
APPENDICES

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O.C.G.A. § 43-34-23 (2011)

§ 43-34-23 - Delegation of authority to nurse or physician assistant

- (a) As used in this Code section, the term:
- (1) "Administer" means to give a unit dose of any drug or to perform any medical treatment or diagnostic study.
 - (2) "Controlled substance" means any controlled substance, as defined in Code Section 16-13-21, except any Schedule I controlled substance listed in Code Section 16-13-25.
 - (3) "Dangerous drug" means any dangerous drug, as defined in Code Section 16-13-71, but does not include any controlled substance or Schedule I controlled substance.
 - (3.1) "Dispense" means to issue one or more doses of any drug in a suitable container with appropriate labeling for subsequent administration to, or use by, a patient.
 - (4) "Dispensing procedure" means a written document signed by a licensed pharmacist and a licensed physician which document establishes the appropriate manner under which drugs may be dispensed pursuant to this Code section.
 - (5) "Drug" means any dangerous drug or controlled substance.
 - (5.1) "Job description" **shall have the same meaning as in Code Section 43-34-102.**
 - (6) "Nurse" means a person who is a registered professional nurse licensed as such under Article 1 of Chapter 26 of this title.
 - (7) "Nurse protocol" means a written document mutually agreed upon and signed by a nurse and a licensed physician, by which document the physician delegates to that nurse the authority to perform certain medical

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acts pursuant to subsection (b) of this Code section, and which acts shall include, without being limited to, the administering and ordering of any drug.

- (8) "Order" means to select a drug, medical treatment, or diagnostic study through physician delegation in accordance with a nurse protocol or a physician assistant's job description. Ordering under such delegation shall not be construed to be prescribing nor shall ordering of a drug be construed to authorize the issuance of a written prescription.
 - (9) "Physician assistant" means a person licensed as a physician assistant pursuant to Article 4 of this chapter, the "Physician assistant Act."
- (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, psychiatric/mental health in accordance with a nurse protocol.
- (B) A physician may delegate to those health care 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 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 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 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**

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- shall be maintained as required by applicable state and federal laws regulations; and
- (iii) **The authority to sign, certify, and endorse all documents relating to health care 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 health care professional identified in subparagraph (A) of this paragraph shall not have the authority to sign death certificates or assign a percentage of disability rating.**
- (2) A physician may delegate to a nurse or physician assistant the authority to order dangerous drugs, medical treatment, or diagnostic studies and a nurse or physician assistant is authorized to dispense dangerous drugs, in accordance with a dispensing procedure and under the authority of an order issued in conformity with a nurse protocol or job description, if that nurse or physician assistant orders or dispense those dangerous drugs, medical treatments, or diagnostic studies:
- (A) As an agent or employee of:
- (i) The **Department** of Public Health.
 - (ii) Any county board of health.
 - (iii) Any organization:
 - (I) Which is exempt from federal taxes pursuant to Section (c) (3) of the Internal Revenue Code, as defined in Code Section 48-1-2, other than an organization which is a hospital, preferred provider organization, health maintenance organization, or similar organization; or
 - (II) Established under the authority of or receiving funds pursuant to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act,

which organization provides that those medical

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services and dangerous drugs which are ordered or dispensed by its physician assistants and nurses will be provided at no cost to the patient or at a cost based solely upon the patient's ability to pay; and

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

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

- (A) Which is owned or operated by a licensed hospital;
- (B) Which provides such drugs, treatments, or studies free or at a charge to the patient based solely upon the patient's ability to pay; provided, however, such charge shall not exceed the actual cost to the outpatient clinic; and
- (C) Whose services are primarily provided to the medically disadvantaged

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

- (4) Delegation of authority to a physician assistant pursuant to this subsection shall be authorized only if that delegation is contained in the job description approved for that physician assistant by the Board
- (5) Delegation of authority to a nurse pursuant to this subsection shall be authorized only if that delegation is contained in a nurse protocol for that nurse.

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- (c) The board shall be empowered to promulgate rules and regulations governing physicians and physician assistants to carry out the intents and purposes of this Code section, including establishing criteria and standards governing physicians, physician assistants, job descriptions, and nurse protocols. The board shall be authorized to require that protocols not falling within such established criteria and standards be submitted to the board for review and approval or rejection.
- (d) Notwithstanding any other provision of law to the contrary, a physician assistant or nurse may perform any act authorized to be performed by that person pursuant to and in conformity with this Code section without such act constituting the practice of medicine.
- (e) Nothing in this Code section shall be construed to limit or repeal this article and Articles 4 and 6 of this chapter, relating to physicians, osteopaths physicians, physician assistants, and respiratory therapists, or Article 1 of Chapter 26 of this title, relating to registered nurses.
- (f) Nothing in this Code section shall be construed to limit or repeal any existing authority of a licensed physician to delegate to a qualified person any acts, duties, or functions which are otherwise permitted by law or established by custom.
- (g) Nothing in this Code section shall be construed to authorize or permit the issuance of a Drug Enforcement Administration license to a nurse who is **not an advanced practice registered nurse**.
- (h) Nothing in this Code section shall be construed to limit or repeal the authority of any organization described in division (i) or (ii) of subparagraph (b)(2)(A) of this Code section or any organization established under the authority of or receiving funds pursuant to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act to supervise its agents or employees or interfere with the employer and employee relationship of any such agents or employees.
- (i) Notwithstanding any other provision of law to the contrary, a physician assistant or nurse may perform any act deemed necessary to provide treatment to a hospital or nursing home patient in a life-threatening situation when such act is authorized by standing procedures established by the medical staff of the hospital or nursing home.

