

## House Bill 509

By: Representatives Cooper of the 41<sup>st</sup>, Rice of the 51<sup>st</sup>, Lindsey of the 54<sup>th</sup>, Channell of the 116<sup>th</sup>, Lunsford of the 110<sup>th</sup>, and others

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 change provisions relating to the regulation of physicians, acupuncture,  
3 physician's assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists,  
4 and orthotics and prosthetics practice; to provide for comprehensive revision to the regulation  
5 of such professions; to provide for definitions; to establish the Georgia Composite Medical  
6 Board to regulate physicians, acupuncturists, physician assistants, cancer and glaucoma  
7 treatment, respiratory care practice, clinical perfusionists, orthotics and prosthetics, and  
8 cosmetic laser services; to provide for the process of selection and removal to and from the  
9 board; to provide for the powers and duties of the board; to provide for the requirement of  
10 an oath of office for board members; to provide for the election of officers of the board; to  
11 provide for allowances for the board members; to provide for a chairperson of the board; to  
12 provide for powers and duties of the chairperson; to provide for peer review of certain  
13 medical professionals; to require individuals regulated under Chapter 34 of said title to notify  
14 the board upon the conviction of a felony; to provide for the suspension and reinstatement  
15 under certain circumstances of a license, permit, or certificate granted under Chapter 34; to  
16 provide for the renewal of a license, permit, or certificate granted under Chapter 34; to  
17 provide for a short title; to provide for legislative intent; to provide that a license is required  
18 to practice medicine; to provide for certain standards, conditions, and requirements to  
19 practice medicine; to provide for the delegation of certain duties from physicians to nurses  
20 or physician assistants; to provide penalties for practicing medicine without a license; to  
21 require a license to practice acupuncture; to provide certain standards, conditions, and  
22 requirements to practice acupuncture; to provide for a penalty for practicing acupuncture  
23 without a license; to require a license to act as a physician assistant; to provide certain  
24 standards, conditions, and requirements prior to licensure as a physician assistant; to provide  
25 for certain responsibilities for physician assistants; to provide for the review of physician  
26 assistants; to require certification to practice respiratory care; to provide certain standards,  
27 conditions, and requirements prior to certification as a respiratory therapist; to provide a  
28 penalty for practicing respiratory care without certification; to require a license to act as a

29 clinical perfusionist; to provide for a temporary license to act as a clinical perfusionist; to  
 30 provide for certain standards, conditions, and requirements prior to licensure as a clinical  
 31 perfusionist; to provide a penalty for acting as a clinical perfusionist without a license; to  
 32 require a license to practice orthotics and prosthetics; to provide for certain standards,  
 33 conditions, and requirements prior to licensure to practice orthotics and prosthetics; to  
 34 provide for a penalty for practicing orthotics and prosthetics without a license; to revise laws  
 35 relating to cosmetic laser services; to amend various other titles of the Official Code of  
 36 Georgia Annotated for purposes of conformity; to provide that a physician assistant can make  
 37 a pronouncement of death under certain circumstances for purposes of vital records; to  
 38 provide for related matters; to provide for a contingency and effective dates; to repeal  
 39 conflicting laws; and for other purposes.

40 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

41 **SECTION 1.**

42 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses  
 43 is amended by revising Chapter 34 as follows:

44 "CHAPTER 34

45 ARTICLE 1

46 43-34-1.

47 ~~Reserved.~~

48 As used in this chapter, the term:

49 (1) 'Board' means the Georgia Composite Medical Board.

50 (2) 'Physician' means a person licensed to practice medicine pursuant to Article 2 of this  
 51 chapter.

52 (3) 'To practice medicine,' 'the practice of medicine,' or 'practicing medicine' shall have  
 53 the same meaning as in paragraph (3) of Code Section 43-34-22.

54 ~~43-34-2.~~

55 ~~Reserved.~~

56 ~~43-34-21~~ 43-34-2.

57 (a) A board is established to be known as the ~~Composite State Board of Medical~~  
 58 ~~Examiners~~ Georgia Composite Medical Board. ~~All members of the board~~ The board shall  
 59 be composed of 15 members, all of whom shall be citizens of the United States and

60 residents of this state. All appointments to the board shall be made by the Governor and  
61 confirmed by the Senate.

62 (b) ~~Twelve~~ Thirteen of the members shall be actively practicing physicians of integrity and  
63 ability and shall be ~~duly licensed~~ hold unrestricted licenses to practice medicine in this  
64 state. ~~Ten~~ Eleven of the ~~12~~ 13 physician members shall be graduates of reputable medical  
65 schools conferring the M.D. degree; the other two physician members shall be graduates  
66 of reputable osteopathic medical schools conferring the D.O. degree. All of the physician  
67 members shall have been engaged in the active practice of their profession within this state  
68 for a period of at least five years prior to their appointment. Any vacancy occurring in a  
69 post held by a holder of the D.O. degree shall be filled by a D.O. ~~from the state at large~~ and  
70 any vacancy occurring in a post held by an M.D. degree shall be filled by an M.D.

71 (c) ~~The thirteenth member of the board shall be appointed from the state at large and~~  
72 fourteenth and fifteenth members of the board shall have no connection whatsoever with  
73 the practice of medicine and shall be eligible to vote on all matters brought before the  
74 board.

75 (d) ~~The board shall perform such duties and possess and exercise such powers relative to~~  
76 the protection of the public health and the control of regulation of the practice of medicine  
77 and osteopathy as this chapter prescribes and confers upon it and shall have the power to  
78 carry out investigations, either through the executive director or independently; provided,  
79 however, that the member of the board who is not a practicing physician may vote only on  
80 matters relating to administration and policy which do not directly relate to practical and  
81 scientific examination of physicians in this state. Any member of the board may be  
82 removed from his or her position and generate an open position on the board:

83 (1) By a majority vote of the members of the board if a member of the board misses three  
84 or more consecutive meetings or misses more than one-third of all meetings including  
85 meetings conducted by teleconference, without a valid medical reason or reasons deemed  
86 excusable, which removal shall not be effective unless approved by the Governor; or

87 (2) By the Governor if the board member:

88 (A) Has willfully neglected his or her duty as a board member;

89 (B) Has been convicted of a crime involving moral turpitude;

90 (C) Has been convicted of a felony;

91 (D) Is no longer in the active practice of medicine, if a physician member;

92 (E) Is no longer a resident of the State of Georgia; or

93 (F) Has received any restriction of his or her medical license in Georgia or any other  
94 state, if a physician member.

95 (e)(1) The board shall appoint a ~~Physician's~~ Physician Assistants Advisory Committee  
96 composed of four physicians, at least two of whom shall be members of the board, and

97 four licensed ~~physician's~~ physician assistants, who shall each serve for terms of office of  
 98 two years and until their successors are appointed and qualified. The committee shall  
 99 review matters to come before the board which relate to ~~physician's~~ physician assistants,  
 100 including but not limited to applicants for ~~physician's~~ physician assistant licensure and  
 101 relicensure and education requirements therefor, and proposed board regulations  
 102 concerning ~~physician's~~ physician assistants. The committee shall periodically make  
 103 recommendations to the board regarding matters reviewed. Each member of the advisory  
 104 committee shall be entitled to the same expense allowances, mileage allowances, and  
 105 reimbursement as members of the board as provided for in ~~subsection (f) of Code Section~~  
 106 ~~43-1-2~~ for in this chapter.

107 (2) The committee shall appoint a ~~physician's~~ physician assistant in an advisory capacity  
 108 to the board. The advisory person shall serve at the pleasure of the committee as an ex  
 109 officio adviser to the board in all matters relating to ~~physician's~~ physician assistants and  
 110 shall share in the privileges and benefits of the board without a vote.

111 (f) The board shall ~~examine applicants to test their~~ review applicants' qualifications to  
 112 ~~practice medicine~~ for licensure, certification, or permitting pursuant to this chapter.

113 ~~(g) When funds are specifically appropriated for such purpose, the board shall publish an~~  
 114 ~~informational booklet on breast cancer and the treatment of breast cancer. The booklet shall~~  
 115 ~~contain a summary of the latest information on breast cancer and, in brief form, shall~~  
 116 ~~discuss the generally accepted and widely prevailing medical and surgical treatments for~~  
 117 ~~breast cancer. The booklet shall include a valid assessment of the relative risks and benefits~~  
 118 ~~of the accepted and widely prevailing methods of treatment. A copy of the booklet shall be~~  
 119 ~~made available by the board to every appropriate physician in the state. A letter by the~~  
 120 ~~board shall accompany this booklet stating that the board urges the physician to distribute~~  
 121 ~~a copy of the booklet to each and every patient whose suspected disease, disease, or course~~  
 122 ~~of treatment is covered by the material in the booklet. Copies shall also be available to any~~  
 123 ~~person upon request at a fee prescribed by the executive director sufficient to cover the cost~~  
 124 ~~of printing and distribution. The booklet shall be updated and redistributed at such times~~  
 125 ~~as the board shall deem necessary.~~

126 ~~(h)~~(g) The board shall have the authority to contract with medical associations or other  
 127 professionally qualified organizations to conduct impaired physicians programs.

128 ~~43-34-22~~ 43-34-3.

129 ~~The terms of office of members of the Composite State Board of Medical Examiners in~~  
 130 ~~office on June 30, 1999, shall expire July 1, 1999, except that the Governor by executive~~  
 131 ~~order may provide that such terms expire after July 1, 1999, but no later than July 1, 2000,~~  
 132 ~~and upon the appointment and qualification of their respective successors. Those~~

133 ~~successors shall be appointed by the Governor for terms of office beginning on the later of~~  
 134 ~~July 1, 1999, or the date immediately following the expiration of the terms of office of~~  
 135 ~~those members in office on June 30, 1999, with four of such successors to have initial~~  
 136 ~~terms of one year, four of such successors to have initial terms of two years, and five of~~  
 137 ~~such successors to have initial terms of three years. The Governor shall specify the initial~~  
 138 ~~terms of office for each of those successors at the time of their appointment. Upon the~~  
 139 ~~expiration of such initial terms, successors to members of the board whose terms of office~~  
 140 ~~expire shall serve for terms of four years each.~~

141 (a) The members of the Composite State Board of Medical Examiners, now known as the  
 142 Georgia Composite Medical Board, in office on June 30, 2009, shall continue to serve out  
 143 their respective terms and until their respective successors are appointed and qualified. The  
 144 two new board members added as of July 1, 2009, pursuant to Code Section 43-34-2 shall  
 145 be appointed by the Governor to serve as members of the board for terms of office  
 146 beginning on July 1, 2009. The terms of office of the two new members shall be for two  
 147 years and three years, respectively, with the Governor to specify the initial term of office  
 148 for each new member at the time of his or her appointment. Upon the expiration of such  
 149 initial terms, successors to such members of the board whose terms of office expire shall  
 150 serve for terms of four years each.

151 (b) Terms of office of members of the board shall be four years. Members of the board  
 152 shall serve for the terms specified and until their respective successors are appointed and  
 153 qualified. All reappointments and new appointments shall be made so that the various  
 154 geographic regions of the state shall be represented. Any vacancy that may occur in the  
 155 board as a result of death, resignation, ~~removal~~ relocation from the state, or other cause  
 156 shall be filled for the unexpired term in the same manner as regular appointments are made.

157 ~~43-34-23~~ 43-34-4.

158 Immediately and before entering upon the duties of office, the members of the board shall  
 159 take the constitutional oath of office and shall file the same in the office of the Governor,  
 160 who, upon receiving the oath of office, shall issue to each member a certificate of  
 161 appointment.

162 ~~43-34-24~~ 43-34-5.

163 ~~(a) Immediately after the appointment and qualification of the members, the~~ The board  
 164 ~~shall meet and organize and shall~~ annually elect a president and vice-president chairperson  
 165 and vice chairperson. Each member of the board ~~shall be reimbursed as provided for in~~  
 166 ~~subsection (f) of Code Section 43-1-2~~ may receive the expense allowance as provided by  
 167 subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a

168 personal car as that received by other state officials and employees or a travel allowance  
 169 of actual transportation cost if traveling by public carrier within the state. Each board  
 170 member shall also be reimbursed for any conference or meeting registration fee incurred  
 171 in the performance of his or her duties as a board member. For each day's service outside  
 172 of the state as a board member, such member shall receive actual expenses as an expense  
 173 allowance as well as the mileage allowance for the use of a personal car equal to that  
 174 received by other state officials and employees or a travel allowance of actual  
 175 transportation cost if traveling by public carrier or by rental motor vehicle. Expense  
 176 vouchers submitted by board members are subject to approval of the chairperson and  
 177 executive director. Out-of-state travel by board members must be approved by the board  
 178 chairperson and the executive director.

179 (b) The board shall hold ~~two~~ regular meetings each year, ~~one in May or June and one in~~  
 180 ~~October~~ month, unless in the discretion of the chairperson it is deemed unnecessary for a  
 181 particular month. Called meetings may be held at the discretion of the president. ~~The board~~  
 182 ~~shall adopt a seal, which must be affixed to all licenses issued by the board chairperson.~~

183 (c) The board shall ~~from time to time adopt such rules and regulations as it may deem~~  
 184 ~~necessary for the performance of its duties and shall examine and pass upon the~~  
 185 ~~qualifications of applicants for the practice of medicine~~ have the following powers and  
 186 duties:

187 (1) To adopt, amend, and repeal such rules and regulations in accordance with this  
 188 chapter necessary for the proper administration and enforcement of this chapter;

189 (2) To adopt a seal by which the board shall authenticate the acts of the board;

190 (3) To establish a pool of qualified physicians to act as peer reviewers and expert  
 191 witnesses and to appoint or contract with physicians professionally qualified by education  
 192 and training, medical associations, or other professionally qualified organizations to serve  
 193 as peer reviewers; provided, however, that no licensing, investigative, or disciplinary  
 194 duties or functions of the board may be delegated to any medical association or related  
 195 entity by contract or otherwise;

196 (4) To employ a medical director and other staff to implement this chapter and provide  
 197 necessary and appropriate support who shall be subject to the same confidentiality  
 198 requirements of the board;

199 (5) To keep a docket of public proceedings, actions, and filings;

200 (6) To set its office hours;

201 (7) To set all fees by adoption of a schedule of fees approved by the board. The board  
 202 shall set such fees sufficient to cover costs of operation;

203 (8) To establish rules regarding licensure and certification status, including inactive  
 204 status and other licensure and certification categories the board deems appropriate;

- 205 (9) To issue, deny, or reinstate the licenses, certificates, or permits of duly qualified  
 206 applicants for licensure, certification, or permits under this chapter and to restrict, issue  
 207 with terms and conditions, or otherwise limit licensure, certification, or permits of  
 208 applicants;
- 209 (10) To revoke, suspend, issue terms and conditions, place on probation, limit practice,  
 210 fine, require additional medical training, require community service, or otherwise  
 211 sanction licensees, certificate holders, or permit holders;
- 212 (11) To renew licenses, certificates, and permits and set renewal and expiration dates and  
 213 application and other deadlines;
- 214 (12) To approve such examinations as are necessary to determine competency to practice  
 215 under this chapter;
- 216 (13) To set examination standards, approve examinations, and set passing score  
 217 requirements;
- 218 (14) To adopt necessary rules concerning proceedings, hearings, review hearings,  
 219 actions, filings, depositions, and motions related to uncontested cases;
- 220 (15) To initiate investigations for the purposes of discovering violations of this chapter;
- 221 (16) To administer oaths, subpoena witnesses and documentary evidence including  
 222 medical records, and take testimony in all matters relating to its duties. The cost of  
 223 producing documents and records subpoenaed by the board shall be borne by the  
 224 subpoenaed party;
- 225 (17) To conduct hearings, reviews, and other proceedings according to Chapter 13 of  
 226 Title 50;
- 227 (18) To conduct investigative interviews;
- 228 (19) To issue cease and desist orders to stop the unlicensed practice of medicine or other  
 229 profession licensed, certified, or permitted under this chapter and impose penalties for  
 230 such violations;
- 231 (20) To request injunctive relief or refer cases for criminal prosecution to appropriate  
 232 enforcement authorities; and
- 233 (21) To release investigative or applicant files to another enforcement agency or lawful  
 234 licensing authority in another state.

235 ~~43-34-24.1~~ 43-34-6.

