

Senate Bill 104

By: Senators Wiles of the 37th, Thomas of the 54th and Unterman of the 45th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 9 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated,  
2 relating to cosmetic laser services, so as to change certain provisions relating to the licensing  
3 of cosmetic laser practitioners; to amend certain definitions; to change certain provisions  
4 relating to the two levels of cosmetic laser services licenses; to change the requirements  
5 relating to consulting physicians; to require certain information be provided as part of  
6 informed consent; to provide the Composite State Board of Medical Examiners with the  
7 authority to waive certain requirements as to certain facilities; to provide for the license and  
8 expertise requirements of at least one member of the advisory committee; to provide for  
9 related matters; to provide for a contingent effective date; to repeal conflicting laws; and for  
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Article 9 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to  
14 cosmetic laser services, is amended by revising Code Section 43-34-242, relating to  
15 definitions relative to cosmetic laser services, as follows:

16 "43-34-242.

17 As used in this article, the term:

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

20 (2) 'Consulting physician' means a person licensed to practice medicine under Article 2  
21 of this chapter and:

22 (A) Whose principal place of practice is within this state; or

23 (B) Whose principal place of practice is outside this state but is within 50 miles from  
24 the facility with whom he or she has an agreement to provide services in accordance  
25 with Code Section 43-34-248.

- 26 (3) 'Consumer' means a person on whom cosmetic laser services are or are to be  
 27 performed.
- 28 (4) 'Cosmetic laser practitioner' means a person licensed under this article to provide  
 29 cosmetic laser services as defined in this article and whose license is in good standing.
- 30 (5) 'Cosmetic laser services' means nonablative elective cosmetic light based skin care,  
 31 photo rejuvenation, or hair removal using lasers and pulsed light devices approved by the  
 32 United States Food and Drug Administration for noninvasive procedures. ~~Such services  
 33 and the provision thereof shall not be considered to be the practice of medicine.~~
- 34 (6) 'Facility' means any location, place, area, structure, office, institution, or business or  
 35 a part thereof in which is performed or provided cosmetic laser services regardless of  
 36 whether a fee is charged for such services.
- 37 (7) 'License' means a valid and current certificate of registration issued by the board  
 38 which shall give the person to whom it is issued authority to engage in the practice  
 39 prescribed thereon.
- 40 (8) 'Licensee' means any person holding a license under this article.
- 41 (9) 'Medical practitioner' means a registered professional nurse, ~~licensed practical nurse~~,  
 42 nurse practitioner, physician's assistant, or physician.
- 43 (10) 'Nurse' means a registered professional nurse, ~~licensed practical nurse~~, or nurse  
 44 practitioner.
- 45 (11) 'Person' means a natural person."

## 46 SECTION 2.

47 Said article is further amended by revising Code Section 43-34-244, relating to two levels  
 48 of licenses and applications, as follows:

49 "43-34-244.

- 50 (a) There shall be two levels of a license for a cosmetic laser practitioner: assistant laser  
 51 practitioner and senior laser practitioner.
- 52 (b) Any person desiring to obtain a license as a cosmetic laser practitioner under the terms  
 53 of this article shall make application to the board as follows:
- 54 (1) An applicant for an 'assistant laser practitioner' license shall present proof that he or  
 55 she:
- 56 (A) Holds a current valid license or certificate of registration as a physician's assistant,  
 57 licensed practical nurse, nurse, esthetician, or master cosmetologist, or has previously  
 58 held a license or certificate of registration as a medical practitioner; and
- 59 (B) Has received at least three laser certificates from attending laser/intense pulsed  
 60 light (IPL) courses as approved by the board, directly taught by a licensed physician or  
 61 certified continuing medical education or continuing education educator.

62 If, after review of the application, it is determined that the applicant is at least 21 years  
 63 of age; has met the minimum educational requirements; is of good moral character; and  
 64 is possessed of the requisite skill to perform properly cosmetic laser services, a license  
 65 shall be issued to the applicant entitling the applicant to practice the occupation of  
 66 cosmetic laser practitioner at the assistant laser practitioner level under the ~~direct~~ on-site  
 67 supervision of a senior laser practitioner.

68 (2) An applicant for a 'senior laser practitioner' license shall present proof that he or she:

69 (A) Holds a current valid license or certificate of registration as a physician's assistant  
 70 or nurse or has previously held a license or certificate of registration as a medical  
 71 practitioner;

72 (B) Has at least three years of clinical or technological medical experience, or both;

73 (C) Has been or was licensed or nationally board certified as a medical practitioner for  
 74 at least three years; and

75 (D) Has received at least two laser certificates from attending laser/intense pulsed light  
 76 (IPL) continuing medical education courses as approved by the board, directly taught  
 77 by a licensed physician or certified continuing medical education or continuing  
 78 education educator.

