

House Bill 156

By: Representatives Walker of the 141st, Murphy of the 18th, Stuckey of the 67th and Martin of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 31-7-8 of the Official Code of Georgia Annotated, relating to reports
2 of disciplinary actions against persons authorized to practice medicine, osteopathy, podiatry,
3 or dentistry in this state, so as to repeal confidentiality provisions concerning disciplinary
4 actions against providers; to amend Title 43 of the Official Code of Georgia Annotated,
5 relating to professions and businesses, so as to repeal confidentiality provisions relating to
6 investigations by the Composite State Board of Medical Examiners; to enact the "Patient
7 Right to Know Act of 2001"; to provide a short title; to provide for definitions; to provide
8 for creation, contents, and dissemination of physician profiles; to provide for patient access
9 to information about medical providers; to provide for the patient's right to file a grievance
10 against a medical provider with respect to the provider, his or her office, and the services
11 rendered; to require the board to investigate every grievance filed; to establish the right of
12 the patient to inquire about the cost of treatment prior to receiving such treatment; to provide
13 for notices; to prohibit certain acts; to provide for penalties; to provide for practices and
14 procedures; to provide for rules and regulations; to provide for other related matters; to repeal
15 conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Code Section 31-7-8 of the Official Code of Georgia Annotated, relating to reports of
19 disciplinary actions against persons authorized to practice medicine, osteopathy, podiatry,
20 or dentistry in this state, is amended by striking subsection (e) and inserting in its place the
21 following:

22 ~~"(e) Except as provided in this subsection, information contained in any report made to the~~
23 ~~appropriate licensing board pursuant to this Code section shall be confidential and shall not~~
24 ~~be disclosed to the public. Access to such reports shall be limited to members of the~~
25 ~~appropriate licensing board or its staff for their use and to interested institutions for their~~
26 ~~use in the review of medical staff privileges at the institution. Reserved."~~

1 (4) 'Hospital' means a facility that provides inpatient and outpatient care and services for
2 the diagnosis and treatment of medical conditions.

3 (5) 'Hospital privileges' means permission granted by a hospital to a physician to treat
4 patients in that hospital.

5 (6) 'Profiles' means information collected by the board concerning the physician and his
6 or her education, practice, complaints, disciplinary actions, and medical malpractice
7 judgments or awards and compiled in a form which can be disseminated to a member of
8 the public upon request.

9 (7) 'Requester' means a person who requests a physician profile from the board by means
10 of the telephone, in writing, in person, or by electronic mail.

11 43-34A-3.

12 (a) The Composite State Board of Medical Examiners shall create physician profiles on
13 each physician licensed to practice in this state under Chapter 34 of this title.

14 (b) In creating physician profiles, the board shall by regulation establish a standard form
15 for the collection and dissemination of such data to the public, including dissemination on
16 the Internet. The information shall be gathered from the physician, the board, medical
17 malpractice insurers, hospitals, medical and speciality societies, and other appropriate
18 sources.

19 (c) The physician profile shall include the following information:

20 (1) The full name of the physician;

21 (2) Names of medical schools attended, dates of attendance, and date of graduation;

22 (3) The location and dates of graduate medical education;

23 (4) Speciality board certification, if applicable. The toll-free number of the American
24 Board of Medical Specialities shall be included to verify current board certification
25 status;

26 (5) The fact that a license has been granted by reciprocity under Code Section 43-34-31,
27 if applicable;

28 (6) The number of years in practice and locations;

29 (7) Current hospital privileges;

30 (8) The location of primary practice setting;

31 (9) Identification of any translating services available at the primary practice setting;

32 (10) Participation in the Medicaid program, if applicable;

33 (11) Criminal convictions for felonies, irrespective of the pendency or availability of an
34 appeal;

35 (12) Felony charges to which a plea of nolo contendere was entered;

1 (13) A description of any disciplinary action by a regulatory board. As used in this
2 paragraph, the term 'regulatory board' refers to :

3 (A) The Composite State Board of Medical Examiners and its counterpart in any other
4 state; and

5 (B) Any state licensing board in Georgia or in any other state;

6 (14) A description of revocation or restriction of hospital privileges, either involuntary
7 or by agreement, for reasons related to competence or character;

8 (15) Resignation from or nonrenewal of medical staff membership or the restriction of
9 privileges at a hospital taken in lieu of or in settlement of pending disciplinary action
10 related to competence or character in the most recent ten years;

11 (16) Medical malpractice court judgments, medical malpractice arbitration awards, or
12 medical malpractice settlements in which payment in excess of \$100,000.00 is awarded
13 to the complaining party;

14 (17) The fact that there have been two or more previous judgments against or settlements
15 with the physician relating to the practice of medicine. Pending malpractice claims shall
16 not be disclosed. Any disclosure under this paragraph shall be accompanied by the
17 following statement:

18 'Settlement of a claim may occur for a variety of reasons with do not necessarily reflect
19 negatively on the professional competence or conduct of the physician. A payment in
20 settlement of a medical malpractice action or claim should not be construed as creating
21 a presumption that medical malpractice has occurred.'

