

House Bill 1055 (AS PASSED HOUSE AND SENATE)

By: Representatives Williams of the 4th, Dickson of the 6th, Tumlin of the 38th, and Forster of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for revisions relating to various professional and business
3 licenses; to provide that a designee of the division director of the professional licensing
4 boards may sign and attest orders and processes; to increase regulatory protections for
5 consumers of accounting services; to provide definitions; to change a requirement for
6 certification as a certified public accountant; to change the registration requirements of firms
7 of certified public accountants; to provide for substantial equivalency when there is
8 reciprocity; to provide for certain permissions to use certain titles relating to certified public
9 accountants; to amend certain requirements relating to applications for certification as a
10 registered interior designer; to revise a definition relevant to athletic trainers without
11 expanding the scope of practice beyond the determination of an advising and consenting
12 physician; to revise provisions relating to the inspector at auctions; to provide for service of
13 documents and applications relating to geologists upon the division director at his or her
14 office; to revise provisions relating to regulation of private immigration assistance services;
15 to provide for definitions; to provide for certain powers for licensed immigration assistance
16 providers; to provide for penalties for violating provisions regarding licensure of immigration
17 assistance providers; to provide for certain application procedures; to provide for the
18 authority to investigate potential violations and for investigators to conduct such
19 investigations; to provide for the authority to perform certain adverse actions regarding
20 immigration assistance licenses; to provide for certain procedures regarding such adverse
21 actions; to provide for certain notice requirements; to repeal certain provisions relating to
22 license by reciprocity for massage therapists; to revise provisions relating to license by
23 endorsement for massage therapists; to provide for certain education and training
24 requirements satisfactory for the issuance of physical therapist licenses; to provide for
25 licensure by endorsement for physical therapists; to provide for the establishment of the
26 renewal period for expired licenses for veterinarians and veterinary technicians by the
27 division director; to provide for related matters; to provide for effective dates; to repeal
28 conflicting laws; and for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 **SECTION 1.**

3 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
4 is amended by revising subsection (b) of Code Section 43-1-3, relating to duties of division
5 director and serving notice or process on boards through the division director, as follows:

6 "(b) All orders and processes of the professional licensing boards shall be signed and
7 attested by the division director, or his or her designee, in the name of the particular
8 professional licensing board, with the seal of such board attached. Any notice or legal
9 process necessary to be served upon any of the professional licensing boards may be served
10 upon the division director."

11 **SECTION 2.**

12 Said title is further amended by revising Code Section 43-3-2, relating to definitions, as
13 follows:

14 "43-3-2.

15 As used in this chapter, the term:

16 (1) 'Attest' means providing the following financial statement services:

17 (A) Any audit or other engagement to be performed in accordance with the Statements
18 on Auditing Standards (SAS);

19 (B) Any review of a financial statement to be performed in accordance with the
20 Statements on Standards for Accounting and Review Services (SSARS); provided,
21 however, that nothing in this definition shall alter the rights of unlicensed accountants
22 contained in Code Section 43-3-36;

23 (C) Any examination of prospective financial information to be performed in
24 accordance with the Statements on Standards for Attestation Engagements (SSAE); and

25 (D) Any engagement to be performed in accordance with the auditing standards of the
26 Public Company Accounting Oversight Board.

27 The standards specified in this paragraph shall be adopted by reference by the board
28 pursuant to rule making and shall be those developed for general application by
29 recognized national accountancy organizations, such as the American Institute for
30 Certified Public Accountants and the Public Company Accounting Oversight Board.

31 ~~(1)~~(2) 'Board' means the State Board of Accountancy.

32 (3) 'Compilation' means providing a service to be performed in accordance with the
33 Statements on Standards for Accounting and Review Services that presents information
34 in the form of financial statements that are the representation of management or owners
35 without undertaking to express any assurance as to the statements.

1 (4) 'CPA' means certified public accountant.

2 ~~(2)~~(5) 'Firm' means any person, proprietorship, partnership, corporation, association, or
3 any other legal entity which practices public accountancy.

4 (6) 'Home office' means the location identified by the client as the address to which a
5 service described in paragraph (4) of subsection (b) of Code Section 43-3-24 is directed.

6 ~~(3)~~(7) 'Live permit' means a permit issued under Code Section 43-3-24 which is in full
7 force and effect.

8 (8) 'Practice of public accountancy' or 'practicing public accountancy' means offering to
9 perform or performing for a client one or more types of services involving the use of
10 accounting or auditing skills, one or more types of management advisory or consulting
11 services, or the preparation of tax returns or the furnishing of advice on tax matters while
12 holding oneself out in such manner as to state or imply that one is a licensee.

13 (9) 'Principal place of business' means the office location designated by the licensee for
14 purposes of substantial equivalency and reciprocity.

15 ~~(4)~~(10) 'State' means the District of Columbia and any state other than this state and any
16 territory or insular possession of the United States."

17 SECTION 3.

18 Said title is further amended by revising subparagraph (a)(3)(B) of Code Section 43-3-6,
19 relating to requirements for certificate of "certified public accountant" and disclosure of
20 commissions for sale of insurance or financial products, as follows:

21 "(B) ~~Two year's~~ One year of continuous experience in public accountancy immediately
22 preceding the date of application for the certificate or within a reasonable time prior to
23 the date of such application as provided by the board by rule, provided that the board
24 may promulgate rules stating certain circumstances which shall constitute acceptable
25 breaks in the continuity of said experience; and provided, further, that the board may
26 accept, in lieu of ~~both of such years~~ such year of experience in public accounting,
27 evidence satisfactory to it of ~~five years~~ one year of continuous employment in the
28 accounting field in industry, business, government, or college teaching; any
29 combination of the above; or any combination of the above and practice ~~in~~ of public
30 accountancy immediately preceding the date of application for the certificate or what
31 the board determines to be the equivalent thereof; and provided, further, that any person
32 certified as a certified public accountant under the laws of this state on July 1, 1977,
33 shall be deemed to have the experience in the practice of public accountancy required
34 by this subparagraph; and"

SECTION 4.

Said title is further amended by revising Code Section 43-3-21, relating to registration requirements for firms of certified public accountants, in its entirety as follows:

"43-3-21.

