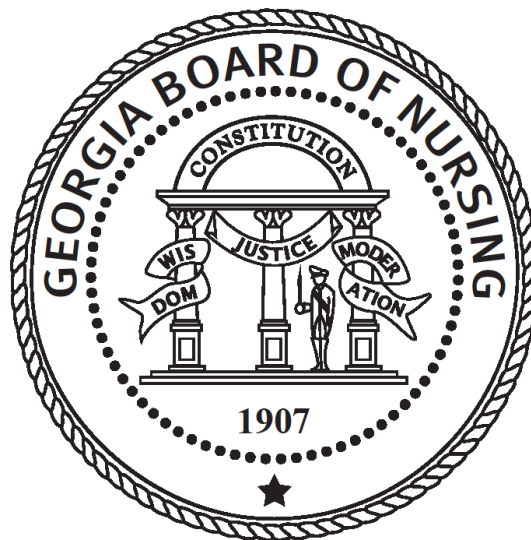

Georgia Board of Nursing



O.C.G.A. § 43-26

Nurse Practice Act

Revised September 2024

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*** Current Through the 2017 Regular Session ***

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 26. NURSES
ARTICLE 1. GEORGIA REGISTERED PROFESSIONAL NURSE PRACTICE ACT

O.C.G.A. TITLE 43 Chapter 26 Article 1

§ 43-26-1. Short title

This article shall be known and may be cited as the "Georgia Registered Professional Nurse Practice Act."

HISTORY: Code 1981, § 43-26-1, enacted by Ga. L. 1990, p. 747, § 1.

§ 43-26-2. Legislative intent

The purpose of this article is to protect, promote, and preserve the public health, safety, and welfare through legislative regulation and control of registered professional nursing education and practice. This article ensures that any person practicing or offering to practice nursing or using the title registered professional nurse, as defined in this article, within the State of Georgia, shall be licensed as provided in this article.

HISTORY: Code 1981, § 43-26-2, enacted by Ga. L. 1990, p. 747, § 1.

§ 43-26-3. Definitions

As used in this article, the term:

(1) "Advanced nursing practice" means practice by a registered professional nurse who is licensed by the board under this article or who holds a multistate license under Article 4 of this chapter who meets those educational, practice, certification requirements, or any combination of such requirements as specified by the board, and includes certified nurse midwives, nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists in psychiatric/mental health, and others recognized by the board.

(1.1) "Advanced practice registered nurse" means a registered professional nurse who is licensed by the board under this article or who holds a multistate license under Article 4 of this chapter, who is recognized by the board as having met the requirements established by the board to engage in advanced nursing practice, and who holds a master's degree or other graduate degree

from an approved nursing education program and national board certification in his or her area of specialty, or a person who was recognized as an advanced practice registered nurse by the board on or before June 30, 2006. This paragraph shall not be construed to require a certified registered nurse anesthetist who graduated from an approved nurse anesthetist educational program prior to January 1, 1999, to hold a master's degree or other graduate degree. Further, this paragraph shall not be construed to require a registered professional nurse who holds a multistate license under Article 4 of this chapter authorizing such nurse to practice in another party state under a multistate licensure privilege to obtain a single-state license from the board as a condition of receiving authorization by the board to practice in this state as an advanced practice registered nurse.

(1.2) "Approved nursing education program" located in this state means a nursing education program approved by the board as meeting criteria established by the board. An "approved nursing education program" located outside this state means a nursing education program that the board has determined to meet criteria similar to and not less stringent than criteria established by the board for nursing education programs located in this state. In order to be approved by the board, a nursing education program must be one that is offered by:

(A) A unit of the University System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(B) An institution of the Technical College System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(C) A postsecondary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education; or

(D) A postsecondary institution of higher education that is not accredited in accordance with subparagraph (C) of this paragraph, but whose curriculum has been determined by the board to meet criteria similar to and not less stringent than criteria established by the board for other approved nursing education programs.

(2) "Board" means the Georgia Board of Nursing created in Code Section 43-26-4.

(3) "Consumer member" means a United States citizen and Georgia resident who is knowledgeable about consumer health concerns, does not derive that person's primary livelihood from the practice of nursing, and shall neither be, nor ever have been, a health care provider or enrolled in any health related educational program.

(4) "License" means a current document, issued by the board, permitting a person to practice nursing as a registered professional nurse or a licensed undergraduate nurse. This term shall also include a multistate license issued by another state in accordance with Article 4 of this chapter permitting a person to practice nursing as a registered professional nurse in this state under a multistate licensure privilege.

(5) "Licensure" means the bestowing of a current license by the board permitting a person to practice nursing as a registered professional nurse or a licensed undergraduate nurse.

(6) "Practice nursing" or "practice of nursing" means to perform for compensation or the performance for compensation of any act in the care and counsel of the ill, injured, or infirm, and in the promotion and maintenance of health with individuals, groups, or both throughout the life span. It requires substantial specialized knowledge of the humanities, natural sciences, social sciences, and nursing theory as a basis for assessment, nursing diagnosis, planning, intervention, and evaluation. It includes, but is not limited to, provision of nursing care; administration, supervision, evaluation, or any combination thereof, of nursing practice; teaching; counseling; the administration of medications and treatments as prescribed by a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, or a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title.

(7) "Practice nursing as a licensed undergraduate nurse" means to practice nursing by performing for compensation selected acts in the care of the ill, injured, or infirm under the direction of a registered professional nurse, a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title.

(8) "Practice nursing as a registered professional nurse" means to practice nursing by performing for compensation any of the following:

- (A) Assessing the health status of individuals, groups, or both throughout the life span;
- (B) Establishing a nursing diagnosis;
- (C) Establishing nursing goals to meet identified health care needs;
- (D) Planning, implementing, and evaluating nursing care;
- (E) Providing for safe and effective nursing care rendered directly or indirectly;
- (F) Managing and supervising the practice of nursing;
- (G) Collaborating with other members of the health care team in the management of care;
- (H) Teaching the theory and practice of nursing;
- (I) Administering, ordering, and dispensing medications, diagnostic studies, and medical treatments authorized by protocol, when such acts are authorized by other general laws and such acts are in conformity with those laws;

(J) Administering medications and treatments as prescribed by a physician practicing medicine in accordance with Article 2 of Chapter 34 of this title, a dentist practicing dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35 of this title; or

(K) Performing any other nursing act in the care and counsel of the ill, injured, or infirm, and in the promotion and maintenance of health with individuals, groups, or both throughout the life span.

(9) "Registered professional nurse" means a person who is authorized by a license issued under this article to practice nursing as a registered professional nurse.

HISTORY: Code 1981, § 43-26-3, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 1994, p. 97, § 43; Ga. L. 2006, p. 125, § 3/SB 480; Ga. L. 2007, p. 460, § 1/SB 222; Ga. L. 2009, p. 210, § 1/HB 475; Ga. L. 2011, p. 779, § 1/SB 100; Ga. L. 2012, p. 19, § 1/HB 675; Ga. L. 2019, p. sb0168, § 1/SB 168.

§ 43-26-4. Georgia Board of Nursing; membership; meetings; officers

(a) The Georgia Board of Nursing existing immediately prior to July 1, 2014, is continued in existence and shall be constituted as provided in this Code section. Those persons serving as members of the board immediately prior to July 1, 2014, shall continue to serve out their respective terms of office and until their successors are appointed. Members shall serve three-year terms and until their successors are duly appointed and qualified. No member shall be appointed to more than two consecutive full terms, and for purposes of this limitation, an appointment to fill a vacancy for an unexpired term of two or more years shall constitute an appointment for a full term.