236 (a) The board shall not be under the jurisdiction of the Secretary of State but shall be an  
 237 independent state agency attached to the Department of Community Health for  
 238 administrative purposes only, as provided in Code Section 50-4-3, except that such  
 239 department shall prepare and submit the budget for the board. The board ~~shall not be a~~  
 240 ~~professional licensing board~~ but shall have with respect to all matters within the jurisdiction

241 of the ~~Composite State Board of Medical Examiners~~ board as provided under this chapter  
242 the powers, duties, and functions of ~~such~~ professional licensing boards as provided in  
243 Chapter 1 of this title.

244 (b) The board shall appoint and fix the compensation of an executive director of such  
245 board who shall serve at the pleasure of the board. Any reference in this chapter to the  
246 executive director shall mean the executive director appointed pursuant to this subsection.  
247 ~~The executive director shall have, with respect to the board, the same powers, duties, and~~  
248 ~~functions granted to the division director with respect to professional licensing boards~~  
249 ~~under Chapter 1 of this title but without being subject to any approval or other powers~~  
250 ~~exercised by the Secretary of State.~~

251 (c) Meetings and hearings of the board shall be held at the site of the office of the board  
252 or at such other site as may be specified by the president chairperson of the board. A  
253 majority of the members of the board shall constitute a quorum for the transaction of  
254 business of the board.

255 (d) Licenses, certificates, and permits issued by the board ~~which are~~ shall be subject to  
256 renewal and shall be valid for up to two years unless otherwise specified by this chapter  
257 and shall be renewable biennially on the renewal date established by the board.

258 (e) The board, through the executive director, may hire investigators for the purpose of  
259 conducting investigations ~~for the board and those persons shall be designated as~~  
260 ~~investigators and have the powers, duties, and status of investigators for professional~~  
261 ~~licensing boards under Code Section 43-1-5. Any person so employed shall be considered~~  
262 to be a peace officer and shall have all powers, duties, and status of a peace officer of this  
263 state; provided, however, that such investigators shall only be authorized, upon written  
264 approval of the executive director, notwithstanding Code Sections 16-11-126, 16-11-128,  
265 and 16-11-129, to carry firearms in the performance of their duties and exercise the powers  
266 of arrest in the performance of their duties.

267 ~~Notwithstanding the provisions of Code Section 50-4-3 and with the concurrence of the~~  
268 ~~board, the Department of Community Health shall be authorized to employ and provide for~~  
269 ~~the compensation of staff as is necessary to assist in carrying out the functions of the board.~~  
270 ~~Staff so hired shall be subject to the rules and confidentiality requirements of the board and~~  
271 ~~to the supervision of the executive director of the board.~~

272 (f) The venue of any action involving members of the board shall be governed by the laws  
273 of this state relating to venue. The executive director of the board shall not be considered  
274 a member of the board in determining the venue of any such action and no court shall have  
275 jurisdiction of any such action solely by virtue of the executive director residing or  
276 maintaining a residence within its jurisdiction.

277 (g) The board shall give point credit to veterans in the same manner as required for  
 278 professional licensing boards under Code Sections 43-1-9 through 43-1-13.

279 ~~(h) Persons appointed to the board shall be subject to Senate confirmation as provided in  
 280 Code Section 43-1-16 and subject to removal as provided in Code Section 43-1-17.~~

281 ~~(i)~~(h) Initial judicial review of a final decision of the board shall be had solely in the  
 282 superior court of the county of domicile of the board.

283 ~~(j) The board, through the executive director, shall hire such personnel as it deems  
 284 necessary to carry out its functions under this chapter and may appoint professionally  
 285 qualified persons to serve as members of peer review committees; provided, however, that  
 286 no licensing, investigative, or disciplinary duties or functions of the board may be  
 287 delegated to any medical association or related entity by contract or otherwise.~~

288 ~~(k)~~(i) The board executive director shall make a report no later than December 31 of each  
 289 year covering the activities of the board for that calendar year, which report shall be  
 290 submitted to the commissioner of community health, and shall be made available to any  
 291 member of the General Assembly upon request.

292 (j) The executive director, with the approval of the board, notwithstanding any other  
 293 provisions of law to the contrary, shall enter into such contracts as are deemed necessary  
 294 to carry out this chapter to provide for all services required of the board.

295 43-34-7.

296 The executive director shall prepare and maintain a roster containing the names and  
 297 addresses of all current licensees, certificate holders, and permit holders for each of the  
 298 various professions regulated by the Georgia Composite Medical Board. A copy of the  
 299 roster shall be available to any person upon request at a fee prescribed by the board  
 300 sufficient to cover the cost of printing and distribution. The following shall be treated as  
 301 confidential, not subject to Article 4 of Chapter 18 of Title 50, relating to open records, and  
 302 shall not be disclosed without the approval of the board:

303 (1) Applications and other personal information submitted by applicants, except to the  
 304 applicant, the staff, and the board;

305 (2) Information, favorable or unfavorable, submitted by a reference source concerning  
 306 an applicant, except to the staff and the board;

307 (3) Examination questions and other examination materials, except to the staff and the  
 308 board; and

309 (4) The deliberations of the board with respect to an application, an examination, a  
 310 complaint, an investigation, or a disciplinary proceeding, except as may be contained in  
 311 official board minutes; provided, however, that such deliberations may be released only  
 312 to another state or federal enforcement agency or lawful licensing authority.

313 ~~43-34-37~~ 43-34-8.

314 (a) The board shall have authority to refuse to grant a license, certificate, or permit to an  
 315 applicant or to discipline ~~a physician licensed under this chapter~~ a person regulated under  
 316 this chapter or any antecedent law upon a finding by the board that the licensee, certificate  
 317 holder, or permit holder or applicant has:

318 (1) Failed to demonstrate the qualifications or standards for a license, certificate, or  
 319 permit contained in this chapter or in the rules and regulations of the board. It shall be  
 320 incumbent upon the applicant to demonstrate to the satisfaction of the board that he or she  
 321 meets all requirements for the issuance of a license; and, if the board is not satisfied as  
 322 to the applicant's qualifications, it shall not issue a license, certificate, or permit;

323 (2) ~~Knowingly made~~ Made negligently misleading, or deceptive, ~~untrue~~, or fraudulent  
 324 representations in the practice ~~of medicine of a profession licensed, certified, or permitted~~  
 325 under this chapter or in any document connected therewith, or practiced fraud or deceit  
 326 or ~~intentionally~~ negligently made any false statement in obtaining a license, certificate,  
 327 or permit under this chapter to practice ~~medicine pursuant to this chapter~~, or made a false  
 328 statement or deceptive ~~biennial~~ registration with the board;

329 (3) Been convicted of a felony in the courts of this state or any other state, territory,  
 330 country, or of the United States. As used in this paragraph, the term 'conviction of a  
 331 felony' shall include a conviction of an offense which if committed in this state would be  
 332 deemed a felony under either state or federal law, without regard to its designation  
 333 elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or  
 334 verdict of guilt, a plea of guilty resulting in first offender status, or a plea of nolo  
 335 contendere in a criminal proceeding, regardless of whether the adjudication of guilt or  
 336 sentence is withheld or not entered thereon;

337 (4) Committed a crime involving moral turpitude, without regard to conviction; the  
 338 conviction of a crime involving moral turpitude shall be evidence of the commission of  
 339 such crime. As used in this paragraph, the term 'conviction' shall have the meaning  
 340 prescribed in paragraph (3) of this subsection. For the purpose of this chapter, a  
 341 conviction or plea of guilty or of nolo contendere to a charge or indictment by either  
 342 federal or state government for income tax evasion shall not be considered a crime  
 343 involving moral turpitude;

344 (5) Had his or her license, certificate, or permit to practice ~~medicine pursuant to this~~  
 345 chapter revoked, suspended, or annulled by any lawful licensing authority; or had other  
 346 disciplinary action taken against him or her by any lawful licensing authority; or been  
 347 denied a license by any lawful licensing authority;

348 (6) Advertised for or solicited patients; obtained a fee or other thing of value on the  
 349 representation that a manifestly incurable disease can be permanently cured; or made

350 untruthful or improbable statements, or flamboyant or extravagant claims concerning his  
 351 or her professional excellence or treatment protocols;

352 (7) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or  
 353 practice harmful to the public, which conduct or practice need not have resulted in actual  
 354 injury to any person. As used in this paragraph, the term 'unprofessional conduct' shall  
 355 include any departure from, or failure to conform to, the ~~minimal~~ minimum standards of  
 356 acceptable and prevailing medical practice and shall also include, but not be limited to,  
 357 the prescribing or use of drugs, treatment, or diagnostic procedures which are detrimental  
 358 to the patient as determined by the ~~minimal~~ minimum standards of acceptable and  
 359 prevailing medical practice or by rule of the board;

360 (8) Performed, procured, or aided or abetted in performing or procuring a criminal  
 361 abortion;

362 (9) Knowingly maintained a professional connection or association with any person who  
 363 is in violation of this chapter or the rules or regulations of the board; or knowingly aided,  
 364 assisted, procured, or advised any person to practice medicine pursuant to this chapter  
 365 contrary to this chapter or to the rules and regulations of the board; or knowingly  
 366 performed any act which in any way aids, assists, procures, advises, or encourages any  
 367 unlicensed person or entity to practice medicine pursuant to this chapter; or divided fees  
 368 or agreed to divide fees received for professional services with any person, firm,  
 369 association, corporation, or other entity for bringing or referring a patient;

370 (10) Violated or attempted to violate a law, rule, or regulation of this state, any other  
 371 state, the board, the United States, or any other lawful authority without regard to whether  
 372 the violation is criminally punishable, which law, rule, or regulation relates to or in part  
 373 regulates the practice of medicine, when the licensee or applicant knows or should know  
 374 that such action is violative of such law, rule, or regulation; or violated a lawful order of  
 375 the board, previously entered by the board in a disciplinary hearing;

376 (11) Committed any act or omission which is indicative of bad moral character or  
 377 untrustworthiness;

378 ~~(11.1) Failed to attempt to inform a patient, in a timely manner, that the physician has~~  
 379 ~~received the results of a laboratory test. The board shall promulgate rules for the~~  
 380 ~~implementation of this paragraph no later than January 1, 2002. Any physician who~~  
 381 ~~complies with the rules promulgated by the board for informing his or her patient that the~~  
 382 ~~results of any laboratory test have been received shall be immune from any civil or~~  
 383 ~~criminal liability for such disclosure;~~

384 (12) Been adjudged mentally incompetent by a court of competent jurisdiction, within  
 385 or outside this state. Any such adjudication shall automatically suspend the license,  
 386 certificate, or permit of any such person and shall prevent the reissuance or renewal of

387 any license, certificate, or permit so suspended for as long as the adjudication of  
 388 incompetence is in effect unless the board, upon a finding that the licensee, certificate  
 389 holder, or permit holder is mentally competent, orders otherwise. Any applicant who has  
 390 been so adjudged to be mentally incompetent shall not receive a license, certificate, or  
 391 permit unless the board, upon a finding that the applicant is mentally competent, orders  
 392 otherwise; or

393 (13) Become unable to practice ~~medicine pursuant to this chapter~~ with reasonable skill  
 394 and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals,  
 395 or any other type of material, or as a result of any mental or physical condition:

396 (A) In enforcing this paragraph the board may, upon reasonable grounds, require a  
 397 licensee, certificate holder, permit holder, or applicant to submit to a mental or physical  
 398 examination by physicians designated by the board. The expense of this examination  
 399 shall be borne by the licensee, certificate holder, or permit holder or applicant. The  
 400 results of such examination shall be admissible in any hearing before the board,  
 401 notwithstanding any claim of privilege under a contrary rule of law or statute,  
 402 including, but not limited to, Code Section 24-9-21. Every person who shall accept the  
 403 privilege of practicing ~~medicine in this state~~ a profession regulated under this chapter  
 404 or who shall file an application for a license to practice ~~medicine~~ a profession regulated  
 405 under this chapter in this state shall be deemed to have given his or her consent to  
 406 submit to such mental or physical examination and to have waived all objections to the  
 407 admissibility of the results in any hearing or informal proceeding before the board,  
 408 upon the grounds that the same constitutes a privileged communication. If a licensee,  
 409 certificate holder, or permit holder or applicant fails to submit to such an examination  
 410 when properly directed to do so by the board, unless such failure was due to  
 411 circumstances beyond his or her control, the board may enter a final order upon proper  
 412 notice, hearing, and proof of such refusal. Any licensee, certificate holder, permit  
 413 holder, or applicant who is prohibited from practicing ~~medicine pursuant to this chapter~~  
 414 under this paragraph shall at reasonable intervals be afforded an opportunity to  
 415 demonstrate to the board that he or she can resume or begin ~~the practice of medicine~~  
 416 pursuant to this chapter with reasonable skill and safety to patients;

417 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
 418 any and all records relating to the mental or physical condition of a licensee, certificate  
 419 holder, or permit holder or applicant, including psychiatric records; and such records  
 420 shall be admissible in any hearing or informal proceeding before the board,  
 421 notwithstanding any privilege under a contrary rule of law or statute, including, but not  
 422 limited to, Code Section 24-9-21. Every person who shall accept the privilege of  
 423 practicing ~~medicine pursuant to this chapter~~ in this state or who shall file an application

424 to practice medicine pursuant to this chapter in this state shall be deemed to have given  
 425 his or her consent to the board's obtaining any such records and to have waived all  
 426 objections to the admissibility of such records in any hearing or any informal  
 427 proceedings before the board, upon the grounds that the same constitute a privileged  
 428 communication; and

429 (C) If any licensee, certificate holder, or permit holder or applicant could, in the  
 430 absence of this paragraph, invoke a privilege to prevent the disclosure of the results of  
 431 the examination provided for in subparagraph (A) of this paragraph or the records  
 432 relating to the mental or physical condition of such licensee, certificate holder, or  
 433 permit holder or applicant obtained pursuant to subparagraph (B) of this paragraph, all  
 434 such information shall be received by the board in camera and shall not be disclosed to  
 435 the public, nor shall any part of the record containing such information be used against  
 436 any licensee, certificate holder, or permit holder or applicant in any other type of  
 437 proceeding;

438 (14) Cheated on or attempted to subvert an examination by the board;

439 (15) Committed an act of sexual abuse, misconduct, or exploitation of a patient including  
 440 guardians and parents of minors;

441 (16) Mistreated or abandoned a patient or his or her records; provided, however that a  
 442 physician in compliance with Chapter 33 of Title 31 shall not be considered to have  
 443 abandoned patient records;

444 (17) Entered into conduct which discredits the profession;

445 (18) Failed to furnish records, including, but not limited to, medical records, to the board  
 446 in response to a subpoena or failed to answer questions on the renewal of the license,  
 447 certificate, or permit;

448 (19) Failed to maintain appropriate medical or other records as required by board rule;

449 (20) Failed to follow generally accepted infection control procedures or Occupational  
 450 Safety and Health Administration (OSHA) standards;

451 (21) Failed to comply with federal laws and standards relating to the practice of medicine  
 452 or other health care profession regulated under this chapter, the regulations of drugs, the  
 453 delivery of health care, or other related laws;

454 (22) Failed to comply with an order for child support as defined by Code Section  
 455 19-11-9.3; it shall be incumbent upon the applicant, licensee, certificate holder, or permit  
 456 holder to supply a notice of release to the board from the appropriate child support  
 457 authorities within the Department of Human Resources indicating that the licensee,  
 458 certificate holder, permit holder, or applicant has come into compliance with an order for  
 459 child support so that a license, certificate, or permit may be issued if all other conditions  
 460 for the issuance of a license, certificate, or permit are met; or

461 (23) Failed to enter into satisfactory repayment status and is a borrower in default as  
 462 defined by Code Section 20-3-295; it shall be incumbent upon the applicant, licensee,  
 463 certificate holder, or permit holder to supply the notice of release to the board from the  
 464 Georgia Higher Education Assistance Corporation indicating that the licensee, certificate  
 465 holder, permit holder, or applicant has entered into satisfactory repayment status so that  
 466 a license, certificate, or permit may be issued or granted if all other conditions for  
 467 issuance of a license, certificate, or permit are met.

468 (a.1) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'  
 469 with respect to emergency action by a professional licensing board and summary  
 470 suspension of a license are adopted and incorporated by reference into this Code section.

