

House Bill 315 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 43rd, Clark of the 101st, Rynders of the 152nd, Kaiser of the 59th, Jones of the 53rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to
2 nurses, so as to implement measures to ensure the integrity and quality of nursing
3 professionals; to provide for continuing competency requirements as a requirement for
4 license renewal for registered professional nurses and licensed practical nurses; to provide
5 for inactive licenses for registered professional nurses; to require mandatory reporting for
6 nurses; to provide for definitions; to provide for enforcement; to provide for limited liability;
7 to amend Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to
8 massage therapy practice, so as to revise provisions relating to provisional permits to practice
9 massage therapy; to provide for related matters; to provide for effective dates and contingent
10 effectiveness; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is
14 amended by revising Code Section 43-26-9, relating to renewal, surrender, failure to renew,
15 and restoration and reissuance of a license, as follows:

16 "43-26-9.

17 (a) Licenses issued under this article shall be renewed biennially according to schedules
18 and fees approved by the board.

19 (b) A renewed license shall be issued to a registered professional nurse or licensed
20 undergraduate nurse who remits the required fee and complies with requirements
21 established by the board.

22 (b.1) Beginning with the 2016 license renewal cycle, an applicant for license renewal
23 under this article shall meet one of the following continuing competency requirements
24 during the previous licensure period:

25 (1) Completion of 30 continuing education hours by a board approved provider;

26 (2) Maintenance of certification or recertification by a national certifying body
27 recognized by the board;

28 (3) Completion of an accredited academic program of study in nursing or a related field,
 29 as recognized by the board;

30 (4) Verification of competency by a health care facility or entity licensed under Chapter
 31 7 of Title 31 or by a physician's office that is part of a health system and at least 500
 32 hours practiced as evidenced by employer certification on a form approved by the board;

33 or

34 (5) Other activities as prescribed and approved by the board that show competency in the
 35 nursing field.

36 Failure to meet the minimum continuing competency requirement for renewal of a license
 37 shall be grounds for denial of a renewal application. The board may waive or modify the
 38 requirements contained in this subsection in cases of hardship, disability, or illness or under
 39 such other circumstances as the board, in its discretion, deems appropriate. An applicant
 40 who is renewing a license for the first time shall not be required to meet the requirements
 41 of this subsection until the time of the second renewal if the applicant's initial license
 42 period is six months or less.

43 (c) The voluntary surrender of a license or the failure to renew a license by the end of an
 44 established penalty period shall have the same effect as a revocation of said license, subject
 45 to reinstatement at the discretion of the board. The board may restore and reissue a license
 46 and, as a condition thereof, may impose any disciplinary sanction provided by Code
 47 Section 43-1-19 or 43-26-11 or Code Section 43-1-19."

48 **SECTION 2.**

49 Said chapter is further amended by adding a new Code section to read as follows:

50 "43-26-9.1.

51 (a) A registered professional nurse, subject to rules of the board and on forms prescribed
 52 by the board, may request that his or her license be placed on inactive status and to be
 53 excused from payment of renewal fees until he or she resumes active status.

54 (b) A licensee on inactive status may have his or her license restored by submitting an
 55 application to the board on a form prescribed by the board and paying the required
 56 restoration fee. The board shall require evidence of competency to resume the practice of
 57 nursing as a registered professional nurse in order to restore the license to active status.

58 (c) A registered professional nurse or advanced practice registered nurse whose license is
 59 on inactive status shall not practice nursing as a registered professional nurse or an
 60 advanced practice registered nurse in this state."

61 **SECTION 3.**

62 Said chapter is further amended by revising Code Section 43-26-39, relating to license
 63 renewal, voluntary surrender, application for reinstatement, and temporary permits, as
 64 follows:

65 "43-26-39.

66 (a) Licenses issued under this article shall be renewed biennially prior to the expiration of
 67 the license according to schedules and fees decided by the board and approved by the
 68 division director.

69 (b) A license shall be renewed for any licensed practical nurse who remits the required fee
 70 and complies with the requirements established by the board.

71 (b.1) Beginning with the 2016 license renewal cycle, an applicant for license renewal
 72 under this article shall meet one of the following continuing competency requirements
 73 during the previous licensure period:

74 (1) Completion of 20 continuing education hours by a board approved provider; or

75 (2) Completion of an accredited academic program of study in registered professional
 76 nursing, as recognized by the board.

77 Failure to meet the minimum continuing competency requirement for renewal of a license
 78 shall be grounds for denial of a renewal application. The board may waive or modify the
 79 requirements contained in this subsection in cases of hardship, disability, or illness or under
 80 such other circumstances as the board, in its discretion, deems appropriate. An applicant
 81 who is renewing a license for the first time shall not be required to meet the requirements
 82 of this subsection until the time of the second renewal if the applicant's initial license
 83 period is six months or less.