(b) A vacancy on the board for any reason other than expiration of the term shall be filled for the remainder of the unexpired term by appointment of the Governor with the confirmation of the Senate. In the event a board member changes employment which causes a conflict with this Code section, the position of the member making such change shall be immediately vacant and a new member appointed to fill the vacancy.

(c) The 13 members of the board shall be appointed by the Governor with the confirmation of the Senate and shall consist of two registered nursing educators, one practical nursing educator, two registered nurses employed in nursing service administration, one registered nurse employed in nursing home administration or nursing service administration, two advanced practice registered nurses, one additional registered nurse, three licensed practical nurses, and one consumer member.

(d) The board shall meet annually and shall elect from its members a president, vice president, and other officers as deemed necessary. All officers shall serve for terms of one year and until their successors have been elected. The board may hold such other meetings during the year as necessary to transact its business.

HISTORY: Code 1981, § 43-26-4, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 2013, p. 643, § 1/HB 332.

§ 43-26-5. General powers and responsibilities of board

(a) The board shall:

- (1) Be responsible for the enforcement of the provisions of this chapter and shall be specifically granted all of the necessary duties, powers, and authority to carry out this responsibility;
- (2) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems necessary for the administration and enforcement of this chapter in the protection of public health, safety, and welfare;
- (3) Enforce qualifications for licensure under this article or Article 2 or Article 4 of this chapter;
- (4) Develop and enforce reasonable and uniform standards for nursing education and nursing practice;
- (5) Periodically evaluate nursing education programs and approve such programs as meet the board's requirements;
- (6) Deny or withdraw approval from noncompliant nursing education programs;
- (7) License duly qualified applicants under this article or Article 2 of this chapter by examination, endorsement, or reinstatement;
- (8) Be authorized to issue temporary permits;
- (9) Renew licenses of registered professional nurses, licensed undergraduate nurses, and licensed practical nurses in accordance with this article or Article 2 of this chapter;
- (10) Be authorized to set standards for competency of licensees under this article or Article 2 of this chapter continuing in or returning to practice;
- (11) Set standards for and regulate advanced nursing practice;
- (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 and enact rules and regulations for advanced practice registered nurses in performing acts as authorized in Code Section 43-34-25;
- (13) Implement the disciplinary process;

(14) Be authorized to issue orders when a license under this article or Article 2 of this chapter is surrendered to the board while a complaint, investigation, or disciplinary action against such license is pending;

(15) Issue a limited license to practice nursing or licensed practical nursing subject to such terms and conditions as the board may impose;

(16) Provide consultation and conduct conferences, forums, studies, and research on nursing education and nursing practice;

(17) Approve the selection of a qualified person to serve as executive director;

(18) Be authorized to appoint standing or ad hoc committees as necessary to inform and make recommendations to the board about issues and concerns and to facilitate communication amongst the board, licensees under this article or Article 2 of this chapter, and the community;

(19) Maintain membership in the national organization which develops and regulates the nursing licensing examination and the practical nursing licensing examination;

(20) Be authorized to collect data regarding existing nursing and licensed practical nursing resources in Georgia and coordinate planning for nursing education and nursing practice;

(21) Determine fees;

(22) Adopt a seal which shall be in the care of the executive director and shall be affixed only in such a manner as prescribed by the board;

(23) Be authorized to enforce all investigative and disciplinary orders issued by the former Georgia Board of Examiners of Licensed Practical Nurses;

(24) Issue and renew multistate licenses pursuant to Article 4 of this chapter;

(25) Take any action with respect to a multistate license issued by this state pursuant to Article 4 of this chapter and with respect to the privilege to practice in this state under a multistate license issued by another party state pursuant to the compact in Code Section 43-26-61 in the same manner as is authorized with respect to a license issued pursuant to this article or Article 2 of this chapter; and

(26) Provide notice to nurses holding multistate licenses pursuant to Article 4 of this chapter who are employed in this state and to health care providers and entities that employ such nurses that if such nurses change their primary state of residence to Georgia, they are required to apply for licensure in Georgia pursuant to the compact contained in Article 4 of this chapter.

(b) The board shall be the sole professional licensing board for determining if a registered professional nurse, licensed practical nurse, or any other person has engaged illegally in the practice of nursing. If a registered professional nurse or licensed practical nurse is charged with

the unauthorized practice of any other health profession by any other board, such board shall notify the Georgia Board of Nursing before conducting any hearing. Nothing contained in this chapter shall be construed to limit any powers of any other board.

(c) Chapter 1 of this title is expressly adopted and incorporated by reference into this chapter as if all the provisions of such chapter were included in this chapter.

HISTORY: Code 1981, § 43-26-5, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 2000, p. 1706, § 13; Ga. L. 2006, p. 125, § 4/SB 480; Ga. L. 2009, p. 859, § 12/HB 509; Ga. L. 2013, p. 643, § 2/HB 332; Ga. L. 2015, p. 954, § 1/HB 394; Ga. L. 2017, p. 364, § 2/SB 109; Ga. L. 2019, p. sb0168, § 2/SB 168.

§ 43-26-6. Use of certain titles and abbreviations by licensed nurses

(a) Any person who is licensed as a registered professional nurse shall have the right to use the title "registered professional nurse" and the abbreviation "R.N." Any person recognized by the board as an advanced practice registered nurse shall have the right to use the title "advanced practice registered nurse" and the abbreviation "A.P.R.N." No other person shall assume such titles or use such abbreviations or any other words, letters, signs, or symbols to indicate that such person is a registered professional nurse or an advanced practice registered nurse in Georgia. Nothing in this subsection shall be construed to repeal the right of any person who is licensed as a registered professional nurse or recognized by the board as an advanced practice registered nurse on June 30, 2006, to be licensed and to use the title "registered professional nurse" or to use the title "advanced practice registered nurse," respectively.

(b) Any person holding a license to practice nursing as a licensed undergraduate nurse, which license was issued by the board and valid on July 1, 1975, shall be deemed to be licensed to practice nursing as a licensed undergraduate nurse under this article and shall have the right to use the title "licensed undergraduate nurse" and the abbreviation "L.U.N." No other person shall assume such title or use such abbreviation or any other words, letters, signs, or symbols to indicate that such person is licensed to practice nursing as a licensed undergraduate nurse. After July 1, 1975, there shall be no new certificates issued for licensure to practice nursing as a licensed undergraduate nurse.

(c) Any person who is licensed as a registered professional nurse shall identify that he or she is so licensed by displaying either the title "registered professional nurse" or "registered nurse," the abbreviation "R.N.," the title "advanced practice registered nurse," or the abbreviation "A.P.R.N." on a name tag or other similar form of identification during times when such person is providing direct patient care. An advanced practice registered nurse shall meet the identification requirements of this subsection by displaying the title or abbreviation of his or her area of specialization.

(d) No person shall use the title "nurse" or any other title or abbreviation that would represent to the public that a person is authorized to practice nursing unless the person is licensed or otherwise authorized under this article or Article 2 of this chapter.

HISTORY: Code 1981, § 43-26-6, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 1997, p. 979, § 1; Ga. L. 2006, p. 125, § 5/SB 480; Ga. L. 2007, p. 460, § 2/SB 222; Ga. L. 2008, p. 378, § 1/HB 1041; Ga. L. 2011, p. 779, § 1A/SB 100.

§ 43-26-7. Requirements for licensure as registered professional nurse; requirements for nontraditional nursing education program

(a) Any applicant who meets the requirements of this Code section shall be eligible for licensure as a registered professional nurse.