22 Additionally, the board shall include in a physician's profile comments submitted by the
23 physician respecting any reference to malpractice judgments, awards, or settlements.
24 Such comments shall not exceed 100 words;

25 (18) Any complaint or grievance filed with the board and upon which the board took
26 disciplinary action, including a description of the nature of the complaint and the
27 resolution; and

28 (19) All violations of this chapter.

29 (d) The physician profiles may include information relating to:

30 (1) Appointment to medical school faculties within the most recent ten years;

31 (2) Articles in professional publications and journals; and

32 (3) Professional or community service membership, activities, and awards.

33 (e) The physician profiles shall be updated by the board as required in this subsection:

34 (1) The profile items listed in paragraphs (11) through (17) of subsection (c) of this Code
35 section inclusive shall be reported to the board by the physician involved within ten days
36 of the judgment, award, settlement, revocation, resignation, or disciplinary action, and

1 the board shall update the physician's profile with such changes within ten days of receipt
2 of such information; and

3 (2) All other changes to the physician profile shall be reported by the physician to the
4 board within 30 days of the change, and the board shall verify and update the physician
5 profile with such new information within 15 days.

6 (f) The physician may request a copy of the profile and submit necessary corrections to the
7 board. The board shall verify corrections and make changes to the profile within five
8 business days of receipt of the corrected information by the board. The physician may
9 request postcorrection publication by the board to whomever received the profile
10 containing the error.

11 43-34A-4.

12 A patient has the right to receive a physician profile from the board upon request. Requests
13 for physician profiles shall be accepted by the board by telephone, in writing, or by
14 electronic mail. The person requesting the profile shall provide the name of the physician
15 for whom a profile is sought. The board may charge a nominal fee for copying as is
16 permitted under subsection (c) of Code Section 50-18-71. The board shall not require
17 from the requester a specific request form or a statement of reason for requesting the
18 profile. The board shall not be required to prepare reports, summaries, or compilations of
19 profiles not in existence at the time of the request. The board shall keep both the
20 requester's identity and the request confidential. The board must respond to all requests
21 within three business days by sending a copy of the physician profile to the requester. Fees
22 may be charged in accordance with subsection (c) of Code Section 50-18-71. Once a year,
23 the board shall publish a profile directory available for purchase at a nominal fee by
24 libraries, consumer groups, and other entities. A physician may make available his or her
25 current unaltered board approved profile to the patients in his or her practice. The
26 physician may not knowingly disperse a profile that does not disclose recent disciplinary
27 actions, criminal convictions, revocations or restriction of hospital privileges, settlements,
28 medical malpractice judgment or arbitration awards as set forth in paragraphs (11) through
29 (18) of subsection (c) of Code Section 43-34A-3.

30 43-34A-5.

31 (a) A patient has the right to inquire as to the estimated cost of a routine office visit,
32 routine treatments, and lab tests prior to receiving such treatment. When asked for such
33 information, the physician or other authorized personnel shall give such information freely
34 and without reservation or evasion. Violation of this right should be reported immediately
35 to the board.

1 (b) The board must review every complaint received to determine if there is sufficient
2 evidence to warrant an investigation according to a procedure established by board
3 regulation. Only investigated complaints upon which the board has taken disciplinary
4 action shall be included in a physician's profile. The board must take the appropriate
5 action as set forth in the regulations promulgated by the board. The board must respond
6 in writing to the patient within 30 days. In the response, the board shall inform the patient
7 whether the complaint is being referred for investigation, if the complaint has been
8 investigated the results of the investigation or whether further investigation is required, and
9 any board action taken.

10 43-34A-6.

11 (a) The patient has the right to file a grievance with the board when the patient has a
12 complaint concerning a physician, staff, office, or treatment received.

13 (b) A declaration of the patient's rights shall be prominently displayed in conspicuous
14 language in the physician's waiting room. This declaration may be contained in the same
15 notice as the right to obtain physician profiles. The declaration of rights shall contain the
16 following statement:

17 'The patient has the right to file a grievance with the Composite State Board of Medical
18 Examiners concerning the physician, staff, office, and treatment received. The patient
19 should either call the board with such a complaint or send a written complaint to the
20 board. The patient should be able to provide the physician or practice name, the address,
21 and the specific nature of the complaint.'

22 Such notice shall include the current phone number and address of the board.

23 (c) The board must review every complaint received to determine if there is sufficient
24 evidence to warrant an investigation according to a procedure established by board
25 regulation. Only investigated complaints upon which the board has taken disciplinary
26 action shall be included in a physician's profile. The board must take the appropriate
27 action as set forth in the regulations promulgated by the board. The board must respond
28 in writing to the patient within 30 days. In the response, the board shall inform the patient
29 whether the complaint is being referred for investigation, and if the complaint has been
30 investigated, the results of the investigation or whether further investigation is required,
31 and any board action taken.

32 43-34A-7.

33 (a) Any physician or authorized personnel violating any provision of this chapter shall be
34 assessed a monetary fine as determined by the board by regulation for each day or instance
35 of violation.

1 (b) A record of the violation shall be maintained as part of the physician profile.

2 43-34A-8.

3 (a) The board must have profiles ready and be able to respond to request for profiles no
4 later than January 1, 2002.

5 (b) All regulations required under this chapter must be promulgated by the board by
6 January 1, 2002."

7 **SECTION 4.**

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