House Bill 1046
By: Representatives Clark of the 100th, Jones of the 47th, Powell of the 33rd, Barrett of the 24th, Mathiak of the 74th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 16-13-72, Code Section 31-6-2, and Article 7 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to the sale, distribution, or possession of dangerous drugs, definitions relative to state health planning and development, and home health agencies, respectively, so as to authorize advanced practice registered nurses and physician assistants to order home healthcare services; to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to authorize the Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists to establish a professional health program to provide for monitoring and rehabilitation of impaired healthcare professionals; to authorize the Georgia Board of Nursing to establish a professional health program to provide for monitoring and rehabilitation of impaired healthcare professionals; to repeal the prohibition on delegating to advanced practice registered nurses the authority to sign death certificates; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
SECTION 1.

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

"(4.2) A registered professional nurse licensed under Article 1 of Chapter 26 of Title 43 who is employed or engaged by a licensed home health agency may possess sterile saline, sterile water, and diluted heparin for use as intravenous maintenance for use in a home health setting, and such nurse may administer such items to patients of the home health agency upon the order of a licensed physician, advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, or licensed physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103. The State Board of Pharmacy shall be authorized to adopt regulations governing the storage, quantity, use, and administration of such items; provided, however, nothing in this paragraph or in such regulations shall be construed to restrict any authority of nurses existing under other provisions of law;"

SECTION 2.

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

"(20) 'Home health agency' means a public agency or private organization, or a subdivision of such an agency or organization, which is primarily engaged in providing to individuals who are under a written plan of care of a physician, advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, or licensed physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103, on a visiting basis in the places of residence used as such individuals' homes,
part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse, and one or more of the following services:

(A) Physical therapy;

(B) Occupational therapy;

(C) Speech therapy;

(D) Respiratory therapy;

(E) Skilled nursing care;

(F) Medical social services under the direction of a physician, advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, or licensed physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103; or

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

SECTION 3.

Article 7 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to home health agencies, is amended by revising Code Section 31-7-150, relating to definitions, as follows:

"31-7-150.

As used in this article, the term:

(1) 'Advanced practice registered nurse' has the same meaning as provided in Code Section 43-26-3.

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

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'(3) 'Department' means the Department of Community Health.

'(4) 'Home health agency' means a public, nonprofit, or proprietary organization, whether owned or operated by one or more persons or legal entities, which is engaged in furnishing home health services.

'(5) 'Home health services' means those items and services furnished to an individual according to a written plan of treatment signed by the patient's physician, an advanced practice registered nurse, or a physician assistant; by a home health agency; or by others under arrangement with the home health agency, on a visit or hourly basis, in a place of temporary or permanent residence used as the individual's home, as follows:

(A) Part-time or intermittent skilled nursing care as ordered by a physician, advanced practice registered nurse, or physician assistant and provided by or under the supervision of a registered nurse and at least one other service listed in subparagraphs (B) through (D) of this paragraph;

(B) Physical, occupational, or speech therapy;

(C) Medical social services; and

(D) Home health aide services.

'(6) 'License' means a license issued by the department.

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

'(8) 'Parent home health agency' means the agency that develops and maintains administrative controls of subunits or branch offices.

'(9) 'Physician' means an individual currently licensed or authorized to practice medicine, surgery, or osteopathy in this state.

'(10) 'Physician assistant' means an individual licensed pursuant to Article 4 of Chapter 34 of Title 43 and acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103.
'Plan of treatment' means a plan written, signed, and reviewed at least every two months by the patient's physician, an advanced practice registered nurse, or a physician assistant prescribing items and services for the patient's condition.

'Registered nurse' means an individual who is currently licensed as a registered professional nurse in this state.

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

SECTION 4.

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

31-7-153. The department shall promulgate regulations which define standards for the care, treatment, health, safety, welfare, and comfort of patients served by home health agencies and for the maintenance and operation of home health agencies which will promote safe and adequate care and treatment of the patients. These regulations shall be no less stringent than those required for participation of home health agencies in the Title XVIII Medicare program and shall include, but not be limited to, a provision requiring the agency to have policies established by a professional group which includes at least one physician and one registered nurse and appropriate representation from other professional disciplines; provisions governing the services the agency provides; provisions for the supervision of services by a physician, advanced practice registered nurse, physician assistant, or
registered nurse, as appropriate, and maintenance of clinical records on all patients, including a plan of treatment prescribed by a physician. The department is authorized to issue, deny, suspend, or revoke licenses in accordance with regulations promulgated pursuant to this Code section. Such regulations shall also include hearing procedures related to denial, suspension, or revocation of licenses.”

SECTION 5.

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

"31-7-154.

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

SECTION 6.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended in Chapter 10A, relating to professional counselors, social workers, and marriage and family therapists, by adding a new Code section to read as follows:

"43-10A-24.

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

(1) 'Entity' means an organization or medical professional association which conducts professional health programs.
(2) 'Healthcare professional' means any individual licensed, certified, or permitted by the board under this chapter.

(3) 'Impaired' means the inability of a healthcare professional to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(4) 'Professional health program' means a program established for the purposes of monitoring and rehabilitation of impaired healthcare professionals.

