

House Bill 369 (COMMITTEE SUBSTITUTE)

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 Article 3 of Chapter 2 of Title 40 and Article 2 of Chapter 34 of Title 43 of the
2 Official Code of Georgia Annotated, relating to prestige license plates and special plates for
3 certain persons and vehicles and medical practice, respectively, so as to authorize advanced
4 practice registered nurses and physician assistants to execute affidavits certifying an
5 individual is disabled for purposes of obtaining special vehicle decals for persons with
6 disabilities; to authorize physicians to delegate the authority to physician assistants and
7 advanced practice registered nurses to prescribe Schedule II controlled substances under
8 certain conditions; to provide for automatic approval of identical job descriptions under
9 certain conditions; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
14 prestige license plates and special plates for certain persons and vehicles, is amended by
15 revising Code Section 40-2-74.1, relating to temporary, permanent, and special permanent
16 parking permits for persons with disabilities, as follows:

H. B. 369 (SUB)

17 "40-2-74.1.

18 (a) The department shall issue parking permits for persons with disabilities and may
19 delegate to county tag agents the responsibility for issuance of such permits to residents of
20 the county served by the tag agent. The department shall receive applications for and issue
21 parking permits by mail to persons with disabilities upon presentation of an affidavit of a
22 licensed doctor of medicine, licensed doctor of osteopathic medicine, licensed doctor of
23 podiatric medicine, licensed optometrist, ~~or licensed chiropractor,~~ advanced practice
24 registered nurse acting pursuant to the authority of Code Section 43-34-25, or physician
25 assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103
26 stating that such person is a disabled person, the specific disability that limits or impairs
27 the person's ability to walk, and that he or she is a person with disabilities as specified in
28 paragraph (5) of Code Section 40-6-221. Permits shall be in such form as the department
29 prescribes but shall be of sufficient size and sufficiently distinctively marked to be easily
30 visible when placed on or affixed to the driver's side of the dashboard or hung from the
31 rearview mirror of the parked vehicle. Permits shall be made of a substrate as determined
32 by the commissioner and shall be of sufficient quality to ensure that the coloring of the
33 permit and the ink used thereon will resist fading for a period of at least four years. Permits
34 shall be issued to individuals, and the name of the individual and an identification number
35 shall appear on the permit. The individual to whom a permit is issued may use the permit
36 for any vehicle he or she is operating or in which he or she is a passenger. Permits shall
37 also be issued to institutions when the primary purpose of a vehicle operated by the
38 institution is to transport individuals with disabilities. The name of the institution, the
39 license number of the particular vehicle, and an identification number shall appear on the
40 permit. The institution shall use such permit only for a vehicle which is operated by the
41 institution and which is used primarily to transport individuals with disabilities.

42 (b) The department shall issue a temporary permit to any temporarily disabled person upon
43 presentation of an affidavit of a licensed doctor of medicine, licensed doctor of osteopathic

44 medicine, licensed doctor of podiatric medicine, licensed optometrist, ~~or~~ licensed
45 chiropractor, advanced practice registered nurse acting pursuant to the authority of Code
46 Section 43-34-25, or physician assistant acting pursuant to the authority of subsection (e.1)
47 of Code Section 43-34-103 stating that such person is a temporarily disabled person, the
48 specific disability that limits or impairs the person's ability to walk, that he or she is a
49 person with disabilities as specified in paragraph (5) of Code Section 40-6-221, and a date
50 until which such person is likely to remain disabled. The temporary permit shall show
51 prominently on its face an expiration date the same as the date specified by such doctor for
52 the likely termination of the disability, which date shall not be more than 180 days after the
53 date the permit is issued. The expiration date shall be printed with permanent ink and in
54 boldface type of sufficient size to be legible when the permit is displayed on the driver's
55 side of the dashboard or hung from the rearview mirror.

