

House Bill 1008

By: Representative Graves of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
2 physicians, acupuncture, physician's assistants, and others, so as to provide for the licensing
3 of surgical assistants; to provide for definitions; to provide for powers and responsibilities
4 of the Composite State Board of Medical Examiners; to provide for licensing standards and
5 requirements; to provide for licenses and their duration, renewal, display, filing, and
6 surrender; to provide for notices; to provide for licensing of provisional licensed surgical
7 assistants and standards and requirements relating thereto; to provide for waiver of certain
8 requirements; to prohibit certain conduct and representations and provide for penalties
9 therefore; to provide for exemptions; to provide for sanctions; to provide for an advisory
10 committee; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians,
14 acupuncture, physician's assistants, and others, is amended by adding a new article to read
15 as follows:

16 style="text-align:center">"ARTICLE 4A

17 43-34-110.

18 As used in this article, the term:

19 (1) 'Advisory committee' means the committee appointed pursuant to Code Section
20 43-34-119.

21 (2) 'Board' means the Composite State Board of Medical Examiners created by Code
22 Section 43-34-21.

23 (3) 'License' means a license to practice as a licensed surgical assistant or provisional
24 licensed surgical assistant.

25 (4) 'Licensed surgical assistant' means a person licensed as such pursuant to this article.

1 (5) 'Surgical assistant' means an allied health professional who, under the direct
2 supervision of the surgeon, assists the surgeon in duties or procedures incidental to the
3 surgical procedure as deemed necessary and directed by the surgeon. This includes, but
4 is not limited to:

- 5 (A) Positioning and draping the patient for surgery;
- 6 (B) Cauterizing, clamping, or tying vessels to control bleeding;
- 7 (C) Keeping the operative site dry;
- 8 (D) Giving the surgeon the best possible exposure of the operative site by retracting
9 tissue or maintaining the field of vision as in laparoscopy;
- 10 (E) Knowing all surgical instruments and equipment; and
- 11 (F) Assisting in closing incisions and cleaning and dressing wounds.

12 (6) 'Physician' means a person licensed to practice medicine under Article 2 of this
13 chapter.

14 (7) 'Provisional licensed surgical assistant' means a person provisionally licensed
15 pursuant to this article.

16 43-34-111.

17 The board, in consultation with the advisory committee, shall have the power and
18 responsibility to:

- 19 (1) Determine the qualifications and fitness of applicants for licensure and renewal of
20 licensure;
- 21 (2) Adopt and revise rules consistent with the laws of this state that are necessary to
22 conduct its business, carry out its duties, and administer this article;
- 23 (3) Examine for, approve, issue, deny, revoke, suspend, sanction, and renew the licenses
24 of board applicants for licensure as licensed surgical assistants and provisional licensed
25 surgical assistants under this article and conduct hearings in connection with these
26 actions;
- 27 (4) Conduct hearings on complaints concerning violations of this article and the rules
28 adopted under this article and cause the prosecution and enjoinder of the violations;
- 29 (5) Establish application, examination, and licensure fees;
- 30 (6) Request and receive the assistance of state educational institutions or other state
31 agencies and prepare information of consumer interest describing the regulatory functions
32 of the board and the procedures by which consumer complaints are filed with and
33 resolved by the board. The board shall make the information available to the public and
34 appropriate state agencies; and
- 35 (7) Establish education, examination, and continuing education requirements.

1 48-34-112.

2 (a) Except as otherwise provided in subsection (b) of this Code section, each applicant for
3 a license to practice as a licensed surgical assistant shall meet the following requirements:

4 (1) Be at least 21 years of age;

5 (2) Submit a completed application required by the board;

6 (3) Submit any fees required by the board;

7 (4) Have successfully completed a surgical assistant program approved by the board,
8 which program has education standards approved by the Committee on Allied Health
9 Education and Accreditation (CAHEA) prior to 1998 or the Commission on
10 Accreditation of Allied Health Education Programs (CAAHEP) or its successor;

11 (5) Pass a competency examination prepared or approved by the board and administered
12 to qualified applicants at least once each calendar year, which examination may be or
13 may include the complete examination given by the American Board of Surgical
14 Assistants, the National Association of Surgical Assistants, the Association of Surgical
15 Technicians, or their successors; and

16 (6) Have met such other requirements as may be prescribed by the board.

