

Senate Bill 587

By: Senators Smith of the 52nd, Thomas of the 54th, Hill of the 32nd and Goggans of the 7th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide for the delegation of postoperative care for a patient who has undergone eye surgery;
3 to provide for definitions; to provide for comanagement agreements; to provide for
4 requirements for delegation; to provide for an affirmative defense; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
9 after Chapter 9A a new Chapter 9B to read as follows:

10 "CHAPTER 9B

11 31-9B-1.

12 As used in this chapter, the term:

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

14 (2) 'Ophthalmologist' means a physician who is licensed to practice medicine in this state
15 pursuant to Chapter 34 of Title 43 and who has completed a residency in ophthalmology
16 in an accredited program.

17 (3) 'Optometrist' means an individual who is licensed and registered to practice
18 optometry in this state pursuant to Chapter 30 of Title 43.

19 (4) 'Surgeon' means a surgeon licensed or authorized to practice under the laws of any
20 state.

21 31-9B-2.

22 (a) Except as provided in subsection (b) of this Code section, a surgeon who performs eye
23 surgery in this state shall be physically available to the patient for postoperative care in the

1 community in which the operation was performed for at least 48 hours after the surgery is
2 completed.

3 (b) A surgeon may delegate the responsibility for the first 48 hours of postoperative care
4 for a patient for whom the surgeon performed eye surgery in this state only by entering into
5 a comanagement agreement with an ophthalmologist or optometrist to provide such
6 postoperative care under the provisions of this Code section. A surgeon may delegate such
7 responsibility through a comanagement agreement that meets the requirements of this Code
8 section and the person to whom the responsibility is delegated is:

9 (1) An optometrist; or

10 (2) An ophthalmologist who:

11 (A) Holds a license or permit to practice medicine or osteopathy that was issued under
12 Chapter 34 of Title 43; or

13 (B) Is exempt from the license and permit requirements under Chapter 34 of Title 43.

14 (c) A comanagement agreement for postoperative care of a patient must meet the
15 following requirements:

16 (1) The agreement may be entered into only when:

17 (A) The distance the patient would have to travel to the regular office of the operating
18 surgeon would result in an unreasonable hardship for the patient, as determined by the
19 patient;

20 (B) The surgeon will not be available for postoperative care of the patient as a result
21 of the surgeon's personal travel, illness, travel to a rural area of the state for occasional
22 practice of medicine, or travel to an area of the state designated as a physician shortage
23 area by the board; or

24 (C) Other justifiable circumstances exist, as provided under regulations of the board;

25 (2) The agreement may not provide a fee to the person to whom the care is delegated that
26 does not reflect the fair market value of the services provided by the person;

27 (3) The agreement may be entered into only if the surgeon confirms that the person to
28 whom the care is delegated is qualified to treat the patient during the postoperative period
29 and is licensed or certified to provide the care if licensing or certification is required by
30 law;

31 (4) The agreement may not take effect unless there is a written statement in the surgeon's
32 file and in the files of the person to whom postoperative care is being delegated that is
33 signed by the patient in which the patient states the patient's consent to the
34 comanagement agreement and in which the patient acknowledges that the details of the
35 comanagement agreement have been explained to the extent required under paragraph (5)
36 of this subsection; and

1 (5) The details of the agreement shall be disclosed to the patient in writing before surgery
2 is performed. The disclosure required under this paragraph shall include:

3 (A) The reason for the delegation;

4 (B) The qualifications, including licensure or certification, of the person to whom the
5 care is delegated;

6 (C) The financial details about how the surgical fee will be divided between the
7 surgeon and the person who provides the postoperative care;

8 (D) A notice that, notwithstanding the delegation of care, the patient may receive
9 postoperative care from the surgeon at the patient's request without the payment of
10 additional fees;

11 (E) A statement that the surgeon will be ultimately responsible for the patient's care
12 until the patient is postoperatively stable;

13 (F) A statement that there is no fixed date on which the patient will be required to
14 return to the referring health care provider; and

15 (G) A description of special risks to the patient that may result from the comanagement
16 agreement.

17 (d) A surgeon may not enter into a comanagement agreement governed by this Code
18 section:

19 (1) Under which two more or physicians or optometrists agree to comanage patients of
20 the surgeon as a matter of routine policy rather than on a case-by-case basis;

21 (2) That is not clinically appropriate for the patient;

22 (3) That is made with the intent to induce surgical referrals; or

23 (4) That is based on economic considerations affecting the surgeon.

24 (e) An ophthalmologist or optometrist may not require, as a condition of making referrals
25 to a surgeon, that the surgeon must enter into a comanagement agreement with the
26 ophthalmologist or optometrist for the postoperative care of the patient who is referred.

27 (f) An ophthalmologist or optometrist to whom postoperative care is delegated under a
28 comanagement agreement governed by this Code section may not delegate the care to
29 another person, regardless of whether the other person is under the supervision of the
30 ophthalmologist or optometrist.

31 (g) It shall be an affirmative defense to a prosecution under this Code section or in a
32 disciplinary proceeding for violation of this Code section that the surgeon delegated
33 postoperative care of a patient because of unanticipated circumstances that were not
34 reasonably foreseeable by the surgeon before the surgery was performed."

35 SECTION 2.

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