(a) The board shall grant or renew the registration of a firm practicing public accountancy to firms that meet the following requirements:

(1) Partners, members, or shareholders owning at least a simple majority of the financial interest and voting rights of the firm shall be certified public accountants of some state in good standing, except that such partners, members, or shareholders who are certified public accountants and whose principal place of business is in this state and who perform accounting services in this state must hold a live permit from this state. An individual who has practice privileges under subsection (b) of Code Section 43-3-24 who performs services for which a firm registration is required under paragraph (4) of subsection (b) of Code Section 43-3-24 shall not be required to obtain a certificate or live permit under this chapter;

(2) The firm shall be in compliance with all requirements and provisions of state law governing the organizational form of the firm in the state of the firm's principal place of business;

(3) The firm shall comply with all regulations pertaining to firms registered with the board;

(4) The resident manager of each office of the firm within this state in the practice of public accountancy shall be a certified public accountant of this state in good standing;

(5) Any firms that include nonlicensee owners shall comply with the following rules:

(A) The firm shall designate the holder of a live permit, or in the case of a firm which must register pursuant to subparagraph (b)(1)(C) of this Code section, a licensee of another state who meets the requirements set forth in subsection (b) of Code Section 43-3-24, who shall be responsible for the proper registration of the firm and shall identify that individual to the board;

(B) All nonlicensee owners shall be active individual participants in the firm or affiliated entities; and

(C) The firm shall comply with such other requirements as the board may impose by rule or regulation;

(6) Any holder of a live permit and any individual who qualifies for practice privileges under subsection (b) of Code Section 43-3-24 who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the competency requirements set out in the professional standards for such services; and

1 (7) Any holder of a live permit and any individual who qualifies for practice privileges
2 under subsection (b) of Code Section 43-3-24 who signs or authorizes someone to sign
3 the accountants' report on the financial statements on behalf of the firm shall meet the
4 competency requirements of subparagraph (6) of this subsection.

5 (b)(1) The following firms must register under this Code section:

6 (A) Any firm with an office in this state practicing public accountancy;

7 (B) Any firm with an office in this state that uses the title 'CPA' or 'CPA firm'; and

8 (C) Any firm that does not have an office in this state but performs any service
9 described in subparagraph (A), (C), or (D) of paragraph (1) of Code Section 43-3-2 for
10 a client having its home office in this state.

11 (2) A firm that does not have an office in this state may perform services described in
12 subparagraph (B) of paragraph (1) or paragraph (3) of Code Section 43-3-2 for a client
13 having its home office in this state, may practice public accountancy as authorized under
14 this Code section, and may use the title 'CPA' or 'CPA firm' without registering as
15 provided in this Code section only if:

16 (A) It meets the qualifications described in paragraph (1) of subsection (a) of this Code
17 section and it complies with the board's rules and regulations regarding peer review;
18 and

19 (B) It performs such services through an individual with practice privileges under
20 subsection (b) of Code Section 43-3-24.

21 (3) A firm that does not have an office in this state and that is not subject to the
22 requirements of subparagraph (C) of paragraph (1) of this subsection or paragraph (2) of
23 this subsection may perform other professional services included in the practice of public
24 accountancy while using the title 'CPA' or 'CPA firm' in this state without registering
25 under this Code section only if:

26 (A) It performs such services through an individual with practice privileges under
27 subsection (b) of Code Section 43-3-24; and

28 (B) It can lawfully perform such services in the state where said individuals with
29 practice privileges have their principal place of business.

30 (c) Each firm required to register under paragraph (1) of subsection (b) of this Code
31 section shall be registered biennially under this chapter with the board, provided that any
32 firm for which such requirement becomes effective between biennial reporting periods
33 shall register with the board within 60 days. Such a firm must show that all attest and
34 compilation services rendered in this state are under the supervision of a person holding a
35 live permit issued by this state or a person with practice privileges under subsection (b) of
36 Code Section 43-3-24. The board, by regulation, shall prescribe the procedure to be

1 followed in effecting such registration and the information which must be provided
2 regarding the firm and its practice.

3 (d) A registered firm shall file written notice to the board, within 60 days after the
4 occurrence of the opening of a new office or the closing or change of address of any of its
5 offices in this state. Each such office shall be under the supervision of a resident manager
6 who may be a partner, principal, shareholder, member, or a staff employee holding a live
7 permit.

8 (e) Neither the denial of a firm registration under this Code section nor the denial of the
9 renewal of a firm registration under Code Section 43-3-23 shall be considered to be a
10 contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative
11 Procedure Act.' Notice and hearing within the meaning of said Chapter 13 of Title 50 shall
12 not be required, but the applicant shall be allowed to appear before the board if he or she
13 requests."

14 SECTION 5.

15 Said title is further amended by revising Code Section 43-3-24, relating to issuance permits
16 to practice public accountancy and issuance of temporary permits to nonresidents, as follows:
17 "43-3-24.

18 (a) A permit to engage in the practice of public accountancy in this state shall be issued
19 by the division director, at the direction of the board, to each person who is certificated as
20 a certified public accountant under Code Sections 43-3-6 through 43-3-12 or registered as
21 a foreign accountant under Code Section 43-3-20 who shall have furnished evidence,
22 satisfactory to the board, of compliance with the requirements of Code Section 43-3-25,
23 and to individuals and firms registered under Code Section 43-3-21, provided that such
24 entities are maintained and registered as required under Code Sections 43-3-21 and
25 43-3-23. There shall be a biennial permit fee in an amount to be determined by the board.

26 ~~(b) For the purpose of enabling persons or firms licensed in other states to perform specific
27 professional engagements involving the practice of public accounting in this state, the
28 board shall grant temporary permits to practice to persons or firms who make application
29 and demonstrate their qualifications therefor in accordance with the following provisions:~~

30 ~~(1) An applicant for a temporary permit under this subsection shall show that he or she
31 is duly licensed and authorized to practice as a certified public accountant or as a firm of
32 certified public accountants or the equivalent in another state and shall give the name of
33 each person who will be engaged in the practice of public accounting in this state in the
34 performance of the professional engagement which is the subject of the application;~~

35 ~~(2) The board shall charge a fee for each application for issuance or renewal of a
36 temporary permit under this subsection, in an amount to be determined by the board by~~

1 rule, for each applicant and for each person who is to engage in the practice of public
2 accounting in this state under the permit;

3 ~~(3) A temporary permit issued under this Code section shall be limited to the single
4 specific professional engagement which is the occasion for the application for a permit;
5 it shall name each person who is to engage in the practice of public accounting in this
6 state pursuant to such engagement; and it shall be valid for no more than 90 days after its
7 issuance;~~

8 ~~(4) An application for a temporary permit under this subsection shall constitute the
9 appointment of the Secretary of State as the applicant's agent upon whom process may
10 be served in any action or proceeding against the applicant arising out of any transaction
11 or operation connected with or incidental to the performance of the professional
12 engagement for which the temporary permit was issued; and~~

13 ~~(5) No temporary permit shall be issued to, or with respect to the performance of services
14 by, any person who is a resident of this state.~~

15 (b) Individuals may practice based on a substantial equivalency practice privilege as
16 follows:

17 (1) An individual whose principal place of business is outside this state shall be
18 presumed to have qualifications substantially equivalent to this state's requirements, shall
19 have all the privileges of live permit holders of this state, and may practice public
20 accountancy in this state without the requirement to obtain a live permit, certificate, or
21 registration under this chapter or to otherwise notify or register with the board or pay any
22 fee if the individual:

23 (A) Holds a valid license as a certified public accountant from any state which
24 requires, as a condition of licensure, that an individual:

25 (i) Has at least 150 semester hours of college education including a baccalaureate or
26 higher degree conferred by a college or university;

27 (ii) Achieves a passing grade on the Uniform Certified Public Accountant
28 Examination; and

