

House Bill 108

By: Representatives Keown of the 173rd, Tumlin of the 38th, Freeman of the 140th, Setzler of the 35th, and Lane of the 167th

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 enact the "Patient Right to Participate Act"; to provide for
3 notice of hearings to patients whose care is the subject of a complaint and an opportunity to
4 participate in investigations and actions against a physician; to provide for related matters;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Patient Right to Participate Act."

9 **SECTION 2.**

10 Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
11 physicians, is amended in Code Section 43-34-37, relating to the authority of the Composite
12 Board of Medical Examiners to refuse to issue a license or to discipline a physician, by
13 adding a new subsection to the end of such Code section to read as follows:

14 "(k) In all disciplinary investigations and actions taken by the board in which a complaint
15 was made against a licensee, the board shall provide notice of the proceedings to the
16 licensee and to each patient whose care is the subject of the complaint or such patient's
17 authorized representative. The notice shall include the name of the licensee against whom
18 the complaint was made and the name of the patient whose care is the subject of the
19 complaint. The notice shall provide the licensee and patient, or patient's authorized
20 representative, an opportunity to provide oral or written testimony to the board. Testimony
21 provided by a licensee, patient, or patient's authorized representative must be considered
22 by the board and noted in the records of the proceedings."

SECTION 3.

Said article is further amended by revising Code Section 43-34-38, relating to prior notice and hearing in disciplinary proceedings, as follows:

"43-34-38.

(a) Proceedings before the board wherein a licensee's right to practice medicine in this state is terminated, suspended, or limited or wherein a public reprimand is administered shall require prior notice to the licensee and an opportunity for hearing; and such proceedings shall be considered contested cases within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Prior notice of the hearing shall also be provided to each patient or authorized representative of such patient whose care by the licensee is the subject of the proceedings. The hearing shall be open to participation by each patient or his or her authorized representative. Patient participation shall include an opportunity for each patient to provide oral or written testimony. The licensee shall be provided with the name of each patient who is given notice of the hearing.

(b) Neither refusal of a license nor a private reprimand shall be considered a contested case within the meaning of Chapter 13 of Title 50, and notice and hearing within the meaning of such chapter shall not be required; but the applicant physician shall be allowed to appear before the board if he or she so requests.

(c) The power to subpoena as set forth in Chapter 13 of Title 50 shall include the power to subpoena any book, writing, paper, or document.

(d) If any licensee fails to appear at any hearing after reasonable notice, the board may proceed to hear the evidence against such licensee and take action as if such licensee had been present."

SECTION 4.

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