(b) An applicant for licensure by examination shall:

(1) Submit a completed written application and fee;

(2) (A) Have graduated from an approved nursing education program, as defined in Code Section 43-26-3; or

(B) (i) Notwithstanding subparagraph (A) of this paragraph, have graduated from a nontraditional nursing education program approved by the board which meets the requirements in subsection (e) of this Code section; and

(ii) (I) If the applicant entered the nontraditional nursing education program as a licensed practical nurse and had an academic education as a licensed practical nurse that included clinical training in pediatrics, obstetrics and gynecology, medical-surgical, and mental illness, have at least two years of clinical experience in the five years preceding the date of the application in an acute care inpatient facility or a long-term acute care facility as a licensed practical nurse, as approved by the board. Such clinical experience shall be documented in writing by the applicant's immediate supervisor stating that, in his or her opinion, the applicant has exhibited the critical thinking abilities, clinical skills, and leadership abilities that would indicate the ability to work as a beginning registered professional nurse;

(II) If the applicant entered the nontraditional nursing education program as a licensed practical nurse, had an academic education as a licensed practical nurse that included clinical training in pediatrics, obstetrics and gynecology, medical-surgical, and mental illness, and has at least two years of experience as a licensed practical nurse in any setting, although such experience shall be exclusive of night duty in a skilled nursing facility, but less than two years of experience in the five years preceding the date of the application in an acute care inpatient facility or a long-term acute care facility, as approved by the board, have completed a 320 hour postgraduate preceptorship. If the applicant can show that he or she cannot find a preceptorship in an acute care inpatient facility or a long-term acute care facility, the board may authorize a preceptorship pursuant to this subdivision in a skilled nursing facility, if such facility has 100 beds or more and such facility ensures to the board that the applicant will be providing health

care to patients with similar health care needs as those patients in a long-term acute care facility;

(III) If the applicant entered the nontraditional nursing education program as (1) a paramedic with at least two years of experience as a paramedic or (2) a licensed practical nurse with less than two years of clinical experience in the five years preceding the date of the application in an acute care inpatient facility or a long-term acute care facility as a licensed practical nurse whose academic training as a licensed practical nurse did not include clinical training in pediatrics, obstetrics and gynecology, medical-surgical, and mental illness, have completed a 480 hour postgraduate preceptorship. Such preceptorship shall be in the area or areas as determined by the board on a case-by-case basis, which may include pediatrics, obstetrics and gynecology, medical-surgical, mental illness, and transition into the role of a registered professional nurse;

(IV) If the applicant entered the nontraditional nursing education program as a military medical corpsman and has at least two years of experience as a military medical corpsman, have completed a postgraduate preceptorship of at least 480 hours but not more than 640 hours, as determined by the board; or

(V) If the applicant does not meet the requirements of subdivision (I), (II), (III), or (IV) of this division and the applicant entered a nontraditional nursing education program before July 1, 2008, which meets the requirements of subsection (e) of this Code section and completes such program no later than June 30, 2015, have completed a 640 hour postgraduate preceptorship arranged by the applicant under the supervision of a registered professional nurse. The preceptorship shall have prior approval of the board, and successful completion of the preceptorship shall be verified in writing by the preceptor. The preceptorship shall be in an acute care inpatient facility or a long-term acute care facility; provided, however, that the board may authorize a preceptorship pursuant to this subdivision in other facilities to obtain specialized experience in certain areas.

All preceptorships required pursuant to this division shall be arranged by the applicant under the close supervision of a registered professional nurse where such applicant is transitioned into the role of a registered professional nurse and the applicant performs duties typically performed by registered professional nurses. Except as otherwise provided in subdivision (II) of this division, a preceptorship shall be in an acute care inpatient facility or a long-term acute care facility; provided, however, that the board may authorize a preceptorship in other facilities to obtain specialized experience in certain areas. The preceptorship shall have prior approval of the board, and successful completion of the preceptorship shall be documented in writing by the preceptor stating that, in his or her opinion, the applicant has exhibited the critical thinking abilities, clinical skills, and leadership abilities necessary to practice as a beginning registered professional nurse. No later than August 1, 2011, the board shall develop and make available one or more standard forms for use by and assistance to applicants in securing and completing preceptorships. Such form or forms shall include information relating to the specific requirements for preceptorships, including the minimum qualifications of the preceptor, the type of training required, and the documentation required upon completion of the preceptorship. The board shall

make the determinations required by this division in accordance with its established guidelines;
or,

(C) Have graduated from a nursing education program located outside of the United States that is determined by the board to be equivalent to and not less stringent than an approved nursing education program as defined in Code Section 43-26-3;

(3) Pass a board recognized licensing examination; provided, however, that such examination may not be taken prior to graduation from the approved nursing education program. In no way shall the passage of such examination by a graduate of a nontraditional nursing education program who does not meet the other requirements of this subsection be construed to authorize such individual to practice nursing, to require the board to license such individual as a registered professional nurse other than to issue in its sole discretion a temporary permit pursuant to Code Section 43-26-8, or to be endorsed from another state as a registered professional nurse;

(4) Have satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this Code section shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure by examination agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check; and

(5) Complete further education and training if the applicant has not passed the examination within a time period established by the board, which shall not exceed three years. Such education and training may include the successful completion of an approved nursing education program as defined in Code Section 43-26-3; and

(6) Meet such other criteria as established by the board.

(c) An applicant for licensure by endorsement shall:

(1) Submit a completed written application and fee;

(2) (A) Have passed a board recognized licensing examination following graduation from an approved nursing education program, as defined in Code Section 43-26-3; or

(B) Notwithstanding subparagraph (A) of this paragraph, have graduated from a nontraditional nursing education program approved by the board which meets the requirements in subsection (e) of this Code section;

(3) Submit verification of initial and current licensure in any other licensing jurisdiction administering a board recognized licensing examination;

(4) (A) Meet continuing competency requirements as established by the board;

(B) If the applicant entered a nontraditional nursing education program as a licensed practical nurse whose academic education as a licensed practical nurse included clinical training in pediatrics, obstetrics and gynecology, medical-surgical, and mental illness, have practiced nursing as a registered professional nurse in a health care facility for at least one year in the three years preceding the date of the application, and such practice is documented by the applicant and approved by the board; provided, however, that for an applicant who does not meet the experience requirement of this subparagraph, the board shall require the applicant to complete a 320 hour postgraduate preceptorship arranged by the applicant under the oversight of a registered nurse where such applicant is transitioned into the role of a registered professional nurse. The preceptorship shall have prior approval of the board, and successful completion of the preceptorship shall be verified in writing by the preceptor; or

(C) If the applicant entered a nontraditional nursing education program as anything other than a licensed practical nurse whose academic education as a licensed practical nurse included clinical training in pediatrics, obstetrics and gynecology, medical-surgical, and mental illness, have graduated from such program and practiced nursing as a registered professional nurse in a health care facility for at least two years in the five years preceding the date of the application, and such practice is documented by the applicant and approved by the board; provided, however, that for an applicant who does not meet the experience requirement of this subparagraph, the board shall require the applicant to complete a postgraduate preceptorship of at least 480 hours but not more than 640 hours, as determined by the board, arranged by the applicant under the oversight of a registered professional nurse where such applicant is transitioned into the role of a registered professional nurse. The preceptorship shall have prior approval of the board, and successful completion of the preceptorship shall be verified in writing by the preceptor.

