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# HEALTH Georgia Qualified Medication Aides Act: Provide for the Certification of Qualified Medication Aides; Provide for Powers and Responsibilities of the Georgia Board of Examiners of Licensed Practical Nurses; Provide for Certification Standards and Requirements; Provide for Requirements of Community Living Arrangements Which Utilize Qualified Medication Aides; Provide for Enactment of Rules and Regulations Affecting Advanced Practice Registered Nurses; Provide for a Physician to Delegate Certain Medical Acts to Allow an Advanced Practice Registered Nurse to Issue

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Prescription Drug Orders and Provide Professional Samples, Order Diagnostic Studies, Medical Devices, and in Certain Life-Threatening Situations to Order Radiographic Imaging; Provide for Execution of Prescription Drug Orders; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes

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## HEALTH

***Georgia Qualified Medication Aides Act: Provide for the Certification of Qualified Medication Aides; Provide for Powers and Responsibilities of the Georgia Board of Examiners of Licensed Practical Nurses; Provide for Certification Standards and Requirements; Provide for Requirements of Community Living Arrangements Which Utilize Qualified Medication Aides; Provide for Enactment of Rules and Regulations Affecting Advanced Practice Registered Nurses; Provide for a Physician to Delegate Certain Medical Acts to Allow an Advanced Practice Registered Nurse to Issue Prescription Drug Orders and Provide Professional Samples, Order Diagnostic Studies, Medical Devices, and in Certain Life-Threatening Situations to Order Radiographic Imaging; Provide for Execution of Prescription Drug Orders; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes***

CODE SECTION:	O.C.G.A. §§ 16-13-21 (amended), 43-26-3, -5, -6, -10, -13 (amended), 43-34-26.1, -26.3 (amended), 43-26-50 to -60 (new)
BILL NUMBER:	SB 480
ACT NUMBER:	463
GEORGIA LAWS:	2006 Ga. Laws 125
SUMMARY:	The Act's purpose is to provide for the certification of qualified medication aides. The Act provides for the delegation of certain nursing tasks to qualified medication aides. The Act provides requirements for community living arrangements that utilize qualified medication aides. The Act also extends prescriptive powers and responsibilities to advanced practice registered nurses.
EFFECTIVE DATE:	July 1, 2006

### *History*

In 1999, the Supreme Court addressed whether placing the mentally disabled in institutions rather than in community-based settings violated an Americans with Disabilities Act anti-discrimination provision.<sup>1</sup> Upholding an Eleventh Circuit decision, the Court found institutional placement of the mentally disabled caused unfounded beliefs that such individuals were unfit to participate in community life.<sup>2</sup> The Court noted the dissimilar treatment resulting when patients with mental disabilities are removed from the community in order to receive medical services as compared to people without such disabilities.<sup>3</sup> Thus, isolating the mentally disabled in institutions constituted discrimination under the Americans with Disabilities Act.<sup>4</sup> The court ruled that “States are required to provide community-based treatment for persons with mental disabilities when the State's treatment professionals determine that such placement is appropriate, the affected persons do not oppose such treatment, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.”<sup>5</sup>

After this ruling, community living arrangements across Georgia began to fill up with mentally disabled residents.<sup>6</sup> These patients suffered from a variety of illnesses, including Parkinson's disease, epilepsy, and diabetes.<sup>7</sup> This created a substantial need for better access to certified nurses across the state because only they could

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1. *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 587 (1999).

2. *See Olmstead*, 527 U.S. at 600 (stating institutional placement of those who are capable of benefiting from community settings is particularly likely to “perpetuate[] unwarranted assumptions” that these patients should be isolated because they are “incapable or unworthy of participating in community life”). *See generally* *L.C. ex rel. Zimring v. Olmstead*, 138 F.3d 893 (11th Cir. 1998) (finding unjustified isolation in a mental institution is discrimination based on disability), *aff'd in part*, *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 587 (1999).

3. *See Olmstead*, 527 U.S. at 601.

4. *See id.* at 600-02 (noting, however, nothing in the Americans with Disabilities Act condoned the termination of institutional settings for those individuals who could not “handle or benefit from community settings”).

5. *Id.* at 607.

6. *See* Telephone Interview with Linda Easterly, President, Georgia Nurses Association and member of the Georgia Board of Nursing (Mar. 31, 2006) [hereinafter Easterly Interview].

