

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS



EXECUTIVE DIRECTOR
LaSharn Hughes

MEDICAL DIRECTOR
Jim H. McNatt, MD

2 Peachtree Street, N.W., 36th Floor • Atlanta, Georgia 30303 • Tel: 404.656.3913 • <http://www.medicalboard.state.ga.us>
E-Mail: Medbd@dch.state.ga.us

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

NOTICE OF INTENT TO AMEND AND ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given by the Composite State Board of Medical Examiners that it intends to amend rules by adopting a new Chapter 360-32, entitled "Nurse Protocol Agreements Pursuant to O.C.G.A. § 43-34-26.3," An exact copy of the proposed new chapter is attached to this Notice.

This notice, together with an exact copy of the proposed rules and a synopsis of the proposed rules are being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed rules and a synopsis of the proposed rules may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except official State holidays, at the office of the Composite State Board of Medical Examiners, 2 Peachtree Street, N.W., 36th Floor, Atlanta, Georgia 30303.

Any interested person who will be affected by these rules may present his or her comments to the Board no later than September 6, 2006 or make comments at the public hearing. Comments may be directed to Diane Atkinson, Composite State Board of Medical Examiners, 2 Peachtree Street, NW, Atlanta, Georgia 30303-3465 or may be received by the Board by e-mail at matkinson@dch.state.ga.gov.

A public hearing is scheduled to begin at 8:30 a.m. on September 14, 2006 at the Department of Community Health Board Room, 5th Floor, 2 Peachtree Street, N.W., Atlanta, Georgia 30303, to provide the public an opportunity to comment upon and provide input into the proposed rules.

The Board voted to adopt this Notice of Intent on August 4, 2006. The attached proposed rules will be considered for adoption by the Board at its meeting on September 14, 2006, after the conclusion of the 8:30 a.m. public hearing at the Department of Community Health 5th Floor Board Room, 2 Peachtree Street, NW, Atlanta, GA 30303.

The authority for promulgation of these rules is O. C. G. A. §§ 43-34-24(c), 43-34-26.3, 43-1-19, 43-34-37, 43-1-7, 43-1-25 and the specific statutes cited in the proposed rules.

The Board will consider at its meeting on September 14, 2006, whether the formulation and adoption of this proposed rule amendment imposes excessive regulatory costs on any licensee or entity and whether any cost to comply with the proposed rule amendment could be reduced by a less expensive alternative that accomplishes the objectives of the statutes which are the basis of the proposed rule. Additionally at its meeting on February 14, 2006, 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)(D).

This Notice is adopted and posted in compliance with O.C. G.A. § 50-13-4 of the Georgia Administrative Procedures Act.

Date: 8/4/06

Signed: 

LaSharn Hughes
Executive Director

Composite State Board of Medical Examiners

ECONOMIC IMPACT AND SYNOPSIS FOR
CHAPTER 360-32
NURSE PROTOCOL AGREEMENTS
PURSUANT TO O.C.G.A. § 43-34-26.2

ECONOMIC IMPACT:

The attached rules are promulgated under the authority of the Medical Practice Act, Title 43, Chapter 34. The Composite State Board of Medical Examiners licenses and regulates nine professions. The Board will consider at its meeting on September 14, 2006 whether the formulation and adoption of this proposed rule amendment imposes excessive regulatory costs on any licensee or entity and whether any cost to comply with the proposed rule amendment could be reduced by a less expensive alternative that accomplishes the objective of the statutes which are the basis of the proposed rule. Additionally, at its meeting on September 14, 2006, 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)(D). of Georgia Annotated.

RULE SYNOPSIS:

360-32 NURSE PROTOCOL AGREEMENTS PURSUANT TO O.C.G.A. § 43-34-26.3

Purpose

The purpose of the proposed new chapter is to implement the provisions of Code Section 43-34-26.3.