29 (iii) Possesses at least one year of experience, including providing any type of service
30 or advice involving the use of accounting, attest, compilation, management advisory,
31 financial advisory, tax, or consulting skills, which may be obtained through
32 government, industry, academic, or public practice all of which was verified by a
33 licensee; or

34 (B) Holds a valid license as a certified public accountant from any state which does not
35 meet the requirements of subparagraph (A) of this paragraph but such individual's
36 certified public accountant qualifications are substantially equivalent to those
37 requirements. Any individual who passed the Uniform Certified Public Accountant

1 Examination and holds a valid license issued by any other state prior to January 1,
2 2012, may be exempt from the education requirement in division (1)(A)(i) of this
3 subsection for purposes of this subparagraph;

4 (2) Notwithstanding any other provision of law, an individual who offers or renders
5 professional services, whether in person or by mail, telephone, or electronic means, under
6 this Code section shall be granted practice privileges in this state and no notice, fee, or
7 other submission shall be provided by any such individual. Such an individual shall be
8 subject to the requirements of paragraph (3) of this subsection;

9 (3) An individual licensee of another state exercising the privilege afforded under this
10 subsection, and the firm that employs that individual, shall simultaneously consent, as a
11 condition of exercising this privilege;

12 (A) To the personal and subject matter jurisdiction and disciplinary authority of the
13 board;

14 (B) To comply with the provisions of this chapter and the board's rules and
15 regulations;

16 (C) That in the event the license from the state of the individual's principal place of
17 business is no longer valid, the individual shall cease offering or rendering professional
18 services in this state individually and on behalf of a firm; and

19 (D) To the appointment of the state board that issued the individual's license as the
20 individual's agent upon whom process may be served in any action or proceeding by
21 this state's board against the individual;

22 (4) An individual who qualifies for the practice privilege under this Code section who,
23 for any entity with its home office in this state, performs any service under subparagraph
24 (A), (C), or (D) of paragraph (1) of Code Section 43-3-2 may do so only through a firm
25 that has registered with the board under Code Section 43-3-21; and

26 (5) An individual qualifying for the practice privilege under paragraph (1) of this
27 subsection may provide expert witness services in this state and shall be deemed to be in
28 compliance with paragraph (1) of subsection (c) of Code Section 24-9-67.1 for purposes
29 of such services.

30 (c) Subsection (b) of this Code section shall not be applied or construed to permit an
31 individual to engage in the practice of public accountancy in this state based on a
32 substantial equivalency privilege unless such individual holds a valid license as a certified
33 public accountant in a state which grants similar reciprocity to license holders in this state."

SECTION 6.

Said title is further amended by revising subsection (a) of Code Section 43-3-28, relating to revocation, suspension, or refusal to renew certificate, registration, or permits, as follows:

"(a) After notice and hearing as provided in Code Section 43-3-30, the board may revoke or suspend any certification issued under Code Sections 43-3-6 through 43-3-12 or a registration issued under Code Section 43-3-20 or may revoke, suspend, or refuse to renew any live permit or may censure the holder of any such permit, or may forbid an individual from exercising the substantial equivalency practice privilege, for any cause which the board may deem sufficient, including, without limiting the generality of the foregoing, any one or any combination of the following causes:

(1) Violation of any rule, regulation, or order promulgated by the board in accordance with this chapter;

(2) Fraud or deceit in obtaining certification as a certified public accountant or registration as a public accountant, in obtaining registration under this chapter, or in obtaining a live permit;

(3) Violation of any of the provisions of Code Section 43-3-35 or any other Code section of this chapter;

(4) Dishonesty, fraud, or gross negligence in the practice of public accountancy;

(5) Commission of a felony under the laws of any state or of the United States;

(6) Commission of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States;

(7) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or as a public accountant by any other state for any cause other than voluntary withdrawal or failure to pay an annual registration fee in such other state;

(8) Suspension or revocation of the right to practice before any state or federal agency;

(9) Failure to furnish evidence of satisfaction of requirements of continuing professional education as required by the board pursuant to Code Section 43-3-25 or to meet any conditions with respect to continuing professional education which the board may have ordered under that Code section;

(10) Conduct which discredits the accounting profession; or

(11) Failure of such holder's firm to register or renew its registration under Code Sections 43-3-21 and 43-3-23 or the failure of such firm to comply with any of the provisions of Code Section 43-3-23."

SECTION 7.

Said title is further amended by revising subsection (c) of Code Section 43-3-30, relating to adjudicative hearings before the board, as follows:

"(c) Before the board shall revoke or suspend a permit, certificate, ~~or registration,~~ or practice privilege, it shall provide for a hearing for the holder of such permit, certificate, ~~or registration,~~ or practice privilege in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any person who has exhausted all administrative remedies available within this chapter and who is aggrieved by a final decision in a contested case is entitled to judicial review in accordance with Chapter 13 of Title 50."

SECTION 8.

Said title is further amended by revising Code Section 43-3-31, relating to reinstatement of certification or registration and modification of suspension of permit, as follows:

"43-3-31.

Upon written application after a hearing pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the board may recertificate a certified public accountant or reregister a ~~public accountant~~ or foreign accountant whose certification or registration has been revoked or may reissue or modify the suspension of a live permit or practice privilege which has been revoked or suspended."

SECTION 9.

Said title is further amended by revising Code Section 43-3-34, relating to holding oneself to be a licensed certified public accountant or public accountant and single prohibited acts as grounds for injunction or conviction, as follows:

"43-3-34.

The display or uttering by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device bearing a person's name in conjunction with the words 'certified public accountant' or any abbreviation thereof, or 'public accountant' or any abbreviation thereof shall be prima-facie evidence in any action brought under Code Section 43-3-33 or 43-3-38 that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement, or other printed, engraved, or written instrument or device and that such person is holding himself or herself out to be a certified public accountant or a public accountant holding a live permit or otherwise claims to be qualified to use such title by virtue of the substantial equivalency practice privilege under subsection (b) of Code Section 43-3-24 or of the firm practice provisions of subsection (b) of Code Section 43-3-21. In any such action, evidence of the commission

1 of a single act prohibited by this chapter shall be sufficient to justify an injunction or a
 2 conviction without evidence of a general course of conduct."

3 **SECTION 10.**

4 Said title is further amended by revising Code Section 43-3-35, relating to the use of titles
 5 or devices, false or fraudulent claims, and regulation of solicitation of employment, by
 6 adding two new subsections to read as follows:

7 "(h) It shall not be a violation of this Code section or chapter for an individual who does
 8 not hold a live permit under this chapter but who qualifies for the substantial equivalency
 9 practice privilege under subsection (b) of Code Section 43-3-24 to use the title or
 10 designation 'certified public accountant' or 'C.P.A.' or other titles to indicate that the person
 11 is a certified public accountant, and such individual may provide professional services in
 12 this state with the same privileges as a live permit holder so long as the individual complies
 13 with paragraph (4) of subsection (b) of Code Section 43-3-24.