7. *Id.*

administer medication to these community home residents.<sup>8</sup> Since many community living arrangements are located in rural areas—with no access to certified nurses—and many of these residents cannot self-administer their medications, many residents could not regularly receive their medication.<sup>9</sup>

The Georgia Department of Community Health soon addressed the shortage of certified nurses.<sup>10</sup> Officials from the Department of Community Health approached the Georgia Board of Nursing (the “GBON”) for help in formulating a solution.<sup>11</sup> The two groups set up a task force to investigate the issue and review medication administration policies in other states.<sup>12</sup> After a two-year study, a new, limited category of medical aide was determined to be the best vehicle to administer medication to these patients in community living arrangements.<sup>13</sup>

Qualified Medication Aides (“QMA”) would be certified to help alleviate the shortage of registered nurses for administering medication in community living arrangements.<sup>14</sup> One of the goals of the GBON was to create a program that was heavily regulated so problems could be quickly documented and addressed.<sup>15</sup> It was imperative to ensure there were important safeguards in place to protect the patients being served by QMAs.<sup>16</sup> In effect, QMAs would need to work in a controlled setting where their educational background and work experience could be tracked.<sup>17</sup>

All proposed legislation that would have granted prescriptive authority to nurses stalled for years in the Georgia General

8. *Id.*

9. *Id.*

10. *Id.*; see also Audio Recording of House Proceedings, Mar. 27, 2006 (remarks by Rep. Jeff Brown), [http://www.georgia.gov/00/article/0,2086,4802\\_6107103\\_47120020,00.html](http://www.georgia.gov/00/article/0,2086,4802_6107103_47120020,00.html) [hereinafter House Audio].

11. See Easterly Interview, *supra* note 6.

12. See Online Posting of Georgia Nurses Association, *SB 480—Qualified Medication Aides (QMAs)* on <http://www.georgianurses.org> (viewed Mar. 28, 2006) (on file with Georgia State University Law Review) [hereinafter Georgia Nurses] (including “both the RN and LPN boards, DHR, DTAE, MHDDAD, both nursing board’s [sic] counsel, Long Term Care, president of the developmental disabilities nurses association and the DeKalb Community Service Board” in the task force); Easterly Interview, *supra* note 6.

13. See Easterly Interview, *supra* note 6.

14. *Id.*

15. See Georgia Nurses, *supra* note 12.

16. *Id.*

17. See Easterly Interview, *supra* note 6.

Assembly.<sup>18</sup> Interestingly, no major organization, including the Medical Association of Georgia (“MAG”), significantly opposed legislation allowing QMAs to administer medication in community homes.<sup>19</sup> Instead, the MAG opposed only a provision giving advanced practice nurses prescriptive authority.<sup>20</sup> By this time, Georgia was the only state where advanced practice registered nurses (“APRNs”) did not have the authority to prescribe medication.<sup>21</sup> This was because opposition groups did not want legislation passed that would allow advanced nurse practitioners, who are not as highly educated as doctors, to prescribe medication.<sup>22</sup> Meanwhile, supporters argued that APRNs were very qualified to prescribe medication because they all had advanced degrees and could already call in and administer medication.<sup>23</sup> Ultimately, no compromise was reached until the 2006 Legislative Session.<sup>24</sup>

By 2006, the nurse shortage in Georgia had reached “critical mass.”<sup>25</sup> There were too many access-to-care issues in Georgia for state legislators to ignore.<sup>26</sup> Georgia had been ranked 45th in the nation for its overall access to health care.<sup>27</sup> Thus, legislators began to consider how well prescriptive authority had worked for other states in creating better access to care.<sup>28</sup> Upon a favorable finding, their fears were dispelled and many state legislators, joined by the MAG members who had previously fought against prescriptive authority, began to accept that it was a good way to increase access to health care in rural areas.<sup>29</sup>

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18. See Telephone Interview with Sylvia Caley, Adjunct Professor of Health Legislation and Advocacy I and II, Georgia State University College of Law (Apr. 19, 2006) [hereinafter Caley Interview].

19. See Easterly Interview, *supra* note 6.

20. *Id.*

21. See Caley Interview, *supra* note 18.

22. See Easterly Interview, *supra* note 6 (acknowledging that the MAG was never in opposition to QMAs administering the medication in community living arrangements).

23. Telephone Interview with Sen. Don Thomas, Senate Dist. No. 54 (Mar. 29, 2006) [hereinafter Thomas Interview]; see also Caley Interview, *supra* note 18.