471 (b)(1) When the board finds that any person is unqualified to be granted a license,  
 472 certificate, or permit or finds that any person should be disciplined pursuant to  
 473 subsection (a) of this Code section, the board may take any one or more of the following  
 474 actions:

475 (A) Refuse to grant a license, certificate, or permit to an applicant;

476 (B) Place the licensee, certificate holder, or permit holder on probation for a definite  
 477 or indefinite period with terms and conditions;

478 (C) Administer a public or private reprimand, provided that a private reprimand shall  
 479 not be disclosed to any person except the licensee, certificate holder, or permit holder;

480 ~~(C)~~(D) Suspend any license, certificate, or permit for a definite or indefinite period;

481 ~~(D)~~(E) Limit or restrict any license, certificate, or permit;

482 ~~(E)~~(F) Revoke any license, certificate, or permit; or

483 ~~(F)~~ Condition the penalty, or withhold formal disposition, upon the physician's  
 484 submission to the care, counseling, or treatment of physicians or other professional  
 485 persons, and the completion of such care, counseling, or treatment, as directed by the  
 486 board.

487 (G) Impose a fine not to exceed \$5,000.00 for each violation of a law, rule, or  
 488 regulation relating to the licensee, certificate holder, permit holder or applicant;

489 (H) Impose a fine in a reasonable amount to reimburse the board for the administrative  
 490 costs;

491 (I) Require passage of a board approved minimum competency examination;

492 (J) Require board approved medical education;

493 (K) Condition the penalty, or withhold formal disposition, which actions shall be kept  
 494 confidential, unless there is a public order upon the licensee or applicant, certificate  
 495 holder, or permit holder's submission to the care, counseling, or treatment by physicians  
 496 or other professional persons and the completion of such care, counseling, or treatment,  
 497 as directed by the board; or

498 (L) Require a board approved mental and physical evaluation of all licensees,  
499 certificate holders, or permit holders.

500 (2) In addition to and in conjunction with the actions enumerated pursuant to  
501 paragraph (1) of this subsection, the board may make a finding adverse to the licensee,  
502 certificate holder, permit holder, or applicant but withhold imposition of judgment and  
503 penalty; or it may impose the judgment and penalty but suspend enforcement thereof and  
504 place the ~~physician~~ licensee, certificate holder, permit holder, or applicant on probation,  
505 which probation may be vacated upon noncompliance with such reasonable terms as the  
506 board may impose.

507 (3) Neither the issuance of a private reprimand nor the denial of a license, certificate, or  
508 permit nor the denial of a request for reinstatement of a revoked license, certificate, or  
509 permit nor the refusal to issue a previously denied license, certificate, or permit shall be  
510 considered to be a contested case within the meaning of Chapter 13 of Title 50, the  
511 'Georgia Administrative Procedure Act'; notice and hearing within the meaning of said  
512 chapter shall not be required, but the applicant or licensee, certificate holder, or permit  
513 holder shall be allowed to appear before the board if he or she so requests. A board may  
514 resolve a pending action by the issuance of a letter of concern. Such letter shall not be  
515 considered a disciplinary action or a contested case under Chapter 13 of Title 50 and shall  
516 not be disclosed to any person except the holder of a license, certificate, or permit or an  
517 applicant.

518 (b.1) The board shall suspend the license, certificate, or permit of a person licensed by the  
519 board who has been certified by a federal agency and reported to the board for nonpayment  
520 or default or breach of a repayment or service obligation under any federal education loan,  
521 loan repayment, or service conditional scholarship program. Prior to the suspension, the  
522 licensee, certificate holder, or permit holder shall be entitled to notice of the board's  
523 intended action and opportunity to appear before the board according to procedures set  
524 forth in the board's rules and regulations. A suspension of a license, certificate, or permit  
525 under this subsection is not a contested case under Chapter 13 of Title 50, 'Georgia  
526 Administrative Procedure Act.' A license, certificate, or permit suspended under this Code  
527 section shall not be reinstated or reissued until the person provides the board a written  
528 release issued by the reporting agency stating that the person is making payments on the  
529 loan or satisfying the service requirements in accordance with an agreement approved by  
530 the reporting agency. If the person has continued to meet all other requirements for  
531 issuance of a license, certificate, or permit during the period of suspension, reinstatement  
532 of the license, certificate, or permit shall be automatic upon receipt of the notice and  
533 payment of any reinstatement fee which the board may impose.

534 (c) In its discretion, the board may restore and reissue a license, certificate, or permit to  
535 practice medicine issued under this chapter or any antecedent law and, as a condition  
536 thereof, may impose any disciplinary or corrective measure provided in this chapter.

537 (d) The executive director is vested with the power and authority to make, or cause to be  
538 made through employees or agents of the board, such investigations as he or she, or the  
539 board, or any district attorney may deem necessary or advisable in the enforcement of this  
540 chapter. Any person properly conducting an investigation on behalf of the board shall have  
541 access to and may examine any writing, document, or other material, except that as to  
542 which privilege has not been denied or deemed waived by this chapter, and which is  
543 deemed by the ~~president~~ chairperson of the board, or ~~vice-president~~ vice chairperson if the  
544 president chairperson is not available, to be related to the fitness of any licensee, certificate  
545 holder, permit holder, or applicant to practice ~~medicine~~ pursuant to this chapter. The  
546 executive director or the ~~president~~ chairperson of the board, or ~~vice-president~~ vice  
547 chairperson if the ~~president~~ chairperson is not available, may issue subpoenas to compel  
548 such access. When a subpoena is disobeyed, the board may apply to the superior court of  
549 the county where the person to whom the subpoena is issued resides for an order requiring  
550 obedience. Failure to comply with such order shall be punishable as for contempt of court.  
551 The results of any investigations whatsoever shall be reported only to the board, and the  
552 records of such investigations shall be kept by the board; no part of any such record shall  
553 be released for any purpose other than a hearing before the board and as provided in  
554 Chapter 34A of this title; nor shall such records be subject to subpoena. The board shall  
555 be authorized to release records that are not otherwise confidential or privileged only to  
556 another state or federal enforcement agency or lawful licensing authority.

557 (e) In any hearing to determine a licensee's, certificate holder's, permit holder's, or  
558 applicant's fitness to practice ~~medicine~~ pursuant to this chapter, any record relating to any  
559 patient of the licensee, certificate holder, permit holder, or applicant shall be admissible  
560 into evidence, regardless of any statutory privilege which such patient might otherwise be  
561 able to invoke. In addition, no such patient may withhold testimony bearing upon a  
562 licensee's, certificate holder's, permit holder's, or applicant's fitness to practice ~~medicine~~  
563 pursuant to this chapter on the ground of privilege between such licensee, certificate holder,  
564 permit holder, or applicant and such patient. Any testimony or written evidence relating  
565 to a patient of a licensee, certificate holder, permit holder, or applicant or to the record of  
566 any such patient shall be received by the board in camera and shall not be disclosed to the  
567 public.

568 (f) In any hearing in which the fitness of a licensee, certificate holder, permit holder, or  
569 applicant to practice ~~medicine~~ pursuant to this chapter is in question, the board may  
570 exclude all persons from its deliberation of the appropriate action to be taken and may,

571 when in its discretion it deems it necessary, speak to a licensee, certificate holder, permit  
 572 holder, or applicant in private.

573 ~~(g) This Code section is enacted in the public welfare and shall be liberally construed.~~

574 ~~(h)~~ A person, partnership, firm, corporation, association, authority, or other entity shall be  
 575 immune from civil and criminal liability for reporting or investigating the acts or omissions  
 576 of a licensee, certificate holder, permit holder, or applicant which violate the provisions of  
 577 subsection (a) of this Code section or any other provisions of law relating to a licensee's,  
 578 certificate holder's, permit holder's, or applicant's fitness to practice medicine pursuant to  
 579 this chapter or for initiating or conducting proceedings against such licensee, certificate  
 580 holder, permit holder, or applicant, if such report is made or action is taken in good faith  
 581 without fraud or malice. Any person who testifies in good faith without fraud or malice  
 582 before the board in any proceeding involving a violation of subsection (a) of this Code  
 583 section or any other law relating to a licensee's, certificate holder's, permit holder's, or  
 584 applicant's fitness to practice medicine pursuant to this chapter, or who makes a  
 585 recommendation to the board in the nature of peer review, shall be immune from civil and  
 586 criminal liability for so testifying.

587 (h) Peer review conducted pursuant to this Code section shall be subject to the provisions  
 588 of Article 6 of Chapter 7 of Title 31, relating to medical peer review groups. Any person  
 589 providing information for purposes of peer review under this Code section and any person  
 590 providing information to the board under this Code section shall not be criminally or civilly  
 591 liable in any way for such actions unless:

592 (1) Such information is unrelated to the carrying out of peer review under this Code  
 593 section; or

594 (2) Such information is false and the person disclosing such information knew that such  
 595 information was false.

596 (i) This Code section is enacted in the public welfare and shall be liberally construed.

597 ~~(i)~~(j) The board shall investigate a licensee's, certificate holder's, or permit holder's fitness  
 598 to practice medicine pursuant to this chapter if the board has received a notification,  
 599 pursuant to Code Section 33-3-27, regarding that licensee, certificate holder, or permit  
 600 holder of a medical malpractice judgment or settlement in excess of \$100,000.00 or a  
 601 notification pursuant to Code Section 33-3-27 that there have been two or more previous  
 602 judgments against or settlements with the licensee, certificate holder, or permit holder  
 603 relating to ~~the practice of medicine~~ medicine pursuant to this chapter involving an action for medical  
 604 malpractice. Every licensee, certificate holder, or permit holder shall notify the board of  
 605 any settlement or judgment involving the licensee, certificate holder, or permit holder  
 606 involving an action for medical malpractice.

607 ~~(j)~~(k) The board ~~shall~~ may conduct an assessment of a licensee's, certificate holder's, or  
608 permit holder's fitness to practice ~~medicine pursuant to this chapter~~ if it has disciplined the  
609 licensee, certificate holder, or permit holder three times in the last ten years as a result of  
610 an action for medical malpractice. The assessment shall include an examination of the  
611 licensee's, certificate holder's, or permit holder's entire history with respect to ~~the practice~~  
612 of medicine pursuant to this chapter and a one-day on-site visit to the licensee's, certificate  
613 holder's, or permit holder's current practice location. The assessment shall be completed  
614 within six months of the third disciplinary action. As a result of its findings the board may  
615 take any action it deems necessary to reduce medical errors and promote patient safety,  
616 including revocation, suspension, or limiting the licensee's, certificate holder's, or permit  
617 holder's license, certificate, or permit or requiring additional clinical training, additional  
618 continuing medical education, proctoring, or referral to appropriate rehabilitation facilities.  
619 As used in this subsection, the term 'action for medical malpractice' shall have the same  
620 meaning as provided in Code Section 9-3-70. The board shall implement this subsection  
621 upon the effective date of a specific appropriation of funds for purposes of this subsection  
622 as expressed in a line item making specific reference to the full funding of this subsection  
623 in an appropriations Act enacted by the General Assembly.

624 (l) If any licensee, certificate holder, permit holder, or applicant after 30 days' notice fails  
625 to appear at any hearing of the board for that licensee, certificate holder, permit holder, or  
626 applicant, the board may proceed to hear the evidence against such licensee, certificate  
627 holder, permit holder, or applicant and take action as if such licensee, certificate holder,  
628 permit holder, or applicant had been present. A notice of hearing, initial or recommended  
629 decision, or final decision of the board in a disciplinary proceeding shall be served  
630 personally upon the licensee, certificate holder, permit holder, or applicant or served by  
631 certified mail, return receipt requested, to the last known address of record with the board.  
632 If such material is served by certified mail and is returned marked 'unclaimed' or 'refused'  
633 or is otherwise undeliverable and if the licensee, certificate holder, permit holder, or  
634 applicant cannot, after diligent effort, be located, the executive director shall be deemed to  
635 be the agent for service for such licensee, certificate holder, permit holder, or applicant for  
636 purposes of this Code section, and service upon the executive director shall be deemed to  
637 be service upon the licensee, certificate holder, permit holder, or applicant.

638 (m) The voluntary surrender of a license, certificate, or permit or the failure to renew a  
639 license, certificate, or permit by the end of the established penalty period shall have the  
640 same effect as a revocation of said license, certificate, or permit, subject to reinstatement  
641 in the discretion of the board. The board may restore and reissue a license, certificate, or  
642 permit to practice under this chapter and, as a condition thereof, may impose any  
643 disciplinary sanction provided by this Code section.

644 (n) Subsections (a) and (b) of this Code section shall be supplemental to and shall not  
 645 operate to prohibit the board from acting pursuant to those provisions of law which may  
 646 now or hereafter authorize other disciplinary grounds and actions for the board. In cases  
 647 where those other provisions are law so authorize other disciplinary grounds and actions  
 648 but subsections (a) and (b) of this Code section limit such grounds for action, those other  
 649 provisions shall apply.

650 (o) The board shall publish all final public disciplinary actions taken against a licensee,  
 651 certificate holder, or permit holder pursuant to this chapter on its official website.

652 ~~43-34-38~~ 43-34-9.

653 Proceedings before the board wherein a licensee's, certificate holder's, or permit holder's  
 654 right to practice medicine pursuant to this chapter in this state is terminated, suspended, or  
 655 limited or wherein a public reprimand is administered shall require prior notice to the  
 656 licensee and an opportunity for hearing; and such proceedings shall be considered  
 657 contested cases within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative  
 658 Procedure Act.' Neither refusal of a license, certificate, or permit nor a private reprimand  
 659 nor a letter of concern shall be considered a contested case within the meaning of Chapter  
 660 13 of Title 50, and notice and hearing within the meaning of such chapter shall not be  
 661 required; ~~but the applicant physician shall be allowed to appear before the board if he so~~  
 662 requests provided, however, that the applicant shall be allowed to appear before the board,  
 663 if the applicant so requests, prior to the board making a final decision regarding the  
 664 issuance of the license, certificate, or permit. The power to subpoena as set forth in  
 665 Chapter 13 of Title 50 shall include the power to subpoena any book, writing, paper, or  
 666 document. If any licensee, certificate holder, or permit holder fails to appear at any hearing  
 667 after reasonable notice, the board may proceed to hear the evidence against such licensee,  
 668 certificate holder, or permit holder and take action as if such licensee, certificate, or permit  
 669 had been present. Revocation of a license, certificate, or permit requires due process of  
 670 law.

671 43-34-10.

672 Any licensee, certificate holder, or permit holder who is convicted under the laws of this  
 673 state, the United States, or any other state, territory, or country of a felony as defined in  
 674 paragraph (5) of Code Section 16-1-3 shall be required to notify the board of the conviction  
 675 within ten days of the conviction. The failure to notify the board of a conviction shall be  
 676 considered grounds for revocation of his or her license, certificate, permit, or other  
 677 authorization to conduct a profession regulated under this chapter.

678 ~~43-34-3~~ 43-34-11.

679 (a)(1) The board shall be authorized to require persons seeking renewal of a license, ~~or~~  
 680 certificate, or permit under this chapter to complete board approved continuing education  
 681 of not less than 40 hours biennially. The board shall be authorized to approve courses  
 682 offered by institutions of higher learning, specialty societies, or professional  
 683 organizations, including, but not limited to, the American Medical Association, the  
 684 National Medical Association, and the American Osteopathic Association, the number  
 685 of hours required, and the category in which these hours should be earned. This paragraph  
 686 shall not apply to respiratory care professionals or persons seeking renewal of  
 687 certification as respiratory care professionals.

688 (2) The board shall be authorized to require persons seeking renewal of certification as  
 689 respiratory care professionals under Article 6 of this chapter to complete board approved  
 690 continuing education. The board shall be authorized to establish the number of hours of  
 691 continuing education required biennially for renewal of certification as a respiratory care  
 692 professional and the categories in which these hours should be earned. The board shall  
 693 be authorized to approve courses offered by institutions of higher learning, specialty  
 694 societies, or professional organizations. Any action taken by the board pursuant to this  
 695 paragraph shall be taken in conformity with the provisions of Code Section 43-34-143.

696 (b)(1) The board shall be authorized to waive the continuing education requirement in  
 697 cases of hardship, disability, illness, or in cases where physicians or ~~physicians'~~ physician  
 698 assistants are serving in fellowships, new specialty residencies, postgraduate specialty  
 699 programs, the United States Congress or Georgia General Assembly, or under such other  
 700 circumstances as the board deems appropriate.