14 (i) It shall not be a violation of this Code section or chapter for a firm that has not
 15 registered with the board or obtained a live permit under this chapter and that does not have
 16 an office in this state to use the title or designation 'certified public accountant' or 'C.P.A.'
 17 or other titles to indicate that the firm is composed of certified public accountants, and such
 18 firm may provide professional services in this state with the same privileges as a registered
 19 firm with a live permit so long as it complies with subsection (b) of Code Section 43-3-21."

20 **SECTION 11.**

21 Said title is further amended by revising paragraph (5) of subsection (b) of Code Section
 22 43-4-32, relating to applications for certificates of registration, requirements, term of
 23 certificates, and renewal relative to registered interior designers, as follows:

24 "(5) Except as otherwise provided in subsection (c) of this Code section, provides proof
 25 that the applicant has acquired a minimum four-year degree or first professional degree
 26 conferred by a college or university whose program is accredited by the National
 27 Architectural Accrediting Board or by another national or regional accrediting
 28 organization recognized by the board in a program of study in architecture or in a
 29 program of study in interior design approved by the ~~Foundation for Interior Design~~
 30 Research Council for Interior Design Accreditation or in a substantially equivalent
 31 program of study approved by the board."

32 **SECTION 12.**

33 Said title is further amended by revising Code Section 43-5-1, relating to definitions relevant
 34 to athletic trainers, as follows:

1 "43-5-1.

2 (1) 'Athletic injury' means any injury sustained by a person as a result of such person's
 3 participation in exercises, sports, games, or ~~recreation~~ recreational activities, or any
 4 activities requiring physical strength, agility, flexibility, range of motion, speed, or
 5 stamina ~~or any comparable injury which prevents such person from participating in such~~
 6 activities without respect to where or how the injury occurs. Nothing in this paragraph
 7 shall be construed to expand the scope of practice of an athletic trainer beyond the
 8 determination of the advising and consenting physician as provided for in paragraph (2)
 9 of this Code section.

10 (2) 'Athletic trainer' means a person with specific qualifications, as set forth in Code
 11 Sections 43-5-7 and 43-5-8 who, upon the advice and consent of a physician, carries out
 12 the practice of prevention, recognition, evaluation, management, disposition, treatment,
 13 or rehabilitation of athletic injuries; and, in carrying out these functions, the athletic
 14 trainer is authorized to use physical modalities, such as heat, light, sound, cold,
 15 electricity, or mechanical devices related to prevention, recognition, evaluation,
 16 management, disposition, rehabilitation, and treatment. Nothing in this Code section shall
 17 be construed to require licensure of elementary or secondary school teachers, coaches,
 18 or authorized volunteers who do not hold themselves out to the public as athletic trainers.

19 (3) 'Board' means the Georgia Board of Athletic Trainers."

20 SECTION 13.

21 Said title is further amended by revising Code Section 43-6-18.1, relating to inspector at
 22 auctions, as follows:

23 "43-6-18.1.

24 The commission shall have ~~a full-time~~ an inspector with full inspection rights and
 25 privileges for all auctions conducted in this state. This inspector shall have the right to
 26 inspect any activity or lack thereof which may be a violation of this chapter or any
 27 documents or records pertaining to auction activities and to report any and all such
 28 violations or any improper or unlicensed practice, including but not limited to trust account
 29 violations."

30 SECTION 14.

31 Said title is further amended by revising Code Section 43-19-7, relating to service of appeals,
 32 documents, and legal process on division director relative to geologists, as follows:

1 "43-19-7.

2 All appeals from a decision of the board, all documents or applications required by law to
3 be filed with the board, and any notice or legal process to be served upon the board shall
4 be filed with or served upon the division director at his or her office ~~in Atlanta.~~"

5 **SECTION 15.**

6 Said title is further amended by revising Chapter 20A, relating to regulation of private
7 immigration assistance services, in its entirety as follows:

8 "CHAPTER 20A

9 43-20A-1.

10 This chapter shall be known and may be cited as the 'Registration of Immigration
11 Assistance Act.'

12 43-20A-2.

13 As used in this chapter, the term:

14 (1) 'Advertise' or 'advertising' means any communication, written or otherwise, produced
15 or caused to be produced by a person licensed pursuant to this chapter promoting the
16 goods or services regulated by this chapter.

17 (2) 'Alien' means any person not a citizen of the United States.

18 (3) 'Application' means any forms, documents, and information required pursuant to this
19 chapter that applicants are required to file with the Secretary of State.

20 (4) 'Client' shall mean any person seeking immigration assistance.

21 (5) 'Compensation' means money, property, services, promise of payment, or any other
22 consideration or anything of value.

23 (6) 'Immigrant' means every alien with the exception of an alien within a class of
24 nonimmigrant aliens as defined in 8 U.S.C.A. Section 1101(a)(15).

25 (7) 'Immigration assistance' means any service provided to clients for compensation
26 related to immigration matters, but shall not include legal advice, recommending a
27 specific course of legal action, or providing any other assistance that requires legal
28 analysis, legal judgment, or the interpretation of the law.

29 (8) 'Immigration assistance provider' means any person who is licensed to provide
30 immigration assistance pursuant to this chapter.

31 (9) 'Immigration matter' means any proceeding, filing, or action affecting the
32 nonimmigrant, immigrant, or citizenship status of any person that arises under:

1 (A) Immigration and naturalization law, executive order, or presidential proclamation
2 of the United States or any foreign country; or

3 (B) Action of the United States Department of Labor, the United States Department of
4 State, the United States Department of Homeland Security, or the United States
5 Department of Justice.

6 (10) 'Nonimmigrant' means any alien within a class of nonimmigrant aliens as defined
7 in 8 U.S.C.A. Section 1101(a)(15).

8 (11) 'Order' means, but is not limited to, an administrative order issued under the
9 provisions of this chapter or a similar order issued by a court of competent jurisdiction,
10 any federal, foreign, or state agency, or a self-regulatory organization that makes a
11 finding that the provisions of this chapter have been violated and sanctions administered.

12 (12) 'Person' means any individual, partnership, corporation, association, or private
13 organization of any character, but not a governmental entity of any kind.

14 43-20A-3.

15 The purpose and intent of this chapter is to establish and enforce standards of ethics in the
16 profession of immigration assistance by private individuals who are not exempted by this
17 chapter. This chapter shall be administered and enforced by the Secretary of State. The
18 Secretary of State may delegate such of his or her powers or duties under this chapter as
19 he or she desires to a division director in his or her office. With respect to the enforcement
20 of this chapter, the Secretary of State shall retain all powers and duties and may perform
21 all functions of the licensing boards as provided in Chapter 1 of this title.

22 43-20A-4.

23 (a) A person shall not provide immigration assistance in this state without holding a
24 license issued pursuant to this chapter as an immigration assistance provider.