24. See Caley Interview, *supra* note 18.

25. *Id.*

26. *Id.*

27. See Easterly Interview, *supra* note 6.

28. See Caley Interview, *supra* note 18.

29. *Id.*

*Bill Tracking of SB 480**Consideration and Passage by the Senate*

Senators Renee Unterman, Don Thomas, and Greg Goggans of the 45th, 54th, and 7th districts, respectively, sponsored SB 480.<sup>30</sup> On February 1, 2006, the Senate first read SB 480 and the bill was referred to the Health and Human Services Committee.<sup>31</sup> Without any major substantive changes, the Senate Committee on Health and Human Services favorably reported the bill to the Senate floor on February 16, 2006.<sup>32</sup> On February 21, 2006, the Senate read SB 480 for a second time.<sup>33</sup> On March 9, 2006, the Senate read SB 480 for a third time before unanimously passing SB 480 by committee substitute.<sup>34</sup>

*Consideration and Passage by the House*

The House first read the bill on March 13, 2006.<sup>35</sup> The bill was read a second time on March 14, 2006.<sup>36</sup> On March 16, 2006, the House Committee on Health and Human Services favorably reported the bill to the House floor.<sup>37</sup> Debate on the House floor was

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30. See SB 480, as introduced, 2006 Ga. Gen. Assem.

31. See State of Georgia Final Composite Status Sheet, SB 480, Feb. 1, 2006 (Mar. 30, 2006).

32. See State of Georgia Final Composite Status Sheet, SB 480, Feb. 16, 2006 (Mar. 30, 2006). The Health and Human Services Committee made minor changes to the bill including replacing “nurses or physicians” with “nurses” in the definition of supervision; limiting to 15 the number of QMAs to whom a nurse can delegate certain nursing tasks; removing “or approved by” after “conducted” leaving “conducted by the Department of Technical and Adult Education” under the QMA qualification section; removing “or a physician” after “nurse” leaving “[e]ach qualified medication aide shall, in order to maintain certification, work under the supervision of a registered professional nurse” from the qualification section; removing the language “[c]ertificates issued under this article shall be valid for two years from the date of issue” from the qualification section; replacing “stage II and III” with “stage I and II” under the permitted activities section. Compare SB 480, as introduced, 2006 Ga. Gen. Assem., with SB 480 (SCS), 2006 Ga. Gen. Assem.

33. See State of Georgia Final Composite Status Sheet, SB 480, Feb. 21, 2006 (Mar. 30, 2006).

34. See State of Georgia Final Composite Status Sheet, SB 480, Mar. 9, 2006 (Mar. 30, 2006).

35. See State of Georgia Final Composite Status Sheet, SB 480, Mar. 13, 2006 (Mar. 30, 2006).

36. See State of Georgia Final Composite Status Sheet, SB 480, Mar. 14, 2006 (Mar. 30, 2006).

37. See State of Georgia Final Composite Status Sheet, SB 480, Mar. 16, 2006 (Mar. 30, 2006).

postponed on March 23, 2006 and March 24, 2006.<sup>38</sup> On March 27, 2006, SB 480 was read for a third time.<sup>39</sup>

The same day, Representative Jeff Brown of the 69th district addressed the House on behalf of the bill.<sup>40</sup> He discussed the “real shortage” of nurses across Georgia and explained how this “straight-forward bill” would help solve that problem.<sup>41</sup> Representative Brown then expressed how “absolutely delighted” he was to have SB 480 work as a vehicle to give APRNs prescriptive authority.<sup>42</sup>

Representative Ed Setzler of the 35th district then rose to speak against the “mini-clinic” provision in SB 480.<sup>43</sup> Although he praised prescriptive authority for nurses, he noted his opposition to a small “mini-clinic” segment of the bill because it would create a “serious conflict of interest.”<sup>44</sup> For him, allowing mini-clinics to operate within pharmacies was an “innovative business model” that “place[d] prescriptive ability feet away from the prescription counter” and thus, created a conflict of interest between those making medical judgments and those making profits on filling prescriptions.<sup>45</sup> Representative Setzler argued APRNs working in mini-clinics positioned inside pharmacies would be “seeing patients, [and] issuing prescriptions” that could be filled 15 to 20 feet away at the drug counters “under the same roof.”<sup>46</sup> He did, however, acknowledge that the pilot mini-clinics operating in Georgia were not telling patients they could not go to other pharmacies to fill their prescriptions.<sup>47</sup>

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38. See *Georgia General Assembly – SB 480*,

[http://www.legis.state.ga.us/legis/2005\\_06/sum/sb480.htm](http://www.legis.state.ga.us/legis/2005_06/sum/sb480.htm) (last visited Apr. 24, 2006).

