

SENATE SUBSTITUTE TO HB 54**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 advanced practice registered nurses and physician assistants
4 to order home healthcare services to patients of home health agencies; to provide for
5 definitions; to provide for the approval of continuing education regarding death certificates;
6 to provide for authorizing job descriptions; to provide for tax credits for qualified caregiving
7 expenses to include advanced practice registered nurses and physician assistants; to provide
8 for related matters; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

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

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

18 agency upon the order of a licensed physician, an advanced practice registered nurse
19 acting pursuant to the authority of Code Section 43-34-25, or a physician assistant
20 provided that the individual ordering the home health services does not have an
21 ownership interest in an entity to which they are referring. acting pursuant to the authority
22 of Code Section 43-34-103. The State Board of Pharmacy shall be authorized to adopt
23 regulations governing the storage, quantity, use, and administration of such items;
24 provided, however, that nothing in this paragraph or in such regulations shall be
25 construed to restrict any authority of nurses existing under other provisions of law;”

26

SECTION 2.

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

30 “(20) 'Home health agency' means a public agency or private organization, or a
31 subdivision of such an agency or organization, which is primarily engaged in providing
32 to individuals who are under a written plan of ~~care of a physician~~ treatment ordered by
33 a physician, an advanced practice registered nurse acting pursuant to the authority of
34 Code Section 43-34-25, or a physician assistant provided that the individual ordering the
35 home health services does not have an ownership interest in an entity to which they are
36 referring. acting pursuant to the authority of Code Section 43-34-103, on a visiting basis
37 in the places of residence used as such individuals' homes, part-time or intermittent
38 nursing care provided by or under the supervision of a registered professional nurse, and
39 one or more of the following services:

- 40 (A) Physical therapy;
- 41 (B) Occupational therapy;
- 42 (C) Speech therapy;
- 43 (D) Respiratory therapy;

44 (E) Skilled nursing care;
 45 ~~(D)~~(F) Medical social services under the direction of a physician, an advanced practice
 46 registered nurse acting pursuant to the authority of Code Section 43-34-25, or a
 47 physician assistant provided that the individual ordering the home health services does
 48 not have an ownership interest in an entity to which they are referring. acting pursuant
 49 to the authority of Code Section 43-34-103; or
 50 ~~(E)~~(G) Part-time or intermittent services of a home health aide."

51 **SECTION 3.**

52 Said title is further amended by revising Code Section 31-7-150, relating to definitions, as
 53 follows:

54 "31-7-150.

55 As used in this article, the term:

56 (.5) 'Advanced practice registered nurse' has the same meaning as set forth in Code
 57 Section 43-26-3.

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

64 ~~(1.1)~~(2) 'Department' means the Department of Community Health.

65 ~~(2)~~(3) 'Home health agency' means a public, nonprofit, or proprietary organization,
 66 whether owned or operated by one or more persons or legal entities, which is engaged in
 67 furnishing home ~~health~~ healthcare services.

68 ~~(3)~~(4) 'Home ~~health~~ healthcare services' means those items and services furnished to an
 69 individual according to a written plan of treatment signed by the patient's physician, an

70 advanced practice registered nurse acting pursuant to the authority of Code Section
71 43-34-25, or a physician assistant acting pursuant to the authority of Code Section
72 43-34-103, by a home health agency, or by others under arrangement with the home
73 health agency on a visit or hourly basis, in a place of temporary or permanent residence
74 used as the individual's home, as follows:

- 75 (A) Part-time or intermittent skilled nursing care as ordered by a physician, an
76 advanced practice registered nurse acting pursuant to the authority of Code Section
77 43-34-25, or a physician assistant provided that the individual ordering the home health
78 services does not have an ownership interest in an entity to which they are referring.
79 acting pursuant to the authority of Code Section 43-34-103 and provided by or under
80 the supervision of a registered nurse and at least one other service listed in
81 subparagraphs (B) through (D) of this paragraph;
- 82 (B) Physical, occupational, or speech therapy;
- 83 (C) Medical social services; and
- 84 (D) Home health aide services.

85 ~~(4)~~(5) 'License' means a license issued by the department.

86 ~~(5)~~(6) 'Licensee' means the individual, corporation, or public entity with whom rests the
87 ultimate responsibility for maintaining approved standards for the home health agency.

88 ~~(6)~~(7) 'Parent home health agency' means the agency that develops and maintains
89 administrative controls of subunits or branch offices.

90 ~~(7)~~(8) 'Physician' means an individual currently licensed or authorized to practice
91 medicine, surgery, or osteopathy in this state.

92 (9) 'Physician assistant' means an individual licensed pursuant to Article 4 of Chapter 34
93 of Title 43 and acting pursuant to the authority of Code Section 43-34-103.

94 ~~(8)~~(10) 'Plan of treatment' means a plan written, signed, and reviewed at least every two
95 months by the patient's physician, an advanced practice registered nurse acting pursuant
96 to the authority of Code Section 43-34-25, or a physician assistant provided that the

97 individual ordering the home health services does not have an ownership interest in an
98 entity to which they are referring. acting pursuant to the authority of Code Section
99 43-34-103 prescribing items and services for the patient's condition.