79 If, after review of the application, it is determined that the applicant is at least 21 years  
 80 of age; has met the minimum educational and clinical training requirements to perform  
 81 cosmetic laser services with indirect supervision; is of good moral character; and is  
 82 possessed of the requisite skill to perform properly these services, a license shall be  
 83 issued to the applicant entitling the applicant to practice the occupation of cosmetic laser  
 84 practitioner at the senior laser practitioner level pursuant to the protocols of a consulting  
 85 physician.

86 ~~(c) The board shall be authorized to waive any education requirements under this Code~~  
 87 ~~section in cases of hardship, disability, or illness or under such other circumstances as the~~  
 88 ~~board deems appropriate with respect to any applicant who has practiced as a cosmetic~~  
 89 ~~laser practitioner prior to July 1, 2007. Any person desiring to obtain a license as an~~  
 90 ~~'assistant laser practitioner' who does not meet the requirements of paragraph (1) of~~  
 91 ~~subsection (b) of this Code section shall also be eligible for a license as an 'assistant laser~~  
 92 ~~practitioner' if he or she makes application to the board within six months of the effective~~  
 93 ~~date of this article and presents proof that he or she:~~

94 (1) Prior to the effective date of this article, obtained a minimum of at least 2,000 hours  
 95 of experience in administering cosmetic laser service; and

96 (2) Has received at least three laser certificates from attending laser/intense pulsed light  
 97 (IPL) courses, directly taught by a licensed physician or certified continuing medical  
 98 education or continuing education educator.

99 (d) Should an applicant have a current cosmetic laser practitioner license or certificate of  
 100 registration in force from another state, country, territory of the United States, or the  
 101 District of Columbia, where similar reciprocity is extended to this state and licensure  
 102 requirements are substantially equal to those in this state, and have paid a fee and have  
 103 submitted an application, the applicant may be issued a license at the appropriate level  
 104 entitling him or her to practice the occupation of a cosmetic laser practitioner at that level,  
 105 unless the board, in its discretion, sees fit to require a written or a practical examination  
 106 subject to the terms and provisions of this article. ~~The board shall be authorized to waive~~  
 107 ~~any education or experience requirements applicable to any person who holds a current~~  
 108 ~~license or certificate to practice as a cosmetic laser practitioner outside of this state and~~  
 109 ~~who desires to obtain a license at a level authorized under this Code section to practice as~~  
 110 ~~a cosmetic laser practitioner in this state in cases of hardship, disability, or illness or under~~  
 111 ~~such other circumstances as the board deems appropriate."~~

112 **SECTION 3.**

113 Said article is further amended by revising Code Section 43-34-248, relating to agreement  
 114 with consulting physician, as follows:

115 "43-34-248.

116 (a) Any facility providing cosmetic laser services other than hair removal shall have an  
 117 agreement with a consulting physician who shall:

118 (1) Be trained in laser modalities;

119 (2) Establish proper protocols for the cosmetic laser services provided at the facility and  
 120 file such protocols with the board; ~~and~~

121 (3) Examine each patient prior to any cosmetic laser service other than hair removal  
 122 being performed; provided, however, that a consulting physician may delegate the  
 123 authority to perform such examination to a physician's assistant who is a licensed  
 124 cosmetic laser practitioner, in accordance with a job description approved by the board,  
 125 or to a registered professional nurse who is also an advanced practice registered nurse as  
 126 defined in paragraph (1.1) of Code Section 43-26-3 and who is a licensed cosmetic laser  
 127 practitioner, pursuant to a protocol approved by the board; and provided, further, that in  
 128 facilities subject to the provisions of Code Section 43-34-249.1 such delegation may be  
 129 to a physician's assistant who is not a licensed cosmetic laser practitioner, in accordance  
 130 with a job description approved by the board; and

131 ~~(3)~~(4) Be available for emergency consultation with the cosmetic laser practitioner or  
 132 anyone employed by the facility.

133 (b) Any facility providing cosmetic laser services other than hair removal shall have a  
 134 supervisor present at the facility or immediately available for consultation and supervision

135 either personally or via telecommunications. The supervisor shall supervise the  
 136 performance of all cosmetic laser services performed by a person other than the consulting  
 137 physician. The supervisor shall be a physician licensed under this chapter who is trained  
 138 in laser modalities or a senior laser practitioner.

139 (c)(1) Any facility providing cosmetic laser services other than hair removal shall post  
 140 a sign listing the consulting physician's name, emergency contact number, his or her  
 141 board certification and specialty, and the address of his or her principal place of practice,  
 142 and indicating whether he or she is presently on site at the facility.