39. See *State of Georgia Final Composite Status Sheet, SB 480, Mar. 27, 2006 (Mar. 30, 2006)*.

40. See *House Audio, supra* note 10 (remarks by Rep. Jeff Brown).

41. *Id.*

42. *Id.*

43. See *House Audio, supra* note 10 (remarks by Rep. Ed Setzler).

44. *Id.*

45. *Id.*

46. *Id.* Rep. Setzler stated:

It’s a public policy decision. I’m in no way seeking to limit APRNs from practicing as they have said before: having full prescriptive authority delegated by a physician to expand healthcare to medically underserved areas. I do, however, have a major problem with that being done in the context of being under the same roof, having blended finances, in a commercial facility, whose primary revenue is that of selling commercial goods and selling prescription drugs.

*Id.*

47. *Id.*

Representative Setzler then introduced an amendment to SB 480 to restrict mini-clinics from operating within pharmacies.<sup>48</sup> The amendment included two major exceptions to this general limitation.<sup>49</sup> First, this general limitation would not apply to hospitals because their principal practice is healthcare, not selling medication.<sup>50</sup> Second, the general mini-clinic limitation would not apply to nurses who work within pharmacies running cholesterol screenings and diabetes screenings, and administering flu shots or other standard nursing practices.<sup>51</sup> Otherwise, Representative Setzler's amendment did not substantially alter the QMA or prescriptive authority provisions in SB 480.<sup>52</sup>

Representative Sue Burmeister of the 119th district then rose to introduce her own amendment to SB 480.<sup>53</sup> Co-sponsored by Representative Sharon Cooper of the 41st district, Representative Burmeister's amendment proposed adding the following language: "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."<sup>54</sup> Further, the amendment included a lengthy addition to the introductory syllabus of SB 480, replaced section 2, and added eight sections.<sup>55</sup> Representative Burmeister then asked the House to reject the amendment by Representative Setzler because it would hurt small businesses, a concern that was echoed by other members of the House during the floor debate.<sup>56</sup>

Representatives Tom Bordeaux, Ron Stevens, and Charlice Byrd of the 162nd, 164th, and 20th districts, respectively, followed Representative Burmeister and spoke in support of Representative

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48. See House Audio, *supra* note 10 (remarks by Rep. Setzler); SB 480 (AM 33 0498), 2006 Ga. Gen. Assem.

49. See House Audio, *supra* note 10 (remarks by Rep. Setzler).

50. *Id.*

51. *Id.*

52. *Id.*

53. See House Audio, *supra* note 10 (remarks by Rep. Sue Burmeister); SB 480 (AM 33 0497), 2006 Ga. Gen. Assem.

54. Compare SB 480 (SCS), 2006 Ga. Gen. Assem., with SB 480 (AM 33 0497), 2006 Ga. Gen. Assem. Other minor technical changes were made in addition to the above-stated substantive change.

55. See discussion *infra* The Act. Compare SB 480 (SCS), 2006 Ga. Gen. Assem., with SB 480 (AM 33 0497), 2006 Ga. Gen. Assem.

56. See House Audio, *supra* note 10 (remarks by Rep. Burmeister and Rep. Tim Bearden).

Setzler's amendment to limit mini-clinics.<sup>57</sup> Representative Bordeaux said mini-clinics confused patients because no one visiting these sites could be sure whether they were "going to get to see a doctor, a physician's assistant, a nurse's assistant, a APRN, a RN, [or] a LPN" since there were no signs posted about the level of service.<sup>58</sup> Representative Stevens warned that the mini-clinic provision would harm pharmacists and create enforcement and inspection problems for drug inspectors in the State of Georgia.<sup>59</sup> Representative Byrd gave a passionate argument against the mini-clinic provision.<sup>60</sup> She urged the House to support Representative Setzler's amendment because the "focus of healthcare should be the patient and patient safety, not profits."<sup>61</sup>