Main Features:

Rule 360-32-.01 provides definitions applicable to Chapter 360-32. Rule 360-32-.02 provides requirements for physicians entering into a nurse protocol agreement with an Advanced Practice Registered Nurse (APRN) pursuant to Code Section 43-34-26.3. Rule 360-32-.03 contains requirements for the delegating physician's filing of said nurse protocol agreements with the Board. Rule 360-32-.04 provides limitations applicable to physicians entering into nurse protocol agreements pursuant to O.C.G.A. § 43-34-26.3. Rule 360-32-.05 provides additional requirements regarding physician delegation such as physician responsibility for medical acts performed by the APRN, notification by the delegating physician to the Board of termination of a nurse protocol agreement, the availability of the delegating physician for consultation and providing documentation to the Board. Rule 360-32-.06 provides that a delegating or alternating physician may be disciplined for failure to comply with Chapter 360-32.

Chapter 360-32 is a new chapter. Therefore, the underlined text shown below is proposed to be added.

RULES
OF
COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

CHAPTER 360-32

NURSE PROTOCOL AGREEMENTS PURSUANT TO O.C.G.A. § 43-34-26.3

- 360-32-.01 Definitions
- 360-32-.02 Requirements for Nurse Protocol Agreements Pursuant to Code Section 43-34-26.3
- 360-32-.03 Filing of Nurse Protocol Agreements with the Board.
- 360-32-.04 Limitations.
- 360-32-.05 Additional Requirements Regarding Physician Delegation to an APRN.
- 360-32-.06 Non-compliance

360-32-.01 Definitions.

(1) "Advanced practice registered nurse", (hereinafter referred to as "APRN"), means a registered professional nurse licensed under Title 43, Chapter 26 of the Official Code of Georgia Annotated, who is recognized by the Georgia Board of Nursing as having met the requirements established by the Georgia Board of Nursing to engage in advanced nursing practice and who holds a masters degree or other graduate degree approved by the Georgia Board of Nursing and national board certification in his or her area of specialty, or a person who is recognized as an advanced practice registered nurse by the Georgia Board of Nursing on or before June 30, 2006.

(2) "Board" means the Composite State Board of Medical Examiners.

(3) "Controlled substance" means any controlled substance as defined in Code Section 16-13-21, but shall not include any Schedule I controlled substance included in Code Section 16-13-25 or any Schedule II controlled substance included in Code Section 16-13-26.

(4) "Dangerous drug" means any dangerous drug as defined in Code Section 16-13-71.

(5) "Drug" means any dangerous drug or controlled substance.

(6) "Primary Delegating Physician" means a physician who

(a) practices medicine in this State; and

(b) who authorizes an APRN to perform certain delegated medical acts pursuant a nurse protocol agreement.

(7) "Nurse Protocol Agreement" means a written document, mutually agreed upon and signed by an APRN and a physician, by which the physician delegates to that APRN the authority to perform certain medical acts pursuant to Code Section 43-34-26.3, which may include without being limited to, the ordering of drugs, medical devices, medical treatments, diagnostic studies, or in life-threatening situations radiographic imaging tests.

(8) "Order" means to prescribe pursuant to a protocol agreement, as authorized by Code Section 43-34-26.3, which drug, medical device, medical treatment, diagnostic study, or in life-threatening situations radiographic imaging test is appropriate for a patient and to communicate the same in writing, orally, via facsimile or electronically.

(9) "Physician" means a person licensed to practice medicine pursuant to Article 2, Chapter 34 of Title 43 and

(a) Whose principal place of practice is within this state; or

(b) Whose principal place of practice is outside this state but is within 50 miles from the location where the nurse protocol agreement is being utilized; and

(10) "Immediate consultation" means that the delegating physician shall be available for direct communication or by telephone or other telecommunications.

(11) "Alternate Delegating Physician" means a physician who:

(a) practices medicine in this state; and

(b) whose scope of practice is the same as that of the "Primary Delegating Physician;"

(c) who has concurred in writing with the terms of the nurse protocol agreement, has agreed in writing to provide consultation in the absence of the Primary Delegating Physician.

Authority. O.C.G.A. Secs. 43-34-24(c), 43-34-26.3

360-32-.02 Requirements for Nurse Protocol Agreements Pursuant to Code Section 43-34-26.3.

(1) A physician entering into a nurse protocol agreement with an APRN pursuant to Code Section 43-34-26.3 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 alternate delegating physician that will be utilized if the delegating physician is not available.

