

The House Committee on Regulated Industries offers the following substitute to
HB 938:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, acupuncture, physician assistants, and others, so as to provide for the licensing of surgical assistants; to provide for definitions; to provide for powers and responsibilities of the Composite State Board of Medical Examiners; to provide for licensing standards and requirements; to provide for the issuance of licenses and exceptions to licensure requirements; to provide for licenses and their duration, renewal, and filing; to provide for licensing of provisional licensed surgical assistants and standards and requirements relating thereto; to provide for sanctions; to provide for an advisory committee; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"ARTICLE 4A

43-34-110.

As used in this article, the term:

(1) 'Advisory committee' means the committee appointed pursuant to Code Section 43-34-117.

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

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

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

2 (5) 'Physician' means a person licensed to practice medicine under Article 2 of this
3 chapter.

4 (6) 'Provisional licensed surgical assistant' means a person provisionally licensed as such
5 pursuant to this article.

6 (7) 'Surgical assistant' means an allied health professional who, under the direction and
7 supervision of the surgeon, assists the surgeon in duties or procedures incidental to the
8 surgical procedure as deemed necessary. This includes, but is not limited to:

9 (A) Documenting patient medical history;

10 (B) Pre-operative verification of procedure and surgical site;

11 (C) Positioning and draping the patient for surgery;

12 (D) Cauterizing, clamping, or tying vessels to control bleeding;

13 (E) Keeping the operative site dry;

14 (F) Giving the surgeon the best possible exposure of the operative site by retracting
15 tissue or maintaining the field of vision as in laparoscopy;

16 (G) Possessing advanced knowledge of surgical instruments and equipment and
17 procedural techniques; and

18 (H) Closing incisions as well as cleaning and dressing wounds.

19 43-34-111.

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

22 (1) Determine the qualifications and fitness of applicants for licensure and renewal of
23 licensure;

24 (2) Adopt and revise rules consistent with the laws of this state that are necessary to
25 conduct its business, carry out its duties, and administer this article;

26 (3) Examine for, approve, issue, deny, revoke, suspend, sanction, and renew the licenses
27 of board applicants for licensure as licensed surgical assistants and provisional licensed
28 surgical assistants under this article and conduct hearings in connection with these
29 actions;

30 (4) Conduct hearings on complaints concerning violations of this article and the rules
31 adopted under this article and cause the prosecution and enjoinder of the violations;

32 (5) Establish application, examination, and licensure fees;

33 (6) Request and receive the assistance of state educational institutions or other state
34 agencies and prepare information of consumer interest describing the regulatory functions
35 of the board and the procedures by which consumer complaints are filed with and

resolved by the board. The board shall make the information available to the public and appropriate state agencies; and

(7) Establish education, examination, and continuing education requirements.

43-34-112.

(a) Each applicant for a license to practice as a licensed surgical assistant shall meet the following requirements:

(1) Be at least 21 years of age;

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

(3) Submit any fees required by the board;

(4) Have successfully completed a surgical assistant education program approved by the board;

(5) Pass a competency examination prepared or approved by the board and administered to qualified applicants, which examination may be or may include the complete examination given by the National Surgical Assistant Association, the Liaison Council on Certification for the Surgical Technologist, or the Association of Operating Room Nurses; and

(6) File a written application with the board on a form prescribed by the board and pay the application fee established by the board.

(b) To be eligible for a license, a person shall:

(1) Hold and maintain certification by one of the following:

(A) The National Surgical Assistant Association;

(B) The Liaison Council on Certification for the Surgical Technologist; or

(C) The Association of Operating Room Nurses; and

(2) Document one of the following:

(A) Graduation from a program approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP);

(B) Graduation from a United States military program that emphasizes surgical assisting; or

(C) Demonstrate to the satisfaction of the board the completion of full-time work experience performed in the United States under the direct supervision of a physician licensed in the United States and consisting of at least 1,300 hours of performance as a surgical assistant within the three years preceding the date of application.

1 43-34-113.

2 (a)(1) The board may grant a license to any person who is licensed, certified, or
3 registered and in good standing in another state that has standards at least as stringent as
4 those required pursuant to article.