84 (c) The voluntary surrender of a license or the failure to renew a license by the end of an
 85 established renewal period shall have the same effect as revocation of said license, subject
 86 to reinstatement at the discretion of the board. The board may restore and reissue a license;
 87 and, as a condition thereof, may impose any disciplinary sanction provided by Code
 88 Section 43-1-19 upon such grounds as specified in Code Sections 43-1-19 and 43-26-40.

89 (d) Any license that is not renewed by the end of the renewal period may not thereafter be
 90 renewed, and the licensee must apply for reinstatement. Applicants for reinstatement who
 91 have not been engaged in the active practice of practical nursing as licensed practical
 92 nurses for a period which exceeds five years shall be required to obtain such additional
 93 education and training as provided in the rules and regulations of the board, which may
 94 include, but not be limited to, returning to school for full training and taking the licensing
 95 examination. Upon completion of the program, an application may be made for licensure
 96 as a new applicant.

97 (e) The board may issue a temporary permit to qualified applicants under such terms and
 98 conditions as specified in the rules and regulations of the board, but in no event shall such
 99 a temporary permit be issued to an applicant who has failed to pass the required
 100 examination.

101 (f) Other criteria for reinstatement may be determined by the rules of the board, including,
 102 but not limited to, ~~the following~~: additional coursework, a refresher course, supervised
 103 clinical practice, or examination by the board."

104 **SECTION 4.**

105 Said chapter is further amended by adding a new article to read as follows:

106 "ARTICLE 3

107 43-26-50.

108 As used in this article, the term:

109 (1) 'Board' means the Georgia Board of Nursing, with respect to registered professional
 110 nurses and advanced practice registered nurses, and the Georgia Board of Examiners of
 111 Licensed Practical Nurses, with respect to licensed practical nurses.

112 (2) 'Nurse' means a registered professional nurse licensed pursuant to Article 1 of this
 113 chapter, an advanced practice registered nurse, as defined in paragraph (1.1) of Code
 114 Section 43-26-3, or a licensed practical nurse licensed pursuant to Article 2 of this
 115 chapter.

116 43-26-51.

117 A nurse shall report names of subject individuals to the applicable board if the nurse has
 118 reasonable cause to believe that any other nurse has violated any of the grounds for
 119 discipline provided for in Code Section 43-26-53. A nurse need not duplicate a report if
 120 he or she has reasonable cause to believe that such report has been made to the applicable
 121 board. A licensed health care professional shall not be required to report a nurse to the
 122 board under this Code section as a result of professional knowledge obtained in the course
 123 of the health care professional-patient relationship when the nurse is the patient.

124 43-26-52.

125 (a) Hospitals, nursing homes, temporary staffing agencies, and other employers of
 126 registered professional nurses, advanced practice registered nurses, or licensed practical
 127 nurses shall report to the applicable board, or ensure that such report has in fact been made

128 to such board, the name of any nurse whose employment has been terminated or who has
129 resigned in order to avoid termination for any reasons stipulated in Code Section 43-26-53.

130 (b) A state agency that licenses, registers, or certifies hospitals, nursing homes, home
131 health agencies, or other types of health care facilities, or surveys one of these facilities or
132 agencies, shall report to the applicable board when such state agency has evidence that a
133 nurse has violated Code Section 43-26-53 or ensure that such a report has in fact been
134 made to such board.

135 (c) In the event a nurse enters a voluntary alternative to discipline program approved by
136 the board, reporting to the applicable board shall not be required for such nurse by a person
137 under this Code section. Each board may approve alternative to discipline programs for
138 monitoring of nurses who agree to seek treatment for impairment by chemical dependency
139 or mental illness that could lead to disciplinary action by such board. The costs for any
140 treatment programs shall be borne by the nurse.

141 (d) Each board shall inform, in the manner such board determines appropriate, nurses,
142 facilities, agencies, and other persons of their duty to report under this article.

143 43-26-53.