25 (b) Any person desiring to be licensed as an immigration assistance provider shall file an
26 application for such license with the Secretary of State. All original and subsequent
27 applications filed with the Secretary of State shall be upon such form and in such detail as
28 the Secretary of State shall prescribe, setting forth the following:

29 (1) The name and address of the applicant or the name under which he or she intends to
30 conduct business and, if the applicant is a partnership or limited liability company, the
31 name and residence address of each member thereof and the name under which the
32 partnership or limited liability company business is to be conducted and, if the applicant
33 is a corporation, the name and address of each of its principal officers;

34 (2) The place or places, including the city with the street and street number, if any, where
35 the business is to be conducted; and

1 (3) Such other information as the Secretary of State shall require.

2 (c) Notwithstanding any provision of Article 4 of Chapter 18 of Title 50 to the contrary,
3 all applications, including supporting documents and other personal information submitted
4 by applicants and licensees as part of an application filed with the Secretary of State, shall
5 be confidential. The Secretary of State shall deem as public records the following
6 information and shall make such information reasonably available for inspection by the
7 general public: a licensee's name, license number and status, business name, business
8 address, business telephone number, type of license held, and term of license; the fact that
9 a licensee has or has not received a disciplinary sanction; and such other information
10 pertaining to the license of a licensee as the Secretary of State may determine by rule.

11 (d) No person shall be granted a license as an immigration assistance provider unless such
12 person:

13 (1) Is 18 years of age or older;

14 (2) Is a United States citizen or holds a valid legal immigration status pursuant to federal
15 law;

16 (3) Provides a criminal background report and, within the five-year period preceding the
17 date of the application, has no criminal convictions, other than traffic violations;

18 (4) Completes and submits an application;

19 (5) Provides proof of a \$5,000.00 performance bond issued in a form acceptable to the
20 Secretary of State by a bonding company licensed to conduct bonding business in the
21 State of Georgia; and

22 (6) If an applicant intends to provide services which shall require him or her to control
23 the legal funds of a client seeking immigration assistance, provides a financial statement
24 for the current fiscal year.

25 (e) The Secretary of State shall establish an appropriate procedure for the acceptance and
26 review of applications submitted pursuant to subsection (b) of this Code section.

27 (f) All immigration assistance providers holding licenses in good standing shall be eligible
28 for the renewal of such license pursuant to procedures established by the Secretary of State.
29 In the event a licensee fails to renew his or her license, such license shall be automatically
30 revoked.

31 43-20A-5.

32 (a) An immigration assistance provider licensee may perform the following services as
33 immigration assistance:

34 (1) Completing a government agency form on behalf of the client and appropriate to the
35 client's needs;

1 (2) Transcribing responses to a government agency form which is related to an
2 immigration matter; provided, however, that advice shall not be offered to a client as to
3 his or her answers on such forms;

4 (3) Translating information on forms to a client and translating the client's answers to
5 questions posed on such forms;

6 (4) Securing for the client supporting documents currently in existence, such as birth and
7 marriage certificates, which may be needed to be submitted with government agency
8 forms;

9 (5) Notarizing signatures on government agency forms, provided that the person
10 performing the service is a notary public commissioned in the State of Georgia and is
11 lawfully present in the United States;

12 (6) Preparing or arranging for the preparation of photographs and fingerprints;

13 (7) Arranging for the performance of medical testing (including X-rays and AIDS tests)
14 and the obtaining of reports of such test results; and

15 (8) Performing such other services that the Secretary of State determines by rule may be
16 appropriately performed by such licensees in light of the purposes of this chapter.

17 (b) A contract to provide any service in conjunction with immigration assistance shall
18 clearly state the obligations of the immigration assistance provider and the client who is to
19 receive such service.

20 43-20A-6.

21 (a) The following persons are exempt from this chapter:

22 (1) An attorney licensed to practice law in Georgia or an attorney licensed to practice law
23 in any other state or territory of the United States or in any foreign country when acting
24 with the approval of a judge having lawful jurisdiction over the matter;

25 (2) A legal intern, clerk, paralegal, or person in a similar position employed or
26 independently contracted by and under the direct supervision of a licensed attorney
27 meeting the requirements in paragraph (1) of this subsection and rendering immigration
28 assistance in the course of employment;

29 (3) A not for profit organization recognized by the Board of Immigration Appeals under
30 8 C.F.R. 292.2(a) and employees of such organizations accredited under 8 C.F.R.
31 292.2(d); and

32 (4) Any person employing or desiring to employ an alien or nonimmigrant alien, where
33 the organization, its employees, or its agents provide nonlegal advice in conjunction with
34 immigration assistance in immigration matters to alien or nonimmigrant alien employees
35 or potential employees without compensation from the individuals to whom such
36 nonlegal advice in conjunction with immigration assistance is provided.

1 (b) Any person who provides or offers immigration assistance and is not exempted
2 pursuant to this Code section shall post signs at his or her place of business setting forth
3 information in English and in every other language in which the person provides or offers
4 to provide immigration assistance. Each language shall be on a separate sign. Signs shall
5 be posted in a location where the signs will be visible to clients. Each sign shall be at least
6 12 inches by 17 inches and shall contain the following statement:

7 'I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE
8 LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.'

9 (c) Every person engaged in immigration assistance that is not an attorney and that
10 advertises immigration assistance in a language other than English shall include
11 conspicuously in such advertisement the following notice in English and the language in
12 which the advertisement appears: 'I AM NOT AN ATTORNEY LICENSED TO
13 PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR
14 LEGAL ADVICE.' If such advertisement is by radio or television, the statement may be
15 modified but shall include substantially the same message.

16 (d) Any person who provides or offers immigration assistance that is not exempted
17 pursuant to this Code section shall not, in any document identifying such person as an
18 immigration assistance provider, translate from English into another language terms or
19 titles including, but not limited to, notary public, notary, licensed, attorney, lawyer, or any
20 other term that implies the person is an attorney.

21 (e) A person engaged in providing immigration assistance that is not exempted pursuant
22 this Code section as a licensed attorney shall not:

23 (1) Refuse to return documents supplied by, prepared on behalf of, or paid for by the
24 client upon the request of the client. Such documents shall be returned upon request even
25 if there is a fee dispute between such person and the client;

26 (2) Represent or advertise, in conjunction with immigration assistance, other titles or
27 credentials, including but not limited to 'notary public' or 'immigration consultant,' that
28 could cause a client to believe that the person possesses special professional skills or is
29 authorized to provide advice on an immigration matter; provided, however, that a
30 certified notary public may use the term 'notary public' if the use is accompanied by the
31 statement that the person is not an attorney and the term 'notary public' is not translated
32 to another language; or

33 (3) Provide materially false or misleading information in an application for licensure or
34 renewal of a license.

1 43-20A-7.

2 (a) The Secretary of State may assess civil penalties against any individual or entity that
3 he or she finds to have violated this chapter in an amount of up to \$1,000.00 per violation
4 not to exceed \$50,000.00. A civil penalty assessed pursuant to this Code section shall be
5 in addition to any other appropriate civil or criminal penalties.