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NOTE: O.C.G.A. § 43-34-23 **Medical Practice Act**, was enacted in 1989. At the same time, the following related changes to other Code sections were also enacted:

O.C.G.A. § 43-34-103 (Physician Assistant Act) was amended by adding a new subsection at the end of Article 4 that states

- “(g) Nothing in this article shall be construed to prohibit a physician assistant from performing those acts the performance of which have been delegated to that physician assistant pursuant to and in conformity with Code Section 43-34-**23**.”

O.C.G.A. § 26-4-130 (Pharmacy Law) was amended by adding, in subsection (b), additional language that states

- “(b) Any term used in this subsection and defined in Code Section 43-34-23 (formerly 43-34-26.1) shall have the meaning provided for such term in Code Section 43-34-23 (formerly 43-34-26.1). The other provisions of this chapter and articles 2 and 3 of Chapter 13 of Title 16 shall not apply to persons authorized by Code Section 43-34-23 (formerly 43-34-26.1) to order, dispense or administer drugs when such persons order, dispense, or administer those drugs in conformity with Code Section 43-34-23 (formerly 43-34-26.1). When a person dispenses drugs pursuant to the authority delegated to that person under the provisions of Code Section 43-34-23 (formerly 43-34-26.1) with regard to the drugs so dispensed, that person shall comply with the requirements placed upon practitioners by subsections (c) and (d) of this Code section.”

O.C.G.A. § 43-26-5 (General Powers of board) was amended by adding a new paragraph to subsection (a) that states

- “(12) Be authorized to enact rules and regulations for registered professional nurses in their performing acts under a nurse protocol as authorized in code section 43-34-23 (formerly 43-34-26.1).”

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TITLE 410: GEORGIA BOARD OF NURSING CHAPTER 410-11 STANDARDS OF PRACTICE (2011)

NOTE: This is the current text of the Georgia Board of Nursing's Rule 410-11-03. This regulation has not been updated in several years, and some of its references are out of date. The regulation references the Department of Human Resources, which should now be understood to refer to the Department of Public Health. Likewise, the regulation references the nurse protocol statute as Code Section 43-34-26.1, which was renumbered in 2009 and should now be understood to refer to Code Section 43-34-33.

410-11-.03 Use of Nurse Protocols Authorized by O.C.G.A. § 43-34-26.1 by Registered Nurses in Specific Settings

- (1) The general purpose of these rules is to protect and safeguard the public by regulating the practice of registered nurses ("RNs") who use protocols in specific settings as authorized by O.C.G.A. § 43-34-26.1.
- (2) A RN who uses a nurse protocol in specific settings as authorized by O.C.G.A. § 43-34-26.1 shall:
 - (a) hold a current license to practice as a registered nurse in Georgia;
 - (b) adhere to a nurse protocol which is a written document mutually agreed upon and signed by the nurse and licensed physician which delegates to the nurse the authority to perform specified medical acts and provides for immediate consultation with the delegating physician or a physician designated in the absence of the delegating physician;
 - (c) document preparation and performance specific to each medical act authorized under O.C.G.A. § 43-34-26.1 including ordering dangerous drugs, medical treatments or diagnostic studies and the dispensing of dangerous drugs in accordance with dispensing procedure and under the authority of a physician's order.
- (3) The nurse protocol used by a RN pursuant to the provisions of O.C.G.A. § 43-34-26.1 shall comply with the following criteria:
 - (a) shall bear a current review date; be available upon request; and specify parameters under which delegated medical acts may be performed;
 - (b) shall include a schedule for periodic review of patient records by

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the delegating physician;

- (c) shall be reviewed, revised or updated annually;
 - (d) shall include a provision for immediate consultation with the delegating physician designated in the absence of the delegating physician;
 - (e) shall comply with provisions for ordering or dispensing drugs under subsection (b) of Code Section 26-4-130 and the rules and regulations established pursuant thereto by the State Board of Pharmacy and adhere to a written dispensing procedure when dispensing dangerous drugs as required by O.C.G.A. § 43-34-23 (a) (3.1) and (4).
- (4) A RN may practice under protocol pursuant to the provisions of O.C.G.A. § 43-34-26.1 as an agent or employee of the following:
- (a) The Division of Public Health of the Department of Human Resources.
 - (b) Any county board of health.
 - (c) Any organization:
 - 1. Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal Revenue Code as defined in Code Section 48-1-2, other than an organization which is a hospital, preferred provider organization, health maintenance organization, or similar organization; or
 - 2. Established under the authority of or receiving funds pursuant to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act.
 - 3. Which organization provides that those medical services and dangerous drugs which are ordered or dispensed by its nurses will be provided at no cost to patient or at a cost based solely upon the patient's ability to pay.
 - (d) An outpatient clinic:
 - 1. Which is owned or operated by a licensed hospital;

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2. Which provides such drugs, treatments, or studies free or at a charge to the patient based solely upon the patient's ability to pay; provided, however, such charge shall not exceed the actual cost to the outpatient clinic; and
3. Whose services are primarily provided to the medically disadvantaged.