For purposes of this paragraph, the term "health care facility" means an acute care inpatient facility, a long-term acute care facility, an ambulatory surgical center or obstetrical facility as defined in Code Section 31-6-2, and a skilled nursing facility, so long as such skilled nursing facility has 100 beds or more and provides health care to patients with similar health care needs as those patients in a long-term acute care facility;

(5) Have satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this Code section shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure by examination agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check; and

(6) Meet such other criteria as established by the board.

(d) An applicant for reinstatement who has previously held a valid license in Georgia shall:

(1) Submit a completed written application and fee;

(2) Meet continuing competency requirements as established by the board;

(3) Have satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this Code section shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure by examination agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check; and

(4) Meet such other criteria as established by the board.

(e) A nontraditional nursing education program shall meet the following requirements:

(1) Is part of an institution of higher education that is approved by the appropriate regulatory authorities of its home state;

(2) Holds regional and specialty accreditation by an accrediting body or bodies recognized by the United States Secretary of Education or the Council for Higher Education Accreditation;

(3) Requires its students to pass faculty determined program outcomes, including competency based assessments of nursing knowledge and a summative performance assessment of clinical competency of a minimum of 2 1/2 days developed by faculty subject matter experts that follows nationally recognized standards for educational testing; and

(4) Its graduates pass a board recognized licensing examination at a rate equivalent to the minimum rate required for board approved traditional nursing education programs.

HISTORY: Code 1981, § 43-26-7, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 1994, p. 97, § 43; Ga. L. 2008, p. 378, § 2/ HB 1041; Ga. L. 2009, p. 210, § 2/ HB 475; Ga. L. 2011, p. 752, § 43/ HB 142; Ga. L. 2011, p. 779, § 1C/ SB 100.

§ 43-26-8. Temporary permits

(a) A temporary permit may be issued to an applicant for licensure by examination, endorsement, or reinstatement in accordance with criteria established by the board.

(b) A six-month temporary permit may be issued to a graduate of a nontraditional nursing

education program that meets the requirements of subsection (e) of Code Section 43-26-7 to practice nursing only as a part of his or her board approved preceptorship. A temporary permit issued pursuant to this subsection may be renewed only one time for an additional six-month period.

HISTORY: Code 1981, § 43-26-8, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 2009, p. 210, § 3/HB 475; Ga. L. 2010, p. 878, § 43/HB 1387.

§ 43-26-9. Biennial renewal of licenses; continuing competency requirements; voluntary surrender or failure to renew license; restoration and reissuance of license

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

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

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

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

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

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

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

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

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

(c) The voluntary surrender of a license or the failure to renew a license by the end of an established penalty period shall have the same effect as a revocation of said license, subject to

reinstatement at the discretion of the board. The board may restore and reissue a license and, as a condition thereof, may impose any disciplinary sanction provided by Code Section 43-1-19 or 43-26-11.

HISTORY: Code 1981, § 43-26-9, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 2013, p. 830, § 1/ HB 315.

§ 43-26-9.1. Inactive status; restoration of inactive license; nurses on inactive status barred from practicing

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

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

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

HISTORY: Code 1981, § 43-26-9.1, enacted by Ga. L. 2013, p. 830, § 2/ HB 315.

§ 43-26-10. Practicing as a registered professional nurse without a license prohibited

It shall be a misdemeanor for any person, including any corporation, association, or individual, to:

- (1) Practice nursing as a registered professional nurse, without a valid, current license, except as otherwise permitted under Code Section 43-26-12;
- (2) Practice nursing as a registered professional nurse under cover of any diploma, license, or record illegally or fraudulently obtained, signed, or issued;
- (3) Practice nursing as a registered professional nurse during the time the license is suspended, revoked, surrendered, or administratively revoked for failure to renew;
- (4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying that such person is a registered professional nurse or advanced practice registered nurse unless such person is duly licensed or recognized by the board so to practice under the provisions of this article;
- (5) Fraudulently furnish a license to practice nursing as a registered professional nurse;

(6) Knowingly employ any person to practice nursing as a registered professional nurse who is not a registered professional nurse;

(7) Conduct a nursing education program preparing persons to practice nursing as registered professional nurses unless the program has been approved by the board; or

(8) Knowingly aid or abet any person to violate this article.

HISTORY: Code 1981, § 43-26-10, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 1994, p. 97, § 43; Ga. L. 2006, p. 125, § 6/SB 480.

§ 43-26-11. Denial or revocation of licenses; other discipline

In addition to the authority granted in Code Section 43-1-19, the board shall have the authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or to discipline a licensee upon a finding by the board that the applicant or licensee has:

(1) Been convicted of any felony, crime involving moral turpitude, or crime violating a federal or state law relating to controlled substances or dangerous drugs in the courts of this state, any other state, territory, or country, or in the courts of the United States, including but not limited to a plea of nolo contendere entered to the charge; or

(2) (A) Displayed an inability to practice nursing as a registered professional nurse or licensed undergraduate nurse with reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(B) In enforcement of this paragraph, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by a board approved health care professional. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary law or rule. Every person who is licensed to practice nursing as a registered professional nurse or licensed undergraduate nurse in this state or who shall file an application shall be deemed to have given such person's consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond that person's control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that such person can resume or begin to practice with reasonable skill and safety nursing as a registered professional nurse or licensed undergraduate nurse.

(C) In enforcement of this paragraph the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including

psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute. Every person who is licensed as a registered professional nurse or licensed undergraduate nurse in this state or who shall file an application shall be deemed to have given such person's consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board upon the grounds that the same constitute a privileged communication.

HISTORY: Code 1981, § 43-26-11, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 2002, p. 415, § 43.

§ 43-26-11.1. Administration of anesthesia by certified registered nurse anesthetist

In any case where it is lawful for a duly licensed physician practicing medicine under the laws of this state to administer anesthesia, such anesthesia may be administered by a certified registered nurse anesthetist, provided that such anesthesia is administered under the direction and responsibility of a duly licensed physician.

HISTORY: Code 1981, § 43-26-11.1, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 1994, p. 97, § 43.

§ 43-26-12. Exceptions to operation of article; burden of proof

(a) No provision in this article shall be construed to require licensure in Georgia as a registered professional nurse in:

(1) The practice of nursing by students that is an integral part of a curriculum in a board approved nursing education program leading to initial licensure;

(2) The rendering of assistance by anyone in the case of an emergency or disaster;

(3) The incidental care of the sick by members of the family, friends, or persons primarily utilized as housekeepers, provided that such care does not constitute the practice of nursing within the meaning of this article;

(4) Caring for the sick in accordance with tenets or practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing;

(5) The performance of auxiliary services in the care of patients when such care and activities do not require the knowledge and skill required of a person practicing nursing as a registered professional nurse and when such care and activities are performed under orders or directions of a licensed physician, licensed dentist, licensed podiatrist, or person licensed to practice nursing as a registered professional nurse;

(6) The practice of nursing as a registered professional nurse, by a person licensed so to practice in another state, who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of that person's official duties;

(7) The practice of nursing as a registered professional nurse, by a person currently licensed so to practice in another state, who is employed by an individual, agency, or corporation located in another state and whose employment responsibilities include transporting patients into, out of, or through this state for a period not to exceed 24 hours;

(8) The practice of nursing as a registered professional nurse by a person currently licensed so to practice in another state, who is visiting Georgia as a nonresident, in order to provide specific, nonclinical, short-term, time limited services including, but not limited to, consultation, accreditation site visits, and the participation in continuing education programs;

(9) (A) The performance of health maintenance activities by a proxy caregiver pursuant to a written plan of care for a disabled individual when:

(i) Such individual or a person legally authorized to act on behalf of such individual has executed a written informed consent designating a proxy caregiver and delegating responsibility to such proxy caregiver to receive training and to provide health maintenance activities to such disabled individual pursuant to the written orders of an attending physician, or an advanced practice registered nurse or physician assistant working under a nurse protocol agreement or job description, respectively, pursuant to Code Section 43-34-25 or 43-34-23;

(ii) Such health maintenance activities are provided outside of a hospital or nursing home and are not provided by a medicare-certified home health agency or hospice organization and if alternative sources are available, Medicaid is the payor of last resort; and

(iii) The written plan of care implements the written orders of the attending physician, advanced practice registered nurse, or physician assistant and specifies the frequency of training and evaluation requirements for the proxy caregiver, including additional training when changes in the written plan of care necessitate added duties for which such proxy caregiver has not previously been trained. A written plan of care may be established by a registered professional nurse.

