nurse who is also an advanced practice registered nurse who is not
295 required to be a licensed cosmetic laser practitioner, in accordance with a protocol
296 ~~approved by the board~~; and"

297 **SECTION 7.**

298 Said chapter is further amended by revising subsection (g) of Code Section 43-34-283,
299 relating to licensure requirements for pain management clinics, as follows:

300 "(g) No pain management clinic shall provide medical treatment or services, as defined by
301 the board, unless a physician, a physician assistant authorized to prescribe controlled

302 substances under an approved a job description, or an advanced practice registered nurse
303 authorized to prescribe controlled substances pursuant to a physician protocol is onsite at
304 the pain management clinic. This subsection shall not apply to a certified registered nurse
305 anesthetist practicing pursuant to Code Section 43-26-11.1, so long as (1) the patient has
306 previously been examined by a physician and such physician has issued a written order for
307 such patient to receive medical treatment or services and (2) the pain management clinic
308 has obtained written consent of the patient prior to any medical treatment or services being
309 provided by the certified registered nurse anesthetist regarding the medical treatment or
310 services to be performed, the risks of the medical treatment or services to be performed,
311 and that a physician may or may not be onsite."

312 **SECTION 8.**

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