6 (b) Any person that suffers injuries or damages as a result of the unlawful practice of
7 immigration assistance shall have a cause of action against the person or entity that
8 provided the unlawful immigration assistance.

9 (c) The Secretary of State shall issue rules and regulations not inconsistent with this
10 chapter for the implementation, administration, and enforcement of this chapter.

11 43-20A-8.

12 (a) The Secretary of State shall maintain all documents filed with the Secretary of State
13 pursuant to this chapter in their original form or by copy.

14 (b) All documents filed with the Secretary of State pursuant to a subpoena, an order, or a
15 notice to produce issued by the Secretary of State or any records or documents produced
16 relating to an investigation pursuant to Code Section 43-20A-15 may be destroyed by order
17 of the Secretary of State once the investigative file is closed, if a demand for return is not
18 made by the person producing such records at the time he, she, or it produces the records.

19 (c) Any reproduction of any original writing or record filed with, or maintained by, the
20 Secretary of State, or other filing depository designated by the Secretary of State, shall be
21 deemed to have been made in the regular course of business. Such reproduction shall be
22 subject to certification.

23 (d) All immigration assistance providers who are licensed or required to be licensed with
24 the Secretary of State shall preserve records documenting compliance pursuant to this
25 chapter for at least three years from the date such records were produced. Immigration
26 assistance providers shall preserve client records that contain certain necessary information
27 in a manner to be determined by the Secretary of State. Such records shall be subject to
28 reasonable periodic or special inspections by the Secretary of State. An inspection may be
29 made at any time and without prior notice. The Secretary of State may copy and remove
30 any record the Secretary of State reasonably considers necessary or appropriate to conduct
31 the inspection.

32 43-20A-9.

33 (a) Any immigration assistance provider shall report in writing immediately to the
34 Secretary of State if:

1 (1) He or she has been made or is the subject of any disciplinary, administrative, civil,
2 or criminal action; and

3 (2) He or she has been served in any civil complaint or arbitration filed alleging fraud
4 or any violation of any local, state, or federal law.

5 (b) The immigration assistance provider shall provide to the Secretary of State a copy of
6 any notice, order, pleading, indictment, accusation, or similar legal document relating to
7 an action subject to subsection (a) of this Code section that he or she has in his or her
8 possession.

9 43-20A-10.

10 The Secretary of State shall be authorized to charge a license fee, license renewal fee, or
11 similar fee and may establish the amount of the fee to be charged. Each fee shall be
12 reasonable and shall be determined in such a manner that the total amount of fees charged
13 by the Secretary of State shall approximate the total of the direct and indirect costs to the
14 state of the operations involved in the issuance of a license. Fees may be refunded for good
15 cause, as determined by the Secretary of State.

16 43-20A-11.

17 Should material events or developments occur after a person has been granted a license
18 pursuant to this chapter, such person shall amend the license application submitted pursuant
19 to Code Section 43-20A-4 by adding statements of fact that developed, or became known,
20 after the effective date of such application and by deleting statements of fact that, because
21 of such developments, may be misleading. Such additions and deletions shall be filed with
22 the Secretary of State not more than 30 days after their occurrence.

23 43-20A-12.

24 (a) As used in this Code section, the term 'service member' means an active duty member
25 of the regular or reserve component of the United States armed forces, the United States
26 Coast Guard, the Georgia National Guard, or the Georgia Air National Guard on ordered
27 federal duty for a period of 90 days or longer.

28 (b) Any service member whose license issued pursuant to this chapter expires while such
29 service member is serving on active duty outside the state shall be permitted to practice as
30 an immigration assistance provider in accordance with such expired license and shall not
31 be charged with a violation of this chapter related to practicing as an immigration
32 assistance provider with an expired license for a period of six months from the date of his
33 or her discharge from active duty or reassignment to a location within the state. Any such
34 service member shall be entitled to renew such expired license without penalty within six

1 months after the date of his or her discharge from active duty or reassignment to a location
2 within the state. Such service member shall present to the Secretary of State either a copy
3 of the official military orders or a written verification signed by the service member's
4 commanding officer in order for the Secretary of State to waive any charges.

5 43-20A-13.

6 For the purposes of investigating violations of this chapter, the Secretary of State shall be
7 authorized to employ investigators pursuant to Code Section 43-1-5.

8 43-20A-14.

9 Notwithstanding the provisions of Code Section 43-1-19, the Secretary of State shall be
10 authorized to provide to any lawful licensing authority of this or any other state, upon
11 inquiry by such authority, information regarding a past or pending investigation of or
12 disciplinary sanction against any applicant for licensure. Nothing in this chapter shall be
13 construed to prohibit or limit the authority of the Secretary of State to disclose to any
14 person or entity information concerning the existence of any investigation for unlicensed
15 practice being conducted against any person who is neither licensed nor an applicant for
16 licensure.

17 43-20A-15.

18 (a) The Secretary of State shall be authorized to issue a formal order of investigation.
19 Such order shall commence an investigation to determine whether any person is in
20 violation of this chapter or to aid in the enforcement of this chapter.

21 (b) The Secretary of State shall be authorized to take any administrative action authorized
22 by law to enforce the provisions of this chapter. The Secretary of State shall be authorized
23 to transmit a civil or criminal referral investigative report and evidence of violations of this
24 chapter to any prosecuting attorney or to the Attorney General, who may, at his or her
25 individual discretion, institute any necessary civil or criminal proceedings.

26 (c) Notwithstanding any other provision of this chapter, an emergency order pursuant to
27 this Code section shall be effective on the date of issuance, provided that:

28 (1) The Secretary of State deems that the public health, safety, or welfare imperatively
29 requires emergency action and incorporates a finding to that effect in the emergency
30 order, in which case the order may be effective immediately pending proceedings, which
31 shall be promptly instituted; or

32 (2) The order is expressly required, by a judgment or a statute, to be made without the
33 right to a hearing or continuance of any type.

1 (d) Upon issuance of the notice and proposed order, pursuant to this Code section, the
2 Secretary of State shall promptly serve each person subject to the order with a copy of the
3 notice and proposed order. The order shall include a statement of any administrative
4 sanctions that the Secretary of State will seek, a statement of the reasons for the order, and
5 notice that, upon the request by any respondent named in the emergency order, a hearing
6 will be promptly scheduled pursuant to the provisions of Code Sections 50-13-18 and
7 50-13-41. Hearings shall be conducted by the Office of State Administrative Hearings
8 pursuant to Chapter 13 of Title 50. If a person subject to the order does not request from
9 the Office of State Administrative Hearings a hearing within 30 days after the date of
10 service of the notice and proposed order, the order shall become final as to that person by
11 operation of law. If any person subject to the emergency order requests a hearing, or is
12 ordered by the Secretary of State, after notice and opportunity for hearing has been served
13 upon each person subject to the emergency order, the Secretary of State may modify,
14 vacate, or extend the emergency order any time prior to a final determination.

15 43-20A-16.

