

House Bill 54 (COMMITTEE SUBSTITUTE)

By: Representatives Clark of the 100<sup>th</sup>, Jones of the 47<sup>th</sup>, Powell of the 33<sup>rd</sup>, Barrett of the 24<sup>th</sup>, Mathiak of the 82<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 16, 31, 43, and 48 of the Official Code of Georgia Annotated, relating to  
2 crimes and offenses, health, professions and businesses, and revenue and taxation,  
3 respectively, so as to authorize licensed physician assistants to order home healthcare  
4 services to patients of licensed home health agencies; to provide for definitions; to provide  
5 for the approval of continuing education regarding death certificates; to provide for tax  
6 credits for qualified caregiving expenses to include licensed physicians assistants; to provide  
7 for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
11 amended by revising paragraph (4.2) of Code Section 16-13-72, relating to the sale,  
12 distribution, or possession of dangerous drugs, as follows:

13 "(4.2) A registered professional nurse licensed under Article 1 of Chapter 26 of Title 43  
14 who is employed or engaged by a licensed home health agency may possess sterile saline,  
15 sterile water, and diluted heparin for use as intravenous maintenance for use in a home  
16 health setting, and such nurse may administer such items to patients of the home health

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17 agency upon the order of a licensed physician or a licensed physician assistant acting  
 18 pursuant to the authority of subsection (e.1) of Code Section 43-34-103. The State Board  
 19 of Pharmacy shall be authorized to adopt regulations governing the storage, quantity, use,  
 20 and administration of such items; provided, however, that nothing in this paragraph or in  
 21 such regulations shall be construed to restrict any authority of nurses existing under other  
 22 provisions of law;"

23 **SECTION 2.**

24 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
 25 paragraph (20) of Code Section 31-6-2, relating to definitions relative to state health planning  
 26 and development, as follows:

27 "(20) 'Home health agency' means a public agency or private organization, or a  
 28 subdivision of such an agency or organization, which is primarily engaged in providing  
 29 to individuals who are under a written plan of ~~care of a physician~~ treatment ordered by  
 30 a physician or a licensed physician assistant acting pursuant to the authority of subsection  
 31 (e.1) of Code Section 43-34-103, on a visiting basis in the places of residence used as  
 32 such individuals' homes, part-time or intermittent nursing care provided by or under the  
 33 supervision of a registered professional nurse, and one or more of the following services:

34 (A) Physical therapy;

35 (B) Occupational therapy;

36 (C) Speech therapy;

37 (D) Respiratory therapy;

38 (E) Skilled nursing care;

39 ~~(F)~~(F) Medical social services under the direction of a physician or a licensed  
 40 physician assistant acting pursuant to the authority of subsection (e.1) of Code  
 41 Section 43-34-103; or

42 ~~(G)~~(G) Part-time or intermittent services of a home health aide."

43 **SECTION 3.**

44 Such title is further amended by revising Code Section 31-7-150, relating to definitions, as  
 45 follows:

46 "31-7-150.

47 As used in this article, the term:

48 (1) 'Branch office' means a location or site, identified in the application or endorsement  
 49 thereto, from which a home health agency provides services within a portion of the total  
 50 geographic area served by the parent agency and which is part of the home health agency  
 51 and is located sufficiently close to share administration, supervision, and services in a  
 52 manner that renders it unnecessary for the branch independently to meet the requirements  
 53 of this article.

54 ~~(1.1)~~(2) 'Department' means the Department of Community Health.

55 ~~(2)~~(3) 'Home health agency' means a public, nonprofit, or proprietary organization,  
 56 whether owned or operated by one or more persons or legal entities, which is engaged in  
 57 furnishing home ~~health~~ healthcare services.

58 ~~(3)~~(4) 'Home ~~health~~ healthcare services' means those items and services furnished to an  
 59 individual according to a written plan of treatment signed by the patient's physician; or  
 60 a licensed physician assistant acting pursuant to the authority of subsection (e.1) of Code  
 61 Section 43-34-103; by a home health agency; or by others under arrangement with the  
 62 home health agency, on a visit or hourly basis, in a place of temporary or permanent  
 63 residence used as the individual's home, as follows:

64 (A) Part-time or intermittent skilled nursing care as ordered by a physician or a  
 65 licensed physician assistant acting pursuant to the authority of subsection (e.1) of Code  
 66 Section 43-34-103 and provided by or under the supervision of a registered nurse and  
 67 at least one other service listed in subparagraphs (B) through (D) of this paragraph;

68 (B) Physical, occupational, or speech therapy;

69 (C) Medical social services; and

70 (D) Home health aide services.

71 ~~(4)~~(5) 'License' means a license issued by the department.

72 ~~(5)~~(6) 'Licensee' means the individual, corporation, or public entity with whom rests the  
73 ultimate responsibility for maintaining approved standards for the home health agency.

74 ~~(6)~~(7) 'Parent home health agency' means the agency that develops and maintains  
75 administrative controls of subunits or branch offices.

76 ~~(7)~~(8) 'Physician' means an individual currently licensed or authorized to practice  
77 medicine, surgery, or osteopathy in this state.

78 (9) 'Physician assistant' means an individual licensed pursuant to Article 4 of Chapter 34  
79 of Title 43 and acting pursuant to the authority of subsection (e.1) of Code Section  
80 43-34-103.

81 ~~(8)~~(10) 'Plan of treatment' means a plan written, signed, and reviewed at least every two  
82 months by the patient's physician or a licensed physician assistant acting pursuant to the  
83 authority of subsection (e.1) of Code Section 43-34-103 prescribing items and services  
84 for the patient's condition.

85 ~~(9)~~(11) 'Registered nurse' means an individual who is currently licensed as a registered  
86 professional nurse in this state.