Rules, regulations, and policies regarding training for proxy caregivers pursuant to this paragraph shall be promulgated by the Department of Behavioral Health and Developmental Disabilities or the Department of Community Health, as applicable. Such rules shall include selection by the Department of Behavioral Health and Developmental Disabilities and the Department of Community Health for approval of training curricula specifically designed for the purpose of implementing the health maintenance activity of medication administration to be implemented by such proxy caregivers employed or contracted to providers of home and community based services, community residential alternative services, or community living services. With such

rules, providers shall train proxy caregivers in accordance with the selected curriculum or otherwise provided for in rules, regulations, and policies.

(B) An attending physician, advanced practice registered nurse, or physician assistant whose orders or written plan of care provide for the provision of health maintenance activities to a disabled person shall not be vicariously liable for a proxy caregiver's negligent performance of health maintenance activities unless the proxy caregiver is an employee of the physician, advanced practice registered nurse, or physician assistant. Any person who trains a proxy caregiver to perform health maintenance activities for a disabled individual may be held liable for negligently training that proxy caregiver if such training deviated from the applicable standard of care and was a proximate cause of injury to the disabled individual.

(C) For purposes of this paragraph, the term:

(i) "Disabled individual" means an individual who has a physical or mental impairment that substantially limits one or more major life activities and who meets the criteria for a disability under state or federal law.

(ii) "Health maintenance activities" are limited to those activities that, but for a disability, a person could reasonably be expected to do for himself or herself. Such activities are typically taught by a registered professional nurse, but may be taught by an attending physician, advanced practice registered nurse, physician assistant, or directly to a patient and are part of ongoing care. Health maintenance activities are those activities that do not include complex care such as administration of intravenous medications, central line maintenance, and complex wound care; do not require complex observations or critical decisions; can be safely performed and have reasonably precise, unchanging directions; and have outcomes or results that are reasonably predictable. Health maintenance activities conducted pursuant to this paragraph shall not be considered the practice of nursing.

(iii) "Proxy caregiver" means an unlicensed person or a licensed health care facility who has been selected by a disabled individual or a person legally authorized to act on behalf of such individual to serve as such individual's proxy caregiver, provided that such person shall receive training and shall demonstrate the necessary knowledge and skills to perform documented health maintenance activities, including identified specialized procedures, for such individual.

(iv) "Training" means teaching proxy caregivers the necessary knowledge and skills to perform health maintenance activities for disabled individuals.

(D) Good faith efforts by an attending physician, advanced practice registered nurse, physician assistant, registered professional nurse, or providers of home and community based services and other persons approved by the department to provide training to a proxy caregiver to perform health maintenance activities shall not be construed to be professional delegation.

(E) Such rules and regulations shall be promulgated pursuant to this paragraph no later than January 1, 2018; and

(10) The administration of liquid morphine by a certified medication aide pursuant to subparagraph (g)(7)(G) of Code Section 31-7-12.2.

(b) In a civil or administrative proceeding under this chapter, a person claiming an exemption or an exception pursuant to subsection (a) of this Code section has the burden of proving this exemption or exception. In a criminal proceeding, the burden of going forward with evidence of a claim of exemption or exception pursuant to subsection (a) of this Code section is on the person claiming the exemption or exception.

HISTORY: Code 1981, § 43-26-12, enacted by Ga. L. 1990, p. 747, § 1; Ga. L. 1994, p. 97, § 43; Ga. L. 2010, p. 1153, § 1/HB 1040; Ga. L. 2011, p. 752, § 43/HB 142; Ga. L. 2017, p. 564, § 1/HB 486; Ga. L. 2019, p. hb0374, § 2/HB 374.

§ 43-26-13. Certain information given to the board by licensees

A licensee may, in lieu of providing his or her home address, provide the board a legitimate business address for purposes of the public information made available by the board with regard to licensed registered professional nurses.

HISTORY: Code 1981, § 42-26-13, as enacted by Ga. L. 2006, p. 125, § 7/SB 480.

O.C.G.A. TITLE 43 Chapter 26 Article 2

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*** Current Through the 2017 Regular Session ***

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 26. NURSES
ARTICLE 2. LICENSED PRACTICAL NURSES

O.C.G.A. TITLE 43 Chapter 26 Article 2

§ 43-26-30. Short title

This article shall be known and may be cited as the "Georgia Practical Nurses Practice Act."

HISTORY: Code 1981, § 43-26-30, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-31. Purpose of article

The purpose of this article is to protect, promote, and preserve the public health, safety, and welfare through regulation and control of practical nursing education and practice. This article ensures that any person practicing or offering to practice practical nursing or using the title "Licensed Practical Nurse," as defined in this article, within the State of Georgia, shall be licensed as provided in this article.

HISTORY: Code 1981, § 43-26-31, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-32. (For effective date, see note.) Definitions

As used in this article, the term:

(1) "Active practice as a licensed practical nurse" means to practice practical nursing as a licensed practical nurse by performing for compensation acts authorized by the board.

(1.1) "Approved nursing education program" located in this state means a nursing education program approved by the board as meeting criteria established by the board. An "approved nursing education program" located outside this state means a nursing education program that the board has determined to meet criteria similar to and not less stringent than criteria established by the board for nursing education programs located in this state. In order to be approved by the board, a nursing education program must be one that is offered by:

(A) A unit of the University System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(B) An institution of the Technical College System of Georgia;

(C) A postsecondary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education; or

(D) A postsecondary institution of higher education that is not accredited in accordance with subparagraph (C) of this paragraph, but whose curriculum has been determined by the board to meet criteria similar to and not less stringent than criteria established by the board for other approved nursing education programs.

(2) "Board" means the Georgia Board of Nursing created in Code Section 43-26-4.

(3) Reserved.

(4) "License" means a current document, issued by the board, permitting a person to practice practical nursing as a licensed practical nurse. This term shall also include a multistate license issued by another state in accordance with Article 4 of this chapter permitting a person to practice practical nursing as a licensed practical nurse in this state under a multistate licensure privilege.

(5) "Licensed practical nurse" means a person who has completed a board approved nursing program necessary to qualify for examination for licensure and who is authorized by a license issued under this article to practice practical nursing.

(6) "Licensure" means the bestowing of a current license by the board permitting a person to practice practical nursing as a licensed practical nurse.

(7) "The practice of licensed practical nursing" means the provision of care for compensation, under the supervision of a physician practicing medicine, a dentist practicing dentistry, a podiatrist practicing podiatry, or a registered nurse practicing nursing in accordance with applicable provisions of law. Such care shall relate to the maintenance of health and prevention of illness through acts authorized by the board, which shall include, but not be limited to, the following:

(A) Participating in the assessment, planning, implementation, and evaluation of the delivery of health care services and other specialized tasks when appropriately trained and consistent with board rules and regulations;

(B) Providing direct personal patient observation, care, and assistance in hospitals, clinics, nursing homes, or emergency treatment facilities, or other health care facilities in areas of practice including, but not limited to: coronary care, intensive care, emergency treatment, surgical care and recovery, obstetrics, pediatrics, outpatient services, home health care, or other such areas of practice;

(C) Performing comfort and safety measures;

(D) Administering treatments and medication; and

(E) Participating in the management and supervision of unlicensed personnel in the delivery of patient care.

