

House Bill 1309

By: Representatives Newton of the 127th, Stephens of the 164th, Taylor of the 173rd, and Buckner of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated,
2 relating to practitioners of the healing arts, so as to clarify that all practitioners who dispense
3 drugs are engaged in the practice of pharmacy and shall comply with all record keeping and
4 other requirements; to provide for the Georgia State Board of Pharmacy to enforce rules and
5 regulations; to amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia
6 Annotated, relating to medical practice, so as to expand the authority of physicians to
7 delegate the authority to dispense certain drugs; to remove certain limitations on the authority
8 of physicians to delegate the authority to order certain drugs, treatments, or studies; to
9 provide for definitions; to provide for related matters; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 7 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to
14 practitioners of the healing arts, is amended by revising paragraph (2) of subsection (a) and
15 subsections (c) and (f) of Code Section 26-4-130, relating to dispensing drugs, compliance

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16 with labeling and packaging requirements, records available for inspection by board, and
 17 renewal of licenses, as follows:

18 "(2) 'Practitioner' or 'practitioner of the healing arts' means, notwithstanding Code
 19 Section ~~26-4-5~~, a person licensed as a dentist, optometrist, physician, podiatrist, or
 20 veterinarian under Chapter 11, 30, 34, 35, or 50, respectively, of Title 43 shall have the
 21 same meaning as set forth in Code Section 26-4-5."

22 "(c) All practitioners who dispense drugs shall be considered to be engaged in the practice
 23 of pharmacy and shall comply with all record-keeping, labeling, packaging, and storage
 24 requirements imposed upon pharmacists and pharmacies with regard to such drugs pursuant
 25 to this chapter and Chapter 13 of Title 16."

26 "(f) The board shall have the authority to promulgate and enforce rules and regulations
 27 governing the dispensing of drugs pursuant to this Code section."

28 SECTION 2.

29 Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
 30 medical practice, is amended by revising Code Section 43-34-23, relating to delegation of
 31 authority to nurse or physician assistant, as follows:

32 "43-34-23.

33 (a) As used in this Code section, the term:

34 (1) 'Administer' means to give a unit dose of any drug or to perform any medical
 35 treatment or diagnostic study.

36 (2) 'Controlled substance' means any controlled substance, as defined in Code Section
 37 16-13-21, except any Schedule I controlled substance listed in Code Section 16-13-25.

38 (3) 'Dangerous drug' means any dangerous drug, as defined in Code Section 16-13-71,
 39 but does not include any controlled substance or Schedule I controlled substance.

40 ~~(3.1)~~(4) 'Dispense' means to issue one or more doses of any drug in a suitable container
 41 with appropriate labeling for subsequent administration to, or use by, a patient.

42 ~~(4)~~(5) 'Dispensing procedure' means a written document signed by a licensed pharmacist
43 and a licensed physician which ~~document~~ establishes the appropriate manner under which
44 drugs may be dispensed pursuant to this Code section.

45 ~~(5)~~(6) 'Drug' means any dangerous drug or controlled substance.

46 ~~(5.1)~~(7) 'Job description' shall have the same meaning as set forth in Code Section
47 43-34-102.

48 ~~(6)~~(8) 'Nurse' means a person who is ~~a registered professional~~ an advance practice
49 registered nurse as defined in Code Section 43-26-3 and licensed as such under Article 1
50 of Chapter 26 of this title, the 'Georgia Registered Professional Nurse Practice Act.'

51 ~~(7)~~(9) 'Nurse protocol' means a written document mutually agreed upon and signed by
52 a nurse and a licensed physician, by which document the physician delegates to ~~that~~ such
53 nurse the authority to perform certain medical acts pursuant to subsection (b) of this Code
54 section, and which acts shall include, without being limited to, the administering and
55 ordering of any drug.

56 ~~(8)~~(10) 'Order' means to select a drug, medical treatment, or diagnostic study through
57 physician delegation in accordance with a nurse protocol or a physician assistant's job
58 description. Ordering under such delegation shall not be construed to be prescribing nor
59 shall ordering of a drug be construed to authorize the issuance of a written prescription.

60 ~~(9)~~(11) 'Physician assistant' means a person licensed as a physician assistant pursuant to
61 Article 4 of this chapter, the 'Physician Assistant Act.'