144 (a) The following incidents shall be reported to the applicable board in the event any
145 person is:

146 (1) Practicing nursing as a registered professional nurse, an advanced practice registered
147 nurse, or a licensed practical nurse, without a valid, current license, except as otherwise
148 permitted under Code Section 43-26-12 or 43-26-41, as applicable;

149 (2) Practicing nursing as a registered professional nurse, an advanced practice registered
150 nurse, or a licensed practical nurse under cover of any diploma, license, or record
151 illegally or fraudulently obtained, signed, or issued;

152 (3) Practicing nursing as a registered professional nurse, an advanced practice registered
153 nurse, or a licensed practical nurse during the time the applicable license is suspended,
154 revoked, surrendered, or administratively revoked for failure to renew;

155 (4) Using any words, abbreviations, figures, letters, title, sign, card, or device implying
156 that such person is a registered professional nurse, an advanced practice registered nurse,
157 or a licensed practical nurse unless such person is duly licensed or recognized by the
158 applicable board to practice as such under the provisions of this chapter;

159 (5) Fraudulently furnishing a license to practice nursing as a registered professional
160 nurse, an advanced practice registered nurse, or a licensed practical nurse;

161 (6) Knowingly aiding or abetting any person in violating this chapter;

162 (7) While holding a license as a nurse, convicted of any felony, crime involving moral
163 turpitude, or crime violating a federal or state law relating to controlled substances or

164 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
 165 courts of the United States, including, but not limited to, a plea of nolo contendere
 166 entered to the charge; or

167 (8) While holding a license as a nurse, currently or previously displaying an inability to
 168 practice nursing as a registered professional nurse, an advanced practice registered nurse,
 169 a licensed undergraduate nurse, or a licensed practical nurse with reasonable skill and
 170 safety due to use of alcohol, drugs, narcotics, or chemicals.

171 (b) Minor incidents, as defined by the applicable board, shall not be required to be reported
 172 pursuant to this article when the continuing practice by the subject nurse does not pose a
 173 risk of harm to a patient or others and can be addressed through corrective action by the
 174 nurse's employer. The applicable board shall adopt rules governing reporting of minor
 175 incidents. The applicable board may evaluate a complaint and determine that it is a minor
 176 incident under this Code section.

177 43-26-54.

178 The applicable board may seek an order from a court of competent jurisdiction for a report
 179 from a nurse as required by Code Section 43-26-51 if one is not forthcoming voluntarily.
 180 The applicable board may seek a citation for civil contempt if a court order for a report is
 181 not obeyed by such nurse.

182 43-26-55.

183 (a) No nurse, hospital, nursing home, temporary staffing agency, employer, state agency,
 184 or other person required to report a nurse to the applicable board under this article, who,
 185 in good faith, either reports or fails to report, shall be subject to civil or criminal liability
 186 or discipline for unprofessional conduct for such action or inaction.

187 (b) A physician or other licensed health care professional who, at the request of the
 188 applicable board, examines a nurse shall be immune from suit for damages by the nurse
 189 examined if the examining physician or examining health care professional conducted the
 190 examination and made findings or diagnoses in good faith."

191 **SECTION 4A.**

192 Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to massage
 193 therapy practice, is amended by revising Code Section 43-24A-9, relating to provisional
 194 permits, as follows:

195 "43-24A-9.

196 (a) A provisional permit to practice as a provisionally permitted massage therapist shall,
 197 upon proper application, be issued for a six-month period to an applicant who meets the
 198 following criteria:

- 199 (1) Holds a valid license as a massage therapist in another state;
 200 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
 201 defined in Code Section 50-36-2;
 202 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
 203 suspended, or annulled by this state or another state; and
 204 (4) Has not been convicted of a felony in the courts of this state, any other state, territory,
 205 or country, or in the courts of the United States, including, but not limited to, a plea of
 206 nolo contendere entered to such charge or the affording of first offender treatment to any
 207 such charge.

208 (b) A provisional permit shall require the applicant to work under the supervision of a
 209 licensed massage therapist ~~as provided by the board. The board shall be authorized to~~
 210 ~~promulgate rules and regulations regarding the requirements for such supervision and the~~
 211 ~~enforcement thereof. If an applicant has met the requirements of subsection (a) of this~~
 212 Code section and submits the applicable license fee, the applicant shall be granted a
 213 provisional permit to practice in this state. Upon receipt of such application and fee, a
 214 provisional permit shall be administratively issued.

215 (c) A provisional permit may be voided if the board determines that the person holding
 216 such permit no longer meets one or more of the criteria set forth in subsection (a) of this
 217 Code section.

218 (d) A provisional permit issued pursuant to subsection (a) of this Code section shall have
 219 the same force and effect as a permanent license until the time of its expiration.

220 (e) A provisional permit issued pursuant to subsection (a) of this Code section shall expire
 221 on the same date as a license issued under this chapter to a holder of a provisional permit
 222 who has passed the examination pursuant to Code Section 43-24A-8."

223 **SECTION 5.**

224 Section 4 of this Act shall become effective only when funds are specifically appropriated
 225 for purposes of Section 4 of this Act in an appropriations Act. All other provisions of this
 226 Act shall become effective on July 1, 2013.

227 **SECTION 6.**

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