

Senate Bill 5

By: Senators Kirkpatrick of the 32nd, Burke of the 11th, Watson of the 1st, Hufstetler of the 52nd and Au of the 48th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide patient protection measures for patients undergoing sedation in
3 certain settings; to provide for patients under conscious sedation in dental settings and for
4 dental procedures in medispas; to require certain training by dental assistants and dental
5 hygienists relating to the performance of phlebotomy and venipuncture procedures; to
6 provide for patients under varying levels of sedation in physician offices and medispas; to
7 provide for definitions; to provide for rules and regulations; to provide for enforcement; to
8 provide for statutory construction; to provide for related matters; to repeal conflicting laws;
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
13 is amended in Article 1 of Chapter 11, relating to general provisions relative to dentists,
14 dental hygienists, and dental assistants, by revising Code Section 43-11-21, relating to
15 conscious sedation, as follows:

16 "43-11-21.

17 (a) No dentist licensed and practicing in the State of Georgia shall administer either single
18 or multiple pharmacologic agents by oral, parenteral, enteral, transdermal, or transmucosal
19 route that renders a patient to a state of conscious sedation as defined in Code
20 Section 43-11-1, unless such dentist has been issued a permit by the board under the
21 conditions specified therefor in this Code section. The dentist shall ensure that the
22 pharmacologic agents and methods used to administer such agents shall include a margin
23 of safety so that loss of consciousness of the patient is unlikely. This Code section shall
24 not restrict the use of nitrous oxide or pharmacological agents that do not render a patient
25 to a state of conscious sedation. Such permit shall be subject to biennial renewal at the
26 time the dentist is required to renew that dentist's license to practice dentistry. It shall be
27 the responsibility of the dentist to provide such information as the board may require and
28 to pay the separate initial issuance and renewal fees for the permit as may be established
29 by the board.

30 (b) No dentist shall be issued a permit under this Code section unless the board has
31 received satisfactory evidence that such dentist:

32 (1) Has received formal training in the use of conscious sedation at an institution
33 accredited by the Commission on Dental Accreditation of the American Dental
34 Association (ADA), its successor agency, or other board approved organization and is
35 certified by such organization as competent in the administration of pharmacologic agents
36 for conscious sedation and the handling of emergencies relating to conscious sedation.
37 Such certification shall specify the type, number of hours, and length of training. The
38 minimum didactic hours, patient contact hours, and number of patients sedated under
39 supervision shall be established by rule or regulation of the board;

40 (2) Utilizes a properly equipped facility for the administration of conscious sedation,
41 including physical plant and equipment, which has been evaluated and certified by an
42 on-site examination; and

43 (3) Has demonstrated to the satisfaction of the board or any designee thereof proficiency
44 in administering sedative techniques in the dentist's office on a patient or patients in a
45 safe and effective manner.

46 (c) In enforcing the provisions of this Code section, the board is authorized to designate
47 qualified persons to perform the on-site examinations and is further authorized to provide
48 by rule or regulation for standards for physical plant, equipment, and personnel to be
49 utilized in the induction of conscious sedation.

50 (d) The board or its appointed designee may, upon reasonable notice, make on-site
51 inspections of the facility, equipment, and personnel of a dentist issued a permit under this
52 Code section to determine if the standards of paragraph (2) of subsection (b) of this Code
53 section are being maintained.

54 (e)(1) The board may, upon proper application, grant a provisional permit to administer
55 conscious sedation to any dentist who meets the requirements of paragraph (1) of
56 subsection (b) of this Code section.

57 (2) A provisional permit issued under this subsection shall expire six months after its
58 issuance or upon the board's determination by site visit that the requirements of
59 paragraph (2) or (3) of subsection (b) of this Code section have not been met, whichever
60 occurs earlier. The provisional permit may be renewed once, at the discretion of the
61 board, for a period not to exceed six months following the original expiration date.

62 (f) A dentist holding a current, valid permit to administer general anesthesia as provided
63 in this chapter shall not be required to obtain a permit under this Code section in order to
64 administer conscious sedation.

65 (g) A permit issued under this Code section may be revoked or not renewed if the board
66 determines that the dentist holding such permit no longer meets any requirement of
67 subsection (b) of this Code section. The board shall provide notice and opportunity for
68 hearing under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in any

69 case in which it revokes or refuses to renew a permit, provided that summary action
70 regarding such permit shall be authorized under Code Section 50-13-18.