62 (b)(1)(A) A physician may delegate the authority ~~contained~~ provided in subparagraph
63 (B) of this paragraph to:

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

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

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

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

73 (ii) The authority to dispense dangerous drugs, in accordance with a dispensing
74 procedure and the authority of an order issued in conformity with a nurse protocol or
75 job description, if such nurse or physician assistant dispenses such dangerous drugs
76 in conformity with subsection (b) of Code Section 26-4-130;

77 ~~(ii)~~(iii) The authority to request, receive, and sign for professional samples and to
78 distribute professional samples to patients. The office or facility at which the
79 healthcare professional identified in subparagraph (A) of this paragraph is working
80 shall maintain a general list of the professional samples approved by the delegating
81 physician for request, receipt, and distribution by the healthcare professional
82 identified in subparagraph (A) of this paragraph as well as a complete list of the
83 specific number and dosage of each professional sample and medication voucher
84 received. Professional samples that are distributed by a healthcare professional
85 identified in subparagraph (A) of this paragraph shall be so noted in the patient's
86 medical record. In addition to the requirements of this Code section, all professional
87 samples shall be maintained as required by applicable state and federal laws and
88 regulations; and

89 ~~(iii)~~(iv) The authority to sign, certify, and endorse all documents relating to
90 healthcare provided to a patient within his or her scope of authorized practice,
91 including, but not limited to, documents relating to physical examination forms of all
92 state agencies and verification and evaluation forms of the Department of Human
93 Services, the State Board of Education, local boards of education, the Department of
94 Community Health, and the Department of Corrections; provided, however, that a

95 healthcare professional identified in subparagraph (A) of this paragraph shall not have
96 the authority to assign a percentage of a disability rating.

97 Healthcare professionals identified in subparagraph (A) of this paragraph must shall
98 complete biennial continuing education regarding the recognition and documentation
99 of the causes of death and appropriate execution of death certificates, as approved by
100 the board.

101 ~~(2) A physician may delegate to a nurse or physician assistant the authority to order~~
102 ~~dangerous drugs, medical treatments, or diagnostic studies and a nurse or physician~~
103 ~~assistant is authorized to dispense dangerous drugs, in accordance with a dispensing~~
104 ~~procedure and under the authority of an order issued in conformity with a nurse protocol~~
105 ~~or job description, if that nurse or physician assistant orders or dispenses those dangerous~~
106 ~~drugs, medical treatments, or diagnostic studies:~~

107 ~~(A) As an agent or employee of:~~

108 ~~(i) The Department of Public Health;~~

109 ~~(ii) Any county board of health; or~~

110 ~~(iii) Any organization:~~

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

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

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

122 ~~(3) In addition, a physician may delegate to a nurse or physician assistant the authority~~
123 ~~to order dangerous drugs, medical treatments, or diagnostic studies and a nurse or~~
124 ~~physician assistant is authorized to dispense dangerous drugs, in accordance with a~~
125 ~~dispensing procedure and under the authority of an order issued in conformity with a~~
126 ~~nurse protocol or job description, if that nurse or physician assistant orders or dispenses~~
127 ~~such drugs, treatments, or studies to a patient of an outpatient clinic:~~

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

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

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

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

136 ~~(4)(2) Delegation of authority to a physician assistant pursuant to this subsection shall~~
137 ~~be authorized only if that such delegation is contained in the job description approved for~~
138 ~~that such physician assistant by the board.~~

139 ~~(5)(3) Delegation of authority to a nurse pursuant to this subsection shall be authorized~~
140 ~~only if that such delegation is contained in a nurse protocol for that such nurse.~~

141 (c) The board shall be empowered to promulgate rules and regulations governing
142 physicians and physician assistants to carry out the intents and purposes of this Code
143 section, including establishing criteria and standards governing physicians, physician
144 assistants, job descriptions, and nurse protocols. The board shall be authorized to require
145 that protocols not falling within such established criteria and standards be submitted to the
146 board for review and approval or rejection.

- 147 (d) Notwithstanding any other provision of law to the contrary, a physician assistant or
148 nurse may perform any act authorized to be performed by ~~that~~ such person pursuant to and
149 in conformity with this Code section without such act constituting the practice of medicine.
- 150 (e) Nothing in this Code section shall be construed to limit or repeal this article and
151 Articles 4 and 6 of this chapter, relating to ~~physicians, osteopathic physicians,~~ physician
152 assistants; and respiratory ~~therapists~~ care, respectively, or Article 1 of Chapter 26 of this
153 title, relating to ~~registered nurses:~~ the 'Georgia Registered Professional Nurse Practice Act.'
- 154 (f) Nothing in this Code section shall be construed to limit or repeal any existing authority
155 of a licensed physician to delegate to a qualified person any acts, duties, or functions which
156 are otherwise permitted by law or established by custom.
- 157 (g) Nothing in this Code section shall be construed to authorize or permit the issuance of
158 a United States Drug Enforcement Administration license to a nurse who is not an
159 advanced practice registered nurse.
- 160 (h) Nothing in this Code section shall be construed to limit or repeal the authority of any
161 organization ~~described in division (i) or (ii) of subparagraph (b)(2)(A) of this Code section~~
162 ~~or any organization~~ established under the authority of or receiving funds pursuant to 42
163 U.S.C. Section 254b or 254c of the United States Public Health Service Act to supervise
164 its agents or employees or interfere with the employer and employee relationship of any
165 such agents or employees.
- 166 (i) Notwithstanding any other provision of law to the contrary, a physician assistant or
167 nurse may perform any act deemed necessary to provide treatment to a hospital or nursing
168 home patient in a life-threatening situation when such act is authorized by standing
169 procedures established by the medical staff of the hospital or nursing home."

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SECTION 3.

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