HISTORY: Code 1981, § 43-26-32, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 1; Ga. L. 2009, p. 210, § 4/ HB 475; Ga. L. 2012, p. 19, § 2/ HB 675; Ga. L. 2013, p. 643, § 3/ HB 332; Ga. L. 2019, p. sb0168, § 3/ SB 168.

§ 43-26-33. Use of titles and abbreviations by licensed practical nurses and applicants

(a) Any person who is licensed as a practical nurse shall have the right to use the title "Licensed Practical Nurse" and the abbreviation "L.P.N." and shall identify that he or she is so licensed by displaying either such title or abbreviation on a name tag or similar form of identification during times when such person is providing direct patient care. No other person shall assume such title or use such abbreviation or any other words, letters, signs, or symbols to indicate that such person is a licensed practical nurse in Georgia.

(b) No person shall use the title "nurse" or any other title or abbreviation that would represent to the public that a person is authorized to practice nursing unless the person is licensed or otherwise authorized under this article or Article 1 of this chapter.

HISTORY: Code 1981, § 43-26-33, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 2000, p. 1154, § 1; Ga. L. 2005, p. 60, § 43/ HB 95; Ga. L. 2011, p. 779, § 1B/ SB 100.

§ 43-26-34. (Repealed effective July 1, 2014) Board of examiners created; appointment of members; terms; filling of vacancies; meetings; reimbursement of expenses

Reserved. Repealed by Ga. L. 2013, p. 643, § 4/ HB 332, effective July 1, 2014.

§ 43-26-35. (Repealed effective July 1, 2014) Duties of board generally

Reserved. Repealed by Ga. L. 2013, p. 643, § 4/ HB 332, effective July 1, 2014.

§ 43-26-36. Application for licensure; examination; temporary permits

(a) All applicants for a license to practice as a licensed practical nurse shall make application through the board. An applicant for licensure who has not been duly examined according to the prescribed examination approved by the board and who does not otherwise qualify for licensure

under this article must apply by examination. Such applicants shall submit to the board a designated fee and written evidence verifying that the applicant:

(1) Is at least 18 years of age;

(2) Has graduated from high school or the equivalent thereof;

(3) Has graduated from an approved nursing education program, as defined in Code Section 43-26-32 or from a nursing education program located outside of the United States that is determined by the board to be equivalent to and not less stringent than an approved nursing education program as defined in Code Section 43-26-32;

(4) Is in good physical and mental health;

(5) In the case of an applicant who has graduated from a program conducted in a foreign country, has demonstrated the ability to speak, write, and understand the English language; and

(6) Meets such other criteria as established by the board.

(b) A person who is at least 17 years of age and meets all of the criteria set forth in subsection (a) of this Code section may apply to the board for special consideration to take the examination for licensure.

HISTORY: Code 1981, § 43-26-36, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 2; Ga. L. 2009, p. 210, § 5/HB 475; Ga. L. 2013, p. 643, § 6/HB 332.

§ 43-26-36.1. Fingerprint record and criminal background checks for applicants for licensure; fees

Any applicant for licensure under this article shall have satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this article shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check.

HISTORY: Code 1981, § 43-26-36.1, enacted by Ga. L. 2011, p. 437, § 1/HB 99.

§ 43-26-37. Issuance of license upon passing examination; requirements for admission to subsequent examination

(a) Any applicant who meets the license requirements stated in Code Section 43-26-36 or subsection (b) of Code Section 43-26-38 and passes the required exam may be issued a license to

practice as a licensed practical nurse.

(b) An applicant who has not passed the examination within a time period established by the board, which shall not exceed three years, shall be required to complete further education and training which may include the successful completion of an approved nursing education program as defined in Code Section 43-26-32.

HISTORY: Code 1981, § 43-26-37, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 3.

§ 43-26-38. License by endorsement; temporary permit

(a) The board, at its discretion, may issue a license to practice as a licensed practical nurse, without examination, to any person who has a high school diploma or general educational development (GED) diploma and has been duly licensed or registered as a practical or vocational nurse or who is entitled to perform similar service under a different designation under the laws of another state or territory of the United States if the license or registration in that other state or territory is current and in good standing and was issued based upon completion of an approved nursing education program, as defined in Code Section 43-26-32, and passage of an examination, which examination has been determined by the board to be substantially equal to or greater than the requirements for licensure as a licensed practical nurse in this state and if such person has met continuing competency requirements as established by the board.

(b) The board, at its discretion, may issue a license to practice as a licensed practical nurse, with examination, to any person who has a high school diploma or general educational development (GED) diploma and has been duly licensed or registered as a practical or vocational nurse or who is entitled to perform similar service under a different designation under the laws of another state or territory of the United States if the license or registration in that other state or territory is current and in good standing and was issued based upon completion of an approved nursing education program, as defined in Code Section 43-26-32, except however, such applicant has not been duly examined according to the prescribed examination approved by this board and if such person meets continuing competency requirements as established by the board.

(c) Applicants for endorsement who have not been engaged in the active practice of practical nursing as licensed practical nurses for a period which exceeds a period of time established by the board shall be required to complete additional education and training as provided in the rules and regulations of the board, which may include but not be limited to returning to school for full training and taking the licensing examination.

(d) The approval or denial of a license by endorsement under this Code section shall be in the sole discretion of the board, and a denial thereof shall not be considered to be a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The applicant shall be allowed to appear before the board if the applicant so desires.

(e) Nothing in this Code section shall be construed to prevent an applicant who is denied a

license by endorsement from taking the examination for licensure, provided that such applicant is otherwise eligible to take the examination and meets the requirements specified.

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

HISTORY: Code 1981, § 43-26-38, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 4; Ga. L. 1995, p. 354, § 1; Ga. L. 2002, p. 415, § 43; Ga. L. 2009, p. 210, § 6/HB 475.

§ 43-26-39. Renewal of license; continuing competency requirements; voluntary surrender; application for reinstatement; temporary permit

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

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

(b.1) Beginning with the 2017 license renewal cycle, an applicant for license renewal under this article shall meet one of the following continuing competency requirements during the previous licensure period:

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

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

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

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

(d) Any license that is not renewed by the end of the renewal period may not thereafter be renewed, and the licensee must apply for reinstatement. Applicants for reinstatement shall meet continuing competency requirements as established by the board.

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

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

HISTORY: Code 1981, § 43-26-39, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 5; Ga. L. 2000, p. 1706, § 19; Ga. L. 2013, p. 830, § 3/HB 315.