17 (b) Notwithstanding the provisions of subsection (a) of this Code section, a person may
18 apply to the board before January 1, 2004, and be granted a license as a licensed surgical
19 assistant upon satisfactory documentation that the person has fulfilled the educational and
20 on-site practice requirements in a licensed health care facility or hospital as the person's
21 primary function for at least five years immediately preceding the date of application, and
22 that the person has been certified by the American Board of Surgical Assistants, the
23 National Association of Surgical Assistants, the Association of Surgical Technicians, or
24 their successors.

25 43-34-113.

26 (a) A license issued by the board pursuant to Code Section 48-34-112 shall remain the
27 property of the board and shall not become the property of the holder of the license. A
28 license to practice as a surgical assistant shall be valid for two years. The board may
29 provide that licenses expire on various dates. A person may renew an unexpired license
30 by submitting proof of compliance with the continuing professional education requirements
31 prescribed by the board and paying the required renewal fee to the board before the
32 expiration date of the license.

33 (b) The license holder must:

34 (1) Display the license in an appropriate and public manner; or

1 (2) Maintain on file at all times during which the license holder provides services in a
2 health care facility a true and correct copy of the license certificate in the appropriate
3 records of the facility and keep the board informed of any change of address.

4 (c) A license issued by the board is the property of the board and shall be surrendered on
5 demand.

6 (d) Each person licensed under this article shall be responsible for renewing his or her
7 license before the expiration date.

8 (e) If a person's license has been expired for not more than two years, such person may
9 renew the license by submitting proof, satisfactory to the board, of compliance with the
10 continuing professional education requirements prescribed by the board and any penalty
11 fee prescribed by the board.

12 (f) If a person's license has been expired for more than two years, such person may not
13 renew the license. Such person may obtain a new license by submitting to reexamination
14 and complying with the current requirements and procedures for obtaining a license.

15 (g) The board may renew without reexamination an expired license of a person who was
16 licensed in this state, moved to another state or states, is currently licensed or certified, and
17 has been in practice in another state or states for two years immediately preceding the
18 person's application to renew a license. Such person shall pay the required fee as
19 established by the board.

20 43-34-114.

21 (a) A license as a provisional licensed surgical assistant may be issued by the board to a
22 person who submits to the board evidence of having successfully completed an approved
23 surgical assistant education program required for licensure under Code Section 43-34-112
24 and upon the filing of an application and payment of the application fee.

25 (b) A provisional licensed surgical assistant shall be under the supervision and direction
26 of a licensed surgical assistant at all times during which the provisional surgical assistant
27 performs in an operating room. The board may promulgate rules governing such
28 supervision and direction but shall not require the immediate physical presence of the
29 supervising licensed surgical assistant.

30 (c) A provisional license shall be valid for one year from the date it is issued and may be
31 renewed no more than one time by the same procedures established for the renewal of
32 licenses pursuant to this article, if the application for renewal is signed by a supervising
33 licensed surgical assistant.

34 (d) If a person fails any portion of the licensure examination, such person's provisional
35 license shall be automatically revoked and surrendered to the board.

1 43-34-115.

2 (a) A person who is otherwise eligible for a license under Code Section 43-34-112 shall
3 not be required to take the examination for licensure if:

4 (1) The person has passed a surgical assistant examination required for certification
5 administered by the American Board of Surgical Assistants, the National Association of
6 Surgical Assistants, the Association of Surgical Technicians, or their successors;

7 (2) The examination is determined by the board to be substantially equivalent to the
8 examination required by the medical board under this article; and

9 (3) The person has applied for a license under this section before July 1, 2004.

10 (b) A person who is otherwise eligible for a license under Code Section 43-34-112 shall
11 not be required to meet the educational requirements under this section if:

12 (1) The person has applied for a license under this section before July 1, 2004, and has
13 been continuously certified since September, 1995, as a surgical assistant by the
14 American Board of Surgical Assistants, the National Association of Surgical Assistants,
15 the Association of Surgical Technicians, or their successors; and

16 (2) Has practiced full-time as a surgical assistant under the direct supervision of a
17 physician licensed in this country.