By a vote of 55 to 104, the House defeated Representative Setzler's amendment to SB 480 on March 27, 2006.<sup>62</sup> However, the House adopted Representative Burmeister's amendment and passed the amended SB 480 by a vote of 163 to 5 two minutes later.<sup>63</sup> Later that day, the Senate adopted the House version by a vote of 49 to 3.<sup>64</sup> Governor Sonny Perdue signed the bill into law on April 18, 2006, eight days after the Senate sent it to him.<sup>65</sup>

### *The Act*

The Act adds Code sections 43-26-50 to -60, establishing rules and regulations for the delegation of certain nursing tasks to Qualified Medication Aides.<sup>66</sup> The Act's purpose is to "protect, promote, and

57. See House Audio, *supra* note 10 (remarks by Reps. Tom Bordeaux, Ron Stevens, and Charlice Byrd).

58. See House Audio, *supra* note 10 (remarks by Rep. Bordeaux).

59. See House Audio, *supra* note 10 (remarks by Rep. Stevens). Rep. Stevens is a pharmacist by profession. *Id.*

60. See House Audio, *supra* note 10 (remarks by Rep. Byrd).

61. *Id.* (explaining "[a] mini-clinic is operated, and is located in retail establishments containing pharmacies . . . [and] [t]heir primary motivation is to generate profits for themselves and the retail establishments by writing prescriptions").

62. Georgia House of Representatives Voting Record, SB 480 (Mar. 27, 2006).

63. *Id.*; State of Georgia Final Composite Status Sheet, SB 480, Mar. 27, 2006 (Mar. 30, 2006).

64. Georgia Senate Voting Record, SB 480 (Mar. 27, 2006); State of Georgia Final Composite Status Sheet, SB 480, Mar. 27, 2006 (Mar. 30, 2006).

65. See *Georgia General Assembly – SB 480*, [http://www.legis.state.ga.us/legis/2005\\_06/sum/sb480.htm](http://www.legis.state.ga.us/legis/2005_06/sum/sb480.htm) (last visited Apr. 24, 2006).

66. O.C.G.A. §§ 43-26-50 to -60 (Supp. 2006).

preserve the public health, safety, and welfare through the delegation of certain activities performed by registered professional nurses . . . to persons who are certified as qualified medication aides and who are employed by . . . community living arrangements.”<sup>67</sup>

The Act adds Code section 43-26-52, defining “applicant,” “board,” “community living arrangement,” “licensed practical nurse,” “medication administration record,” “qualified medication aide,” “physician,” “registered professional nurse,” “resident,” “supervising nurse,” and “supervision.”<sup>68</sup>

The Act adds Code section 43-26-53, allowing licensed practical nurses to delegate certain nursing tasks to no more than 15 QMAs employed at community living arrangements.<sup>69</sup> Further, the Act provides a presumption that QMAs have acquired the necessary knowledge and skills to perform delegated nursing tasks if they are certified by the certification board (the “Board”).<sup>70</sup>

The Act adds Code section 43-26-54, defining the power and responsibilities of the Board.<sup>71</sup> The Board may determine qualifications, adopt rules, examine and certify QMAs, conduct hearings, regulate acts and practices of QMAs, establish fees, establish education and training requirements, and establish continuing education requirements.<sup>72</sup>

The Act adds Code section 43-26-55, defining QMA requirements.<sup>73</sup> QMA applicants must be at least 18 years of age, be able to communicate in English, have a high school diploma or equivalent degree, have satisfactory results from a fingerprint record check, have completed a prescribed course of study for the QMA program, and have been approved by the Board.<sup>74</sup> Further, each QMA must work under the supervision of a registered professional nurse.<sup>75</sup> Lastly, certifications must be renewed biennially.<sup>76</sup>

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67. O.C.G.A. § 43-26-51 (Supp. 2006).

68. O.C.G.A. § 43-26-52 (Supp. 2006).

69. O.C.G.A. § 43-26-53(a) (Supp. 2006).

70. O.C.G.A. § 43-26-53(b) (Supp. 2006).

71. O.C.G.A. § 43-26-54 (Supp. 2006).

72. O.C.G.A. § 43-26-54(1) to (8) (Supp. 2006).

73. O.C.G.A. § 43-26-55 (Supp. 2006).

74. O.C.G.A. § 43-26-55(a) (Supp. 2006).

75. O.C.G.A. § 43-26-55(b) (Supp. 2006).

76. O.C.G.A. § 43-26-55(c) (Supp. 2006).

The Act adds Code section 43-26-56, enumerating the tasks that may be delegated to a QMA while under the supervision of a registered professional nurse.<sup>77</sup>

