

The House Committee on Health offers the following substitute to HB 1309:

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 provide for statutory construction; to
8 provide for definitions; to provide for related matters; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 7 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to
13 practitioners of the healing arts, is amended by revising paragraph (2) of subsection (a) and
14 subsections (c) and (f) of Code Section 26-4-130, relating to dispensing drugs, compliance
15 with labeling and packaging requirements, records available for inspection by board, and
16 renewal of licenses, as follows:

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41 ~~(4)~~(5) 'Dispensing procedure' means a written document signed by a licensed pharmacist
42 and a licensed physician which ~~document~~ establishes the appropriate manner under which
43 drugs may be dispensed pursuant to this Code section.

44 ~~(5)~~(6) 'Drug' means any dangerous drug or controlled substance.

45 ~~(5.1)~~(7) 'Job description' shall have the same meaning as set forth in Code
46 Section 43-34-102.

47 ~~(6)~~(8) 'Nurse' means a person who is a registered professional nurse and licensed as such
48 under Article 1 of Chapter 26 of this title-, the 'Georgia Registered Professional Nurse
49 Practice Act.'

50 ~~(7)~~(9) 'Nurse protocol' means a written document mutually agreed upon and signed by
51 a nurse and a licensed physician, by which document the physician delegates to ~~that~~ such
52 nurse the authority to perform certain medical acts pursuant to subsection (b) of this Code
53 section, and which acts shall include, without being limited to, the administering and
54 ordering of any drug.

55 ~~(8)~~(10) 'Order' means to select a drug, medical treatment, or diagnostic study through
56 physician delegation in accordance with a nurse protocol or a physician assistant's job
57 description. Ordering under such delegation shall not be construed to be prescribing nor
58 shall ordering of a drug be construed to authorize the issuance of a written prescription.

59 ~~(9)~~(11) 'Physician assistant' means a person licensed as a physician assistant pursuant to
60 Article 4 of this chapter, the 'Physician Assistant Act.'

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

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

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

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

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

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

84 (iii) The authority to sign, certify, and endorse all documents relating to healthcare
85 provided to a patient within his or her scope of authorized practice, including, but not
86 limited to, documents relating to physical examination forms of all state agencies and
87 verification and evaluation forms of the Department of Human Services, the State
88 Board of Education, local boards of education, the Department of Community Health,
89 and the Department of Corrections; provided, however, that a healthcare professional
90 identified in subparagraph (A) of this paragraph shall not have the authority to assign
91 a percentage of a disability rating.

92 Healthcare professionals identified in subparagraph (A) of this paragraph ~~must~~ shall
93 complete biennial continuing education regarding the recognition and documentation

94 of the causes of death and appropriate execution of death certificates, as approved by
95 the board.

96 (C) A physician may delegate the authority provided in subparagraph (D) of this
97 paragraph to:

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

99 (ii) A nurse recognized by the Georgia Board of Nursing as an advance practice
100 registered nurse.

101 (D) The authority to dispense dangerous drugs, in accordance with a dispensing
102 procedure and the authority of an order issued in conformity with a nurse protocol or
103 job description, if such advance practice registered nurse or physician assistant
104 dispenses such dangerous drugs in conformity with subsection (b) of Code Section
105 26-4-130. Nothing in this paragraph shall be construed to allow a physician to dispense
106 Schedule II drugs.

107 (2) A physician may delegate to a nurse or physician assistant the authority to order
108 dangerous drugs, medical treatments, or diagnostic studies and a nurse or physician
109 assistant is authorized to dispense dangerous drugs, in accordance with a dispensing
110 procedure and under the authority of an order issued in conformity with a nurse protocol
111 or job description, if that nurse or physician assistant orders or dispenses those dangerous
112 drugs, medical treatments, or diagnostic studies:

113 (A) As an agent or employee of:

114 (i) The Department of Public Health;

115 (ii) Any county board of health; or

116 (iii) Any organization:

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

- 121 (II) Established under the authority of or receiving funds pursuant to 42 U.S.C.
122 Section 254b or 254c of the United States Public Health Service Act,
123 which organization provides that those medical services and dangerous drugs which
124 are ordered or dispensed by its physician assistants and nurses will be provided at no
125 cost to the patient or at a cost based solely upon the patient's ability to pay; and
- 126 (B) In conformity with subsection (b) of Code Section 26-4-130 and the rules and
127 regulations established pursuant thereto by the State Board of Pharmacy.
- 128 (3) In addition, a physician may delegate to a nurse or physician assistant the authority
129 to order dangerous drugs, medical treatments, or diagnostic studies and a nurse or
130 physician assistant is authorized to dispense dangerous drugs, in accordance with a
131 dispensing procedure and under the authority of an order issued in conformity with a
132 nurse protocol or job description, if that nurse or physician assistant orders or dispenses
133 such drugs, treatments, or studies to a patient of an outpatient clinic:
- 134 (A) Which is owned or operated by a licensed hospital;
- 135 (B) Which provides such drugs, treatments, or studies free or at a charge to the patient
136 based solely upon the patient's ability to pay; provided, however, such charge shall not
137 exceed the actual cost to the outpatient clinic; and
- 138 (C) Whose services are primarily provided to the medically disadvantaged
139 and that nurse or physician assistant orders or dispenses such drugs in conformity with
140 subsection (b) of Code Section 26-4-130 and the rules and regulations established
141 pursuant thereto by the State Board of Pharmacy.
- 142 (4) Delegation of authority to a physician assistant pursuant to this subsection shall be
143 authorized only if ~~that~~ such delegation is contained in the job description approved for
144 ~~that~~ such physician assistant by the board.
- 145 (5) Delegation of authority to a nurse pursuant to this subsection shall be authorized only
146 if ~~that~~ such delegation is contained in a nurse protocol for ~~that~~ such nurse.

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

153 (d) Notwithstanding any other provision of law to the contrary, a physician assistant or
154 nurse may perform any act authorized to be performed by ~~that~~ such person pursuant to and
155 in conformity with this Code section without such act constituting the practice of medicine.

156 (e) Nothing in this Code section shall be construed to limit or repeal this article and
157 Articles 4 and 6 of this chapter, relating to ~~physicians, osteopathic physicians, physician~~
158 ~~assistants; and respiratory therapists~~ care, respectively, or Article 1 of Chapter 26 of this
159 title, ~~relating to registered nurses.~~ the 'Georgia Registered Professional Nurse Practice Act.'

160 (f) Nothing in this Code section shall be construed to limit or repeal any existing authority
161 of a licensed physician to delegate to a qualified person any acts, duties, or functions which
162 are otherwise permitted by law or established by custom.

163 (g) Nothing in this Code section shall be construed to authorize or permit the issuance of
164 a United States Drug Enforcement Administration license to a nurse who is not an
165 advanced practice registered nurse.

166 (h) Nothing in this Code section shall be construed to limit or repeal the authority of any
167 organization described in division (i) or (ii) of subparagraph (b)(2)(A) of this Code section
168 or any organization established under the authority of or receiving funds pursuant to
169 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act to supervise
170 its agents or employees or interfere with the employer and employee relationship of any
171 such agents or employees.

172 (i) Notwithstanding any other provision of law to the contrary, a physician assistant or
173 nurse may perform any act deemed necessary to provide treatment to a hospital or nursing

174 home patient in a life-threatening situation when such act is authorized by standing
175 procedures established by the medical staff of the hospital or nursing home."

176 **SECTION 3.**

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