18 (c) On receipt of an application and application fee, the board may waive the examination
19 and educational requirements for an applicant who, at the time of application:

20 (1) Is appropriately certified or licensed in good standing in another state, territory, or
21 possession whose requirements for the license or certificate are substantially equal to the
22 requirements of this article; or

23 (2) Holds a current certificate as a certified surgical assistant issued by the American
24 Board of Surgical Assistants, the National Association of Surgical Assistants, the
25 Association of Surgical Technicians, or their successors.

26 43-34-116.

27 (a) A person may not engage or offer to engage in surgical assisting or use the title or
28 represent or imply that the person has the title of 'licensed surgical assistant' or 'provisional
29 licensed surgical assistant' or use the letters 'LSA' or 'PLSA' and may not use any facsimile
30 of such title in any manner to indicate or imply that the person is a licensed surgical
31 assistant or provisional licensed surgical assistant unless the person holds certification as
32 a surgical assistant (CSA) or first assistant (CFA), an appropriate license issued pursuant
33 to this article, or is exempted under the provisions of Code Section 43-34-117.

34 (b) A person may not use the title or represent or imply that such person has the title
35 'certified surgical assistant' or 'certified first assistant' or use the letters 'CSA' or 'CFA' and
36 may not use any facsimile of such title in any manner to indicate or imply that such person

1 is a certified surgical assistant by the American Board of Surgical Assistants, the National
2 Association of Surgical Assistants, the Association of Surgical Technicians, or their
3 successors unless the person holds a certificate as a certified surgical assistant issued by the
4 American Board of Surgical Assistants, the National Association of Surgical Assistants,
5 the Association of Surgical Technicians, or their successors.

6 (c) Any person who violates the provisions of subsection (a) or (b) of this Code section
7 shall be guilty of a misdemeanor.

8 43-34-117.

9 (a) The provisions of Code Section 43-34-116 shall not apply to:

10 (1) A person licensed as a physician pursuant to Article 2 of this chapter;

11 (2) A person licensed under this title as a registered nurse first assistant or a licensed
12 physician's assistant if:

13 (A) Such person does not represent to the public, directly or indirectly, that such person
14 is licensed pursuant to this article and does not use any name, title, or designation
15 indicating that he or she is licensed pursuant to this article; and

16 (B) Such person limits his or her acts or practice to the scope of practice authorized by
17 the appropriate licensing agency.

18 (3) Any person performing surgical assisting who possesses appropriate training and
19 practices within the guidelines of the American Board of Surgical Assistants, the National
20 Association of Surgical Assistants, the Association of Surgical Technicians, or their
21 successors under the supervision of a surgical assistant licensed under this article or a
22 physician licensed under this chapter;

23 (4) A student enrolled in an accredited surgical assistant education program if the surgical
24 assisting services performed are:

25 (A) An integral part of the student's course of study; and

26 (B) Performed under the direct supervision of a licensed surgical assistant who is
27 assigned to supervise the student and is on duty and immediately available in the
28 assigned patient care area;

29 (5) The practice of any legally qualified surgical assistant employed by the United States
30 government while in the discharge of his or her official duties.

31 (b) Any person violating the prohibition of subsection (a) of this Code section shall be
32 guilty of a felony.

33 43-34-118.

34 (a) The board, in consultation with the advisory committee, may:

35 (1) Refuse to grant or renew licensure to an applicant;

1 (2) Administer a public or private reprimand, but a private reprimand shall not be
2 disclosed to any person except the license holder;

3 (3) Suspend the license of any license holder for a definite period or for an indefinite
4 period in connection with any condition that may be attached to the restoration of such
5 license;

6 (4) Limit or restrict any license as the board deems necessary for the protection of the
7 public;

8 (5) Revoke any license;

9 (6) Levy a fine; and

10 (7) Condition any penalty or withhold formal disposition of any matter pending the
11 applicant's or license holder's submission to such care, counseling, or treatment as the
12 board may direct.

