

Georgia Composite Medical Board

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UPDATED NOTICE OF INTENT TO AMEND AND ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Composite Medical Board (hereinafter “Board”) proposes amendments to the Georgia Composite Medical Board Rules by amending **“Rule 360-32-.02 “Requirements for Nurse Protocol Agreements Pursuant to Code Section 43-34-25 and Rule 360-32-.04 “Limitations.”** An exact copy of the proposed rule is attached to this Notice.

This notice, together with an exact copy of the proposed rules and a synopsis of the proposed amendments may be reviewed between 8:00 a.m. and 4:00 p.m., Monday through Friday, except official State holidays, at 2 Peachtree Street, N.W., 36th Floor, Atlanta, Georgia 30303. These documents can also be reviewed online at <http://medicalboard.georgia.gov/notice-intent-amendadopt-rules>.

A public hearing is scheduled to begin at **8:00 a.m.** on **April 12, 2018** at 2 Peachtree Street, N.W., 5th Floor, Atlanta, Georgia 30303 to provide the public an opportunity to comment upon and provide input into the proposed rules. At the public hearing, any interested person may present data, make a statement or comment, or offer a viewpoint or argument orally or in writing. Lengthy statements and statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to 5 minutes per person. Additional comments should be presented in writing. To ensure their consideration, submit all written comments by **April 4, 2018 to LaSharn Hughes at lhughes@dch.ga.gov** or via mail to the Georgia Composite Medical Board Rules Committee at 2 Peachtree Street, N.W., 36th Floor, Atlanta, Georgia 30303.

The Board voted to adopt this Notice of Intent on **February 2, 2018**. Upon conclusion of the public hearing on **April 12, 2018**, the Board will consider whether the formulation and adoption of these proposed rule amendments imposes excessive regulatory costs on any license or entity, and whether any cost to comply with the proposed rule amendments could be reduced by a less expensive alternative that accomplishes the objectives of the statutes which are the basis of the proposed rule. Additionally, the Board will consider whether it is legal or feasible in meeting the objectives of the applicable laws to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A),(B),(C), and (D).

This Notice is adopted and posted in compliance with O.C.G.A. § 50-13-4 of the Georgia Administrative Procedures Act. A synopsis of the proposed rules and an economic impact statement are attached to this Notice. The authority for promulgation of these rules is O.C.G.A. §§ 16-13-21, 15-13-57, 16-13-57, 16-13-60, 16-13-63, 16-13-64, 43-34-1 and 43-34-5.

Issued this day, February 5, 2018.

LaSharn Hughes, MBA
Interim Executive Director
Georgia Composite Medical Board

ECONOMIC IMPACT AND SYNOPSIS FOR

RULE CHAPTER 360-32

ECONOMIC IMPACT:

The attached rules are promulgated under the authority of the Medical Practice Act, Title 43, Chapter 34. The Georgia Composite Medical Board licenses and regulates nine professions. The formulation and adoption of these rules do not impose excessive regulatory cost on any licensee, and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated. Additionally, it is not legal or feasible to meet the objectives of the Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated to adopt or implement differing actions for businesses listed in O.C.G.A. §50-13-4(a)(3)(A), (B), (C) and (D).

RULE SYNOPSIS:

Rule 360-32-.02 Requirements for Nurse Protocol Agreements Pursuant to Code Section 43-34-25

Rule 360-32-04 Limitations

Purpose/Main Features: The purpose of these proposed amendment are to provide changes to Senate Bill 242 that provide two additional exceptions to the restrictions on physicians entering into protocol agreements with not more than four advanced practice registered nurses. If the physicians is at a location that meets certain guidelines, the physician may register up to eight APRNs but can only supervise four at one time.

In addition, if the physician is operating in an emergency medical service system operated by or on behalf of any county, municipality, or hospital authority with a full-time medical director, then he can register up to eight APRNs, but can only supervise four at one time.