56 (c) The department shall issue a permanent permit to any permanently disabled person
57 upon presentation of an affidavit of a licensed doctor of medicine, licensed doctor of
58 osteopathic medicine, licensed doctor of podiatric medicine, licensed optometrist, ~~or~~
59 licensed chiropractor, advanced practice registered nurse acting pursuant to the authority
60 of Code Section 43-34-25, or physician assistant acting pursuant to the authority of
61 subsection (e.1) of Code Section 43-34-103 stating that such person is a permanently
62 disabled person. The affidavit shall further state the specific disability that limits or
63 impairs the person's ability to walk or that he or she is a person with disabilities as specified
64 in paragraph (5) of Code Section 40-6-221. The department shall also issue a permanent
65 permit to an institution which operates vehicles used primarily for the transportation of
66 individuals with disabilities upon presentation of a certification from the institution
67 regarding use of its vehicles. The institution shall receive permits only for the number of
68 vehicles so used and shall affix the permits to the driver's side of the dashboards of such
69 vehicles. The permanent permit shall be predominantly blue in color and shall show
70 prominently on its face an expiration date four years from the date it is issued. The

71 expiration date shall be machine printed, not handwritten, in boldface type of sufficient size
72 to be legible when the permit is displayed on the driver's side of the dashboard or hung
73 from the rearview mirror.

74 (d) Any individual to whom a specially designated disabled veteran's license plate has
75 been issued pursuant to Code Sections 40-2-69 through 40-2-72 and any individual to
76 whom a specially designated disabled person's license plate has been issued pursuant to
77 Code Section 40-2-74 shall be authorized to park the passenger motor vehicle on which the
78 specially designated license plate is attached in a parking place for persons with disabilities
79 without the necessity of obtaining a parking permit for persons with disabilities pursuant
80 to this Code section.

81 (e) The department shall issue a special permanent permit to any person who:

82 (1) Because of a physical disability drives a motor vehicle which has been equipped with
83 hand controls for the operation of the vehicle's brakes and accelerator; or

84 (2) Is physically disabled due to the loss of, or loss of use of, both upper extremities.

85 This special permanent permit shall be gold in color and shall show prominently on its face
86 an expiration date four years from the date it is issued. The expiration date shall be printed
87 in a size of print that is legible when the permit is displayed on the driver's side of the
88 dashboard or hung from the rearview mirror. Such a special permit shall be used in the
89 same manner as, and shall be subject to the provisions of this Code section relating to,
90 other permanent parking permits for persons with disabilities and shall also be used as
91 provided in Code Section 10-1-164.1. In addition to any other required printing, the
92 following shall be printed upon this special gold permit:

93 'Code Section 10-1-164.1 of the Official Code of Georgia Annotated requires that any
94 owner or operator of a gasoline station that sells full-service gasoline at one price and
95 self-service at a lower price shall provide the service of dispensing gasoline at the
96 self-service price for the holder of this special permit when such holder requests such

97 service and is the operator of the vehicle and is not accompanied by another person 16
98 years of age or older who is not mobility impaired or blind.'

99 (f) The department and county tag agents shall not charge or collect any fee for issuing
100 parking permits for persons with disabilities under this Code section.

101 (g) Any special disabled person decal issued under the former provisions of this Code
102 section shall be valid until its expiration date but shall not be reissued.

103 (h) For purposes of this Code section, an active duty military physician shall be entitled
104 to submit an affidavit in support of the application of active duty or retired military
105 personnel for parking permits for persons with disabilities whether or not such physician
106 is licensed to practice in Georgia. Such affidavit shall state that the applicant is in active
107 military service and is stationed in Georgia pursuant to military orders or is retired from
108 the military and is a resident of Georgia and that such person is a disabled person, the
109 specific disability that limits or impairs the person's ability to walk, and that he or she is
110 a person with disabilities as specified in paragraph (5) of Code Section 40-6-221.

111 (i) For purposes of this Code section the department shall accept, in lieu of an affidavit,
112 a signed and dated statement from the doctor, advanced practice registered nurse, or
113 physician assistant which includes the same information as required in an affidavit written
114 upon security paper as defined in paragraph (38.5) of Code Section 26-4-5."