(b) Description of practice and number of locations, including primary and proposed satellite site(s).

(c) Dates of initiation and amendments. Any amendments made to the protocol agreement shall be filed with the Board for review within 15 days of execution.

(d) 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. If the delegating physician is not available, the delegating physician may designate an alternate delegating physician who concurs with the terms of the nurse protocol agreement.

(a) Such designation by the delegating physician shall be in writing and attached to the nurse protocol agreement.

(b) Such designation must be a physician whose specialty and type of practice is the same as that of the primary delegating physician.

(c) Such designation must include the printed name, license number and signature of the alternate delegating physician with an affirmation from the alternate delegating physician that he or she has agreed to serve as an alternate, has reviewed the nurse protocol agreement and concurs with the terms of the agreement.

(3) The nurse protocol agreement shall outline and identify the applicable standard of care and shall be specific to the population seen;

(4) 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) a formulary of 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) that dosage units shall be limited up to a ninety (90)- day supply;

(d) number of refills which may be ordered; however, in no event may the protocol authorize refills for more than twelve (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 twenty-four (24) months.

(e) provide that the delegating physician shall personally reevaluate, at least every three (3) months, any patient receiving controlled substances or at least six (6) months for any patient receiving other prescription drugs or devices.

(f) extent to which radiographic image tests may be ordered in life-threatening situations;

(g) a predetermined plan for emergency services;

(h) 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 43-36-3 and 43-26-5; and

(i) a section that details specific patient conditions and circumstances that require direct, on-site evaluation or consultation by the delegating physician.

(5) 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 authority pursuant to the protocol agreement, each prescription shall be noted on the patient's chart and the physician shall countersign the prescription drug or device order copy or medical record entry within a reasonable time, not to exceed seven (7) working days, unless the countersignature is required sooner by a specific regulation, policy or requirement.

(a) If the protocol agreement delegates authority 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 office of the prescribing physician in the patient's medical file. For purposes of this paragraph a copy shall mean a duplicate prescription or a photocopy.

(b) If the protocol agreement delegates authority 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.

2. The form shall be signed by the APRN using the following language:

"This prescription authorized through (delegating physician name), (M.D. or D.O.) by (APRN's name), APRN."

(6) Include a schedule for periodic review of patient records. The Board has determined that the accepted standards of medical practice require the following:

(a) that the delegating or alternate delegating physician review and sign 100% of patient records for patients receiving prescriptions, 100% of patient records in which an adverse outcome has occurred and 25% of all other patient records.

(b) that such review occur in no more than seven (7) working days of the APRN-patient contact.

(7) Indicate whether the APRN is authorized under the nurse protocol agreement to request, receive and sign for professional samples and whether the APRN may distribute professional samples to patients. If the protocol authorizes the APRN to request, receive, sign for and/or distribute professional samples to patients, the protocol agreement must:

(a) include a list of the professional samples approved by the physician for request, receipt and distribution by the APRN;

(b) contain a provision requiring the recording of a complete list of the specific number and dosage of each professional sample and medication voucher received and dispensed; and

(c) provide that all professional samples shall be maintained as required by applicable state and federal laws and regulations;

(8) Copies of the nurse protocol agreement shall be maintained 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.

(9) The protocol agreement shall be dated and signed by the delegating physician, alternate delegating physician, if applicable, and the APRN;

(10) The protocol agreement shall be reviewed and updated at least annually. Said reviewed and updated protocol agreement shall be filed with the Board within 15 days after such review and update has occurred.

Authority. O.C.G.A. Secs. 43-34-24(c), 43-34-26.3

360-32-.03 Filing of Nurse Protocol Agreements with the Board.

(1) The delegating physician shall file the nurse protocol agreement with the Board for review and submit the requisite fee for review established in the Board's fee schedule.

(2) In addition to submitting the nurse protocol agreement to the Board for review, the delegating physician shall obtain from the APRN and submit to the Board current

verification from the Georgia Board of Nursing that the APRN is approved to practice as an APRN and whether the APRN has had any disciplinary action taken against him or her by the Georgia Board of Nursing.