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TITLE 480: GEORGIA STATE BOARD OF PHARMACY CHAPTER 480-30 DISPENSING OF DRUGS UNDER AUTHORITY OF JOB DESCRIPTION OR NURSE PROTOCOL (2002)

480-30-.01 Definitions.

For purpose of these Rules and Regulations, the following definitions apply:

- (a) "Dispensing procedure" means a written document signed by a licensed pharmacist and a licensed practitioner which document establishes the appropriate manner under which drugs may be dispensed under authority of a nurse protocol or job description.
- (b) "Drugs" shall mean any dangerous drug under O.C.G.A. § 16-13-71, et seq., or, where applicable, any controlled substance under O.C.G.A. § 16-13-21, et seq.
- (c) "Job description" means a document signed by a licensed practitioner that describes the duties which may be performed by a physician assistant, by which document the physician delegates to that physician assistant the authority to perform certain medical acts pursuant to O.C.G.A. § 43-34-23.
- (d) "Nurse protocol" means a document mutually agreed upon and signed by a nurse and licensed physician by which document the physician delegates to that nurse the authority to perform certain medical acts pursuant to O.C.G.A. § 43-34-23(b).

480-30-.02 General Requirements.

Any person who dispenses drugs in accordance with a dispensing procedure and under the authority of a job description or nurse protocol shall comply with all record keeping, labeling, packaging, and storage requirements imposed upon pharmacists and pharmacies with regard to such drugs pursuant to O.C.G.A. Title 26, Chapter 4, Title 16, Chapter 13, and those regulations contained in this Chapter.

480-30-.03 Labeling. Amended.

All drugs dispensed in accordance with a dispensing procedure and under authority of a job description or nurse protocol must be labeled with the following information:

- (a) Date and identifying serial number;

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- (b) Name of patient;
- (c) Name of practitioner prescribing;
- (d) The name, address and telephone number of the facility where the drugs are dispensed in accordance with a dispensing procedure and under the authority of a job description or nurse protocol;
- (e) Name of drug and strength;
- (f) Directions for use to the patient;
- (g) The expiration date of the drug; and
- (h) Any information required by the Drug Enforcement Administration or the Food and Drug Administration.

480-30-.04 Packaging.

All drugs dispensed in accordance with a dispensing procedure or under authority of a job description or nurse protocol must be dispensed in containers meeting the requirements of the Food and Drug Administration and the Consumer Protection Agency, including the use of child-proof and moisture-proof containers.

480-30-.05 Storage.

- (1) Any person dispensing drugs in accordance with a dispensing procedure and under authority of a job description or nurse protocol shall exercise diligent care in protecting drugs and records possessed from loss or theft. Agents of the Georgia Drugs and Narcotics Agency (GDNA) shall have the responsibility of offering to such persons written recommendations concerning the satisfactory storage, keeping, handling, and security of such drugs and records. When not in actual use, all drugs shall be stored in a place which is secured.
- (2) All drugs which bear or are required to bear, upon the package, the words, "Caution, Federal Law Prohibits Dispensing Without a Prescription" or words of like import, shall be stored in a secured area. All drugs shall be stored beyond the normal reach of small children.
- (3) No person dispensing drugs in accordance with a dispensing procedure and under authority of a job description or nurse protocol shall operate in any manner or dispense any drugs under unclean, unsanitary, overcrowded, or unhealthy conditions, or under any condition which endangers the health, safety, or welfare of the public.

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- (4) All outdated and deteriorated drugs shall be removed from stock at regular intervals of not more than six months duration, and under no circumstances will any drug be dispensed which bears a date of expiration which has been reached, or is in a deteriorated condition.

480-30-.06 Inspection of Records.

GDNA agents shall have the authority to conduct inspections or audits of all records of drugs received and/or disposed of by any person dispensing drugs in accordance with a dispensing procedure and under authority of a job description or nurse protocol. GDNA agents shall have the authority to examine and copy all such records, and to examine and inventory all prescription drug orders.

480-30-.07 Submission of Dispensing Procedure for Board Review

All licensed pharmacists who sign a dispensing procedure must submit such document to the Georgia State Board of Pharmacy for review. Any such dispensing procedure must be in conformity with this Chapter and O.C.G.A. § 43-34-23 and shall include the names of all persons dispensing drugs pursuant to such dispensing procedure.

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