100 ~~(9)~~(11) 'Registered nurse' means an individual who is currently licensed as a registered
101 professional nurse in this state.

102 ~~(10)~~(12) 'Subunit' means a semiautonomous organization which serves patients in a
103 geographic area different from that of the parent agency and which, by virtue of the
104 distance between it and the parent agency, is judged incapable of sharing administration,
105 supervision, and services on a daily basis with the parent agency and ~~must~~ shall,
106 therefore, independently meet the licensing requirements for a home health agency and
107 shall be separately licensed."

108 **SECTION 4.**

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

112 "31-7-153.

113 The department shall promulgate regulations which define standards for the care, treatment,
114 health, safety, welfare, and comfort of patients served by home health agencies and for the
115 maintenance and operation of home health agencies which will promote safe and adequate
116 care and treatment of the patients. These regulations shall be no less stringent than those
117 required for participation of home health agencies in the Title XVIII ~~medicare~~ Medicare
118 program and shall include, but not be limited to, a provision requiring the agency to have
119 policies established by a professional group which includes at least one physician and one
120 registered nurse and appropriate representation from other professional disciplines;
121 provisions governing the services the agency provides; provisions for the supervision of
122 services by a physician, advanced practice registered nurse, physician assistant, or

123 registered nurse, as appropriate, and maintenance of clinical records on all patients,
124 including a plan of treatment ~~prescribed by a physician~~. The department is authorized to
125 issue, deny, suspend, or revoke licenses in accordance with regulations promulgated
126 pursuant to this Code section. Such regulations shall also include hearing procedures
127 related to denial, suspension, or revocation of licenses."

128 **SECTION 5.**

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

131 "31-7-154.

132 Each home health agency for which a license has been issued shall be periodically
133 inspected by an authorized representative of the department. Such inspections shall be for
134 the purpose of ensuring that this article is being followed. The department is directed to
135 ensure by inspection that the licensee is providing quality care to its patients in accordance
136 with the orders of the patient's physician, an advanced practice registered nurse, or a
137 physician assistant; provided, however, that an agency shall be exempt from an additional
138 on-site licensure inspection if certified in a federal program for reimbursement of ~~medicare~~
139 Medicare or Medicaid services."

140 **SECTION 6.**

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

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

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

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

151 (B) A physician may delegate to those healthcare professionals identified in
152 subparagraph (A) of this paragraph:

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

156 (ii) The authority to request, receive, and sign for professional samples and to
157 distribute professional samples to patients. The office or facility at which the
158 healthcare professional identified in subparagraph (A) of this paragraph is working
159 shall maintain a general list of the professional samples approved by the delegating
160 physician for request, receipt, and distribution by the healthcare professional
161 identified in subparagraph (A) of this paragraph as well as a complete list of the
162 specific number and dosage of each professional sample and medication voucher
163 received. Professional samples that are distributed by a healthcare professional
164 identified in subparagraph (A) of this paragraph shall be so noted in the patient's
165 medical record. In addition to the requirements of this Code section, all professional
166 samples shall be maintained as required by applicable state and federal laws and
167 regulations; and

168 (iii) The authority to sign, certify, and endorse all documents relating to healthcare
169 provided to a patient within his or her scope of authorized practice, including, but not
170 limited to, documents relating to physical examination forms of all state agencies and
171 verification and evaluation forms of the Department of Human Services, the State
172 Board of Education, local boards of education, the Department of Community Health,
173 and the Department of Corrections; provided, however, that a healthcare professional

174 identified in subparagraph (A) of this paragraph shall not have the authority to assign
175 a percentage of a disability rating.

176 (1.1) Healthcare professionals identified in subparagraph (A) of this paragraph must
177 paragraph (1) of this subsection shall complete biennial continuing education regarding
178 the recognition and documentation of the causes of death and appropriate execution of
179 death certificates, as approved by the board for a physician assistant as identified in
180 division (b)(1)(A)(i) of this Code section or by the Board of Nursing for a healthcare
181 professional identified in division (b)(1)(A)(ii) of this Code section."

182 **SECTION 7.**

183 Said title is further amended in Code Section 43-34-103, relating to application for licensure
184 as a physician assistant, authorized delegated authority, and prohibited acts, by adding a new
185 subsection to read as follows:

186 "(m) In addition to and without limiting the authority granted by Code Section 43-34-23,
187 a physician may delegate to a physician assistant, in accordance with a job description, the
188 authority to order home healthcare services to a patient."

189 **SECTION 8.**

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

193 "(1) 'Qualified caregiving expenses' means payments by the taxpayer for home health
194 agency services, personal care services, personal care attendant services, homemaker
195 services, adult day care, respite care, or healthcare equipment and supplies which
196 equipment and supplies have been determined to be medically necessary by a physician,
197 an advanced practice registered nurse acting pursuant to the authority of Code Section
198 43-34-25, or a physician assistant provided that the individual ordering the home health

199 services does not have an ownership interest in an entity to which they are referring. acting
200 pursuant to the authority of Code Section 43-34-103, which services, care, or equipment
201 and supplies are:

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

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

205

SECTION 9.

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