(3) Nurse protocol agreements executed within ninety (90) days from the effective date of this rule shall be filed with the Board within ninety (90) days from the date of execution. Nurse protocol agreements executed after ninety (90) days from the effective date of this rule shall be filed with the Board for review within 15 days from the date of execution of the agreement.

(4) The delegating physician shall file with the Board amendments to nurse protocol agreements previously reviewed by the Board and the requisite fee for the Board's review established in the Board's fee schedule within 15 days of the date the amendment was executed.

(5) If, after review, the Board determines that the nurse protocol agreement fails to meet accepted standards of medical practice, the delegating physician will be so notified and required to amend the agreement in order to comply with such accepted standards.

Authority. O.C.G.A. Secs. 43-1-7, 43-34-24(c), 43-34-26.3.

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 authority to an individual pursuant to the provisions of Code Section 43-34-26.3, 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) No physician shall enter into a nurse protocol agreement with an APRN who has been disciplined by the Georgia Board of Nursing, unless the physician has received prior written approval from the Board to act as a delegating physician of that APRN.

(5) Unless specifically exempted by paragraph (g) of Code Section 43-34-26.3, a delegating physician may not enter into a nurse protocol agreement with more than four APRN's at any one time.

(6) Except for practice settings identified in paragraph (7) of subsection (g) of Code Section 43-34-26.3, a physician shall not be an employee of an APRN, alone or in combination with others, if the physician is required to supervise the employing APRN.

Authority. O.C.G.A. Secs. 43-34-24(c), 43-34-26.3.

360-32-.05 Additional Requirements Regarding Physician Delegation to an APRN.

(1) The delegating physician or the designated alternate delegating physician shall be available at all times that the APRN is providing medical services to consult with the APRN. Said consultations may be made by telephone or other form of telecommunications. The delegating physician shall spend at least four (4) hours per APRN in a forty (40) -hour work week or, if greater than a forty (40)-hour work week, at least 10% of the time, at each location where each APRN is providing medical services to act as consultant to the APRN and to monitor the quality of care provided by the APRN. The delegating physician shall have documentation of compliance with this rule available upon request of the Board.

(2) The delegating physician shall make certain that the medical acts provided by the APRN pursuant to the protocol agreement are:

(a) Commensurate with the education, training, experience and competence of the APRN:

1. A delegating physician shall therefore ensure that an APRN to whom he delegates prescriptive authority receives pharmacology training appropriate to the delegating physician's medical practice at least annually. Documentation of such training shall be maintained by the physician and provided to the Board upon request.

2. A delegating physician who fails to comply with subparagraph (2)(a)1 of this rule by delegating prescriptive authority to an APRN who has not received pharmacology training appropriate to the delegating physician's medical practice at least annually may be subject to disciplinary action.

(b) Within the scope of practice, specialty area or field and certification of the APRN;

(c) Within the comparable specialty area or field of the delegating physician; and

(d) Well documented in accurately maintained patient specific medical records.

(3) If the delegating physician is unable to act as a delegating physician for an APRN, the designated alternate delegating physician shall act as the delegating physician for the APRN.

(4) The delegating physician is responsible for all the medical acts performed by the APRN.

(5) A delegating physician shall notify the Board within ten (10) days of the date of termination of a nurse protocol agreement with the delegating physician and APRN.

(6) The Board may request at any time to review the nurse protocol agreement and any supporting documentation. Failure to provide this information to the Board is a basis for

and may result in disciplinary action. The Board may require changes in these documents if the Board determines that they do not comply with O.C.G.A. 43-34-26.3 and/or accepted standards of medical practice.

(7) The Board may request at any time documentation of the delegating physician's review of the medical acts performed by the APRN pursuant to a nurse protocol agreement. Failure to provide documentation to the Board is a basis for and may result in disciplinary action.

Authority. O.C.G.A. Secs. 43-34-24(c), 43-34-26.3, 43-34-37(a)(10), 43-1-19(a)(8), 43-1-25.

360-32-.06 Non-compliance. A delegating or alternate delegating physician may be disciplined for failure to comply with this Chapter.

Authority. OCGA Secs. 43-34-24(c), 43-34-26.3, 43-34-37(a)(7), 43-34-37(a)(10), 43-1-19(a)(6), 43-1-19(a)(10), 43-1-25.