

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

A BILL TO BE ENTITLED
AN ACT

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

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

14 "43-11-21.

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

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

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

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

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

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

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

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

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

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

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

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

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

75 (2) This Code section shall not prohibit a person who is duly licensed as a certified
 76 registered nurse anesthetist in this state from administering conscious sedation in a dental
 77 facility, provided that such sedation is administered under the direction and responsibility
 78 of a dentist duly permitted under this Code section and that such nurse anesthetist shall
 79 remain on the premises of the dental facility until any patient given conscious sedation
 80 by such nurse anesthetist is stabilized and has regained consciousness.

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

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

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

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

96 **SECTION 2.**

97 Said title is further amended in Article 2 of Chapter 34, relating to the "Medical Practice Act
 98 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) 'Medispa' means a facility that offers a range of services for the purpose of improving
105 an individual's well-being or appearance, including medical and surgical procedures such
106 as liposuction, laser procedures, intense pulsed light, and injection of cosmetic filling
107 agents and neurotoxins, in a nontraditional setting.

108 (3) 'Minimal sedation' means a drug-induced state during which patients respond
109 normally to verbal commands.

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

113 (5) 'Office based surgery' means any surgery or invasive medical procedure requiring
114 analgesic or sedation, when performed in a location other than a hospital or hospital
115 associated surgical center or an ambulatory surgical facility, including but not limited to
116 physicians' offices and medispas.

117 (6) 'Sedation' means minimal sedation, moderate sedation/analgesia, or deep
118 sedation/analgesia. This term shall not include general anesthesia or local infiltration.

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

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

125 (2) Competency of the physician using sedation in the absence of an anesthesiologist or
126 certified nurse anesthetist, including education and relevant training;

127 (3) Sedation assessment and management;

128 (4) Separation of surgical and sedation monitoring functions;

129 (5) Emergency care and transfer protocols in the event of a complication or emergency;

130 (6) Maintenance of complete and accurate medical records relating specifically to the
131 sedation of the patient;

132 (7) Appropriate training and education in the safe and effective performance of all office
133 based surgical procedures performed;

134 (8) Reporting of adverse events to the board; and

135 (9) Truth in advertising regarding the credentials, education, and training of the
136 individuals administering sedation.

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

139 (d) Any person who administers sedation during office based surgery in this state without
140 a license to practice medicine from the board shall be deemed to be engaged in the
141 unlawful practice of medicine and subject to the provisions of Code Sections 43-34-39
142 and 43-34-42.

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

148 **SECTION 3.**

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