5 (2) Applicants who are licensed, certified, or registered and in good standing in a state
6 that does not have standards at least as stringent as those required pursuant to this article
7 may request a waiver on the grounds that their experience and education meet the criteria
8 equivalent to the requirements of this article.

9 (b) A person is not required to hold a license under this Code section if such person is:

10 (1) A student enrolled in a surgical assistant education program approved by the board
11 who is assisting in a surgical operation that is an integral part of the program of study;

12 (2) A surgical assistant employed in the service of the federal government while
13 performing surgical assisting duties related to that employment; or

14 (3) A health care professional, licensed or certified in this state, acting within the scope
15 of the person's license.

16 (c) Prior to July 1, 2007, the board may issue a license as a surgical assistant to an
17 applicant who:

18 (1) Meets the requirements set forth in this article; and

19 (2) Provides documentation that the applicant has passed a surgical or first assistant
20 examination required for certification by any of the following:

21 (A) The National Surgical Assistant Association;

22 (B) The Liaison Council on Certification for the Surgical Technologist;

23 (C) The Association of Operating Room Nurses; or

24 (D) The American Board of Surgical Assistants,

25 provided that its examination meets the requirements set forth for education and training
26 as determined by the board.

27 43-34-114.

28 (a) A 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 by
30 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 shall maintain on file at all times during which the license holder
34 provides services in a health care facility a true and correct copy of the license certificate
35 in the appropriate records of the facility and keep the board informed of any change of
36 address.

1 (c) Each person licensed under this article shall be responsible for renewing his or her
2 license before the expiration date.

3 (d) If a person's license has been expired for not more than two years, such person may
4 renew the license by submitting proof, satisfactory to the board, of compliance with the
5 continuing professional education requirements prescribed by the board and pay any
6 penalty fee prescribed by the board.

7 (e) If a person's license has been expired for more than two years, such person may not
8 renew the license, except as provided for in subsection (f) of this Code section. Such person
9 may obtain a new license by submitting to reexamination and complying with the current
10 requirements and procedures for obtaining a license.

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

16 43-34-115.

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

21 (b) A provisional licensed surgical assistant shall be under the supervision and direction
22 of a licensed surgical assistant at all times during which the provisional licensed surgical
23 assistant performs medical duties in an operating room.

24 (c) A provisional license shall be valid for one year from the date it is issued and may be
25 renewed no more than one time by the same procedures established for the renewal of
26 licenses pursuant to this article.

27 (d) If a person fails any portion of the licensure examination, such person's provisional
28 license shall be automatically revoked.

29 43-34-116.

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

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

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

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

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

(5) Revoke any license;

(6) Levy a fine; or

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

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

(1) Failed to demonstrate the qualifications or standards for licensure contained in this article or under the laws, rules, or regulations under which licensure is sought or held. The applicant shall demonstrate to the satisfaction of the board that he or she meets all the requirements for licensure and, if the board is not satisfied as to the applicant's qualifications, it may deny licensure; provided, however, that the applicant shall be allowed to appear before the board if he or she so desires;

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

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States. As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and as used in this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

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

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

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

(C) An adjudication or sentence was otherwise withheld or not entered on the charge.

1 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
2 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
3 treatment shall be conclusive evidence of arrest and sentencing for such crime;

4 (5) Had his or her license under this article revoked, suspended, or annulled by any
5 lawful authority other than the board; had other disciplinary action taken against him or
6 her by any such lawful authority other than the board; or was refused the renewal of
7 licensure by any such lawful authority other than the board, pursuant to disciplinary
8 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 relates 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 regulation; or violated a lawful order of the board previously
30 entered by the 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 reissuance 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 43-34-117.

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
6 licensed under this article as the board in its discretion may determine. Members shall
7 receive no compensation for service on the committee. The committee shall have such
8 advisory duties and responsibilities as the board may determine. The initial members of the
9 advisory committee shall include persons eligible for licensure under this article.
10 Subsequent advisory committee members shall be licensed pursuant to this article."

11 **SECTION 2.**

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