Authority: O.C.G.A. §§ 43-34-25, 43-26-3, 43-26-5

Chapter 360-32 Nurse Protocol Agreements Pursuant to O.C.G.A. 43-34-25

Rule 360-32-.02 Requirements for Nurse Protocol Agreements Pursuant to Code Section 43-34-25

- (1) A physician entering into a nurse protocol agreement with an APRN pursuant to Code Section [43-34-25](#) shall include the following general data in the protocol agreement:
 - (a) Names, addresses, telephone numbers, license numbers, and DEA registration number for all parties to the nurse protocol agreement, including any other designated physicians that will be utilized if the delegating physician is not available;
 - (b) The delegating physician must provide the APRN's DEA number to the Board within 30 days of issuance.
 - (c) Description of practice and number of locations, including primary and proposed satellite site(s);
 - (d) Dates of initiation and amendments. Any amendments made to the protocol agreement shall be filed with the Board for review within 30 days of execution; and
 - (e) Information regarding the specialty area or field of the APRN.
- (2) The agreement shall contain a provision for immediate consultation, as defined in Rule [360-32-.01](#), between the APRN and the delegating physician.
- (3) If the delegating physician is not available for consultation, the delegating physician may designate another physician who concurs with the terms of the nurse protocol agreement. The designation of another physician must also meet the following terms:
 - (a) Such designation by the delegating physician shall be in writing and attached to the nurse protocol agreement;
 - (b) Such designation must be to a physician whose scope of practice is the same as that of the delegating physician; and
 - (c) Such designation must include the printed name, license number and signature of the other designated physician with an affirmation from the other designated physician that he or she has agreed to serve as an, other designated physician, has reviewed the nurse protocol agreement and concurs with the terms of the agreement.
- (4) The nurse protocol agreement shall outline and identify the applicable standard of care and shall be specific to the patient population seen.
- (5) The nurse protocol agreement shall identify the parameters under which the delegated act may be performed by the APRN, including but not limited to:
 - (a) Drugs, devices, medical treatments, diagnostic studies that may be ordered and implemented by the APRN.
 - (b) Circumstances under which a prescription drug order or device may be executed;
 - (c) Number of refills which may be ordered. Nothing in this Rule shall be construed to authorize an advanced practice registered nurse to issue a prescription drug order for a Schedule I or II controlled substance or authorize refills of any drug for more than 12 months from the date of the original order except in the case of oral contraceptives, hormone replacement therapy, or prenatal vitamins which may be refilled for a period of 24 months as provided in O.C.G.A. 43-34-25.
 - (d) Provide that a patient who receives a prescription drug order for any controlled substance pursuant to a nurse protocol agreement shall be evaluated or examined by the delegating physician or other physician designated by the delegating physician as provided in O.C.G.A. 43-34-25 on at least a

quarterly basis or at a more frequent interval as consistent with the minimum acceptable standards of the practice of medicine as determined by the Board.

- (e) Extent to which radiographic image tests may be ordered in life-threatening situations;
 - (f) A predetermined plan for emergency services;
 - (g) If the delegating physician authorizes the APRN to order an X-ray, ultrasound or radiographic imaging test, the nurse protocol agreement shall contain provisions whereby such tests shall be read and interpreted by a physician who is trained in reading and interpretation of such tests and provide that a copy of such report shall be forwarded to the delegating physician. However, such provision for an ultrasound shall not be required for an APRN acting within his or her scope of practice as authorized by Code Sections [43-26-3](#) and [43-26-5](#);
 - (h) A section that details specific patient conditions and circumstances that require direct, on-site evaluation or consultation by the delegating physician; and
 - (i) If the protocol agreement delegates to the APRN to prescribe/order prescription drugs, then a section that specifically provides that such delegation does not include the to prescribe/order prescription drugs intended to cause an abortion to occur pharmacologically.
 - (j) A physician may delegate to an advanced practice registered nurse in accordance with a nurse protocol agreement the authority to pronounce death and to certify such pronouncement in the same manner as a physician.
- (6) The nurse protocol agreement shall require documentation by the APRN of those acts performed by the APRN that are specific to the medical acts authorized by the delegating physician and provide that, if the APRN has prescribing pursuant to the protocol agreement, each prescription shall be noted in the patient's medical record.
- (a) If the protocol agreement delegates to the APRN to prescribe/order prescription drugs or devices, a copy of the prescription drug or device order delivered to the patient shall be maintained in the patient's medical file. For purposes of this paragraph a copy shall mean a duplicate prescription or a photocopy or electronic equivalent.
 - (b) If the protocol agreement delegates to the APRN to prescribe/order prescription drugs or devices, the protocol shall provide that the prescription/order shall be issued on a form which contains the following:
 1. The name, address and telephone number of the delegating physician, the name of the APRN, the APRN's DEA number, if applicable, and the name and address of the patient, the drug or device prescribed, the number of refills and directions to the patient with regard to taking and dosage of the drug; and
 2. The prescription shall be signed by the APRN and shall be on a form which shall include the names of the APRN and delegating physician who are parties to the nurse protocol agreement.
- (7) (a) Unless the physician meets the requirements of paragraph (b), the nurse protocol agreement shall include a schedule for periodic review of patient records. The Board has determined that the minimum accepted standards of medical practice require the following:
- ~~(a)~~1. In as much as O.C.G.A. 43-34-25 requires that a delegating physician or other designated physician evaluate or examine all patients who receive any controlled substance prescription pursuant to a nurse protocol agreement, a delegating physician or other designated physician must review and sign 100% of patient records for patients receiving prescriptions for controlled substances to comply with the law. Such review shall occur at least quarterly after issuance of the controlled substance prescription.
- ~~(b)~~2.—The delegating physician or other designated physician review and sign 100% of patient records in which an adverse outcome has occurred. Such review shall occur no more than 30 days after the discovery of an adverse outcome.