§ 43-26-40. Refusal to grant license; revocation of license; disciplining of licensees

(a) In addition to the authority granted in Code Section 43-1-19, the board shall have the authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or to discipline a licensee upon a finding by the board that the applicant or licensee has:

(1) Been convicted of a felony, a crime involving moral turpitude, or any crime violating a federal or state law relating to controlled substances or dangerous drugs or marijuana in the courts of this state, any other state, territory, or country, or in the courts of the United States, including, but not limited to, a plea of nolo contendere entered to the charge;

(2) Had a license to practice nursing revoked, suspended, or annulled by any lawful licensing authority, had other disciplinary action taken by any lawful licensing authority, or was denied a license by any lawful licensing authority;

(3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person. As used in this paragraph, the term "unprofessional conduct" includes the improper charting of medication and any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice;

(4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation of this state, any other state, the board, the United States, or any other lawful authority, without regard to whether the violation is criminally punishable, which statute, law, or rule or regulation relates to or in part regulates the practice of nursing, when the licensee or applicant knows or should know that such action is violative of such law or rule;

(5) Violated a lawful order of the board previously entered by the board in a disciplinary hearing; or

(6) Displayed an inability to practice nursing as a licensed practical nurse with reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or any other types of material, or as a result of any mental or physical condition:

(A) In enforcement of this paragraph, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by a board approved health care professional. The expense of such mental or physical examination shall be borne by the licensee or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under contrary law or rule. Every person who is licensed to practice practical nursing as a licensed practical nurse in this state, or an applicant for examination, endorsement, or reinstatement shall be deemed to have given such person's consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond that person's control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that such person can resume or begin to practice practical nursing as a licensed practical nurse with reasonable skill and safety; and

(B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule, law, or statute. Every person who is licensed in this state or who shall file an application for said license shall be deemed to have given such person's consent to the board's obtaining such records and to have waived all objections to the admissibility of such records in any hearing before the board upon the grounds that the same constitute a privileged communication.

(b) Neither denial of an initial license, the issuance of a private reprimand, the denial of a license by endorsement under Code Section 43-26-38, nor the denial of a request for reinstatement of a license on the grounds that the applicant or licensee has failed to meet the minimum requirements shall be considered a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; and notice and hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or licensee shall be allowed to appear before the board if he or she so requests.

HISTORY: Code 1981, § 43-26-40, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-41. Exceptions to licensure requirements; burden of proof

(a) No provision in this article shall be construed to require licensure in Georgia as a licensed practical nurse in:

(1) The practice of practical nursing by students when such practice is an integral part of a curriculum in a board approved practical nursing education program leading to initial licensure;

(2) The rendering of assistance by anyone in the case of an emergency or disaster;

(3) The incidental care of the sick by members of the family, friends, or persons primarily utilized as housekeepers, provided that such care does not constitute the practice of practical nursing within the meaning of this article and individuals do not hold themselves out as being licensed practical nurses;

(4) Caring for the sick in accordance with tenets or practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing;

(5) The performance of auxiliary services in the care of patients when such care and activities do not require the knowledge and skill required of a person practicing practical nursing as a licensed practical nurse and when such care and activities are performed under orders or directions of a licensed physician, licensed dentist, licensed podiatrist, or person licensed to practice nursing as a registered professional nurse;

(6) The practice of practical nursing as a licensed practical nurse by a person so licensed to practice in another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of that person's official duties; and

(7) The practice of practical nursing as a licensed practical nurse by a person currently licensed to practice in another state who is employed by an individual, agency, or corporation located in another state, whose employment responsibilities include transporting patients into, out of, or through this state for a period not to exceed 24 hours.

(b) In a civil or administrative proceeding under this article, a person claiming an exemption or an exception pursuant to subsection (a) of this Code section has the burden of proving this exemption or exception. In a criminal proceeding, the burden of going forward with evidence of a claim of exemption or exception pursuant to subsection (a) of this Code section is on the person claiming the exemption or exception.

HISTORY: Code 1981, § 43-26-41, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-42. Criminal violations

It shall be a misdemeanor for any person, including any corporation, association, or individual, to:

(1) Practice practical nursing as a licensed practical nurse without a valid current license, except as otherwise permitted under Code Section 43-26-41;

(2) Practice practical nursing as a licensed practical nurse under cover of any diploma, license, or record illegally or fraudulently obtained, signed, or issued;

- (3) Practice practical nursing as a licensed practical nurse during the time the license is suspended, revoked, surrendered, or administratively revoked for failure to renew;
- (4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying that such person is a licensed practical nurse unless such person is duly licensed to practice under the provisions of this article;
- (5) Fraudulently furnish a license to practice nursing as a licensed practical nurse;
- (6) Knowingly employ any person to practice practical nursing as a licensed practical nurse who is not a licensed practical nurse;
- (7) Conduct a nursing education program in this state unless the program has been approved by the board; or
- (8) Knowingly aid or abet any person to violate this article.

HISTORY: Code 1981, § 43-26-42, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-43. Termination

Repealed by Ga. L. 1993, p. 91, § 43, effective March 22, 1993.

O.C.G.A. § 43-26-50

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*** Current Through the 2017 Regular Session ***

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 26. NURSES
ARTICLE 3. MANDATORY REPORTING REQUIREMENTS FOR NURSES

O.C.G.A. § 43-26-50

§ 43-26-50. Definitions

As used in this article, the term:

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

(2) "Nurse" means a registered professional nurse licensed or authorized pursuant to Article 1 or Article 4 of this chapter, an advanced practice registered nurse, as defined in paragraph (1.1) of Code Section 43-26-3, or a licensed practical nurse licensed or authorized pursuant to Article 2 or Article 4 of this chapter.

HISTORY: Code 1981, § 43-26-50, enacted by Ga. L. 2013, p. 830, § 4/HB 315; Ga. L. 2014, p. 866, § 43/SB 340; Ga. L. 2019, p. sb0168, § 4/SB 168.

§ 43-26-51. Mandatory reporting requirement for violations of grounds for discipline; no reporting requirement for knowledge obtained via privileged communications

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

HISTORY: Code 1981, § 43-26-51, enacted by Ga. L. 2013, p. 830, § 4/HB 315.

§ 43-26-52. Institutional reporting requirements; voluntary submission to alternative to discipline program not subject to reporting requirement

(a) Hospitals, nursing homes, temporary staffing agencies, and other employers of registered professional nurses, advanced practice registered nurses, or licensed practical nurses shall report to the applicable board, or ensure that such report has in fact been made to such board, the name of any nurse whose employment has been terminated or who has resigned in order to avoid termination for any reasons stipulated in Code Section 43-26-53.

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

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

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

HISTORY: Code 1981, § 43-26-52, enacted by Ga. L. 2013, p. 830, § 4/HB 315.

§ 43-26-53. Reportable incidents

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

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

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

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

(4) Using any words, abbreviations, figures, letters, title, sign, card, or device implying that such person is a registered professional nurse, an advanced practice registered nurse, or a

licensed practical nurse unless such person is duly licensed or recognized by the applicable board to practice as such under the provisions of this chapter;

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

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

(7) While holding a license as a nurse, convicted of any felony, crime involving moral turpitude, or crime violating a federal or state law relating to controlled substances or dangerous drugs in the courts of this state, any other state, territory, or country, or in the courts of the United States, including, but not limited to, a plea of nolo contendere entered to the charge; or

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

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

HISTORY: Code 1981, § 43-26-53, enacted by Ga. L. 2013, p. 830, § 4/HB 315.

§ 43-26-54. Court order; citation for civil contempt

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

HISTORY: Code 1981, § 43-26-54, enacted by Ga. L. 2013, p. 830, § 4/HB 315.

§ 43-26-55. Immunity from liability for good-faith reporting

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

(b) A physician or other licensed health care professional who, at the request of the applicable

board, examines a nurse shall be immune from suit for damages by the nurse examined if the examining physician or examining health care professional conducted the examination and made findings or diagnoses in good faith.

HISTORY: Code 1981, § 43-26-55, enacted by Ga. L. 2013, p. 830, § 4/HB 315.