115 **SECTION 2.**

116 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians,
117 assistants, and others, is amended by revising subparagraph (b)(1)(B) of Code Section
118 43-34-23, relating to delegation of authority to nurse or physician assistant, as follows:

119 "(B) A physician may delegate to those health care professionals identified in
120 subparagraph (A) of this paragraph:

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

124 (ii) The authority to request, receive, and sign for professional samples and to
125 distribute professional samples to patients. The office or facility at which the health
126 care professional identified in subparagraph (A) of this paragraph is working shall
127 maintain a general list of the professional samples approved by the delegating
128 physician for request, receipt, and distribution by the health care professional
129 identified in subparagraph (A) of this paragraph as well as a complete list of the
130 specific number and dosage of each professional sample and medication voucher
131 received. Professional samples that are distributed by a health care professional
132 identified in subparagraph (A) of this paragraph shall be so noted in the patient's
133 medical record. In addition to the requirements of this Code section, all professional
134 samples shall be maintained as required by applicable state and federal laws and
135 regulations; and

136 (iii) The authority to sign, certify, and endorse all documents relating to health care
137 provided to a patient within his or her scope of authorized practice, including, but not
138 limited to, documents relating to physical examination forms of all state agencies and
139 verification and evaluation forms of the Department of Human Services, the State
140 Board of Education, local boards of education, the Department of Community Health,
141 the Department of Revenue, and the Department of Corrections; provided, however,
142 that a health care professional identified in subparagraph (A) of this paragraph shall
143 not have the authority to sign death certificates or assign a percentage of a disability
144 rating."

SECTION 3.

145
146 Said chapter is further amended by revising paragraph (3) of subsection (a), subsection (e.1),
147 paragraph (10) of subsection (g), subsections (k) and (m), and by adding a new subsection
148 to Code Section 43-34-25, relating to delegation of certain medical acts to advanced practice
149 registered nurse, construction and limitations of such delegation, definitions, conditions of
150 nurse protocol, and issuance of prescription drug orders, as follows:

151 "(3) 'Controlled substance' means any controlled substance as defined in Code Section
152 16-13-21 but shall not include any Schedule I controlled substance included in Code
153 Section 16-13-25 ~~or any~~ and shall only include Schedule II controlled substance substances
154 included in Code Section 16-13-26, if authorized pursuant to subsection (d.1) of this Code
155 section."

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

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

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

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

163 (4) The advanced practice registered nurse notifies the delegating physician of such
164 prescription drug order issued as soon as possible, but in no event later than 72 hours of
165 issuance;

166 (5) Any subsequent prescription drug orders after the initial prescription must be in
167 consultation with and approved by the delegating physician, and such approval must be
168 documented in the patient's chart; and

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

171 "(e.1) Except for death certificates and assigning a percentage of a disability rating, an
172 advanced practice registered nurse may be delegated the authority to sign, certify, and
173 endorse all documents relating to health care provided to a patient within his or her scope
174 of authorized practice, including, but not limited to, documents relating to physical
175 examination forms of all state agencies and verification and evaluation forms of the
176 Department of Human Services, the State Board of Education, local boards of education,
177 the Department of Community Health, the Department of Revenue, and the Department of
178 Corrections."

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

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

193 "(m)(1) The board shall have the authority to promulgate rules and regulations governing
194 a delegating physician in order to carry out the intents and purposes of this Code section.

195 (2)(A) Further, the board shall be authorized to:

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

198 ~~(2)~~(ii) Determine, after review of a filed nurse protocol agreement, if such nurse
199 protocol agreement fails to meet accepted standards of medical practice as established
200 by the board; and
201 ~~(3)~~(iii) Require the delegating physician to amend any such noncompliant nurse
202 protocol agreement in order to meet such accepted standards.
203 (B) If a delegating physician submits a nurse protocol agreement for a new advanced
204 practice registered nurse and such nurse protocol agreement is identical to a nurse
205 protocol agreement previously submitted by such delegating physician for another
206 advanced practice registered nurse and approved by the board, the nurse protocol
207 agreement for the new advanced practice registered nurse shall be automatically
208 deemed approved by the board if the board has taken no action on the nurse protocol
209 agreement within ten days of submittal by the delegating physician."