13 (b) The board may take any action specified in subsection (a) of this Code section upon a
14 finding by the board that the license holder or applicant has:

15 (1) Failed to demonstrate the qualifications or standards for licensure contained in this
16 article or under the laws, rules, or regulations under which licensure is sought or held.

17 The applicant shall demonstrate to the satisfaction of the board that he or she meets all
18 the requirements for licensure and, if the board is not satisfied as to the applicant's
19 qualifications, it may deny licensure without a prior hearing; provided, however, that the
20 applicant shall be allowed to appear before the board if he or she so desires;

21 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
22 practice of a business or profession licensed under this article or on any document
23 connected therewith; practiced fraud or deceit or intentionally made any false statement
24 in obtaining licensure to practice a licensed business or profession; or made a false
25 statement or deceptive registration with the board;

26 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
27 of this state or any other state, territory, or country or in the courts of the United States.

28 As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall
29 include any offense which, if committed in this state, would be deemed a felony, without
30 regard to its designation elsewhere; and as used in this paragraph, the term 'conviction'
31 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
32 appeal of the conviction has been sought;

33 (4) Been arrested, charged, and sentenced for the commission of any felony or any crime
34 involving moral turpitude where:

35 (A) A plea of nolo contendere was entered to the charge;

36 (B) First offender treatment without adjudication of guilt pursuant to the charge was
37 granted; or

1 (C) An adjudication or sentence was otherwise withheld or not entered on the charge.
2 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
4 treatment shall be conclusive evidence of arrest and sentencing for such crime;
5 (5) Had his or her license under this article revoked, suspended, or annulled by any lawful
6 authority other than the board; had other disciplinary action taken against him or her by
7 any such lawful authority other than the board; or was refused the renewal of licensure
8 by any such lawful authority other than the board, pursuant to disciplinary proceedings;
9 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
10 or practice harmful to the public, which conduct or practice materially affects the fitness
11 of the license holder or applicant to practice a business or profession licensed under this
12 article, or of a nature likely to jeopardize the interest of the public, which conduct or
13 practice need not have resulted in actual injury to any person or be directly related to the
14 practice of the licensed business or profession but shows that the license holder or
15 applicant has committed any act or omission which is indicative of bad moral character
16 or untrustworthiness. Unprofessional conduct shall include any departure from, or the
17 failure to conform to, the minimal standards of acceptable and prevailing practice of the
18 business or profession licensed under this article;
19 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
20 encourages any unlicensed person or any license holder whose license has been
21 suspended or revoked by the board to engage in any practice outside the scope of any
22 disciplinary limitation placed upon the license holder by the board;
23 (8) Violated, without regard to whether the violation is criminally punishable, a statute,
24 law, or any rule or regulation of this state, any other state, the professional licensing
25 board regulating the business or profession licensed under this article, the United States,
26 or any other lawful authority, which statute, law, or rule or regulation related to or in part
27 regulates the practice of a business or profession licensed under this article, when the
28 license holder or applicant knows or should know that such action is in violation of such
29 statute, law, or rule; or violated a lawful order of the board previously entered by the
30 board in a disciplinary hearing, consent decree, or licensure reinstatement;
31 (9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or
32 outside this state. Any such adjudication shall automatically suspend the license of any
33 such person and shall prevent the re-issuance or renewal of any license so suspended for
34 as long as the adjudication of incompetence is in effect; or
35 (10) Displayed an inability to practice a business or profession licensed under this article
36 with reasonable skill and safety to the public or has become unable to practice such

1 licensed business or profession with reasonable skill and safety to the public by reason
2 of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material.

3 43-34-119.

4 The board shall appoint an advisory committee. The advisory committee shall be
5 representative of a cross section of the cultural backgrounds of the surgical assistants and
6 medical surgeons licensed under this chapter and such members as the board in its
7 discretion may determine. Members shall receive no compensation for service on the
8 committee. The committee shall have such advisory duties and responsibilities as the
9 board may determine. The initial members of the advisory committee may include persons
10 eligible for licensing under this article. Subsequent advisory committee members shall be
11 licensed pursuant to this article."

12 **SECTION 2.**

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