16 (a) The Secretary of State shall order the discipline, denial, suspension, or revocation of
17 license issued pursuant to this chapter, if the Secretary of State finds that the order is in the
18 public interest and that such person:

19 (1) Has filed an application for licensure with the Secretary of State which, as of its
20 effective date or any date after filing in the case of an order denying effectiveness,
21 contained a statement that was, in light of the circumstances under which it was made,
22 false with respect to a material fact in the application;

23 (2) Has violated or failed to comply with any provisions of this chapter;

24 (3) Is the subject of an adjudication or determination, after notice and opportunity for
25 hearing, within the last five years by any government agency or administrator of another
26 state or a court of competent jurisdiction that the person has willfully violated the law of
27 another state, but only if the acts constituting the violation of that state's law would
28 constitute a violation of this chapter had the acts occurred in this state;

29 (4) Has been convicted of any felony in the courts of this state or any other state,
30 territory, or country or in the courts of the United States; as used in this paragraph and
31 paragraph (5) of this subsection, the term 'felony' shall include any offense which, if
32 committed in this state, would be deemed a felony, without regard to its designation
33 elsewhere; and, as used in this paragraph, the term 'conviction' shall include a finding or
34 verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has
35 been sought;

1 (5) Within the last ten years has been convicted of a felony or misdemeanor involving
2 moral turpitude in the courts of this state or any other state, territory, or country or in the
3 courts of the United States, the record of conviction being conclusive evidence of
4 conviction, which the Secretary of State finds:

5 (A) Involves the taking of a false oath, the making of a false report, bribery, perjury,
6 burglary, or conspiracy to commit any of the foregoing offenses;

7 (B) Arises out of the conduct of immigration assistance; or

8 (C) Involves the theft, robbery, extortion, forgery, counterfeiting, fraudulent
9 concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

10 (6) Is the subject of an order of the Secretary of State that denies, suspends, or revokes
11 a license from such person other than a license issued pursuant to this chapter;

12 (7) Is the subject of any of the following orders which are effective at the time of the
13 Secretary of State's order and were issued within five years before the Secretary of
14 State's order:

15 (A) An order by an agency or administrator of another state, a foreign country, or the
16 federal government, entered after notice and opportunity for hearing, that denies,
17 suspends, or revokes a license from such person other than a license issued pursuant to
18 this chapter;

19 (B) A United States Postal Service fraud order; or

20 (C) A cease and desist order entered after notice and opportunity for hearing by the
21 Secretary of State or other state or federal authority;

22 (8) Is determined by the Secretary of State not to be qualified pursuant to this chapter;

23 (9) Violated or conspired to violate this chapter;

24 (10) Engaged in conduct that significantly adversely reflects on the applicant's
25 credibility, honesty, or integrity;

26 (11) Has failed to cure any application deficiency within 30 days after being notified by
27 the Secretary of State of a deficiency, but the Secretary of State shall vacate an order
28 pursuant to this paragraph when the deficiency is corrected, unless the applicant has
29 abandoned the application;

30 (12) Has failed to comply with an order for child support as defined by Code Section
31 19-11-9.3. Notwithstanding the provisions of Chapter 13 of Title 50, the hearings and
32 appeals procedures provided in Code Section 19-6-28.1 or 19-11-9.3, where applicable,
33 shall be the only such procedures required under this subsection; or

34 (13) Has been found by the Secretary of State pursuant to notice by the Georgia Higher
35 Education Assistance Corporation that the applicant for or holder of such license is a
36 borrower in default who is not in satisfactory repayment status as defined in Code Section
37 20-3-295. Notwithstanding the provisions of Chapter 13 of Title 50, the hearings and

1 appeals procedures provided in Code Section 20-3-295, where applicable, shall be the
2 only such procedures required under this subsection.

3 (b) Prior to issuing an order pursuant to subsection (a) of this Code section, the Secretary
4 of State shall consider:

- 5 (1) How recently the conduct occurred;
- 6 (2) The nature of the conduct and the context in which it occurred;
- 7 (3) The degree of harm imposed upon others; and
- 8 (4) Any other relevant conduct of the applicant.

9 (c) If the Secretary of State determines that a licensee is no longer in existence or acting
10 as an immigration assistance provider, the subject of an adjudication of incapacity, subject
11 to the control of a trustee, conservator, or guardian, or cannot reasonably be located, the
12 Secretary of State may issue an order that cancels or terminates the license. The Secretary
13 of State may reinstate a canceled or terminated license, with or without hearing, and may
14 make the license retroactive.

15 (d) An order issued pursuant to subsection (a) of this Code section shall constitute a final
16 order, shall be deemed to be in the public interest, and shall not be deemed to constitute
17 findings of fact or conclusions of law related to other persons. The entry of such an order
18 shall not be deemed to be a waiver or estoppel on the part of the Secretary of State from
19 proceeding in individual actions against any persons who may have violated this chapter,
20 nor shall such an order prevent the Secretary of State from bringing individual actions
21 against any persons who have violated this chapter, if such violation was not known to the
22 Secretary of State at the time the order was issued.

23 (e) An order is not a proceeding or enforcement action pursuant to Chapter 13 of Title 50.

24 43-20A-17.

25 The Secretary of State shall suspend a license issued pursuant to this chapter if reported to
26 the Secretary of State for nonpayment or default or breach of a repayment or service
27 obligation under any federal educational loan, loan repayment, or service conditional
28 scholarship program. Prior to a suspension, the licensee shall be entitled to notice of the
29 Secretary of State's intended action and opportunity to appear before the Secretary of State
30 according to procedures set forth by the Secretary of State. A suspension of a license
31 pursuant to this Code section shall not be a contested case under Chapter 13 of Title 50.
32 A license suspended pursuant to this Code section shall not be reinstated or reissued until
33 the person arranges for a written release to be issued by the reporting agency directly to the
34 Secretary of State stating that the person is making payments on the loan or satisfying the
35 service requirements in accordance with an agreement approved by the reporting agency.
36 If such person has continued to meet all other requirements for licensure during the period

1 of suspension, reinstatement of the license shall be automatic upon receipt of the notice and
2 payment of any reinstatement fee which the Secretary of State may impose.

3 43-20A-18.

4 (a) The Secretary of State may issue a cease and desist order prohibiting a person from
5 violating the provisions of this chapter by engaging in the practice of immigration
6 assistance without a license issued pursuant to this chapter. Such cease and desist order
7 shall become effective immediately upon signature of the Secretary of State and proper
8 notice pursuant to this chapter.

9 (b) The violation of any order issued pursuant to subsection (a) of this Code section shall
10 subject such person violating the order to further proceedings before the Secretary of State,
11 and the Secretary of State shall be authorized to impose a civil penalty not to exceed
12 \$500.00 for each transaction constituting a violation thereof. Such civil penalty shall be
13 in addition to any other fines and penalties subject to committing a violation pursuant to
14 this subsection. Each day that a person practices in violation of this subsection shall
15 constitute a separate violation.

16 (c) Nothing in this Code section shall be construed to prohibit the Secretary of State from
17 bringing remedies otherwise available by statute without first seeking a cease and desist
18 order in accordance with the provisions of this Code section.