71 (h)(1) Any person who administers conscious sedation in this state in a dental facility or
72 during the practice of dentistry in a medispa, without a license to practice dentistry from
73 the board, shall be deemed to be engaged in the unlawful practice of dentistry and subject
74 to the provisions of subsection (e) of Code Section 43-11-2 and Code Section 43-11-50.

75 As used in this paragraph, the term 'medispa' means a facility that offers a range of
76 services for the purpose of improving an individual's well-being or appearance, including
77 medical and surgical procedures such as liposuction, laser procedures, intense pulsed
78 light, and injection of cosmetic filling agents and neurotoxins, in a nontraditional setting.

79 (2) Nothing in this subsection shall be construed to prevent a physician licensed in this
80 state from administering conscious sedation or to deem a physician licensed in this state
81 to be engaged in the unlawful practice of dentistry.

82 (3) Nothing in this subsection shall be construed to expand the scope of the practice of
83 dentistry.

84 ~~(h)~~(i)(1) This Code section shall not prohibit a person who is duly licensed to practice
85 medicine in this state and who is a member of the anesthesiology staff of an institution
86 classified as a hospital and issued a permit as an institution under Code Section 31-7-1
87 from administering conscious sedation in a dental facility, except that such
88 anesthesiologist shall remain on the premises of the dental facility until any patient given
89 conscious sedation by such anesthesiologist is stabilized and has regained consciousness.

90 (2) This Code section shall not prohibit a person who is duly licensed as a certified
91 registered nurse anesthetist in this state from administering conscious sedation in a dental
92 facility nor deem a certified registered nurse anesthetist to be engaged in the unlawful
93 practice of dentistry, provided that such sedation is administered under the direction and
94 responsibility of a dentist duly permitted under this Code section and that such nurse

95 anesthetist shall remain on the premises of the dental facility until any patient given
96 conscious sedation by such nurse anesthetist is stabilized and has regained consciousness.
97 (3) This Code section shall not prohibit a person who is duly licensed as a physician
98 assistant in this state who has completed an anesthesiologist assistant program approved
99 by the Georgia Composite Medical Board from administering conscious sedation nor
100 deem such physician assistant to be engaged in the unlawful practice of dentistry,
101 pursuant to their job description as approved by the Georgia Composite Medical Board,
102 provided that such sedation is administered under the direction and responsibility of an
103 anesthesiologist permitted under this Code section."

104 **SECTION 2.**

105 Said title is further amended by adding a new Code section to Article 1 of Chapter 11,
106 relating to general provisions relative to dentists, dental hygienists, and dental assistants, to
107 read as follows:

108 "43-11-23.

109 (a) A dental assistant or licensed dental hygienist performing phlebotomy and
110 venipuncture procedures shall be required to complete board approved training in
111 phlebotomy, intravenous access, infection control, the handling of any medical or dental
112 emergencies associated with such procedures, and any other safety related topics required
113 by the board.

114 (b) A dental assistant or licensed dental hygienist assisting a licensed dentist during the
115 lawful administration of conscious sedation under Code Section 43-11-21 or general
116 anesthesia under Code Section 43-11-21.1 shall complete board approved training on the
117 applicable procedures, protocols, patient monitoring techniques, equipment, and any other
118 safety related topics required by the board. A dental assistant or licensed dental hygienist
119 performing phlebotomy and venipuncture procedures while assisting the supervising dentist

120 pursuant to this subsection shall also complete the training requirements contained in
121 subsection (a) of this Code section.

122 (c) The procedures authorized in subsections (a) and (b) of this Code section shall only be
123 performed under the direct supervision of a licensed dentist.

124 (d) A licensed dentist shall not delegate to a dental assistant or a dental hygienist the
125 administration of any medication or drugs given to a patient through phlebotomy and
126 venipuncture procedures."

127 **SECTION 3.**

128 Said title is further amended in Article 2 of Chapter 34, relating to the "Medical Practice Act
129 of the State of Georgia," by adding a new Code section to read as follows:

130 "43-34-47.

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

132 (1) 'Deep sedation/analgesia' means a drug-induced depression of consciousness during
133 which the patient cannot be easily aroused but can respond purposefully following
134 repeated or painful stimulation.