701 (2) The board shall require no more than 20 hours of continuing education annually for  
 702 retired physicians who have an active license and who provide uncompensated health  
 703 care services pursuant to Code Section ~~43-34-45.1~~ 43-34-42 or Article 8 of Chapter 8 of  
 704 Title 31; provided, however, that the board shall be authorized to require up to 40 hours  
 705 of continuing education for retired physicians who have not had an active license to  
 706 practice medicine for up to five years.

707 (c) The board shall be authorized to promulgate rules and regulations to implement and  
 708 ensure compliance with the requirements of this Code section.

709 (d) This Code section shall apply to each licensing, certification, permit, and renewal cycle  
 710 which begins after the 1990-1991 renewal.

## 711 ARTICLE 2

712 43-34-20.713 This article shall be known as the 'Medical Practice Act of the State of Georgia.'714 43-34-21.

715 The practice of medicine is a privilege granted by the people acting through their elected  
 716 representatives. It is not a natural right of individuals. In the interests of public health,  
 717 safety, and welfare and to protect the public from the unprofessional, improper,  
 718 incompetent, and unlawful practice of medicine, it is necessary to provide laws and  
 719 regulations to govern the granting and subsequent use of the privilege to practice medicine.  
 720 To that end, the regulation of that practice deserves a structure designed to concentrate on  
 721 the practice of medicine. Thus, the primary responsibility and obligation of the Georgia  
 722 Composite Medical Board are to protect the public.

723 ~~43-34-20:~~ 43-34-22.

724 As used in this article, the term:

725 (1) 'Board' or ~~'Board of Medical Examiners'~~ means the ~~Composite State Board of~~  
726 ~~Medical Examiners~~ Georgia Composite Medical Board.727 (2) ~~'Internship'~~ or any other similar term ~~includes a clinical training program which is~~  
728 ~~defined and approved by the board as a substitute for an internship.~~729 ~~(2.1)~~ 'Physician' means a person licensed to practice medicine under this article.730 (2.1) 'Postgraduate training' means a program for the training of interns, residents, or  
731 postresidency fellows that is approved by the Accreditation Council for Graduate Medical  
732 Education (ACGME), American Osteopathic Association (AOA), or the board.

733 (3) 'To practice medicine,' 'the practice of medicine,' or 'practicing medicine' means to  
 734 hold oneself out to the public as being engaged in the diagnosis or treatment of disease,  
 735 defects, or injuries of human beings; or the suggestion, recommendation, or prescribing  
 736 of any form of treatment for the intended palliation, relief, or cure of any physical,  
 737 mental, or functional ailment or defect of any person with the intention of receiving  
 738 therefor, either directly or indirectly, any fee, gift, or compensation whatsoever; or the  
 739 maintenance of an office for the reception, examination, and treatment of persons  
 740 suffering from disease, defect, or injury of body or mind; or attaching the title 'M.D.,'  
 741 'Oph.,' 'D.,' 'Dop.,' 'Surgeon,' 'Doctor,' 'D.O.,' 'Doctor of Osteopathy,' 'Allopathic  
 742 Physician,' 'Osteopathic Physician,' or 'Physician,' either alone or in connection with other  
 743 words, or any other words or abbreviations to one's name, indicating that such person is  
 744 engaged in the treatment or diagnosis of disease, defects, or injuries to human beings,

745 provided that the terms 'doctors of medicine,' 'doctors of osteopathic medicine,' 'doctors  
746 of medicine licensed to practice in the state,' and similar terms wherever used or  
747 appearing in this article or elsewhere shall mean and include only those persons ~~who are~~  
748 licensed to ~~practice medicine~~ under this article.

749 ~~43-34-25:~~

750 ~~The board shall have authority to administer oaths, to summon witnesses, and to take~~  
751 ~~testimony in all matters relating to its duties.~~

752 ~~43-34-26~~ 43-34-23.

753 (a) If any person shall hold himself or herself out to the public as being engaged in the  
754 diagnosis or treatment of disease or injuries of human beings, or shall suggest, recommend,  
755 or prescribe any form of treatment for the palliation, relief, or cure of any physical or  
756 mental ailment of any person, with the intention of receiving therefor, either directly or  
757 indirectly, any fee, gift, or compensation whatsoever, or shall maintain an office for the  
758 reception, examination, or treatment of diseased or injured human beings, or shall attach  
759 the title 'M.D.,' 'Oph.,' 'D.,' 'Dop.,' 'Surgeon,' 'Doctor,' 'D.O.,' 'Doctor of Osteopathy,'  
760 'Osteopathic Physician,' or 'Physician,' either alone or in connection with other words, or  
761 any other word or abbreviation to his or her name indicative that he or she is engaged in  
762 the treatment of diseased, defective, or injured human beings, and shall not in any of these  
763 cases then possess a valid license to practice medicine under the laws of this state, he or she  
764 shall be deemed to be practicing medicine without complying with this ~~chapter~~ article and  
765 shall be deemed in violation of this ~~chapter~~ article.

766 (b) Nothing in this chapter shall be construed to prohibit:

- 767 (1) Gratuitous services in cases of emergency;
- 768 (2) The practice of the religious tenets or general beliefs of any church whatsoever;
- 769 (3) The requiring of a fee for examination by opticians, at their established places of  
770 business, who do not prescribe or use drugs or medicines or attach to their names titles  
771 indicative that any such persons are engaged in the practice of medicine, as defined in this  
772 ~~chapter~~ article;
- 773 (4) The performance of their duties for the federal government by federal physicians,  
774 both military and civilian;
- 775 (5) The consultation on special cases approved by the board in this state of regularly  
776 licensed physicians from other states or territories;
- 777 (6) The licensed practice of dentistry, optometry, psychology, podiatry, or chiropractic;
- 778 (7) The licensed practice of midwifery or nursing;

779 (8) The utilization of a ~~physician's~~ physician assistant to perform tasks approved by the  
 780 board, and the performance of such tasks by the ~~physician's~~ physician assistant; the  
 781 delegation by a physician to a qualified person other than a ~~physician's~~ physician assistant  
 782 of any acts, duties, or functions which are otherwise permitted by law or established by  
 783 custom; and the performance of such acts, duties, or functions by such a person other than  
 784 a ~~physician's~~ physician assistant; or

785 (9) The performance of:

786 (A) Any medical task by a student enrolled in a medical ~~college~~ school, osteopathic  
 787 ~~college~~ medical school, or ~~physician's~~ physician assistant training program approved  
 788 by the board; or

789 (B) Any dental task by a student enrolled in a dental college approved by the Georgia  
 790 Board of Dentistry; or

791 (C) Any nursing task by a student enrolled in a nursing program approved by the  
 792 Georgia Board of Nursing

793 where ~~either type~~ any such task is performed under the supervision of an authorized  
 794 instructor lawfully licensed in this state to perform such tasks; or

795 (10) The performance by medical assistants of medical tasks, including subcutaneous  
 796 and intramuscular injections; obtaining vital signs; administering nebulizer treatments;  
 797 or other tasks approved by the board pursuant to rule, if under the supervision by a  
 798 physician in his or her office or the performance by medical assistants of medical tasks  
 799 ordered by a physician assistant or advanced practice registered nurse delegated the  
 800 authority to issue such an order in accordance with law and pursuant to rules of the board.

801 (c) Nothing in this ~~chapter~~ article shall be construed as preventing any person holding a  
 802 valid license as a Doctor of Osteopathy on March 16, 1970, from engaging in the practice  
 803 of osteopathy as the same was practiced by such person at such time, subject to biennial  
 804 renewal of his or her license. Such limited renewal licenses shall not authorize the practice  
 805 of obstetrics or surgery other than the minor suturing of cuts.

806 (d) It shall be unlawful for any hospital, insurance company, or other entity to base  
 807 credentialing on or otherwise discriminate against a licensed Doctor of Osteopathy or  
 808 Osteopathic Physician who received his or her postgraduate training in a program approved  
 809 by the American Medical Association or the American Osteopathic Association.

810 ~~43-34-26.1~~ 43-34-24.

811 (a) As used in this Code section, the term:

812 (1) 'Administer' means to give a unit dose of any drug or to perform any medical  
 813 treatment or diagnostic study.

- 814 (2) 'Controlled substance' means any controlled substance, as defined in Code Section  
 815 16-13-21, except any Schedule I controlled substance listed in Code Section 16-13-25.
- 816 (3) 'Dangerous drug' means any dangerous drug, as defined in Code Section 16-13-71,  
 817 but does not include any controlled substance or Schedule I controlled substance.
- 818 (3.1) 'Dispense' means to issue one or more doses of any drug in a suitable container with  
 819 appropriate labeling for subsequent administration to, or use by, a patient.
- 820 (4) 'Dispensing procedure' means a written document signed by a licensed pharmacist  
 821 and a licensed physician which document establishes the appropriate manner under which  
 822 drugs may be dispensed pursuant to this Code section.
- 823 (5) 'Drug' means any dangerous drug or controlled substance.
- 824 (5.1) ~~'Job description' means a document signed by a licensed physician and describing~~  
 825 ~~the duties which may be performed by a physician's assistant, by which document the~~  
 826 ~~physician delegates to that physician's assistant the authority to perform certain medical~~  
 827 ~~acts pursuant to subsection (b) of this Code section and which acts shall include, without~~  
 828 ~~being limited to, the administering and ordering of any drug shall have the same meaning~~  
 829 ~~as in Code Section 43-34-102.~~
- 830 (6) 'Nurse' means a person who is a registered professional nurse licensed as such under  
 831 Article 1 of Chapter 26 of this title.
- 832 (7) 'Nurse protocol' means a written document mutually agreed upon and signed by a  
 833 nurse and a licensed physician, by which document the physician delegates to that nurse  
 834 the authority to perform certain medical acts pursuant to subsection (b) of this Code  
 835 section, and which acts shall include, without being limited to, the administering and  
 836 ordering of any drug.
- 837 (8) 'Order' means to select a drug, medical treatment, or diagnostic study through  
 838 physician delegation in accordance with a nurse protocol or a ~~physician's~~ physician  
 839 ~~assistant's job description. Ordering under such delegation shall not be construed to be~~  
 840 ~~prescribing, which act can only be performed by the physician,~~ nor shall ordering of a  
 841 drug be construed to authorize the issuance of a written prescription.
- 842 (9) ~~Physician's~~ Physician assistant' means a person licensed as a ~~physician's~~ physician  
 843 assistant pursuant to Article 4 of this chapter, the ~~Physician's~~ Physician Assistant Act.'
- 844 (b)(1) A physician may delegate to:
- 845 (A) A ~~physician's~~ physician assistant in accordance with a job description; or
- 846 (B) A nurse recognized by the Georgia Board of Nursing as a certified nurse midwife,  
 847 certified registered nurse anesthetist, certified nurse practitioner, or clinical nurse  
 848 specialist, psychiatric/mental health in accordance with a nurse protocol

849 the authority to order controlled substances selected from a formulary of such drugs  
 850 established by the ~~Composite State Board of Medical Examiners~~ board and the authority  
 851 to order dangerous drugs, medical treatments, and diagnostic studies.

852 (2) A physician may delegate to a nurse or ~~physician's~~ physician assistant the authority  
 853 to order dangerous drugs, medical treatments, or diagnostic studies and a nurse or  
 854 ~~physician's~~ physician assistant is authorized to dispense dangerous drugs, in accordance  
 855 with a dispensing procedure and under the authority of an order issued in conformity with  
 856 a nurse protocol or job description, if that nurse or ~~physician's~~ physician assistant orders  
 857 or dispenses those dangerous drugs, medical treatments, or diagnostic studies:

858 (A) As an agent or employee of:

859 (i) The Division of Public Health of the Department of Human Resources;

860 (ii) Any county board of health; or

861 (iii) Any organization:

862 (I) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal  
 863 Revenue Code, as defined in Code Section 48-1-2, other than an organization which  
 864 is a hospital, preferred provider organization, health maintenance organization, or  
 865 similar organization; or

866 (II) Established under the authority of or receiving funds pursuant to 42 U.S.C.  
 867 Section 254b or 254c of the United States Public Health Service Act,  
 868 which organization provides that those medical services and dangerous drugs which  
 869 are ordered or dispensed by its ~~physician's~~ physician assistants and nurses will be  
 870 provided at no cost to the patient or at a cost based solely upon the patient's ability to  
 871 pay; and

872 (B) In conformity with subsection (b) of Code Section 26-4-130 and the rules and  
 873 regulations established pursuant thereto by the State Board of Pharmacy.

874 (3) In addition, a physician may delegate to a nurse or ~~physician's~~ physician assistant the  
 875 authority to order dangerous drugs, medical treatments, or diagnostic studies and a nurse  
 876 or ~~physician's~~ physician assistant is authorized to dispense dangerous drugs, in  
 877 accordance with a dispensing procedure and under the authority of an order issued in  
 878 conformity with a nurse protocol or job description, if that nurse or ~~physician's~~ physician  
 879 assistant orders or dispenses such drugs, treatments, or studies to a patient of an  
 880 outpatient clinic:

881 (A) Which is owned or operated by a licensed hospital;

882 (B) Which provides such drugs, treatments, or studies free or at a charge to the patient  
 883 based solely upon the patient's ability to pay; provided, however, such charge shall not  
 884 exceed the actual cost to the outpatient clinic; and

885 (C) Whose services are primarily provided to the medically disadvantaged

886 and that nurse or ~~physician's~~ physician orders or dispenses such drugs in conformity with  
887 subsection (b) of Code Section 26-4-130 and the rules and regulations established  
888 pursuant thereto by the State Board of Pharmacy.

889 (4) Delegation of authority to a ~~physician's~~ physician assistant pursuant to this subsection  
890 shall be authorized only if that delegation is contained in the job description approved for  
891 that ~~physician's~~ physician assistant by the ~~Composite State Board of Medical Examiners~~  
892 board.

893 (5) Delegation of authority to a nurse pursuant to this subsection shall be authorized only  
894 if that delegation is contained in a nurse protocol for that nurse.

895 (c) The ~~Composite State Board of Medical Examiners~~ board shall be empowered to  
896 promulgate rules and regulations governing physicians and ~~physician's~~ physician assistants  
897 to carry out the intents and purposes of this Code section, including establishing criteria  
898 and standards governing physicians, ~~physician's~~ physician assistants, job descriptions, and  
899 nurse protocols. The board shall be authorized to require that protocols not falling within  
900 such established criteria and standards be submitted to the board for review and approval  
901 or rejection.

902 (d) Notwithstanding any other provision of law to the contrary, a ~~physician's~~ physician  
903 assistant or nurse may perform any act authorized to be performed by that person pursuant  
904 to and in conformity with this Code section without such act constituting the practice of  
905 medicine.

906 (e) Nothing in this Code section shall be construed to limit or repeal this article and  
907 Articles 4 and 6 of this chapter, relating to physicians, ~~osteopaths~~ osteopathic physicians,  
908 ~~physician's~~ physician assistants, and respiratory therapists, or Article 1 of Chapter 26 of this  
909 title, relating to registered nurses.

910 (f) Nothing in this Code section shall be construed to limit or repeal any existing authority  
911 of a licensed physician to delegate to a qualified person any acts, duties, or functions which  
912 are otherwise permitted by law or established by custom.

913 (g) Nothing in this Code section shall be construed to authorize or permit the issuance of  
914 a Drug Enforcement Administration license to a nurse who is not an advanced practice  
915 registered nurse.

916 (h) Nothing in this Code section shall be construed to limit or repeal the authority of any  
917 organization described in division (i) or (ii) of subparagraph (b)(2)(A) of this Code section  
918 or any organization established under the authority of or receiving funds pursuant to 42  
919 U.S.C. Section 254b or 254c of the United States Public Health Service Act to supervise  
920 its agents or employees or interfere with the employer and employee relationship of any  
921 such agents or employees.

922 (i) Notwithstanding any other provision of law to the contrary, a ~~physician's~~ physician  
923 assistant or nurse may perform any act deemed necessary to provide treatment to a hospital  
924 or nursing home patient in a life-threatening situation when such act is authorized by  
925 standing procedures established by the medical staff of the hospital or nursing home.

926 ~~43-34-26.2~~ 43-34-25.

927 (a) As used in this Code section, the term 'pharmacist' means a person who meets the  
928 requirements specified in Code Section 26-4-50.