~~(c)~~3. The delegating physician or other designated physician review and sign 10% of all other patient records. Such review shall occur at least annually.

(b) Pursuant to O.C.G.A. Section 43-34-25(g.1), a physician at a location that maintains evidence-based clinical practice guidelines and is accredited by an accrediting body approved by the Board such as Joint Commission may enter into a nurse protocol agreement with not more than eight advanced registered nurses at any one time and supervise not more than four advanced registered nurses. At those locations, such protocol must include the following:

1. The delegating physician must document and maintain a record of review of at least 10 percent of the advanced practice registered nurses' medical records to monitor the quality of care being provided to patients, which may be conducted electronically or onsite;

2. The delegating physician and the advanced practice registered nurse must participate in and maintain documentation of quarterly clinical collaboration meetings, either by telephone, in person, or onsite, for the purposes of monitoring care being provided to patients, and

3. The delegating physician's name, contact information, and record of the visit must be provided to the patient's primary care provider of choice with the patient's consent within 24 hours of the visit.

- (8) The nurse protocol agreement shall indicate whether the APRN is authorized under the nurse protocol agreement to request, receive, sign for and distribute professional samples.
- (a) If the nurse protocol agreement provides this, the APRN shall comply with O.C.G.A. 43-34-25 which states: An advanced practice registered nurse may be authorized under a nurse protocol agreement to request, receive, and sign for professional samples and may distribute professional samples to patients. The office or facility at which the advanced practice registered nurse is working shall maintain a list of the professional samples approved by the delegating physician for request, receipt, and distribution by the advanced practice registered nurse as well as a complete list of the specific number and dosage of each professional sample and medication voucher received and dispensed. In addition to the requirements of this Code section, all professional samples shall be maintained as required by applicable state and federal laws and regulations.
- (9) Copies of the nurse protocol agreement shall be available at each practice site where the APRN is authorized to perform the delegated acts and shall be made available upon written request by the Board to the physician at the appropriate practice site.
- (10) The nurse protocol agreement shall be dated and signed by the delegating physician, other designated physician, if applicable, and the APRN.
- (11) A nurse protocol agreement between a physician and an advanced practice registered nurse shall be reviewed, revised, or updated annually by the delegating physician and the advanced practice registered nurse.

Authority O.C.G.A. Sec [43-26-3](#); [43-26-5](#) and [43-34-25](#)

Rule 360-32-04 Limitations

- (1) A physician whose medical license is restricted shall not enter into a nurse protocol agreement, unless the physician has received prior written approval from the Board.
- (2) No physician shall delegate to an individual pursuant to the provisions of Code Section [43-34-25](#), unless the individual is fully approved by the Georgia Board of Nursing to practice as an APRN.
- (3) No physician may enter into a nurse protocol agreement with an APRN whose specialty area or field is not comparable to the physician's specialty area or field.
- (4) Unless specifically exempted by paragraphs (g), (g.1), or (g.2) of Code Section [43-34-25](#), a delegating physician may not enter into a nurse protocol agreement with more than four APRN's at any one time. A delegating physician meeting the provisions of Code section [43-34-25 \(g.1\)](#) or [\(g.2\)](#) may enter into a nurse protocol agreement not with more than eight APRN's at any one time, but may only supervise up to four APRN's at any one time.

- (5) Except for practice settings identified in paragraph (7) of subsection (g) of Code Section [43-34-25](#), a physician shall not be an employee of an APRN, alone or in combination with others, if the physician delegates to and/or is required to supervise the employing APRN.
- (6) No delegating physician shall delegate to an APRN the ability to prescribe controlled substances for the delegating physician, for the members of the delegating physician's immediate family, for the APRN himself or herself, or for the APRN's immediate family. For purposes of this rule, "immediate family" shall include spouses, children, siblings and parents.

Authority O.C.G.A. Sec 43-34-25