210 **SECTION 4.**

211 Said chapter is further amended by revising subsections (c) and (e.1) of Code Section
212 43-34-103, relating to delegation of authority to physician assistants, as follows:

213 "(c)(1) At all times while providing patient services, a physician assistant shall have a
214 signed job description submitted by his or her primary supervising physician and
215 approved by the board.

216 (2) Nothing in this article shall prevent a primary supervising physician from submitting
217 to the board a new or amended physician assistant job description.

218 (3) If a primary supervising physician submits a job description for a new physician
219 assistant and such job description is identical to a job description previously submitted
220 by such primary supervising physician for another physician assistant and approved by
221 the board, the job description for the new physician assistant shall be automatically
222 deemed approved by the board if the board has taken no action on the job description
223 within ten days of submittal by the primary supervising physician."

224 ”(e.1)(1)(A) In addition to and without limiting the authority granted by Code Section
225 43-34-23, a physician may delegate to a physician assistant, in accordance with a job
226 description, the authority to issue a prescription drug order or orders for any device as
227 defined in Code Section 26-4-5 or to issue any dangerous drug as defined in Code
228 Section 16-13-71, any Schedule II controlled substance in accordance with
229 subparagraph (B) of this paragraph, or any Schedule III, IV, or V controlled substance
230 as defined in Code Section 16-13-21 on a prescription drug order or prescription device
231 order form as specified in paragraph (3) of this subsection. Delegation of such
232 authority shall be contained in the job description required by this Code section. The
233 delegating physician shall remain responsible for the medical acts of the physician
234 assistant performing such delegated acts and shall adequately supervise the physician
235 assistant. If an existing job description for a physician assistant does not contain such
236 authority to order a prescription drug or device order as provided by this subsection,
237 that physician assistant may not issue any such prescription drug or device order until
238 a new job description delegating such authority is submitted to and approved by the
239 board. Nothing in this Code section shall be construed to authorize the written
240 prescription drug order of a Schedule I ~~or H~~ controlled substance.

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

- 244 (i) The authorization is specifically included in the job description;
245 (ii) The physician assistant has directly evaluated the patient;
246 (iii) The drug order is limited to an initial prescription not to exceed a five-day
247 supply;
248 (iv) The physician assistant notifies the supervising physician of such prescription
249 drug order issued as soon as possible, but in no event later than 72 hours of issuance;
250 and

251 (v) Any subsequent drug orders after the initial prescription must be in consultation
252 with and approved by the primary supervising physician, and such approval must be
253 documented in the patient's chart.

254 (2) Nothing in this subsection shall be construed to create a presumption of liability,
255 either civil or criminal, on the part of a pharmacist who is duly licensed under Title 26
256 and who in good faith fills a prescription drug or device order presented by a patient
257 pursuant to this subsection. The pharmacist shall presume that the prescription drug or
258 device order was issued by a physician assistant duly licensed under this article who has
259 qualified under this Code section to prescribe pharmaceutical agents. The pharmacist
260 shall also presume that the pharmaceutical agent prescribed by the physician assistant is
261 an approved pharmaceutical agent, unless the pharmacist has actual or constructive
262 knowledge to the contrary.

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

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

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

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

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

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

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

288 (8) The board shall adopt rules establishing procedures to evaluate an application for a
289 job description containing the authority to order a prescription drug or device and any
290 other rules the board deems necessary or appropriate to regulate the practice of physician
291 assistants, to carry out the intent and purpose of this article, or to protect the public
292 welfare.

293 (9) A physician assistant authorized by a primary supervising physician to order
294 controlled substances pursuant to this Code section is authorized to register with the
295 federal Drug Enforcement Administration.

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

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

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

307

SECTION 5.

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