929 (b) A physician may delegate to a pharmacist the authority to modify drug therapy as part  
930 of drug therapy management. The physician making such delegation shall adequately  
931 supervise the application of his or her order delegating the authority to modify drug  
932 therapy. Delegation of such authority shall only be made pursuant to the physician's  
933 diagnosis, written order, and drug therapy protocol. Unless a drug therapy modification is  
934 a substitution of a generic drug which is pharmaceutically and therapeutically equivalent  
935 to the patient's initial prescription drug order pursuant to Code Section 26-4-81, that  
936 protocol shall meet the applicable requirements for issuance of prescriptions provided in  
937 Code Section 16-13-41 or 16-13-74, whichever is applicable. A drug therapy protocol  
938 issued pursuant to this subsection may authorize a pharmacist to dispense a specific drug  
939 contained in the protocol as an alternative drug which is not pharmaceutically and  
940 therapeutically equivalent to the patient's initial prescription drug order and shall be  
941 deemed to be the physician's separate and distinct prescription drug order. All protocols  
942 authorized by this subsection shall:

943 (1) Identify the pharmacist who is authorized to modify drug therapy and the physician  
944 who is delegating the authority to modify drug therapy;

945 (2) Indicate the physician's diagnosis of condition or disease state of the patient whose  
946 drug therapy may be modified;

947 (3) Identify each patient for whom the physician has delegated the authority to modify  
948 drug therapy;

949 (4) Describe specific responsibilities and parameters for modification of drug therapy  
950 and patient monitoring authorized under the protocol;

951 (5) Include a statement regarding the types and categories of medication as well as the  
952 maximum and minimum dosage levels within the types and categories of medication for  
953 which the pharmacist may modify drug therapy including:

954 (A) Additional procedures or plans which the pharmacist shall follow when the  
955 pharmacist modifies drug therapy; and

- 956 (B) The method of documentation and mechanism of communication of appropriate  
 957 medical care information or pharmacy care information, or both; description and  
 958 required frequency of reports which shall include:
- 959 (i) Any problems or complications encountered;
  - 960 (ii) A listing of recommendations by pharmacist; and
  - 961 (iii) A complete list of each instance in which drug therapy was modified and how  
 962 such therapy was modified since the last report; and
- 963 (6) Stipulate that each such patient must be notified that the pharmacist is authorized to  
 964 modify drug therapy pursuant to protocol between the pharmacist and the physician.
- 965 (c) A physician delegating the authority to modify drug therapy must be available through  
 966 communications for consultation, assistance, and direction. A physician may only delegate  
 967 the authority to modify drug therapy for a patient under the direct medical care and  
 968 supervision of that physician.
- 969 (d) An order delegating the authority to modify drug therapy under this Code section shall  
 970 not be valid for more than two years from the date such order was issued.
- 971 (e) Nothing in this Code section shall be construed to expand or change any existing  
 972 authority for a pharmacist to substitute drugs under Code Section 26-4-81.
- 973 (f) Nothing in this Code section shall be construed to prohibit hospital pharmacists from  
 974 participating in drug therapy management by protocol or other legal authority established  
 975 or approved by a member of the hospital medical staff for the care and treatment of hospital  
 976 patients.

977 ~~43-34-26.3~~ 43-34-26.

- 978 (a) As used in this Code section, the term:
- 979 (1) 'Advanced practice registered nurse' shall have the same meaning as provided in  
 980 paragraph (1.1) of Code Section 43-26-3.
  - 981 (2) 'Birthing center' means a facility or building where human births occur on a regular  
 982 or ongoing basis and which is classified by the Department of Community Health as a  
 983 birthing center.
  - 984 (3) 'Controlled substance' means any controlled substance as defined in Code Section  
 985 16-13-21 but shall not include any Schedule I controlled substance included in Code  
 986 Section 16-13-25 or any Schedule II controlled substance included in Code Section  
 987 16-13-26.
  - 988 (4) 'Dangerous drug' means any dangerous drug as defined in Code Section 16-13-71.
  - 989 (5) 'Delegating physician' means a physician who has entered into a nurse protocol  
 990 agreement pursuant to this Code section.

- 991 (6) 'Diagnostic study' means a laboratory test, X-ray, ultrasound, or procedure used to  
 992 identify a characteristic or distinguishing feature of a particular disease or condition.
- 993 (7) 'Drug' means any dangerous drug or controlled substance.
- 994 (8) 'Free health clinic' shall have the same meaning as provided in Code Section  
 995 51-1-29.4.
- 996 (9) 'Life threatening' means an emergency situation in which a patient's life or physical  
 997 well-being will be harmed if certain testing is not performed immediately.
- 998 (10) 'Nurse protocol agreement' means a written document mutually agreed upon and  
 999 signed by an advanced practice registered nurse and a physician, by which document the  
 1000 physician delegates to that advanced practice registered nurse the authority to perform  
 1001 certain medical acts pursuant to this Code section, and which acts may include, without  
 1002 being limited to, the ordering of drugs, medical devices, medical treatments, diagnostic  
 1003 studies, or in life-threatening situations radiographic imaging tests. Such agreements  
 1004 shall conform to the provisions set forth in subsection (c) of this Code section.
- 1005 (11) 'Order' means to prescribe pursuant to a nurse protocol agreement which drug,  
 1006 medical device, medical treatment, diagnostic study, or in life-threatening situations  
 1007 radiographic imaging test is appropriate for a patient and to communicate the same in  
 1008 writing, orally, via facsimile, or electronically.
- 1009 (12) 'Physician' means a person licensed to practice medicine under this ~~chapter~~ article  
 1010 and:
- 1011 (A) Whose principal place of practice is within this state; or
- 1012 (B) Whose principal place of practice is outside this state but is within 50 miles from  
 1013 the location where the nurse protocol agreement is being utilized within this state.
- 1014 (13) 'Prescription drug order' means a written or oral order of an advanced practice  
 1015 registered nurse for a drug or medical device for a specific patient. Such term includes  
 1016 an electronic visual image prescription drug order and an electronic data prescription drug  
 1017 order.
- 1018 (14) 'Professional sample' means a complimentary dose of a drug, medication,  
 1019 medication voucher, or medical device provided by the manufacturer for use in patient  
 1020 care.
- 1021 (15) 'Radiographic imaging test' means a computed tomography, magnetic resonance  
 1022 imaging, positron emission tomography, or nuclear medicine.
- 1023 (b) In addition to and without limiting the authority granted pursuant to Code Section  
 1024 ~~43-34-26.1~~ 43-34-24, a physician may delegate to an advanced practice registered nurse  
 1025 in accordance with a nurse protocol agreement the authority to order drugs, medical  
 1026 devices, medical treatments, diagnostic studies, or, in life-threatening situations,  
 1027 radiographic imaging tests.

- 1028 (c) A nurse protocol agreement between a physician and an advanced practice registered  
1029 nurse pursuant to this Code section shall:
- 1030 (1) Be between an advanced practice registered nurse who is in a comparable specialty  
1031 area or field as that of the delegating physician;
  - 1032 (2) Contain a provision for immediate consultation between the advanced practice  
1033 registered nurse and the delegating physician; if the delegating physician is not available,  
1034 the delegating physician for purposes of consultation may designate another physician  
1035 who concurs with the terms of the nurse protocol agreement;
  - 1036 (3) Identify the parameters under which delegated acts may be performed by the  
1037 advanced practice registered nurse, including without limitation the number of refills  
1038 which may be ordered, the kinds of diagnostic studies which may be ordered, the extent  
1039 to which radiographic image tests may be ordered, and the circumstances under which  
1040 a prescription drug order may be executed. In the event the delegating physician  
1041 authorizes the advanced practice registered nurse to order an X-ray, ultrasound, or  
1042 radiographic imaging test, the nurse protocol agreement shall contain provisions whereby  
1043 such X-ray, ultrasound, or radiographic imaging test shall be read and interpreted by a  
1044 physician who is trained in the reading and interpretation of such tests; a report of such  
1045 X-ray, ultrasound, or radiographic imaging test may be reviewed by the advanced  
1046 practice registered nurse; and a copy of such report shall be forwarded to the delegating  
1047 physician, except that such provision for an ultrasound shall not be required for an  
1048 advanced practice registered nurse acting within his or her scope of practice as authorized  
1049 by Code Sections 43-26-3 and 43-26-5;
  - 1050 (4) Require documentation either in writing or by electronic means or other medium by  
1051 the advanced practice registered nurse of those acts performed by the advanced practice  
1052 registered nurse which are specific to the medical acts authorized by the delegating  
1053 physician;
  - 1054 (5) Include a schedule for periodic review by the delegating physician of patient records.  
1055 Such patient records review may be achieved with a sampling of such records as  
1056 determined by the delegating physician;
  - 1057 (6) Provide for patient evaluation or follow-up examination by the delegating physician  
1058 or other physician designated by the delegating physician pursuant to paragraph (2) of  
1059 this subsection, with the frequency of such evaluation or follow-up examination based  
1060 on the nature, extent, and scope of the delegated act or acts as determined by the  
1061 delegating physician in accordance with paragraph (3) of this subsection and accepted  
1062 standards of medical practice as determined by the board;
  - 1063 (7) Be reviewed, revised, or updated annually by the delegating physician and the  
1064 advanced practice registered nurse;

1065 (8) Be available for review upon written request to the advanced practice registered nurse  
1066 by the Georgia Board of Nursing or to the physician by the board; and

1067 (9) Provide that a patient who receives a prescription drug order for any controlled  
1068 substance pursuant to a nurse protocol agreement shall be evaluated or examined by the  
1069 delegating physician or other physician designated by the delegating physician pursuant  
1070 to paragraph (2) of this subsection on at least a quarterly basis or at a more frequent  
1071 interval as determined by the board.

1072 (d) A written prescription drug order issued pursuant to this Code section shall be signed  
1073 by the advanced practice registered nurse and shall be on a form which shall include,  
1074 without limitation, the names of the advanced practice registered nurse and delegating  
1075 physician who are parties to the nurse protocol agreement, the patient's name and address,  
1076 the drug or device ordered, directions with regard to the taking and dosage of the drug or  
1077 use of the device, and the number of refills. A prescription drug order which is transmitted  
1078 either electronically or via facsimile shall conform to the requirements set out in paragraphs  
1079 (1) and (2) of subsection (c) of Code Section 26-4-80, respectively.

1080 (e) An advanced practice registered nurse may be authorized under a nurse protocol  
1081 agreement to request, receive, and sign for professional samples and may distribute  
1082 professional samples to patients. The office or facility at which the advanced practice  
1083 registered nurse is working shall maintain a list of the professional samples approved by  
1084 the delegating physician for request, receipt, and distribution by the advanced practice  
1085 registered nurse as well as a complete list of the specific number and dosage of each  
1086 professional sample and medication voucher received and dispensed. In addition to the  
1087 requirements of this Code section, all professional samples shall be maintained as required  
1088 by applicable state and federal laws and regulations.

1089 (f) A managed care system, health plan, hospital, insurance company, or other similar  
1090 entity shall not require a physician or advanced practice registered nurse to be a party to  
1091 a nurse protocol agreement as a condition for participation in or reimbursement from such  
1092 entity.

1093 (g) A delegating physician may not enter into a nurse protocol agreement pursuant to this  
1094 Code section with more than four advanced practice registered nurses at any one time,  
1095 except this limitation shall not apply to an advanced practice registered nurse that is  
1096 practicing:

- 1097 (1) In a hospital licensed under Title 31;
- 1098 (2) In any college or university as defined in Code Section 20-8-1;
- 1099 (3) In the Department of Human Resources;
- 1100 (4) In any county board of health;
- 1101 (5) In any free health clinic;

- 1102 (6) In a birthing center;
- 1103 (7) In any entity:
- 1104 (A) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal  
1105 Revenue Code, as defined in Code Section 48-1-2, and primarily serves uninsured or  
1106 indigent Medicaid and medicare patients; or
- 1107 (B) Which has been established under the authority of or is receiving funds pursuant  
1108 to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act;
- 1109 (8) In any local board of education which has a school nurse program; or
- 1110 (9) In a health maintenance organization that has an exclusive contract with a medical  
1111 group practice and arranges for the provision of substantially all physician services to  
1112 enrollees in health benefits of the health maintenance organization.
- 1113 (h) Nothing in this Code section shall be construed to create a presumption of liability,  
1114 either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title  
1115 26 who, in good faith, fills a prescription drug order of an advanced practice registered  
1116 nurse issued pursuant to a nurse protocol agreement.
- 1117 (i) Nothing in this Code section shall be construed to apply to the practice of a certified  
1118 registered nurse anesthetist.
- 1119 (j) Nothing in this Code section shall be construed to require an advanced practice  
1120 registered nurse to be a party to a nurse protocol agreement in order to practice as a  
1121 registered professional nurse or an advanced practice registered nurse as otherwise  
1122 permitted by Article 1 of Chapter 26 of this title.
- 1123 (k) Nothing in this Code section shall be construed to authorize an advanced practice  
1124 registered nurse to issue a prescription drug order for a Schedule I or II controlled  
1125 substance or authorize refills of any drug for more than 12 months from the date of the  
1126 original order except in the case of oral contraceptives, hormone replacement therapy, or  
1127 prenatal vitamins which may be refilled for a period of 24 months.
- 1128 (l) Nothing in this Code section shall be construed to allow an advanced practice registered  
1129 nurse to perform an abortion or to administer, prescribe, or issue a drug order that is  
1130 intended to cause an abortion to occur pharmacologically.
- 1131 (m) The board shall have the authority to promulgate rules and regulations governing a  
1132 delegating physician in order to carry out the intents and purposes of this Code section.  
1133 Further, the board shall be authorized to:
- 1134 (1) Require that a nurse protocol agreement shall be filed by the delegating physician  
1135 with the board within a reasonable time from the date of execution;
- 1136 (2) Determine, after review of a filed nurse protocol agreement, if such nurse protocol  
1137 agreement fails to meet accepted standards of medical practice as established by the  
1138 board; and

1139 (3) Require the delegating physician to amend any such noncompliant nurse protocol  
1140 agreement in order to meet such accepted standards.

1141 (n) Except for practice settings identified in paragraph (7) of subsection (g) of this Code  
1142 section, it shall be unlawful for a physician to be an employee of an advanced practice  
1143 registered nurse, alone or in combination with others, if the physician is required to  
1144 supervise the employing advanced practice registered nurse. Such conduct shall be subject  
1145 to sanctions by the Georgia Board of Nursing as to the advanced practice registered nurse  
1146 and the board as to the physician.

1147 43-34-27.

1148 (a)(1)(A) Any person who wishes to obtain the right to practice medicine in this state  
1149 and who was not, prior to March 16, 1970, registered or licensed to practice medicine,  
1150 either by the State Board of Medical Examiners or the State Board of Examiners in  
1151 Osteopathy, shall, before it shall be lawful for him or her to practice medicine in this  
1152 state, make application to the board through the executive director, upon such forms  
1153 and in such manner as shall be adopted and prescribed by the board, and shall obtain  
1154 from the board a license to practice medicine. Any person who practices medicine  
1155 without first having obtained a license shall be deemed to have violated this ~~chapter~~  
1156 article. All applicants for a license to practice medicine or for a renewal of any such  
1157 license which has been revoked shall furnish the board with evidence of good moral  
1158 character. Applications from candidates to practice medicine or surgery in any of its  
1159 branches shall be accompanied by proof that the applicant is a graduate of ~~one of the~~  
1160 ~~two colleges of medicine now existing in this state, or from some other~~ legally  
1161 incorporated medical ~~college~~ school or osteopathic ~~college~~ medical school.

1162 (B) The board by rule or regulation may establish standards ~~and procedures~~ for  
1163 evaluating, inspecting, and approving any medical school or osteopathic ~~college~~ not  
1164 ~~already approved by it on or before March 16, 1970~~ medical school. The evaluation  
1165 procedure may include consideration of reports from any outside agency having  
1166 expertise in medical school or osteopathic ~~college~~ medical school evaluation; provided,  
1167 however, that the board shall make the final decision on approval of medical schools  
1168 and osteopathic ~~colleges~~ medical schools. Nothing contained in this Code section shall  
1169 prevent the approval of medical schools outside of the United States or the licensing of  
1170 graduates of medical schools outside of the United States if such schools and their  
1171 graduates comply with the standards established in this Code section and by rule of the  
1172 board.