143 (2) If the consulting physician is not on site for any period of time during which the  
 144 facility is open, the facility shall post a sign indicating who is presently acting as the  
 145 supervisor for the facility and that person's name, emergency contact number, his or her  
 146 degrees and qualifications, and the type of cosmetic laser practitioner license held."

147 **SECTION 4.**

148 Said article is further amended by revising Code Section 43-34-249, relating to informed  
 149 consent, as follows:

150 "43-34-249.

151 (a) Prior to receiving cosmetic laser services from a cosmetic laser practitioner, a person  
 152 must consent in writing to such services and shall be informed in writing of the general  
 153 terms of the following:

154 (1) The nature and purpose of such proposed procedure;

155 (2) Any material risks generally recognized and associated with the cosmetic laser  
 156 service to be performed which, if disclosed to a reasonably prudent person in the  
 157 customer's position, could reasonably be expected to cause such prudent person to decline  
 158 such proposed cosmetic laser services on the basis of the material risk of injury that could  
 159 result from such proposed services;

160 (3) The name of, degrees and qualifications held by, and type of license licenses obtained  
 161 by the individual who will be performing the cosmetic laser service ~~has obtained~~, and  
 162 with respect to cosmetic laser services other than hair removal, the supervisor and the  
 163 consulting physician; and

164 (4) The steps to be followed after the cosmetic laser service is performed in the event of  
 165 any complications; and

166 (5) With respect to cosmetic laser services other than hair removal, the emergency  
 167 contact information for the consulting physician and the address of his or her principal  
 168 place of practice.

169 (a.1) After receiving each cosmetic laser service other than hair removal, a person shall  
 170 be informed in writing of the information required by paragraphs (4) and (5) of subsection  
 171 (a) of this Code section.

172 (b) It shall be the responsibility of the cosmetic laser practitioner to ensure that the  
 173 information required by ~~subsection (a)~~ subsections (a) and (a.1) of this Code section is  
 174 disclosed and that the consent provided for in this Code section is obtained.

175 (c) Where the consumer is under 18 years of age, the consent of the consumer's parent or  
 176 legal guardian shall be required.

177 (d) The board shall be required to adopt and have the authority to promulgate rules and  
 178 regulations governing and establishing the standards necessary to implement this Code  
 179 section specifically including but not limited to the disciplining of a cosmetic laser  
 180 practitioner who fails to comply with this Code section.

181 (e) Nothing in this Code section shall prohibit the information provided for in this Code  
 182 section from being disclosed through the use of video tapes, audio tapes, pamphlets,  
 183 booklets, or other means of communication or through conversations with the cosmetic  
 184 laser practitioner; provided, however, that such information is also provided in writing and  
 185 attached to the consent form which the consumer signs."

#### 186 **SECTION 5.**

187 Said article is further amended by adding a new Code section to read as follows:

188 "43-34-249.1.

189 The board shall have the authority to waive the requirements of subsection (c) of Code  
 190 Section 43-34-248 and paragraph (5) of subsection (a) of Code Section 43-34-249 for  
 191 facilities offering cosmetic laser services which serve as a principal place of practice at  
 192 which a physician regularly sees patients if medical services are regularly performed at  
 193 such facilities. For purposes of this Code section, 'medical services' shall mean the general  
 194 and usual services and care rendered and administered by a physician."

#### 195 **SECTION 6.**

196 Said article is further amended by revising Code Section 43-34-250, relating to the advisory  
 197 committee, as follows:

198 "43-34-250.

199 The board shall appoint an advisory committee. The advisory committee shall be  
 200 representative of a cross section of the cultural backgrounds, to the extent practical, of the  
 201 licensed cosmetic laser practitioners licensed under this article and such members as the  
 202 board in its discretion may determine. The advisory committee shall include at least one  
 203 person licensed to practice medicine under this chapter and specialized in a field with

204 expertise in the biologic behavior of the skin. Members shall receive no compensation for  
205 service on the committee. The committee shall have such advisory duties and  
206 responsibilities as the board may determine, including but not limited to consulting with  
207 the board on the issuance, denial, suspension, and revocation of licenses and the  
208 promulgation of rules and regulations under this article. The initial members of the  
209 advisory committee may include persons eligible for licensing under this article.  
210 Subsequent advisory committee members must be licensed pursuant to this article."

211 **SECTION 7.**

212 This Act shall become effective only if and when the "Georgia Cosmetic Laser Services  
213 Act," approved May 29, 2007 (Ga. L. 2007, p. 626), becomes effective as provided in Section  
214 2 therein.

215 **SECTION 8.**

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