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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended in Article 1 of Chapter 11, relating to general provisions relative to dentists, dental hygienists, and dental assistants, by revising Code Section 43-11-21, relating to conscious sedation, as follows:
(a) No dentist licensed and practicing in the State of Georgia shall administer either single or multiple pharmacologic agents by oral, parenteral, enteral, transdermal, or transmucosal route that renders a patient to a state of conscious sedation as defined in Code Section 43-11-1, unless such dentist has been issued a permit by the board under the conditions specified therefor in this Code section. The dentist shall ensure that the pharmacologic agents and methods used to administer such agents shall include a margin of safety so that loss of consciousness of the patient is unlikely. This Code section shall not restrict the use of nitrous oxide or pharmacological agents that do not render a patient to a state of conscious sedation. Such permit shall be subject to biennial renewal at the time the dentist is required to renew that dentist's license to practice dentistry. It shall be the responsibility of the dentist to provide such information as the board may require and to pay the separate initial issuance and renewal fees for the permit as may be established by the board.

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

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

(2) Utilizes a properly equipped facility for the administration of conscious sedation, including physical plant and equipment, which has been evaluated and certified by an on-site examination; and
(3) Has demonstrated to the satisfaction of the board or any designee thereof proficiency in administering sedative techniques in the dentist's office on a patient or patients in a safe and effective manner.

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

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

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

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

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

(g) A permit issued under this Code section may be revoked or not renewed if the board determines that the dentist holding such permit no longer meets any requirement of subsection (b) of this Code section. The board shall provide notice and opportunity for hearing under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in any
case in which it revokes or refuses to renew a permit, provided that summary action
regarding such permit shall be authorized under Code Section 50-13-18.
(h)(1) Any person who administers conscious sedation in this state in a dental facility or
during the practice of dentistry in a medispa, without a license to practice dentistry from
the board, shall be deemed to be engaged in the unlawful practice of dentistry and subject
to the provisions of subsection (e) of Code Section 43-11-2 and Code Section 43-11-50.
As used in this paragraph, the term 'medispa' means a facility that offers a range of
services for the purpose of improving an individual's well-being or appearance, including
medical and surgical procedures such as liposuction, laser procedures, intense pulsed
light, and injection of cosmetic filling agents and neurotoxins, in a nontraditional setting.
(2) Nothing in this subsection shall be construed to prevent a physician licensed in this
state from administering conscious sedation or to deem a physician licensed in this state
to be engaged in the unlawful practice of dentistry.
(3) Nothing in this subsection shall be construed to expand the scope of the practice of
dentistry.
(h)(i)(1) This Code section shall not prohibit a person who is duly licensed to practice
medicine in this state and who is a member of the anesthesiology staff of an institution
classified as a hospital and issued a permit as an institution under Code Section 31-7-1
from administering conscious sedation in a dental facility, except that such
anesthesiologist shall remain on the premises of the dental facility until any patient given
conscious sedation by such anesthesiologist is stabilized and has regained consciousness.
(2) This Code section shall not prohibit a person who is duly licensed as a certified
registered nurse anesthetist in this state from administering conscious sedation in a dental
facility nor deem a certified registered nurse anesthetist to be engaged in the unlawful
practice of dentistry, provided that such sedation is administered under the direction and
responsibility of a dentist duly permitted under this Code section and that such nurse
S. B. 5

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

SECTION 2.

Said title is further amended by adding a new Code section to Article 1 of Chapter 11,
relating to general provisions relative to dentists, dental hygienists, and dental assistants, to
read as follows:
"43-11-23.
(a) A dental assistant or licensed dental hygienist performing phlebotomy and
venipuncture procedures shall be required to complete board approved training in
phlebotomy, intravenous access, infection control, the handling of any medical or dental
emergencies associated with such procedures, and any other safety related topics required
by the board.
(b) A dental assistant or licensed dental hygienist assisting a licensed dentist during the
lawful administration of conscious sedation under Code Section 43-11-21 or general
anesthesia under Code Section 43-11-21.1 shall complete board approved training on the
applicable procedures, protocols, patient monitoring techniques, equipment, and any other
safety related topics required by the board. A dental assistant or licensed dental hygienist
performing phlebotomy and venipuncture procedures while assisting the supervising dentist
pursuant to this subsection shall also complete the training requirements contained in subsection (a) of this Code section.

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

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

SECTION 3.

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

"43-34-47.

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

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

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

(3) 'Medispa' means a facility that offers a range of services for the purpose of improving an individual's well-being or appearance, including medical and surgical procedures such as liposuction, laser procedures, intense pulsed light, and injection of cosmetic filling agents and neurotoxins, in a nontraditional setting.
(4) 'Minimal sedation' means a drug-induced state during which the patient responds normally to verbal commands.

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

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

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

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

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

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

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

(3) Sedation assessment and management;

(4) Separation of surgical and sedation monitoring functions;

(5) Emergency care and transfer protocols in the event of a complication or emergency;
(6) Maintenance of complete and accurate medical records relating specifically to the sedation of the patient;
(7) Appropriate training and education in the safe and effective performance of all office based surgical procedures performed;
(8) Reporting of adverse events to the board; and
(9) Truth in advertising regarding the credentials, education, and training of the individuals administering sedation.
(c) Any physician administering sedation during office based surgery shall be subject to the rules and regulations established by the board pursuant to this Code section.
(d) Except as otherwise provided in subsection (e) of this Code section, any person who administers sedation during office based surgery in this state without a license to practice medicine from the board shall be deemed to be engaged in the unlawful practice of medicine and subject to the provisions of Code Sections 43-34-39 and 43-34-42.
(e)(1) Nothing in this Code section shall be construed to prevent a dentist licensed in this state with a permit issued by the Georgia Board of Dentistry pursuant to Code Section 43-11-21 from administering conscious sedation in a dental facility or during the practice of dentistry in a medispa or to deem a dentist licensed in this state to be engaged in the unlawful practice of medicine.
(2) Nothing in this Code section shall be construed to prevent a certified registered nurse anesthetist licensed in this state from administering conscious sedation or anesthesia pursuant to Code Section 43-26-11.1, subsection (h) of Code Section 43-11-21, or paragraph (2) of subsection (d) of Code Section 43-11-21.1 or to deem a certified registered nurse anesthetist licensed in this state to be engaged in the unlawful practice of medicine.
(3) Nothing in this Code section shall be construed to prevent a physician assistant licensed in this state who has completed a board approved anesthesiologist assistant
program from administering conscious sedation or anesthesia or to deem such physician
assistant to be engaged in the unlawful practice of medicine."

SECTION 4.

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