

House Bill 784

By: Representatives Walker of the 141st, Pinholster of the 15th and Childers of the 13th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated,
2 relating to physicians, so as to provide for comprehensive regulation of physicians who
3 provide certain services in office based surgical settings; to provide for the accreditation of
4 such physicians' office based surgical settings; to provide for certain civil immunity; to
5 provide for powers, duties, and authority of the Composite State Board of Medical
6 Examiners; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
10 physicians, is amended by adding a new Code section immediately following Code Section
11 43-34-27, to be designated Code Section 43-34-27.1, to read as follows:

12 "43-34-27.1.

13 (a) This Code section shall be known and may be cited as the 'Office Based Surgery
14 Quality of Care Act of 2001.'

15 (b) The General Assembly finds and declares that it is a vital government concern that the
16 high quality of surgical and anesthesia care that physicians provide to Georgia patients in
17 the office setting should be preserved and that all Georgians should be assured that the
18 physicians who provide certain surgical services in such office based settings and the
19 physicians who provide, or supervise the provision of, anesthesia services in such office
20 based settings meet sufficient standards and criteria essential for the protection of patients
21 who undergo office based surgical procedures. The General Assembly also finds that the
22 public should be assured that the office based surgical settings in which such surgical
23 procedures are performed meet appropriate standards and criteria necessary for the
24 protection and well being of the public. To achieve these ends, the General Assembly
25 further finds that the Composite State Board of Medical Examiners, as the state agency
26 given the charge and responsibility of regulating the practice of medicine, should

1 implement measures to ensure that physicians who provide surgical services in office based
2 surgical settings and physicians who provide, or supervise the provision of, anesthesia
3 services in office based surgical settings are appropriately credentialed to provide such
4 services and to ensure that such physicians' offices are appropriately accredited for that
5 purpose.

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

7 (1) 'Board' means the Composite State Board of Medical Examiners.

8 (2) 'Office based surgical setting' means any physician's office or any office, building,
9 or facility attached or adjacent to the physician's office that is owned or leased by the
10 physician or the physician's medical practice and in which patients undergo surgical
11 procedures. Such term shall not include:

12 (A) Any entity where the only surgical procedures performed therein are appropriately
13 performed without anesthesia or under the administration of local anesthesia, topical
14 anesthesia, or a minor nerve block, unless such surgical procedures consist of 'large
15 volume liposuction,' as that term is defined by the board; or

16 (B) Any ambulatory surgical treatment center required to have a permit under Article
17 1 of Chapter 7 of Title 31.

18 (3) 'Sentinel event' means an unexpected occurrence involving death or serious injury,
19 or the risk thereof. Serious injury specifically includes loss of limb or function. The term
20 'or risk thereof' includes any process variation for which a recurrence would carry a
21 significant chance of death or serious injury.

22 (d) The board shall require any physician who provides surgical services in an office based
23 surgical setting and any physician who provides, or supervises the provision of, anesthesia
24 services in an office based surgical setting to be credentialed once every three years to
25 provide or supervise the provision of such services. A physician may apply to any
26 credentialing entity approved by the board for the credentialing necessary to meet the
27 requirements of this Code section. In the alternative, a physician shall be deemed
28 sufficiently credentialed to provide in an office based surgical setting those surgical
29 procedures for which said physician has specific, unlimited privileges as a member of the
30 active medical staff in a hospital located within 50 miles of the physician's primary office.
31 Any physician who provides surgical services in an office based surgical setting and any
32 physician who provides, or supervises the provision of, anesthesia services in an office
33 based surgical setting shall provide the board written proof of such physician's
34 credentialing and shall notify the board of any changes in such credentialing.

35 (e) The General Assembly finds and declares that a physician's election of the alternative
36 for credentialing authorized in subsection (d) of this Code section based upon hospital staff
37 privileges shall in no way be construed or held out to the public by or on behalf of the

1 physician or any other person as any indication that the hospital or its medical staff has
2 given any consideration to the appropriateness of, reviewed, or approved the physician's
3 provision of surgical services in an office based surgical setting. The disclosure or use of
4 a physician's former or current hospital staff credentialing and privileges for the purpose
5 provided in subsection (d) of this Code section or the reliance on the same by any third
6 party shall create no liability on the part of the hospital that has granted such staff
7 privileges and any such hospital, its governing body and officials, and its medical staff
8 shall be immune from any claim of liability relating to the disclosure of, use of, or
9 subsequent reliance on such staff privileges in connection with this Code section. This
10 Code section creates no duty on the part of any hospital with respect to its credentialing
11 process and designation of staff privileges including without limitation any duty of
12 notification to the board or any other agency, organization, or person with respect to the
13 scope or changes in the status of a physician's hospital staff privileges.

14 (f) The board shall require every office based surgical setting in which a patient undergoes
15 a surgical procedure to be accredited once every three years by an accrediting entity
16 approved by the board, such as the Joint Commission on Accreditation of Healthcare
17 Organizations, the American Association for Accreditation of Ambulatory Surgical
18 Facilities, the Accreditation Association for Ambulatory Health Care, or the National
19 Committee for Quality Assurance, or by any other accrediting entity approved by the
20 board. Such accreditation of an office based surgical setting shall include an assessment
21 that the facility is staffed in a manner appropriate for the provision of the surgical and
22 anesthetic services offered in such office based surgical setting. Each office based surgical
23 setting that meets the requirements of this subsection shall, upon receiving its accreditation,
24 file proof of such accreditation with the board and post proof of its accreditation for public
25 display in a conspicuous place on its premises.

26 (g) Any physician providing surgical or anesthetic services in an office based surgical
27 setting which results in the occurrence of a sentinel event shall within 30 days after the
28 occurrence, report that sentinel event in writing on a form prescribed by the board, to an
29 independent peer review organization, as defined in Article 6 of Chapter 7 of Title 31 and
30 approved for this purpose by the board. The independent peer review organization shall,
31 upon receipt of the report, conduct a peer review of the incident pursuant to the provisions
32 and conditions specified in Article 6 of Chapter 7 of Title 31.

33 (h) The board shall promulgate rules and regulations to implement and enforce the
34 requirements of this Code section. Such rules and regulations also shall set forth the
35 process and requirements for obtaining board approval for accrediting entities,
36 credentialing entities, and peer review organizations to meet the requirements set forth in
37 subsections (d), (f), and (g) of this Code section.

1 (i) Nothing contained in this Code section nor in any rules or regulations issued pursuant
2 to this Code section shall be construed to broaden, limit, or in any way change the scope
3 of practice, treatment, or services authorized for any health care provider beyond that
4 which said provider may exercise under any other provision of law."

5 **SECTION 2.**

6 This Act shall become effective July 1, 2002.

7 **SECTION 3.**

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