

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

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

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15
16 Code Section 16-13-72 of the Official Code of Georgia Annotated, relating to the sale,
17 distribution, or possession of dangerous drugs, is amended by revising paragraph (4.2) as
18 follows:

19 "(4.2) A registered professional nurse licensed under Article 1 of Chapter 26 of Title 43
20 who is employed or engaged by a licensed home health agency may possess sterile saline,
21 sterile water, and diluted heparin for use as intravenous maintenance for use in a home
22 health setting, and such nurse may administer such items to patients of the home health
23 agency upon the order of a licensed physician, advanced practice registered nurse acting
24 pursuant to the authority of Code Section 43-34-25, or licensed physician assistant acting
25 pursuant to the authority of subsection (e.1) of Code Section 43-34-103. The State Board
26 of Pharmacy shall be authorized to adopt regulations governing the storage, quantity, use,
27 and administration of such items; provided, however, nothing in this paragraph or in such
28 regulations shall be construed to restrict any authority of nurses existing under other
29 provisions of law;"

SECTION 2.

30
31 Code Section 31-6-2 of the Official Code of Georgia Annotated, relating to the definitions
32 relative to state health planning and development, is amended by revising paragraph (20) as
33 follows:

34 "(20) 'Home health agency' means a public agency or private organization, or a
35 subdivision of such an agency or organization, which is primarily engaged in providing
36 to individuals who are under a written plan of care of a physician, advanced practice
37 registered nurse acting pursuant to the authority of Code Section 43-34-25, or licensed
38 physician assistant acting pursuant to the authority of subsection (e.1) of Code Section
39 43-34-103, on a visiting basis in the places of residence used as such individuals' homes,

40 part-time or intermittent nursing care provided by or under the supervision of a registered
 41 professional nurse, and one or more of the following services:

42 (A) Physical therapy;

43 (B) Occupational therapy;

44 (C) Speech therapy;

45 (D) Respiratory therapy;

46 (E) Skilled nursing care;

47 (F) Medical social services under the direction of a physician, advanced practice
 48 registered nurse acting pursuant to the authority of Code Section 43-34-25, or licensed
 49 physician assistant acting pursuant to the authority of subsection (e.1) of Code Section
 50 43-34-103; or

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

52 **SECTION 3.**

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

56 "31-7-150.

57 As used in this article, the term:

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

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

66 ~~(1.1)~~(3) 'Department' means the Department of Community Health.

67 ~~(2)~~(4) 'Home health agency' means a public, nonprofit, or proprietary organization,
68 whether owned or operated by one or more persons or legal entities, which is engaged in
69 furnishing home health services.

70 ~~(3)~~(5) 'Home health services' means those items and services furnished to an individual
71 according to a written plan of treatment signed by the patient's physician, an advanced
72 practice registered nurse, or a physician assistant; by a home health agency; or by others
73 under arrangement with the home health agency, on a visit or hourly basis, in a place of
74 temporary or permanent residence used as the individual's home, as follows:

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

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

80 (C) Medical social services; and

81 (D) Home health aide services.

82 ~~(4)~~(6) 'License' means a license issued by the department.

83 ~~(5)~~(7) 'Licensee' means the individual, corporation, or public entity with whom rests the
84 ultimate responsibility for maintaining approved standards for the home health agency.

85 ~~(6)~~(8) 'Parent home health agency' means the agency that develops and maintains
86 administrative controls of subunits or branch offices.

87 ~~(7)~~(9) 'Physician' means an individual currently licensed or authorized to practice
88 medicine, surgery, or osteopathy in this state.

89 (10) 'Physician assistant' means an individual licensed pursuant to Article 4 of
90 Chapter 34 of Title 43 and acting pursuant to the authority of subsection (e.1) of Code
91 Section 43-34-103.

92 ~~(8)~~(11) 'Plan of treatment' means a plan written, signed, and reviewed at least every two
93 months by the patient's physician, an advanced practice registered nurse, or a physician
94 assistant prescribing items and services for the patient's condition.

95 ~~(9)~~(12) 'Registered nurse' means an individual who is currently licensed as a registered
96 professional nurse in this state.

97 ~~(10)~~(13) 'Subunit' means a semiautonomous organization which serves patients in a
98 geographic area different from that of the parent agency and which, by virtue of the
99 distance between it and the parent agency, is judged incapable of sharing administration,
100 supervision, and services on a daily basis with the parent agency and must, therefore,
101 independently meet the licensing requirements for a home health agency and shall be
102 separately licensed."

103 **SECTION 4.**

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

107 "31-7-153.

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

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

123 **SECTION 5.**

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

126 "31-7-154.

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

135 **SECTION 6.**

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

139 "43-10A-24.

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

141 (1) 'Entity' means an organization or medical professional association which conducts
142 professional health programs.

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

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

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

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

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

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

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

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

166 (d) All information, interviews, reports, statements, memoranda, or other documents
167 furnished to an entity by the board or other source or produced by an entity and any
168 findings, conclusions, recommendations, or reports resulting from the monitoring or
169 rehabilitation of healthcare professionals pursuant to this Code section are declared to be

170 privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,
 171 relating to open records. All such records of an entity shall be confidential and shall be
 172 used by such entity and its employees and agents only in the exercise of the proper function
 173 of the entity pursuant to its contract with the board. Such information, interviews, reports,
 174 statements, memoranda, or other documents furnished to or produced by an entity and any
 175 findings, conclusions, recommendations, or reports resulting from the monitoring or
 176 rehabilitation of healthcare professionals shall not be available for court subpoenas or for
 177 discovery proceedings.

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

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

185 **SECTION 7.**

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

188 "ARTICLE 5

189 43-26-70.

190 As used in this article, the term:

191 (1) 'Board' means the Georgia Board of Nursing.

192 (2) 'Entity' means an organization or medical professional association which conducts
 193 professional health programs.

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

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

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

202 43-26-71.

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

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

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

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

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

217 (c) All information, interviews, reports, statements, memoranda, or other documents
218 furnished to an entity by the board or other source or produced by an entity and any
219 findings, conclusions, recommendations, or reports resulting from the monitoring or

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

229 43-26-72.

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

233 43-26-73.

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

238 **SECTION 8.**

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

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

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

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

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

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

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

266 (iii) The authority to sign, certify, and endorse all documents relating to ~~health-care~~
267 healthcare provided to a patient within his or her scope of authorized practice,
268 including, but not limited to, documents relating to physical examination forms of all
269 state agencies and verification and evaluation forms of the Department of Human

270 Services, the State Board of Education, local boards of education, the Department of
271 Community Health, and the Department of Corrections; provided, however, that a
272 ~~health-care~~ healthcare professional identified in subparagraph (A) of this paragraph
273 shall not have the authority to ~~sign death certificates~~ or assign a percentage of a
274 disability rating."

275 **SECTION 9.**

276 Said title is further amended in said chapter by revising subsection (e.1) of Code Section
277 43-34-25, relating to delegation of certain medical acts to advanced practice registered nurse,
278 construction and limitations of such delegation, definitions, conditions of nurse protocol, and
279 issuance of prescription drug orders, as follows:

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

287 **SECTION 10.**

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