

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 SENATE

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 provide for patients under varying levels of sedation in
5 physician offices and medispas; to provide for definitions; to provide for rules and
6 regulations; to provide for enforcement; to provide for statutory construction; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

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

14 "43-11-21.

15 (a) No dentist licensed and practicing in the State of Georgia shall administer either single
16 or multiple pharmacologic agents by oral, parenteral, enteral, transdermal, or transmucosal
17 route that renders a patient to a state of conscious sedation as defined in Code

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18 Section 43-11-1, unless such dentist has been issued a permit by the board under the
19 conditions specified therefor in this Code section. The dentist shall ensure that the
20 pharmacologic agents and methods used to administer such agents shall include a margin
21 of safety so that loss of consciousness of the patient is unlikely. This Code section shall
22 not restrict the use of nitrous oxide or pharmacological agents that do not render a patient
23 to a state of conscious sedation. Such permit shall be subject to biennial renewal at the
24 time the dentist is required to renew that dentist's license to practice dentistry. It shall be
25 the responsibility of the dentist to provide such information as the board may require and
26 to pay the separate initial issuance and renewal fees for the permit as may be established
27 by the board.

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

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

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

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

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

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

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

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

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

63 (g) A permit issued under this Code section may be revoked or not renewed if the board
64 determines that the dentist holding such permit no longer meets any requirement of
65 subsection (b) of this Code section. The board shall provide notice and opportunity for
66 hearing under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in any
67 case in which it revokes or refuses to renew a permit, provided that summary action
68 regarding such permit shall be authorized under Code Section 50-13-18.

69 (h)(1) Any person who administers conscious sedation in this state in a dental facility or
70 during the practice of dentistry in a medispa, without a license to practice dentistry from

71 the board, shall be deemed to be engaged in the unlawful practice of dentistry and subject
72 to the provisions of subsection (e) of Code Section 43-11-2 and Code Section 43-11-50.

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

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

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

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

88 (2) This Code section shall not prohibit a person who is duly licensed as a certified
89 registered nurse anesthetist in this state from administering conscious sedation in a dental
90 facility nor deem a certified registered nurse anesthetist to be engaged in the unlawful
91 practice of dentistry, provided that such sedation is administered under the direction and
92 responsibility of a dentist duly permitted under this Code section and that such nurse
93 anesthetist shall remain on the premises of the dental facility until any patient given
94 conscious sedation by such nurse anesthetist is stabilized and has regained
95 consciousness."

SECTION 2.

96

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

99 "43-34-47.

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

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

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

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

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

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

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

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

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

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

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

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

137 (3) Sedation assessment and management;

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

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

140 (6) Maintenance of complete and accurate medical records relating specifically to the
141 sedation of the patient;

142 (7) Appropriate training and education in the safe and effective performance of all office
143 based surgical procedures performed;

144 (8) Reporting of adverse events to the board; and

145 (9) Truth in advertising regarding the credentials, education, and training of the
146 individuals administering sedation.

147 (c) Any physician administering sedation during office based surgery shall be subject to
148 the rules and regulations established by the board pursuant to this Code section.

149 (d) Except as otherwise provided in subsection (e) of this Code section, any person who
150 administers sedation during office based surgery in this state without a license to practice
151 medicine from the board shall be deemed to be engaged in the unlawful practice of
152 medicine and subject to the provisions of Code Sections 43-34-39 and 43-34-42.

153 (e)(1) Nothing in this Code section shall be construed to prevent a dentist licensed in this
154 state with a permit issued by the Georgia Board of Dentistry pursuant to Code
155 Section 43-11-21 from administering conscious sedation in a dental facility or during the
156 practice of dentistry in a medspa or to deem a dentist licensed in this state to be engaged
157 in the unlawful practice of medicine.

158 (2) Nothing in this Code section shall be construed to prevent a certified registered nurse
159 anesthetist licensed in this state from administering conscious sedation or anesthesia
160 pursuant to Code Section 43-26-11.1, subsection (h) of Code Section 43-11-21, or
161 paragraph (2) of subsection (d) of Code Section 43-11-21.1 or to deem a certified
162 registered nurse anesthetist licensed in this state to be engaged in the unlawful practice
163 of medicine.

164 (3) Nothing in this Code section shall be construed to prevent a physician assistant
165 licensed in this state who has completed a board approved anesthesiologist assistant
166 program from administering conscious sedation or anesthesia or to deem such physician
167 assistant to be engaged in the unlawful practice of medicine."

168 **SECTION 3.**

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