1173 (2) Each medical school or osteopathic medical school in good standing with the board  
 1174 shall have a minimum preliminary educational requirement of the completion of a  
 1175 two-year premedical college course.

1176 (3) Graduates of board approved medical ~~schools~~ or osteopathic ~~colleges~~ medical schools  
 1177 and persons who ~~are~~ graduated on or before July 1, 1985, from medical schools or  
 1178 osteopathic ~~colleges~~ medical schools which are not approved by the board must complete  
 1179 one year of a ~~board approved internship or postgraduate~~ residency training program to  
 1180 ~~be eligible to stand any regular examination given by the board for a license to practice~~  
 1181 ~~medicine in this state.~~ Persons who are graduated after July 1, 1985, from medical  
 1182 schools or osteopathic ~~colleges~~ medical schools which are not approved by the board  
 1183 must complete three years of ~~internship~~, residency, fellowship, or other postgraduate  
 1184 medical training that is approved by the Accreditation Council for Graduate Medical  
 1185 Education (ACGME), the American Osteopathic Association (AOA), or the board to be  
 1186 eligible for a license to practice medicine in this state. Current certification of any  
 1187 applicant by a member board of the American Board of Medical Specialties may be  
 1188 considered by the board as evidence that such applicant's postgraduate medical training  
 1189 has satisfied the requirements of this paragraph. However, before any such person shall  
 1190 be eligible to receive a license to practice medicine in this state, he or she shall furnish  
 1191 the board with satisfactory evidence of attainments and qualifications under this Code  
 1192 section and the rules and regulations of the board. Nothing contained in this Code section  
 1193 shall be construed so as to require a person who has previously passed an examination  
 1194 given by the board for a license to practice medicine in this state to stand another  
 1195 examination.

1196 ~~(3)~~(4) If the applicant submits proof that he or she has had postgraduate training ~~as an~~  
 1197 ~~intern or resident~~ as required in paragraph ~~(2)~~(3) of this subsection and if he or she  
 1198 furnishes satisfactory evidence of ~~attainments and~~ qualifications under this ~~chapter~~ article  
 1199 and the rules and regulations of the board, he or she shall be eligible to receive a license  
 1200 from the board giving him or her absolute authority to practice medicine in this state;  
 1201 ~~provided that the board shall, before approving any internship program not already~~  
 1202 ~~approved by it on or before March 16, 1970, evaluate or inspect such internship program~~  
 1203 ~~and determine that such internship program meets the standards of programs approved~~  
 1204 ~~by the board on or before March 16, 1970; provided, however, that the board may limit~~  
 1205 ~~or restrict a license based on lapses in recent clinical training or experience or any other~~  
 1206 deficiencies identified by the board.

1207 ~~(4)~~(5) If the date of graduation from an institution mentioned in subparagraph (B) of  
 1208 paragraph (1) of this subsection is on or before January 1, 1967, no proof of ~~internship~~

1209 postgraduate training in an approved hospital need be submitted to obtain a license from  
1210 the board.

1211 (b)(1) Students who have completed the academic curriculum in residence in a foreign  
1212 medical school and who:

1213 (A) Have studied medicine at a medical school located outside of the United States,  
1214 Puerto Rico, and Canada which is ~~recognized by the World Health Organization~~  
1215 approved by the board; and

1216 (B) Have completed all of the formal requirements of the foreign medical school except  
1217 ~~internship or social service~~ any postgraduate training equivalent  
1218 may substitute for the ~~internship or social service~~ postgraduate training equivalent required  
1219 by a foreign country an academic year of supervised clinical training (clinical clerkship)  
1220 prior to entrance into the first year of American Medical Association approved graduate  
1221 education. The supervised clinical training must be under the direction of a medical school  
1222 approved by the liaison committee on medical education.

1223 (2) Before beginning the supervised clinical training, the students must have their  
1224 academic records reviewed and approved by the medical schools supervising their  
1225 clinical training and shall pass the Educational Council for Foreign Medical Graduates  
1226 (ECFMG) qualifying examination.

1227 (3) Students who are judged by the sponsoring medical schools to have successfully  
1228 completed the supervised clinical training shall be eligible to enter the first year of  
1229 American Medical Association approved graduate training program without completing  
1230 ~~social service or~~ internship obligations required by the foreign country and without  
1231 obtaining Educational Council for Foreign Medical Graduates (ECFMG) certification.

1232 ~~(c) Notwithstanding any other contrary provisions of this Code section, a person who has:~~

1233 ~~(1) Completed the academic curriculum in residence in a nonapproved medical school,~~  
1234 ~~as specified in subsection (b) of this Code section;~~

1235 ~~(2) Completed one year of supervised clinical training in a teaching hospital in Georgia~~  
1236 ~~that is approved by the board;~~

1237 ~~(3) Satisfactorily completed one year of a board approved internship or residency~~  
1238 ~~training program in Georgia that is approved by the board;~~

1239 ~~(4) Received a favorable letter of recommendation from the program director of such~~  
1240 ~~board approved internship or residency program; and~~

1241 ~~(5) Satisfactorily completed components 1 and 2 of the Federation Licensing~~  
1242 ~~Examination (FLEX)~~

1243 ~~shall be eligible to apply for a provisional license to practice medicine during the~~  
1244 ~~completion of such person's board approved internship or residency training program. Such~~  
1245 ~~provisional license, if approved by the board, shall allow the holder to practice medicine~~

1246 ~~in a Health Professional Shortage Area designated as such by the United States Department~~  
1247 ~~of Health and Human Services, based on recommendations by the Department of~~  
1248 ~~Community Health. Such a provisional license shall not be approved pursuant to this~~  
1249 ~~subsection for more than two years and if the licensee leaves, quits, or is expelled from the~~  
1250 ~~approved residency program, the provisional license shall be deemed to be revoked. Such~~  
1251 ~~provisional license shall be issued only upon approval by the board and nothing contained~~  
1252 ~~in this subsection shall be construed to require the issuance of such license.~~

1253 (c) For any applicant who has not passed a board approved licensing examination or a  
1254 board approved specialty board examination or recertification examination within seven  
1255 years of the date of application, the board shall determine, by an evaluation program  
1256 established by rule, such person's fitness to resume active status and may require the person  
1257 to complete a period of evaluated clinical experience and successful completion of an  
1258 examination. The board may also require a licensee or applicant who is subject to  
1259 discipline pursuant to Code Section 43-34-9 to take and pass a clinical competency  
1260 assessment or similar examination approved by the board as a condition of licensure.  
1261 Nothing contained in this Code section shall be construed so as to require a person who has  
1262 previously passed an examination approved by the board for a license to practice medicine  
1263 in this state to stand another examination as a condition of renewal of a current unrestricted  
1264 license.

1265 (d) The board may approve any examination or examinations that it deems must be passed  
1266 in order to meet the requirements for licensure. Such examinations shall be in English.  
1267 The board shall establish the passing score which all applicants for licensure shall meet or  
1268 exceed. If an applicant fails for the third or any subsequent time any examination which  
1269 is required to be passed in order to become a licensed practitioner in this state, the applicant  
1270 shall not be eligible to retake any such examination until such applicant furnishes proof of  
1271 having completed postgraduate one year of approved Accreditation Council for Graduate  
1272 Medical Education (ACGME) training.

1273 43-34-28.

1274 Any qualified applicant who is an alien, except for graduates of accredited Canadian  
1275 medical schools as approved by the board, must have resided in the United States for one  
1276 year. All qualified applicants who are aliens and who shall comply with all other  
1277 requirements of this ~~chapter~~ article shall be eligible to stand the examination provided for  
1278 in this ~~chapter~~ article and, upon his or her successful completion thereof, shall be granted  
1279 a license to practice medicine upon compliance with all other requirements prescribed as  
1280 a prerequisite to the issuance of a license. Graduates of accredited Canadian medical  
1281 schools, as approved by the board, are exempt from the residency requirement of one year

1282 in the United States and may be granted a license by endorsement of the Licentiate Medical  
 1283 Counsel of Canada (LMCC) examination without further examination if the board  
 1284 determines that the applicant substantially meets the qualifications required for licensure  
 1285 in this state.

1286 ~~43-34-29.~~

1287 The board may grant a license without examination to licensees of boards of other states  
 1288 requiring equal or higher qualifications, ~~upon the same basis as such states reciprocate~~  
 1289 ~~with this state, all upon the following terms and conditions:~~

1290 ~~(1) If the date of the license from the board of such other state is on or before January 1,~~  
 1291 ~~1967, no proof of interning in an approved hospital need be submitted to obtain a license~~  
 1292 ~~from the board giving the applicant absolute authority to practice medicine in this state;~~

1293 ~~(2) The applicant shall prove to the satisfaction of the board that the applicant has~~  
 1294 ~~graduated from a medical or osteopathic college approved by the board on the date of~~  
 1295 ~~application, for the purposes of this chapter, provided that the applicant shall not be~~  
 1296 ~~granted a license by reciprocity if the date of such applicant's graduation from such~~  
 1297 ~~medical or osteopathic college shall have occurred prior to July 1, 1963, unless such~~  
 1298 ~~medical or osteopathic college was approved for the purposes of this chapter by the~~  
 1299 ~~Composite State Board of Medical Examiners or the State Board of Osteopathic~~  
 1300 ~~Examiners as of the date of such graduation;~~

1301 ~~(3) If the date of the license from the board of such other state is after April 18, 1967, the~~  
 1302 ~~applicant shall submit proof that he has had the same training as is required for applicants~~  
 1303 ~~for examination in paragraph (2) of subsection (a) of Code Section 43-34-27, in which~~  
 1304 ~~event the board shall grant the applicant a license from the board giving the applicant~~  
 1305 ~~absolute authority to practice medicine in this state, provided that if the date of~~  
 1306 ~~completion of such internship program occurred prior to July 1, 1963, the board shall not~~  
 1307 ~~grant such license by reciprocity, except as allowed pursuant to the final proviso of this~~  
 1308 ~~paragraph, unless the internship program was approved by the board as of the date of~~  
 1309 ~~completion of such internship program by the applicant; and provided, further, that the~~  
 1310 ~~board may, in its discretion, waive the requirements of this paragraph after determining~~  
 1311 ~~that an applicant licensed to practice medicine in another state which does not require an~~  
 1312 ~~internship or residency has been actively engaged in the practice of medicine in such~~  
 1313 ~~other state for at least two years.~~

1314 ~~43-34-29.~~ 43-34-30.

1315 Notwithstanding any other law to the contrary, the board may issue, in its discretion,  
 1316 without examination, a teacher's license to licensed physicians of other states and foreign

1317 countries for the sole purpose of teaching or demonstrating medicine in a board approved  
 1318 medical college or its affiliated clinic in this state. If issued after January 1, 1999, a  
 1319 teacher's license shall be valid for up to two years and may only be renewed, at the board's  
 1320 discretion, for one additional year.

1321 ~~43-34-30.~~

1322 ~~The board may grant a license without examination to an alien licensee of a board of~~  
 1323 ~~another state which requires equal or higher qualifications for licenses, upon the same basis~~  
 1324 ~~as such state reciprocates with this state, if such an applicant for a license has resided~~  
 1325 ~~within the United States for at least one year.~~

1326 43-34-31.

1327 Licensed physicians of other states and foreign countries may be permitted to enter this  
 1328 state for consultation with any licensed physician of this state. A physician from another  
 1329 state or from a foreign country shall not be permitted to establish offices in this state for  
 1330 the practice of his or her profession, either temporary or permanent, or practice under  
 1331 another physician's license, unless he or she obtains a license from the board. ~~A license~~  
 1332 ~~may be issued to a physician of another state or a foreign country by comity or reciprocity~~  
 1333 ~~if the standards for medical licensure of such a state or foreign country equal those of this~~  
 1334 ~~state, and after such state or foreign country agrees to license physicians of this state on a~~  
 1335 ~~like basis, provided such agreements are not in conflict with this article.~~

1336 ~~43-34-31.~~ 43-34-32.

1337 (a) A person who is physically located in another state or foreign country and who,  
 1338 through the use of any means, including electronic, radiographic, or other means of  
 1339 telecommunication, through which medical information or data is are transmitted, performs  
 1340 an act that is part of a patient care service located in this state, including but not limited to  
 1341 the initiation of imaging procedures or the preparation of pathological material for  
 1342 examination, and that would affect the diagnosis or treatment of the patient is engaged in  
 1343 the practice of medicine in this state. Any person who performs such acts through such  
 1344 means shall be required to have a license to practice medicine in this state and shall be  
 1345 subject to regulation by the board. Any such out-of-state or foreign practitioner shall not  
 1346 have ultimate authority over the care or primary diagnosis of a patient who is located in this  
 1347 state.

1348 (b) This Code section shall not apply to:

1349 (1) The acts of a doctor of medicine or doctor of osteopathy osteopathic medicine located  
 1350 in another state or foreign country who:

- 1351 (A) Provides consultation services at the request of a physician licensed in this state;  
 1352 and
- 1353 (B) Provides such services on an occasional rather than on a regular or routine basis;
- 1354 (2) The acts of a physician or ~~osteopath~~ osteopathic physician licensed in another state  
 1355 or foreign country who:
- 1356 (A) Provides consultation services in the case of an emergency;
- 1357 (B) Provides consultation services without compensation, remuneration, or other  
 1358 expectation thereof; or
- 1359 (C) Provides consultation services to a medical school which is located within this state  
 1360 and approved by the board; or
- 1361 (3) The acts of a physician or ~~osteopath~~ osteopathic physician located in another state or  
 1362 foreign country when invited as a guest of any medical school or osteopathic medical  
 1363 school approved by the board or a state medical society or component thereof, for the sole  
 1364 purpose of engaging in professional education through lectures, clinics, or  
 1365 demonstrations, provided that such physician or ~~osteopath~~ osteopathic physician is  
 1366 licensed to practice medicine or ~~osteopathy~~ osteopathic medicine in the state or foreign  
 1367 country in which he or she is located.
- 1368 (c) This Code section shall not be construed to alter the scope of practice of any health  
 1369 care provider or authorize the delivery of health care services in a setting or in a manner  
 1370 not otherwise authorized by the laws of this state.
- 1371 (d) All persons subject to the provisions of this Code section shall be required to comply  
 1372 with all applicable requirements of the laws of this state relating to the maintenance of  
 1373 patient records and the confidentiality of patient information, regardless of where such  
 1374 physician or health care provider may be located and regardless of where or how the  
 1375 records of any patient located in this state are maintained.

1376 ~~43-34-32~~ 43-34-33.

1377 The executive director, with the approval of the ~~president~~ chairperson of the board, may  
 1378 in his or her discretion issue a temporary license to an applicant, which license shall have  
 1379 the same force and effect as a permanent license until the next regular meeting of the board  
 1380 when the temporary license shall become void. ~~A temporary license shall not be recorded.~~

1381 ~~43-34-33~~ 43-34-34.

1382 ~~(a) Notwithstanding any other law to the contrary, any person who has resided in the~~  
 1383 ~~United States for one year, who is a graduate of a school accredited and approved as~~  
 1384 ~~provided in Code Section 43-34-27, and who is employed by this state in any state operated~~  
 1385 ~~institution, or who is employed by any state medical college approved by the board may~~

1386 upon the request of the superintendent of such state institution or the dean of such medical  
1387 college employing the physician be granted an institutional license authorizing such  
1388 physician to practice medicine, under proper medical supervision in accordance with this  
1389 Code section, in the state institution or medical college employing the licensee. The  
1390 institutional license may be renewable biennially, so long as the licensee remains in the  
1391 employ of the state institution or medical college requesting the license, provided that such  
1392 institutional license shall not be prima-facie evidence that the holder thereof meets the  
1393 minimum basic requirements for examination by the board or for the issuance of a  
1394 permanent license to practice medicine.

1395 (b) Any residency requirement may be waived at the discretion of the board if a job  
1396 description is submitted to the board indicating that the applicant's duties in one of the  
1397 medical colleges in this state are strictly of a teaching nature as opposed to direct patient  
1398 care.

1399 (c) A person issued an institutional license pursuant to this Code section shall not engage  
1400 in the private practice of medicine and shall not receive fees or any other remuneration  
1401 from his patients. Persons practicing medicine pursuant to an institutional license issued  
1402 in accordance with this Code section shall receive as their sole remuneration for the  
1403 practice of medicine the salary and other remuneration paid by the institution. The license  
1404 of any person who violates this Code section shall be subject to revocation by the board  
1405 after notice and opportunity for hearing.