19 43-20A-19.

20 (a) Where the Secretary of State has issued any order to discipline, deny, suspend, or
21 revoke a license of an applicant or person licensed pursuant to this chapter, he or she shall
22 promptly send to the respondent to such order a notice of opportunity for hearing. Before
23 entering an order refusing to issue a license pursuant to this chapter to any person and after
24 the entering of any order for revocation or suspension, the Secretary of State shall promptly
25 send to such person a notice of opportunity for hearing.

26 (b) Notices of opportunity for hearing shall be served personally by investigators
27 appointed by the Secretary of State, sent by registered or certified mail or statutory
28 overnight delivery, return receipt requested, to the addressee's business mailing address or
29 residential address as shown on the licensee's application, or directed for service to the
30 sheriff of the county where such person resides or is found; and such notice shall state:

31 (1) The order which has issued or which is proposed to be issued;

32 (2) The ground for issuing such order or proposed order;

33 (3) A statement of the right of any party to subpoena witnesses and documentary
34 evidence through the Secretary of State;

1 (4) That the person to whom such notice is sent will be afforded a hearing in accordance
2 with the Code Sections 50-13-18 and 50-13-41; and

3 (5) Contested cases shall be heard by the Office of State Administrative Hearings
4 pursuant to Chapter 13 of Title 50.

5 (c) If the Secretary of State does not receive a request for a hearing within the prescribed
6 time, he or she may permit an order previously entered to remain in effect or may enter a
7 proposed order. If a hearing is requested and conducted as provided in this Code section,
8 the Secretary of State shall issue a written order which shall set forth his or her findings and
9 conclusions of laws with respect to the matters involved.

10 43-20A-20.

11 Any individual licensed pursuant to this chapter who is convicted under the laws of this
12 state, the United States, or any other state, territory, or country of a felony shall be required
13 to notify the appropriate licensing authority of the conviction within ten days of the
14 conviction.

15 43-20A-21.

16 Any person who violates any provision of this chapter shall be guilty of a misdemeanor for
17 a first offense and a high and aggravated misdemeanor for a second or subsequent offense
18 committed within five years of a previous conviction for the same offense."

19 SECTION 16.

20 Said title is further amended by revising Code Section 43-24A-12, relating to license by
21 reciprocity relative to massage therapists, as follows:

22 "43-24A-12.

23 ~~Any applicant for a license by reciprocity as a massage therapist must submit a completed~~
24 ~~application upon a form and in such manner as the board prescribes, accompanied by~~
25 ~~applicable fees, and evidence satisfactory to the board that:~~

26 (1) ~~The applicant is at least 18 years of age;~~

27 (2) ~~The applicant is of good moral character. For purposes of this paragraph, 'good moral~~
28 ~~character' means professional integrity and a lack of any conviction for acts involving~~
29 ~~moral turpitude where the underlying conduct relates to the applicant's fitness to practice~~
30 ~~massage therapy;~~

31 (3) ~~The applicant agrees to provide the board with any and all information necessary to~~
32 ~~perform a criminal background check and expressly consents and authorizes the board~~
33 ~~or its representative to perform such a check; and~~

1 ~~(4) The applicant is currently licensed as a massage therapist in another jurisdiction,~~
 2 ~~state, or territory of the United States or foreign country which requires standards for~~
 3 ~~licensure considered by the board to be equivalent to the requirements for licensure under~~
 4 ~~this chapter. Reserved.~~"

5 SECTION 17.

6 Said title is further amended by revising paragraph (4) of Code Section 43-24A-13, relating
 7 to license by endorsement relative to massage therapists, as follows:

8 "(4) The applicant is either:

9 ~~(A) Is currently licensed as a massage therapist in another jurisdiction, state, or~~
 10 ~~territory of the United States or foreign country which requires standards for licensure~~
 11 ~~considered by the board to be equivalent to the requirements for licensure under this~~
 12 ~~chapter; or~~

13 ~~(B) Has current certification by the National Certification Board for Therapeutic~~
 14 ~~Massage and Bodywork or an equivalent certification approved by the National~~
 15 ~~Commission for Certifying Agencies."~~

16 SECTION 18.

17 Said title is further amended by revising paragraph (2) of Code Section 43-33-12, relating
 18 to requirements for license to practice physical therapy, as follows:

19 "(2) Has satisfactorily passed an examination prepared or approved by the board and has
 20 acquired any additional education and training required by the board; and"

21 SECTION 19.

22 Said title is further amended by revising Code Section 43-33-15, relating to reciprocity
 23 relative to licenses of physical therapists, as follows:

24 "43-33-15.

25 ~~The board may grant to a person licensed in another state or territory of the United States~~
 26 ~~full privileges to engage in equivalent practice authorized by this chapter without taking~~
 27 ~~an examination, provided:~~

28 ~~(1) That such person is properly licensed under the laws of another state or territory or~~
 29 ~~the United States; and~~

30 ~~(2) That the requirements for licensing in such other state or territory of the United States~~
 31 ~~are substantially equal to the requirements for a similar license in this state. The board~~
 32 ~~may, in its discretion, waive the examination provided for in paragraph (2) of Code~~
 33 ~~Section 43-33-12 and may, subject to the provisions under Code Sections 43-33-18 and~~
 34 ~~43-33-19, grant to a person licensed in another state or territory of the United States full~~

1 privileges to engage in an equivalent practice authorized by this chapter to any person
 2 who has qualifications the board determines to be the substantial equivalent of the
 3 qualifications described under paragraph (1) of Code Section 43-33-12 and who is
 4 properly licensed under the laws of another state or territory of the United States;
 5 provided, however, that the license held by such person was issued after an examination
 6 which, in the judgment of the board, is the equivalent of the standards established by the
 7 board. In waiving the examination requirement, the board may required additional
 8 education or training."

9 **SECTION 20.**

10 Said title is further amended by revising subsection (b) of Code Section 43-50-40, relating
 11 to renewal of licenses and registrations, reinstatement, waiver of fee, continuing education,
 12 and inactive status relative to veterinarians and veterinary technicians, as follows:

13 "(b) Any person who shall practice veterinary medicine or veterinary technology after the
 14 expiration of his or her license or registration and willfully or by neglect fail to renew such
 15 license or registration shall be practicing in violation of this article, provided that any
 16 person may renew an expired license or registration within ~~one year of the date of its~~
 17 ~~expiration~~ the period established by the division director in accordance with Code Section
 18 43-1-4 by making written application for renewal and paying the ~~current renewal fee plus~~
 19 ~~all delinquent renewal~~ applicable fees. After ~~one year has elapsed from the date of the~~
 20 ~~expiration~~ the time period established by the division director has elapsed, such license or
 21 registration may be reinstated in accordance with the rules of the board."

22 **SECTION 21.**

23 Sections 2 through 10 of this Act shall become effective on July 1, 2009. The remaining
 24 sections of this Act shall become effective on July 1, 2008.

25 **SECTION 22.**

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