(b) The board shall be authorized to conduct a professional health program to provide monitoring and rehabilitation of impaired healthcare professionals in this state. To this end, the board shall be authorized to enter into a contract with an entity for the purpose of establishing and conducting such professional health program, including, but not limited to:

(1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose of ensuring the fitness of each such healthcare professional to resume or continue the practice of his or her healthcare profession while maintaining the safety of the public;

(2) Performing duties related to paragraph (10) of subsection (a) of Code Section 43-10A-17; and

(3) Performing such other related activities as determined by the board.

(c) Notwithstanding subsection (k) of Code Section 43-1-2 and Code Section 43-10A-17, the board shall be authorized to provide pertinent information regarding healthcare professionals, as determined by the board and in its sole discretion, to an entity for its purposes in conducting a professional health program pursuant to this Code section.

(d) All information, interviews, reports, statements, memoranda, or other documents furnished to an entity by the board or other source or produced by an entity and any findings, conclusions, recommendations, or reports resulting from the monitoring or rehabilitation of healthcare professionals pursuant to this Code section are declared to be
privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records. All such records of an entity shall be confidential and shall be used by such entity and its employees and agents only in the exercise of the proper function of the entity pursuant to its contract with the board. Such information, interviews, reports, statements, memoranda, or other documents furnished to or produced by an entity and any findings, conclusions, recommendations, or reports resulting from the monitoring or rehabilitation of healthcare professionals shall not be available for court subpoenas or for discovery proceedings.

(e) An impaired healthcare professional who participates in a professional health program conducted pursuant to this Code section shall bear all costs associated with such participation.

(f) Any entity that contracts with the board pursuant to this Code section shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed for the performance of any functions or duties under the contract, if performed in accordance with the terms of such contract and the provisions of this Code section."

SECTION 7.
Said title is further amended in Chapter 26, relating to nurses, by adding a new article to read as follows:

"ARTICLE 5

43-26-70.
As used in this article, the term:
(1) 'Board' means the Georgia Board of Nursing.
(2) 'Entity' means an organization or medical professional association which conducts professional health programs.

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(3) 'Healthcare professional' means any individual licensed, certified, or permitted by the board under this chapter.

(4) 'Impaired' means the inability of a healthcare professional to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(5) 'Professional health program' means a program established for the purposes of monitoring and rehabilitation of impaired healthcare professionals.

(a) The board shall be authorized to conduct a professional health program to provide monitoring and rehabilitation of impaired healthcare professionals in this state. To this end, the board shall be authorized to enter into a contract with an entity for the purpose of establishing and conducting such professional health program, including, but not limited to:

(1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose of ensuring the fitness of each such healthcare professional to resume or continue the practice of his or her healthcare profession while maintaining the safety of the public;

(2) Performing duties related to paragraph (2) of Code Section 43-26-11; and

(3) Performing such other related activities as determined by the board.

(b) Notwithstanding subsection (k) of Code Section 43-1-2 and Code Section 43-26-11, the board shall be authorized to provide pertinent information regarding healthcare professionals, as determined by the board and in its sole discretion, to an entity for its purposes in conducting a professional health program pursuant to this Code section.

(c) All information, interviews, reports, statements, memoranda, or other documents furnished to an entity by the board or other source or produced by an entity and any findings, conclusions, recommendations, or reports resulting from the monitoring or
rehabilitation of healthcare professionals pursuant to this Code section are declared to be
privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,
relating to open records. All such records of an entity shall be confidential and shall be
used by such entity and its employees and agents only in the exercise of the proper function
of the entity pursuant to its contract with the board. Such information, interviews, reports,
statements, memoranda, or other documents furnished to or produced by an entity and any
findings, conclusions, recommendations, or reports resulting from the monitoring or
rehabilitation of healthcare professionals shall not be available for court subpoenas or for
discovery proceedings.

An impaired healthcare professional who participates in a professional health program
conducted pursuant to Code Section 43-26-71 shall bear all costs associated with such
participation.

Any entity that contracts with the board pursuant to Code Section 43-26-71 shall be
immune from any liability, civil or criminal, that might otherwise be incurred or imposed
for the performance of any functions or duties under the contract if performed in
accordance with the terms of such contract and the provisions of this article.”

Said title is further amended in Chapter 34, relating to physicians, acupuncture, physician
assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and
orthotics and prosthetics practice, by revising subsection (b) of Code Section 43-34-23,
relating to delegation of authority to nurse or physician assistant, as follows:

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

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

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

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

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

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

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

SECTION 9.
Said title is further amended in said chapter by revising subsection (e.1) of Code Section 43-34-25, relating to delegation of certain medical acts to advanced practice registered nurse, construction and limitations of such delegation, definitions, conditions of nurse protocol, and issuance of prescription drug orders, as follows:

"(e.1) Except for death certificates and assigning a percentage of a disability rating, an advanced practice registered nurse may be delegated the authority to sign, certify, and endorse all documents relating to healthcare provided to a patient within his or her scope of authorized practice, including, but not limited to, documents relating to physical examination forms of all state agencies and verification and evaluation forms of the Department of Human Services, the State Board of Education, local boards of education, the Department of Community Health, and the Department of Corrections."

SECTION 10.
All laws and parts of laws in conflict with this Act are repealed.