1406 (d) Any physician applying for an institutional license who meets all other requirements  
1407 of the board must also furnish documentation of one year of American Medical Association  
1408 or American Osteopathic Association approved postgraduate training (internship or  
1409 residency), or other training acceptable to the board. Any postgraduate training requirement  
1410 may be waived for those physicians whose duties are strictly of a teaching nature in one of  
1411 the medical colleges in this state.

1412 (e) Institutional license holders shall not be permitted to apply for a Drug Enforcement  
1413 Agency registration number to write prescriptions to be filled outside the institution.

1414 (f) On and after July 1, 1983, no institutional license may be granted to any person who  
1415 previously had not been granted such a license. Any person first granted an institutional  
1416 license before July 1, 1980, who holds an institutional license on July 1, 1983, may  
1417 continue to renew that license biennially under the conditions otherwise specified in this  
1418 Code section. Any person first granted an institutional license on or after July 1, 1980, who  
1419 holds an institutional license on July 1, 1983, may continue to renew that license biennially  
1420 under the conditions otherwise specified in this Code section, but these licenses shall expire  
1421 July 1, 1985, and may not thereafter be renewed.

1422 ~~43-34-34~~ 43-34-35.

1423 ~~(a) The board, in its discretion, may issue a provisional license to an applicant who~~  
 1424 ~~demonstrates to the board that he possesses all the qualifications and meets all requirements~~  
 1425 ~~necessary to become a licensed practitioner in this state except for having passed any~~  
 1426 ~~required examination. In such a case, the board may waive the examination requirement~~  
 1427 ~~and grant a provisional license which shall be valid only so long as the applicant shall~~  
 1428 ~~practice in the geographic locality specified upon such license. A practitioner so licensed~~  
 1429 ~~shall annually renew his license and in doing so shall furnish such proof as the board may~~  
 1430 ~~require to indicate that he has practiced in the geographic location specified upon such~~  
 1431 ~~license, provided that any such provisional license shall expire 12 months after its issue and~~  
 1432 ~~may be renewed for only one additional 12 month period following such expiration;~~  
 1433 ~~provided, further, that a provisional license issued to a person serving on April 16, 1979,~~  
 1434 ~~as a district health director or as a director of a county board of health shall be renewable~~  
 1435 ~~annually without such one-time-only renewal limitation, as long as such person continues~~  
 1436 ~~to meet the other requirements specified in this Code section and continues to serve in such~~  
 1437 ~~position. The board shall not issue any such provisional license unless it determines, in its~~  
 1438 ~~discretion, that there is an unfulfilled need for such medical services in the locality~~  
 1439 ~~specified.~~

1440 ~~(b) Notwithstanding subsection (a) of this Code section, a provisional license issued to a~~  
 1441 ~~A person who held a valid provisional license on or before April 16, 1979, shall be~~  
 1442 ~~renewable able to renew such license annually without any one-time-only renewal~~  
 1443 ~~limitation, as long as such person continues to meet the other requirements specified in this~~  
 1444 ~~Code section article and does not otherwise violate this article.~~

1445 ~~(c) If a license applicant fails, for the third or any subsequent time, any examination which~~  
 1446 ~~is required to be passed in order to become a licensed practitioner in this state, the applicant~~  
 1447 ~~shall not be eligible to retake any such examination until such applicant furnishes proof of~~  
 1448 ~~having completed one year of appropriate education and training as approved by the board.~~

1449 ~~(d) The board shall have the power to promulgate such rules and regulations as may be~~  
 1450 ~~necessary to implement the intent of this Code section.~~

1451 ~~43-34-35~~ 43-34-36.

1452 (a) The board shall issue licenses to practice medicine to all persons who shall furnish  
 1453 satisfactory evidence of attainments and qualifications under this ~~chapter~~ article and the  
 1454 rules and regulations of the board. Such license shall give absolute authority to the person  
 1455 to whom it is issued to practice medicine in this state unless restricted pursuant to this  
 1456 article.

1457 ~~(b) It shall be the duty of the executive director, under the direction of the board, to aid in~~  
 1458 ~~the enforcement of this chapter and in the prosecution of all persons charged with~~  
 1459 ~~violations of its provisions.~~

1460 ~~(c) Every person holding a license issued by the board under this article shall display it in~~  
 1461 ~~a conspicuous place in the licensee's principal place of practice.~~

1462 ~~43-34-36.~~

1463 ~~Before any person who obtains a license from the board may lawfully practice medicine,~~  
 1464 ~~he shall cause the license to be recorded in the office of the clerk of the superior court of~~  
 1465 ~~the county in which he resides. The license shall be recorded by the clerk in a book kept~~  
 1466 ~~for that purpose and shall be indexed in the name of the person to whom the license is~~  
 1467 ~~granted. The clerk's fee for recording the license shall be the same as for recording a deed.~~  
 1468 ~~The clerk shall make a report to the executive director, on December 31 of each year, of~~  
 1469 ~~all licenses registered with him. Each applicant receiving a license from the board shall~~  
 1470 ~~cause the same to be registered within 30 days.~~

1471 ~~43-34-39.~~

1472 ~~In all cases wherein a license has been revoked and no appeal has been entered within the~~  
 1473 ~~time allowed by law, it shall be the duty of the executive director, immediately after the~~  
 1474 ~~expiration of the time allowed for appeal, to transmit to the clerk of the superior court in~~  
 1475 ~~whose office the revoked license is recorded a copy of the order of the board revoking the~~  
 1476 ~~license, certified by the executive director, with the appropriate fee; and it shall be the duty~~  
 1477 ~~of the clerk to cancel the record of the license by entering upon the face thereof a copy of~~  
 1478 ~~the certified order. In a case in which appeal proceedings are had and not sustained, the~~  
 1479 ~~revoked license shall be canceled in the manner above provided, immediately after the final~~  
 1480 ~~termination of such case.~~

1481 ~~43-34-40~~ 43-34-37.

1482 The board is authorized to pass upon the good standing and reputation of any medical  
 1483 school or osteopathic ~~college~~ medical school. Only such medical schools or osteopathic  
 1484 ~~colleges~~ medical schools will be considered in good standing as that possess a full and  
 1485 complete faculty for the teaching of medicine, surgery, and obstetrics in all their branches;  
 1486 that afford their students adequate clinical and hospital facilities; that have adequate  
 1487 curricula as determined by the board in its discretion; that fulfill all their published  
 1488 promises, requirements, and other claims respecting advantages to their students and the  
 1489 course of instruction; that exact a preliminary educational requirement equal to that  
 1490 specified by this ~~chapter~~ article; that require students to furnish testimonials of good moral

1491 standing; and that give advanced standing only on cards from accredited medical schools  
 1492 or osteopathic ~~colleges~~ medical schools. In determining the reputation of the medical  
 1493 school or osteopathic ~~college~~ medical school, the right to investigate and make a personal  
 1494 inspection of the same is authorized.

1495 ~~43-34-41.~~

1496 ~~Each medical or osteopathic school or college in good standing with the board shall have~~  
 1497 ~~a minimum preliminary educational requirement of the completion of a two-year~~  
 1498 ~~premedical college course.~~

1499 ~~43-34-42.~~ 43-34-38.

1500 (a) Physicians and surgeons licensed to practice medicine in accordance with and under  
 1501 this article shall be the only persons authorized to administer or perform artificial  
 1502 insemination upon any female human being. Any other person or persons who shall attempt  
 1503 to administer or perform or who shall actually administer or perform artificial insemination  
 1504 upon any female human being shall be guilty of a felony and, upon conviction thereof, shall  
 1505 be punished by imprisonment in the penitentiary for not less than one year nor more than  
 1506 five years.

1507 (b) Any physician or surgeon who obtains written authorization signed by both the  
 1508 husband and the wife authorizing him to perform or administer artificial insemination shall  
 1509 be relieved of civil liability to the husband and wife or to any child conceived by artificial  
 1510 insemination for the result or results of said artificial insemination, provided that the  
 1511 written authorization provided for in this Code section shall not relieve any physician or  
 1512 surgeon from any civil liability arising from his own negligent administration or  
 1513 performance of artificial insemination.

1514 ~~43-34-42.1~~ 43-34-39.

1515 (a) This Code section shall be known and may be cited as the 'Access to Medical  
 1516 Treatment Act.'

1517 (b) Notwithstanding any other provision of law, and except as provided in subsection (c)  
 1518 of this Code section, an individual shall have the right to be treated for any illness or  
 1519 disease which is potentially life threatening or chronically disabling by a person licensed  
 1520 to practice medicine under this article with any experimental or nonconventional medical  
 1521 treatment that such individual desires or the legal representative of such individual  
 1522 authorizes if such person licensed to practice medicine under this article has personally  
 1523 examined such individual and agrees to treat such individual.

1524 (c) A person licensed to practice medicine under this article may provide any medical  
1525 treatment to an individual described in subsection (b) of this Code section if:

1526 (1) There is no reasonable basis to conclude that the medical treatment itself, when  
1527 administered as directed, poses an unreasonable and significant risk of danger to such  
1528 individual; and

1529 (2) The person licensed to practice medicine under this article has provided the patient  
1530 with a written statement and an oral explanation, which the patient has acknowledged by  
1531 the patient's signature or the signature of the patient's legal representative, that discloses  
1532 the facts regarding the nature of the treatment, specifically including that the treatment  
1533 offered is experimental or nonconventional, that the drug or medical device has not been  
1534 approved by the Food and Drug Administration for any indication, as well as the material  
1535 risks generally recognized by reasonably prudent physicians of such treatment's side  
1536 effects.

1537 (d) The treatment of patients in compliance with this Code section by a person licensed to  
1538 practice medicine under this article shall not by itself constitute unprofessional practice or  
1539 conduct.

1540 ~~43-34-43~~ 43-34-40.

1541 In addition to any other remedy or criminal prosecution, whenever it shall appear to the  
1542 board that any person, firm, company, partnership, association, or corporation or the agent,  
1543 officer, or director of such firm, company, partnership, association, or corporation is or has  
1544 been violating any of the provisions of this ~~chapter~~ article or any of the laws of the state  
1545 relating to the practice of medicine, the board may, on its own motion or on the verified  
1546 complaint in writing of any person, file a complaint in its own name in the superior court  
1547 having venue and jurisdiction over the parties, alleging the facts and praying for a  
1548 temporary restraining order and an injunction and permanent injunction against such  
1549 person, firm, company, partnership, association, or corporation, including any agent,  
1550 officer, or director of same, restraining him or her from violating such law. Upon proof  
1551 thereof, the court shall issue such restraining order, injunction, and permanent injunction  
1552 without requiring allegation or proof that the petitioner therefor has no adequate remedy  
1553 at law. No restraining order or injunction, whether temporary, permanent, or otherwise,  
1554 shall be granted without a hearing after at least ten days' notice. It is declared that such  
1555 violation of this ~~chapter~~ article is a menace and a nuisance dangerous to the public health,  
1556 safety, and welfare.

1557 ~~43-34-44~~ 43-34-41.

1558 Any person who shall buy, sell, or fraudulently obtain any diploma, license, record, or  
 1559 registration to practice ~~osteopathy~~ osteopathic medicine, illegally obtained or signed, or  
 1560 issued unlawfully or under fraudulent representation; or who shall use any of the forms or  
 1561 letters, 'Osteopathy,' 'Osteopath,' 'Osteopathist,' 'Diplomate in Osteopathy,' 'D.O.,' 'D.Sc.O.,'  
 1562 'Osteopathic Physician,' 'Doctor of Osteopathy,' or any other title or letters, either alone or  
 1563 with other qualifying words or phrases, under such circumstances as to induce the belief  
 1564 that the person who uses such term or terms is engaged in the practice of ~~osteopathy~~  
 1565 osteopathic medicine, or anyone who shall hold himself or herself out as practicing any  
 1566 other nondrug-giving school of medical practice, without having complied with this article,  
 1567 shall be guilty of a ~~misdemeanor~~ felony.

1568 ~~43-34-45~~.

1569 ~~Any person who, by fraud or misrepresentation, shall practice, pretend to practice, or use~~  
 1570 ~~the science of osteopathy or other nondrug-giving school of medical practice in treating~~  
 1571 ~~diseases of the human body shall be guilty of a misdemeanor.~~

1572 ~~43-34-45.1~~ 43-34-42.

1573 (a) This Code section shall be known and may be cited as the 'Georgia Volunteers in  
 1574 Medicine Health Care Act.'

1575 (b) Notwithstanding any other provision of law, the board shall issue a special license to  
 1576 qualifying physicians under the terms and conditions set forth in this Code section. The  
 1577 special license shall only be issued to a person who:

1578 (1) Is currently licensed to practice medicine in any medical-licensing jurisdiction in the  
 1579 United States and whose license is unrestricted and in good standing; or

1580 (2) Is retired from the practice of medicine and not currently engaged in such practice  
 1581 either full time or part time and has, prior to retirement, maintained full licensure in good  
 1582 standing in any medical-licensing jurisdiction in the United States.

1583 As used in this subsection, the term 'unrestricted' means that no restrictions have been  
 1584 placed on a physician's license by the board, no sanctions or disciplinary actions have been  
 1585 imposed by the board on a physician, and a physician is not under probation or suspension  
 1586 by the board.

1587 (c) The special licensee shall be permitted to practice medicine only in the  
 1588 noncompensated employ of public agencies or institutions or not for profit agencies, not  
 1589 for profit institutions, nonprofit corporations, or not for profit associations which provide  
 1590 medical services only to indigent patients in medically underserved or critical need

1591 population areas of the state, as determined by the board, or pursuant to Article 8 of  
1592 Chapter 8 of Title 31.

1593 (d) The person applying for the special license under this Code section shall submit to the  
1594 board a copy of his or her medical degree, a copy of his or her license in his or her current  
1595 or previous licensing and regulating jurisdiction, and a notarized statement from the  
1596 employing agency, institution, corporation, association, or health care program, on a form  
1597 prescribed by the board, whereby he or she agrees unequivocally not to receive  
1598 compensation for any medical services he or she may render while in possession of the  
1599 special license.

1600 (e) The examination by the board, any application fees, and all licensure and renewal fees  
1601 ~~must~~ shall be waived for the holder of the special license under this Code section and do  
1602 not apply to such person.

1603 (f) If at the time application is made for the special license the physician is not in  
1604 compliance with the continuing medical education requirements established by the board,  
1605 ~~the physician shall be issued a nonrenewable temporary license to practice for six months~~  
1606 ~~provided the applicant is otherwise qualified for such license~~ such person must document  
1607 such compliance before a special license is issued.

1608 (g)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons  
1609 practicing medicine under and in compliance with a special license issued under this  
1610 Code section and the liability of their employers for such practice shall be governed by  
1611 Code Section 51-1-29.1.

1612 (2) The liability of persons practicing medicine pursuant to Article 8 of Chapter 8 of  
1613 Title 31 under and in compliance with a special license issued under this Code section  
1614 and the liability of their employers shall be governed by the provisions of such article.

1615 (h) Nothing contained in this Code section shall be construed to authorize the holder of the  
1616 special license provided for in this Code section to perform surgery or any surgical  
1617 procedure.

1618 (i) This Code section, being in derogation of the common law, shall be strictly construed.

1619 ~~43-34-46~~ 43-34-43.

1620 (a) Any person who practices medicine without complying with this article or who  
1621 otherwise violates any provision of this article shall be guilty of a felony and, upon  
1622 conviction thereof, shall be punished by a fine of ~~not less than \$500.00 nor more than~~  
1623 \$1,000.00 per each violation or by imprisonment from two to five years, or both.

1624 (b) Any person presenting or attempting to file as his or her own the diploma or certificate  
1625 or credentials of another; or who shall give false or forged evidence of any kind to the  
1626 board or any member thereof in connection with an application for a license to practice

1627 medicine; or who shall practice medicine under a false or assumed name; or who shall  
 1628 falsely impersonate any other practitioner of a like or different name shall be guilty of a  
 1629 felony and, upon conviction thereof, shall be punished by a fine of ~~not less than \$500.00~~  
 1630 ~~nor more than \$1,000.00~~ \$5,000.00 or by imprisonment from two to five years, or both.