87 ~~(10)~~(12) 'Subunit' means a semiautonomous organization which serves patients in a  
88 geographic area different from that of the parent agency and which, by virtue of the  
89 distance between it and the parent agency, is judged incapable of sharing administration,  
90 supervision, and services on a daily basis with the parent agency and ~~must~~ shall,  
91 therefore, independently meet the licensing requirements for a home health agency and  
92 shall be separately licensed."

93 **SECTION 4.**

94 Said title is further amended by revising Code Section 31-7-153, relating to standards for  
95 patient care and agency operation, regulations as to issuance, denial, suspension, or  
96 revocation of licenses, and hearings, as follows:

97 "31-7-153.

98 The department shall promulgate regulations which define standards for the care, treatment,  
99 health, safety, welfare, and comfort of patients served by home health agencies and for the  
100 maintenance and operation of home health agencies which will promote safe and adequate  
101 care and treatment of the patients. These regulations shall be no less stringent than those  
102 required for participation of home health agencies in the Title XVIII ~~medicare~~ Medicare  
103 program and shall include, but not be limited to, a provision requiring the agency to have  
104 policies established by a professional group which includes at least one physician and one  
105 registered nurse and appropriate representation from other professional disciplines;  
106 provisions governing the services the agency provides; provisions for the supervision of  
107 services by a physician, a licensed physician assistant, or a registered nurse, as appropriate,  
108 and maintenance of clinical records on all patients, including a plan of treatment ~~prescribed~~  
109 ~~by a physician~~. The department is authorized to issue, deny, suspend, or revoke licenses  
110 in accordance with regulations promulgated pursuant to this Code section. Such  
111 regulations shall also include hearing procedures related to denial, suspension, or  
112 revocation of licenses."

113 **SECTION 5.**

114 Said title is further amended by revising Code Section 31-7-154, relating to inspections, as  
115 follows:

116 "31-7-154.

117 Each home health agency for which a license has been issued shall be periodically  
118 inspected by an authorized representative of the department. Such inspections shall be for

119 the purpose of ensuring that this article is being followed. The department is directed to  
 120 ensure by inspection that the licensee is providing quality care to its patients in accordance  
 121 with the orders of the patient's physician or a licensed physician assistant; provided,  
 122 however, that an agency shall be exempt from an additional on-site licensure inspection if  
 123 certified in a federal program for reimbursement of ~~medicare~~ Medicare or Medicaid  
 124 services."

125 **SECTION 6.**

126 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
 127 is amended by revising paragraph (1) of subsection (b) of Code Section 43-34-23, relating  
 128 to the delegation of authority to nurse or physician assistant, and by adding a new paragraph  
 129 to read as follows:

130 "(b)(1)(A) A physician may delegate the authority contained in subparagraph ~~(B)~~ of  
 131 this paragraph (b)(1)(B) of this Code section to:

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

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

136 (B) A physician may delegate to those healthcare professionals identified in  
 137 subparagraph ~~(A)~~ of this paragraph (b)(1)(A) of this Code section:

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

141 (ii) The authority to request, receive, and sign for professional samples and to  
 142 distribute professional samples to patients. The office or facility at which the  
 143 healthcare professional identified in subparagraph ~~(A)~~ of this paragraph (b)(1)(A) of  
 144 this Code section is working shall maintain a general list of the professional samples

145 approved by the delegating physician for request, receipt, and distribution by the  
146 healthcare professional identified in subparagraph ~~(A) of this paragraph~~ (b)(1)(A) of  
147 this Code section as well as a complete list of the specific number and dosage of each  
148 professional sample and medication voucher received. Professional samples that are  
149 distributed by a healthcare professional identified in subparagraph ~~(A) of this~~  
150 ~~paragraph~~ (b)(1)(A) of this Code section shall be so noted in the patient's medical  
151 record. In addition to the requirements of this Code section, all professional samples  
152 shall be maintained as required by applicable state and federal laws and regulations;  
153 and

154 (iii) The authority to sign, certify, and endorse all documents relating to healthcare  
155 provided to a patient within his or her scope of authorized practice, including, but not  
156 limited to, documents relating to physical examination forms of all state agencies and  
157 verification and evaluation forms of the Department of Human Services, the State  
158 Board of Education, local boards of education, the Department of Community Health,  
159 and the Department of Corrections; provided, however, that a healthcare professional  
160 identified in subparagraph ~~(A) of this paragraph~~ (b)(1)(A) of this Code section shall  
161 not have the authority to assign a percentage of a disability rating.

162 (1.1) Healthcare professionals identified in subparagraph (b)(1)(A) of this paragraph  
163 must Code section shall complete biennial continuing education regarding the recognition  
164 and documentation of the causes of death and appropriate execution of death certificates,  
165 as approved by the board for a licensed physician assistant as identified in  
166 division (b)(1)(A)(i) of this Code section or by the Board of Nursing for a healthcare  
167 professional identified in division (b)(1)(A)(ii) of this Code section."

168 **SECTION 7.**

169 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
170 amended by revising paragraph (1) of subsection (a) of Code Section 48-7-29.2, relating to  
171 tax credits for qualified caregiving expenses, as follows:

172 "(1) 'Qualified caregiving expenses' means payments by the taxpayer for home health  
173 agency services, personal care services, personal care attendant services, homemaker  
174 services, adult day care, respite care, or healthcare equipment and supplies which  
175 equipment and supplies have been determined to be medically necessary by a physician  
176 or a licensed physician assistant acting pursuant to the authority of subsection (e.1) of  
177 Code Section 43-34-103, which services, care, or equipment and supplies are:

178 (A) Provided to the qualifying family member; and

179 (B) Purchased or obtained from an organization or individual not related to the  
180 taxpayer or the qualifying family member."

181 **SECTION 8.**

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