135 (2) 'General anesthesia' means a state of unconsciousness intentionally produced by
136 anesthetic agents, with absence of pain sensation over the entire body, in which the
137 patient's protective airway reflexes may be impaired and the patient may be unable to
138 maintain a patent natural airway. Sedation that progresses to the point at which the
139 patient's protective airway reflexes are impaired and the patient is unable to maintain a
140 patent natural airway is considered general anesthesia.

141 (3) 'Medispa' means a facility that offers a range of services for the purpose of improving
142 an individual's well-being or appearance, including medical and surgical procedures such
143 as liposuction, laser procedures, intense pulsed light, and injection of cosmetic filling
144 agents and neurotoxins, in a nontraditional setting.

145 (4) 'Minimal sedation' means a drug-induced state during which the patient responds
146 normally to verbal commands.

147 (5) 'Moderate sedation/analgesia' means a drug-induced depression of consciousness
148 during which the patient responds purposefully to verbal commands, either alone or
149 accompanied by tactile stimulation.

150 (6) 'Office based surgery' means any surgery or invasive medical procedure requiring
151 sedation, when performed in a location other than a hospital, hospital associated surgical
152 center, or an ambulatory surgical facility, including, but not limited to, physicians' offices
153 and medispas.

154 (7) 'Rescue' means an intervention by a practitioner proficient in airway management and
155 advanced life support to correct adverse physiologic consequences of the
156 deeper-than-intended level of sedation and to return the patient to the originally intended
157 level of sedation.

158 (8) 'Sedation' means minimal sedation, moderate sedation/analgesia, deep
159 sedation/analgesia, or general anesthesia. This term shall not include local infiltration.

160 (b) No later than December 31, 2021, the board shall establish rules and regulations for the
161 administration of sedation and rescue in office based surgeries to establish consistent
162 standards, ensure continuing competency, and promote patient safety. Such rules and
163 regulations shall include requirements on:

164 (1) A properly equipped and maintained facility to ensure patient safety, which may be
165 demonstrated by appropriate accreditation or certification;

166 (2) Competency of the physician using sedation in the absence of an anesthesiologist or
167 certified registered nurse anesthetist, including education and relevant training;

168 (3) Sedation assessment and management;

169 (4) Separation of surgical and sedation monitoring functions;

170 (5) Emergency care and transfer protocols in the event of a complication or emergency;

- 171 (6) Maintenance of complete and accurate medical records relating specifically to the
172 sedation of the patient;
- 173 (7) Appropriate training and education in the safe and effective performance of all office
174 based surgical procedures performed;
- 175 (8) Reporting of adverse events to the board; and
- 176 (9) Truth in advertising regarding the credentials, education, and training of the
177 individuals administering sedation.
- 178 (c) Any physician administering sedation during office based surgery shall be subject to
179 the rules and regulations established by the board pursuant to this Code section.
- 180 (d) Except as otherwise provided in subsection (e) of this Code section, any person who
181 administers sedation during office based surgery in this state without a license to practice
182 medicine from the board shall be deemed to be engaged in the unlawful practice of
183 medicine and subject to the provisions of Code Sections 43-34-39 and 43-34-42.
- 184 (e)(1) Nothing in this Code section shall be construed to prevent a dentist licensed in this
185 state with a permit issued by the Georgia Board of Dentistry pursuant to Code
186 Section 43-11-21 from administering conscious sedation in a dental facility or during the
187 practice of dentistry in a medspa or to deem a dentist licensed in this state to be engaged
188 in the unlawful practice of medicine.
- 189 (2) Nothing in this Code section shall be construed to prevent a certified registered nurse
190 anesthetist licensed in this state from administering conscious sedation or anesthesia
191 pursuant to Code Section 43-26-11.1, subsection (h) of Code Section 43-11-21, or
192 paragraph (2) of subsection (d) of Code Section 43-11-21.1 or to deem a certified
193 registered nurse anesthetist licensed in this state to be engaged in the unlawful practice
194 of medicine.
- 195 (3) Nothing in this Code section shall be construed to prevent a physician assistant
196 licensed in this state who has completed a board approved anesthesiologist assistant

197 program from administering conscious sedation or anesthesia or to deem such physician
198 assistant to be engaged in the unlawful practice of medicine."

199

SECTION 4.

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