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*** Current through the 2017 Regular Session of the General Assembly. ***

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 26. NURSES
ARTICLE 4. NURSE LICENSURE COMPACT

O.C.G.A. TITLE 43 Chapter 26 Article 4

§ 43-26-60. Short title

This article shall be known and may be cited as the "Nurse Licensure Compact."

HISTORY: Code 1981, § 43-26-60, enacted by Ga. L. 2017, p. 364, § 3/SB 109.

§ 43-26-61. Compact enacted and entered into by the State of Georgia; text of compact

The Nurse Licensure Compact is enacted into law and entered into by the State of Georgia with any and all other states legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Declaration of Purpose

(a) The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

(6) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purposes of this Compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(6) Decrease redundancies in the consideration and issuance of nurse licenses; and

(7) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

Definitions

As used in this Compact:

(a) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(b) "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.

(c) "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

(d) "Current significant investigative information" means:

(1) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction, or

(2) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(e) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(f) "Home state" means the party state which is the nurse's primary state of residence.

(g) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(h) "Multistate license" means a license to practice as a registered professional nurse or a licensed practical nurse issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(i) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered professional nurse or a licensed practical nurse in a remote state.

(j) "Nurse" means a registered professional nurse or licensed practical nurse, as those terms are defined by each party state's practice laws.

(k) "Party state" means any state that has adopted this Compact.

(l) "Remote state" means a party state, other than the home state.

(m) "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(n) "State" means a state, territory or possession of the United States and the District of Columbia.

(o) "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

(a) A multistate license to practice as a registered professional nurse or a licensed practical nurse issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered professional nurse or a licensed practical nurse, under a multistate licensure privilege, in each party state.

(b) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(c) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(1) Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;

(2) (i) Has graduated or is eligible to graduate from a licensing board-approved registered professional nurse or licensed practical nurse prelicensure education program; or

(ii) Has graduated from a foreign registered professional nurse or licensed practical nurse prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

(3) Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

(4) Has successfully passed an NCLEX-RN(R) or NCLEX-PN(R) Examination or recognized predecessor, as applicable;

(5) Is eligible for or holds an active, unencumbered license;

(6) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

(7) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(8) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(9) Is not currently enrolled in an alternative program;

(10) Is subject to self-disclosure requirements regarding current participation in an alternative program; and

(11) Has a valid United States Social Security number.

(d) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege to practice such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(f) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this Compact shall affect the requirements established by a party state for the issuance of a single-state license.

(g) Any nurse holding a home state multistate license, on the effective date of this Compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

(1) A nurse, who changes primary state of residence after this Compact's effective date, must meet all applicable Article III(c) requirements to obtain a multistate license from a new home state.

(2) A nurse who fails to satisfy the multistate licensure requirements in Article III(c) due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("Commission").

ARTICLE IV

Applications for Licensure in a Party State

(a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

(b) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(c) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the Commission.

(1) The nurse may apply for licensure in advance of a change in primary state of residence.

(2) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(d) If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(1) Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

(i) Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.

(ii) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(2) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

(3) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

(6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(7) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(b) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(c) Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

(a) All party states shall participate in a coordinated licensure information system of all

registered professional nurses and licensed practical nurses. This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

(c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(h) The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:

(1) Identifying information;

(2) Licensure data;

(3) Information related to alternative program participation; and

(4) Other information that may facilitate the administration of this Compact, as determined by Commission rules.

(i) The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

(a) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

(1) The Commission is an instrumentality of the party states.

(2) Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, Voting and Meetings.

(1) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(2) Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(3) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.

(5) The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

(i) Noncompliance of a party state with its obligations under this Compact;

(ii) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

(iii) Current, threatened or reasonably anticipated litigation;

(iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;

(v) Accusing any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) Disclosure of investigatory records compiled for law enforcement purposes;

(ix) Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or

(x) Matters specifically exempted from disclosure by federal or state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

(c) The Commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this Compact, including but not limited to:

(1) Establishing the fiscal year of the Commission;

(2) Providing reasonable standards and procedures:

(i) For the establishment and meetings of other committees, and

(ii) Governing any general or specific delegation of any authority or function of the Commission;

(3) Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the

Commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

(4) Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and

(6) Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment or reserving of all of its debts and obligations;

(d) The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission.

(e) The Commission shall maintain its financial records in accordance with the bylaws.

(f) The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

(g) The Commission shall have the following powers:

(1) To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states;

(2) To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(3) To purchase and maintain insurance and bonds;

(4) To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

(5) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;

(6) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(7) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

(8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

(9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

(10) To establish a budget and make expenditures;

(11) To borrow money;

(12) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

(13) To provide and receive information from, and to cooperate with, law enforcement agencies;

(14) To adopt and use an official seal; and

(15) To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of nurse licensure and practice.

(h) Financing of the Commission.

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(2) The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.

(3) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(4) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant,

and the report of the audit shall be included in and become part of the annual report of the Commission.

(i) Qualified Immunity, Defense and Indemnification.

(1) The administrators, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

(2) The Commission shall defend any administrator, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII Rulemaking

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(c) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

- (1) On the website of the Commission; and
 - (2) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.
- (d) The notice of proposed rulemaking shall include:
- (1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;
 - (2) The text of the proposed rule or amendment, and the reason for the proposed rule;
 - (3) A request for comments on the proposed rule from any interested person; and
 - (4) The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
- (e) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- (f) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.
- (g) The Commission shall publish the place, time and date of the scheduled public hearing.
- (1) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.
 - (2) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
- (h) If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.
- (i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.
- (j) The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- (k) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual

rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety or welfare;

(2) Prevent a loss of Commission or party state funds; or

(3) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(1) The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE IX

Oversight, Dispute Resolution and Enforcement

(a) Oversight.

(1) Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.

(2) The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

(b) Default, Technical Assistance and Termination.

(1) If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

(i) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and

(ii) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(4) A state whose membership in this Compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs related to a state that is found to be in default or whose membership in this Compact has been terminated unless agreed upon in writing between the Commission and the defaulting state.

(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) Dispute Resolution.

(1) Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and non-party states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(3) In the event the Commission cannot resolve disputes among party states arising under this Compact:

(i) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(d) Enforcement.

(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

(2) By majority vote, the Commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

(a) This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, ("Prior Compact"), shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.

(b) Each party state to this Compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.

(c) Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(d) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(e) Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.

(f) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(g) Representatives of non-party states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

ARTICLE XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

HISTORY: Code 1981, § 43-26-61, enacted by Ga. L. 2017, p. 364, § 3/SB 109.

§ 43-26-62. Rules and regulations

The Georgia Board of Nursing shall be authorized to promulgate rules and regulations to implement the provisions of this article.

HISTORY: Code 1981, § 43-26-62, enacted by Ga. L. 2017, p. 364, § 3/SB 109.

§ 43-26-63. Nurse Licensure Compact administrator

The executive director of the Georgia Board of Nursing shall serve as the Nurse Licensure Compact administrator for this state.

HISTORY: Code 1981, § 43-26-63, enacted by Ga. L. 2017, p. 364, § 3/SB 109.

§ 43-26-64. Statutes applicable to nurses practicing under multistate license

A registered professional nurse or licensed practical nurse practicing in this state under a multistate license issued by another party state shall be subject to all requirements and duties applicable to registered professional nurses or licensed practical nurses who are licensed pursuant to Article 1 or Article 2 of this chapter, respectively.

HISTORY: Code 1981, § 43-26-64, enacted by Ga. L. 2017, p. 364, § 3/SB 109.

§ 43-26-65. Applicability of article to nurses whose states have substantially similar licensure requirements

Repealed by Ga. L. 2019, p. SB168, § 5/SB 168, effective April. 25, 2019.