The Act adds Code section 43-26-57, directing community living arrangements to employ or contract with a registered professional nurse to supervise their QMAs.<sup>78</sup>

The Act adds Code section 43-26-58, granting the Board power to refuse to grant or renew QMA certifications in a number of enumerated circumstances, including a finding that the QMA has been convicted of a felony or has engaged in unprofessional conduct.<sup>79</sup>

The Act amends Code section 16-13-21 to add APRNs to the definition of “practitioner.”<sup>80</sup>

The Act amends Code section 43-26-3 by defining the requirements to qualify as an APRN.<sup>81</sup>

The Act amends Code section 43-26-5 by striking paragraph (12) of subsection (a) in relation to the general powers of the board and inserting a new provision allowing the Board to enact the rules and regulations for governing APRNs.<sup>82</sup>

The Act amends Code section 43-26-6 by adding new guidelines for when a registered professional nurse may use “R.N.” and “A.P.R.N.” as titles.<sup>83</sup>

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77. O.C.G.A. § 43-26-56 (Supp. 2006). This section allows QMAs to:

(1) [a]dminister physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and rectal medications and medications by gastric ('G' or 'J') tube; (2) [a]dminister insulin under physician direction and protocol; (3) [a]dminister medication via metered dose inhaler; (4) [c]onduct finger stick blood glucose testing following established protocol; (5) [a]dminister commercially prepared disposable enema as ordered by a physician; (6) [a]dminister treatment for skin conditions, including stage I and II decubitus ulcers, following a designated protocol; (7) [a]ssist residents in supervised self-administration of medication; (8) [r]ecord in the medication administration record all medications that the qualified medication aide has personally administered, including a resident's refusal to take medication; and (9) [o]bserve and report to the supervising nurse any changes in the resident's condition.

*Id.*

78. O.C.G.A. § 43-26-57 (Supp. 2006).

79. O.C.G.A. § 43-26-58 (Supp. 2006).

80. O.C.G.A. § 16-31-21 (Supp. 2006).

81. O.C.G.A. § 43-26-3 (Supp. 2006).

82. O.C.G.A. § 43-26-5 (Supp. 2006).

83. O.C.G.A. § 43-26-6 (Supp. 2006).

The Act amends Code section 43-26-10 to prohibit practicing as an APRN without a license.<sup>84</sup>

The Act amends Code section 43-26-13 to add a new provision allowing a licensee to provide a business address instead of a home address.<sup>85</sup>

The Act amends Code section 43-34-26.1 by clarifying that only an APRN may be issued a Drug Enforcement Administration license.<sup>86</sup>

The Act adds new Code section 43-34-26.3, which describes new definitions and powers.<sup>87</sup> The Act adds definitions for “APRN,” “controlled substance,” “dangerous drug,” “nurse protocol agreement,” and “physician,” among others.<sup>88</sup> More importantly, prescriptive authority is granted to APRNs with the following language: “[A] physician may delegate to an APRN in accordance with a nurse protocol agreement the authority to order drugs, medical devices, medical treatments, diagnostic studies or in life-threatening situations radiographic imaging tests.”<sup>89</sup>

### *Analysis*

This Act has been hailed as the “Nurse’s Right to Write.”<sup>90</sup> This statute is meant to amend current Georgia law and give APRNs the power to write prescriptions.<sup>91</sup> Although neither the Medical Association of Georgia nor the Georgia Nurses Association had any disputes regarding the QMA provisions in the Act, each group fought

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84. O.C.G.A. § 43-26-10 (Supp. 2006).

85. O.C.G.A. § 43-26-13 (Supp. 2006).

86. O.C.G.A. § 43-34-26.1 (Supp. 2006).

87. O.C.G.A. § 43-34-26.3(a) (Supp. 2006).

88. *Id.*

89. O.C.G.A. § 43-34-26.3(b) (Supp. 2006); *see also* O.C.G.A. § 43-34-26.3(c) (Supp. 2006) (specifying nurse protocol agreements between physicians and APRNs must contain a provision for immediate consultation between the two, require documentation for delegated functions, include a schedule for periodic review by the delegating physician, provide that a patient who receives a prescription drug order for any controlled substance by an APRN be evaluated or examined by the delegating physician, require that a delegating physician not enter into a nurse protocol agreement with more than four APRNs at any one time, and mandate that a physician not be an employee of an APRN if the physician is required to supervise the employing APRNs).

90. *See Georgia Nurses Declare Victory in Battle for “Right to Write,”* <http://www.georignurses.org> (last visited Mar. 28, 2006) [hereinafter *Right to Write*].

91. *See* Thomas Interview, *supra* note 23.

over the extent to which nurses would have the power to write prescriptions.<sup>92</sup> The MAG had opposed giving nurses prescriptive authority for the past several years.<sup>93</sup> However, in light of a growing nursing shortage and after a great deal of negotiation and compromise between MAG and GNA lobbyists, both houses of the Georgia General Assembly voted to include a limited “right to write” provision in the Act.<sup>94</sup>

The mini-clinic provision will have big impact on rural economies in Georgia.<sup>95</sup> Large pharmacies, like CVS, may set up mini-clinics in their stores and then encourage the nurses working there to write prescriptions for expensive drugs down the aisle.<sup>96</sup> Some senators and representatives see this as a conflict of interest.<sup>97</sup> There would be a negative effect on people living in rural areas because locally-owned pharmacies would not have the means to set up their own mini-clinics.<sup>98</sup>

On the other hand, there may be no more of a conflict of interest than allowing a McDonald’s to operate in a Wal-Mart.<sup>99</sup> APRNs must follow the same protocol in prescribing medication, regardless of whether a mini-clinic is set up inside of or down the street from a pharmacy.<sup>100</sup> If a local pharmacist is concerned about his business, he might try to meet the APRNs working at the mini-clinic inside the chain store and let them know his rates, specialties, and desire to obtain referrals.<sup>101</sup> Further, allowing APRNs to work in mini-clinics set up by large pharmacies may encourage more APRNs to relocate

92. See Easterly Interview, *supra* note 6.

93. *Id.* (noting there “was only a small group within MAG that really resisted this provision” while “[m]ost of the doctors who were out working in the state were in favor of such a provision because they understood the need”).

94. See *Georgia General Assembly – SB 480*, [http://www.legis.state.ga.us/legis/2005\\_06/sum/sb480.htm](http://www.legis.state.ga.us/legis/2005_06/sum/sb480.htm) (last visited Apr. 24, 2006); Easterly Interview, *supra* note 6.

95. See Telephone Interview with Rep. Tommy Benton, House Dist. No. 31 (Mar. 29, 2006) [hereinafter Benton Interview].

96. *Id.*

97. *Id.*; see also House Audio, *supra* note 10. (remarks by Rep. Setzler).

98. See Benton Interview, *supra* note 95 (noting locally owned pharmacies do not have the space nor the funds to host a mini-clinic so they could not compete with national chains like CVS).

99. See Easterly Interview, *supra* note 6.

100. *Id.*

101. *Id.*

to rural areas because these pharmacies will be able to offer higher wages.<sup>102</sup>

The Act will encourage more nurses to become APRNs and may also lead to an influx of APRNs into rural areas.<sup>103</sup> If a large corporation such as Wal-Mart opens a mini-clinic in rural Georgia and is willing to pay a higher salary per nurse to staff the clinic, APRNs may be induced to relocate.<sup>104</sup> This will increase access to health care in rural Georgia.<sup>105</sup> Further, prescriptive authority gives APRNs greater status as healthcare professionals.<sup>106</sup> This new sense of professionalism will encourage nursing talent not to leave the state.<sup>107</sup> In the past, at least some nursing students came to Georgia for advanced schooling, only to leave the state upon graduation because APRNs were not given prescriptive authority.<sup>108</sup>

Overall, the Act will help bring healthcare to rural areas by increasing the number of medical professionals.<sup>109</sup> This will improve Georgia's preventive care accessibility and, in turn, stabilize healthcare costs by reducing dependence on more-expensive critical care.<sup>110</sup> The goal is to create a healthier Georgia where people all over the state have better access to medical professionals and facilities.<sup>111</sup>

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102. See House Audio, *supra* note 10 (remarks by Rep. Sharon Cooper); see also House Audio, *supra* note 10 (remarks by Rep. Rich Golick) (arguing this is the competitive advantage of large pharmacies and the government should not disturb the free markets).

103. See Caley Interview, *supra* note 18.

104. See House Audio, *supra* note 10 (remarks by Rep. Sharon Cooper).

105. See Caley Interview, *supra* note 18.

106. *Id.*

107. *Id.*

108. *Id.*

109. See Caley Interview, *supra* note 18.

110. *Id.*

111. *Id.*