1631 ~~43-34-47~~ 43-34-44.

1632 (a) As used in this Code section, the term:

1633 (1) 'Program director' means a physician licensed in this state who is responsible for  
 1634 screening, selecting, and supervising physicians enrolled in one or more of an institution's  
 1635 postgraduate training programs.

1636 (2) 'Temporary postgraduate training permit' means a permit issued by the board to a  
 1637 graduate of a board approved medical school or osteopathic medical school who is  
 1638 enrolled in a postgraduate training program deemed acceptable by the board and who  
 1639 does not currently hold a full and unrestricted license in this state.

1640 (3) 'Training institution' means an institution that sponsors and conducts a postgraduate  
 1641 training program approved by the Accreditation Council for Graduate Medical Education  
 1642 (ACGME); or the American Osteopathic Association (AOA), ~~or other program approved~~  
 1643 ~~by the board for the training of interns, residents, or postresidency fellows~~ including  
 1644 Canadian schools.

1645 (b)(1) An individual seeking to pursue postgraduate medical training in this state who  
 1646 does not hold a license to practice medicine issued under this ~~chapter~~ article shall apply  
 1647 to the board for a temporary postgraduate training permit. The application shall be made  
 1648 on forms that the board shall furnish and shall be accompanied by the application and  
 1649 permit fees set by the board. Such application shall include the following:

1650 (A) Evidence satisfactory to the board that the applicant has been accepted or  
 1651 appointed to participate at a training institution in this state in one of the following:

1652 (i) An internship or residency program accredited by either the Accreditation Council  
 1653 for Graduate Medical Education or the American Osteopathic Association; or

1654 (ii) A clinical fellowship program at an institution with a residency program  
 1655 accredited either by the Accreditation Council for Graduate Medical Education or the  
 1656 American Osteopathic Association that is in a clinical field the same as or related to  
 1657 the clinical field of the fellowship program;

1658 (B) Information satisfactory to the board that identifies the beginning and ending dates  
 1659 of the period for which the applicant has been accepted or appointed to participate in  
 1660 the internship, residency, or clinical fellowship program; and

1661 (C) Any other information that the board requires.

1662 Nothing in this Code section shall prohibit an individual from obtaining a full and  
1663 unrestricted license to practice medicine under this article.

1664 (2) If the applicant meets the requirements of paragraph (1) of this subsection, the board  
1665 shall issue a temporary postgraduate training permit to the applicant. A temporary  
1666 postgraduate training permit issued pursuant to this subsection shall be valid only for a  
1667 period of one year but may, in the discretion of the board and upon application duly made  
1668 and payment of the renewal fee required by the board, be renewed annually for the  
1669 duration of the postgraduate training program for a period not to exceed seven years. The  
1670 board shall maintain a registry of all individuals who hold temporary postgraduate  
1671 training permits.

1672 (3) The holder of a valid temporary postgraduate training permit shall be entitled to  
1673 perform such acts as may be prescribed by or incidental to the holder's postgraduate  
1674 residency training program, but the holder shall not be entitled otherwise to engage in the  
1675 practice of medicine in this state. The holder shall train only under the supervision of the  
1676 physicians responsible for supervision as part of the postgraduate training program. The  
1677 temporary postgraduate training permit shall authorize the person receiving the permit  
1678 to practice in facilities affiliated with the postgraduate training program only if such  
1679 practice is part of the training program.

1680 (4) Prior to participating in a postgraduate medical training program in this state,  
1681 individuals must either hold a license to practice medicine or a temporary postgraduate  
1682 training permit issued by the board or have applied for a temporary postgraduate training  
1683 permit. The board shall issue temporary postgraduate training permits to applicants  
1684 meeting the board's qualifications within 30 days of receipt by the board of the  
1685 application.

1686 (5) A temporary postgraduate training permit issued pursuant to this Code section shall  
1687 expire upon the permit holder's withdrawal or termination from, or completion of, the  
1688 postgraduate training program or upon obtaining a license to practice medicine under this  
1689 article.

1690 (6) The board shall have the authority to discipline the holder of a temporary  
1691 postgraduate training permit in the same manner and based upon any ground or violation  
1692 enumerated in Code ~~Sections 43-1-19 and 43-34-37~~ Section 43-34-8.

1693 (7) By obtaining a temporary postgraduate training permit, the permit holder consents  
1694 to the release of information pursuant to subsection (d) of this Code section from program  
1695 directors and supervising physicians and authorizes the ~~president~~ chairperson of the board  
1696 to be an agent for service.

1697 (c)(1) The board shall have the authority to refuse to issue or renew or to suspend,  
 1698 revoke, or limit a temporary postgraduate training permit based upon any of the grounds  
 1699 or violations enumerated in Code Sections ~~43-1-19 and 43-34-37~~ Section 43-34-8.

1700 (2) The refusal, suspension, revocation, or limitation of a temporary postgraduate  
 1701 training permit shall not be deemed to be a contested case under Chapter 13 of Title 50,  
 1702 the 'Georgia Administrative Procedure Act,' and notice and a hearing within the meaning  
 1703 of such chapter shall not be required. The individual or permit holder shall be allowed to  
 1704 appear before the board if he or she so requests regarding such refusal, suspension,  
 1705 revocation, or limitation.

1706 (d)(1) It is the responsibility of the program director for the training program to notify  
 1707 the board upon the permit holder's withdrawal or termination from, or completion of, the  
 1708 postgraduate training program.

1709 (2) Program directors shall comply with all other reporting requirements which the board  
 1710 by rule and regulation may require.

1711 (3) Failure to comply with the board's reporting requirements shall be grounds for  
 1712 disciplinary action by the board.

1713 (e) The board may adopt such rules and regulations as necessary to effect the purpose of  
 1714 this Code section.

### 1715 ARTICLE 3

1716 43-34-60.

1717 This article shall be known and may be cited as the 'Acupuncture Act of Georgia.'

1718 43-34-61.

1719 The General Assembly finds and declares that the practice of acupuncture in Georgia  
 1720 affects the public health, safety, and welfare and that it is necessarily a proper subject of  
 1721 regulation and control.

1722 43-34-62.

1723 As used in this article, the term:

1724 (1) 'Acupuncture' means a form of therapy developed from traditional and modern  
 1725 Oriental concepts for health care that employs Oriental medical techniques, treatment,  
 1726 and adjunctive therapies for the promotion, maintenance, and restoration of health and  
 1727 the prevention of disease.

1728 (2) 'Auricular (ear) detoxification therapy' means the insertion of disposable acupuncture  
 1729 needles into the five auricular acupuncture points stipulated by the National Acupuncture

1730 Detoxification Association protocol for the sole purpose of treatment of chemical  
1731 dependency.

1732 (3) 'Board' means the Georgia Composite State Medical Board of Medical Examiners  
1733 ~~created by Code Section 43-34-21.~~

1734 (4) 'Practice of acupuncture' means the insertion of disposable acupuncture needles and  
1735 the application of moxibustion to specific areas of the human body based upon Oriental  
1736 medical principles as a therapeutic modality. Dry needling is a technique of the practice  
1737 of acupuncture. Adjunctive therapies within the scope of acupuncture may include  
1738 manual, mechanical, herbal, thermal, electrical, and electromagnetic treatment and the  
1739 recommendation of dietary guidelines and exercise, but only if such treatments,  
1740 recommendations, and exercises are based on concepts of traditional Oriental medicine  
1741 and are directly related to acupuncture therapy.

1742 43-34-63.

1743 The board, in consultation with the advisory committee, shall have the power and  
1744 responsibility to:

1745 (1) Determine the qualifications and fitness of applicants for licensure and renewal of  
1746 licensure;

1747 (2) Adopt and revise rules consistent with the laws of this state that are necessary to  
1748 conduct its business, carry out its duties, and administer this article;

1749 (3) Examine for, approve, issue, deny, revoke, suspend, and renew the licenses of  
1750 acupuncture applicants and licensed acupuncturists under this article and conduct  
1751 hearings in connection with these actions;

1752 (4) Conduct hearings on complaints concerning violations of this article and the rules  
1753 adopted under this article and cause the prosecution and enjoinder of the violations;

1754 (5) Establish application, examination, and licensure fees;

1755 (6) Request and receive the assistance of state educational institutions or other state  
1756 agencies and prepare information of consumer interest describing the regulatory functions  
1757 of the board and the procedures by which consumer complaints are filed with and  
1758 resolved by the board. The board shall make the information available to the public and  
1759 appropriate state agencies; and

1760 (7) Establish continuing education requirements.

1761 43-34-64.

1762 (a) Each applicant for a license to practice acupuncture shall meet the following  
1763 requirements:

1764 (1) Be at least 21 years of age;

- 1765 (2) Submit a completed application required by the board;
- 1766 (3) Submit any fees required by the board;
- 1767 (4) Be certified in acupuncture by a national certification agency accredited by the  
1768 National Organization of Competency Assurance and approved by the board;
- 1769 (5) Have successfully completed a nationally recognized clean needle technique course  
1770 approved by the board; and
- 1771 (6) Have obtained professional liability insurance in the amount of at least  
1772 \$100,000.00/\$300,000.00-;
- 1773 (7) Have passed an acupuncture examination offered by an organization accredited by  
1774 the National Organization of Competency Assurance and approved by the board; and
- 1775 (8) Have successfully completed a degree in acupuncture or a formal course of study and  
1776 training in acupuncture. The applicant shall submit documentation satisfactory to the  
1777 board to show that such education or course of study and training was:
- 1778 (A) Completed at a school that is accredited by the Accreditation Commission for  
1779 Acupuncture and Oriental Medicine (ACAOM) or other accrediting entity approved by  
1780 the board; or
- 1781 (B) Completed by means of a program of acupuncture study and training that is  
1782 substantially equivalent to the acupuncture education offered by an accredited school  
1783 of acupuncture approved by the board.
- 1784 (b) Reserved.
- 1785 (c) Before any person licensed to practice acupuncture under this article, who has less than  
1786 one year of postgraduate clinical experience, may practice on his or her own, such person  
1787 must engage in one year of active practice under the supervision of a licensed acupuncturist  
1788 with a minimum of four years active licensed clinical practice. Such supervising  
1789 acupuncturist may be licensed in Georgia or any other state or country with licensing  
1790 requirements substantially equal to Georgia's licensing requirements and may accumulate  
1791 the required four years of active licensed clinical practice in any combination of states so  
1792 long as the licensing requirements of such other states or countries are substantially equal  
1793 to Georgia's licensing requirements.
- 1794 (d) Each applicant for a license to perform auricular (ear) detoxification therapy as an  
1795 auricular (ear) detoxification technician shall meet the following requirements:
- 1796 (1) Be at least 21 years of age;
- 1797 (2) Submit a completed application required by the board;
- 1798 (3) Submit any fees required by the board;
- 1799 (4) Have successfully completed a nationally recognized training program in auricular  
1800 (ear) detoxification therapy for the treatment of chemical dependency as approved by the  
1801 board; and

1802 (5) Have successfully completed a nationally recognized clean needle technique course  
1803 approved by the board.

1804 (e) The practice of auricular (ear) detoxification therapy may take place in a city, county,  
1805 state, federal, or private chemical dependency program approved by the board under the  
1806 direct supervision of a licensed acupuncturist or a person authorized to practice  
1807 acupuncture by the board who is also authorized to practice medicine under Article 2 of  
1808 this chapter.

1809 43-34-65.

1810 After evaluation of an application and other evidence submitted by an applicant, the board  
1811 shall notify such applicant that the application and evidence submitted are satisfactory and  
1812 accepted or unsatisfactory and rejected. If an application is rejected, the notice shall state  
1813 the reasons for rejection.

1814 43-34-66.

1815 (a) Any document evidencing licensure issued by the board is the property of the board  
1816 and must be surrendered on demand.

1817 (b) Every person who holds a license issued by the board in accordance with this article  
1818 and who is engaged in the active practice of acupuncture or the active practice of auricular  
1819 (ear) detoxification therapy as an auricular (ear) detoxification technician shall display the  
1820 document evidencing licensure in an appropriate and public manner.

1821 (c) Every person who holds a license issued by the board shall inform the board of any  
1822 change of address.

1823 43-34-67.

1824 (a) A license issued under this article shall be renewed biennially if the person holding  
1825 such license is not in violation of this article at the time of application for renewal and if  
1826 the application fulfills current requirements of continuing education as established by the  
1827 board.

1828 (b) Each person licensed under this article is responsible for renewing his or her license  
1829 before the expiration date.

1830 (c) Under procedures and conditions established by the board, a license holder may request  
1831 that his or her license be declared inactive. The licensee may apply for active status at any  
1832 time and, upon meeting the conditions set by the board, shall be declared active.

1833 43-34-68.

1834 (a) Any person who undergoes acupuncture must consent to such procedure and shall be  
1835 informed in general terms of the following:

1836 (1) That the practice of acupuncture is based upon the Oriental arts and is completely  
1837 distinct and different from traditional western medicine;

1838 (2) That the acupuncturist cannot practice medicine, is not making a medical diagnosis  
1839 of the person's disease or condition, and that such person should see a physician if he or  
1840 she wants to obtain a medical diagnosis; and

1841 (3) The nature and the purpose of the acupuncture treatment.

1842 (b) The board shall develop a standard informed consent form to be used by persons  
1843 licensed under this article. Such informed consent form shall include the information set  
1844 forth in subsection (a) of this Code section as well as any other and additional information  
1845 the board deems appropriate. The information set forth in the informed consent form shall  
1846 be in language which is easy to read and readily understandable to the consuming public.

1847 43-34-69.

1848 The board, in consultation with the advisory committee, may impose any sanction  
1849 authorized under subsection ~~(d)~~ (b) of Code Section ~~43-1-19 43-34-8~~ upon a finding of any  
1850 conduct specified in subsection (a) of Code Section ~~43-1-19 43-34-8~~ or a finding that such  
1851 conduct involved dividing or agreeing to divide a fee for acupuncture services with any  
1852 person who refers a patient, notwithstanding that such board is not a professional licensing  
1853 board.

1854 43-34-70.

1855 The board shall appoint an acupuncture advisory committee. The advisory committee shall  
1856 ~~be representative of a cross section of the cultural backgrounds of the~~ include members of  
1857 the acupuncture profession licensed to practice acupuncture under this article, persons  
1858 licensed to practice medicine under Article 2 of this chapter who are acupuncturists, and  
1859 such members as the board in its discretion may determine. Members shall receive no  
1860 compensation for service on the committee. The committee shall have such advisory duties  
1861 and responsibilities as the board may determine. ~~The charter acupuncture advisory~~  
1862 ~~committee may include persons eligible for licensing under this article. Subsequent~~  
1863 ~~acupuncture~~ Acupuncture advisory committee members must be licensed pursuant to this  
1864 article.

1865 43-34-71.

1866 (a) Unless licensed under this article or exempted under subsection (b) of this Code  
1867 section, no person shall:

1868 (1) Practice acupuncture or auricular (ear) detoxification therapy; or

1869 (2) Represent himself or herself to be an acupuncturist or auricular (ear) detoxification  
1870 ~~specialist technician~~ who is licensed under this article.

1871 (b) The prohibition in subsection (a) of this Code section does not apply to:

1872 (1) Any person licensed to practice medicine under Article 2 of this chapter;

1873 (2) The practice of acupuncture which is an integral part of the program of study by  
1874 students enrolled in an acupuncture education program under the direct clinical  
1875 supervision of a licensed acupuncturist with at least five years of clinical experience; or

1876 (3) The practice of acupuncture by any person licensed or certified to perform  
1877 acupuncture in any other jurisdiction that has requirements equivalent to or more  
1878 stringent than this article where such person is doing so in the course of regular  
1879 instruction in an approved educational program of acupuncture or in an educational  
1880 seminar of an approved professional organization of acupuncture, provided that in the  
1881 latter case the practice is supervised directly by a person licensed to practice acupuncture  
1882 pursuant to this article or an acupuncturist who is licensed to practice medicine under  
1883 Article 2 of this chapter.

1884 (c) Any person violating subsection (a) of this Code section shall, upon conviction thereof,  
1885 be guilty of a misdemeanor.

1886 43-34-72.

1887 (a) The titles 'Licensed Acupuncturist' (L. Ac.) and 'Acupuncturist' may only be used by  
1888 persons licensed under this article.

1889 (b) The title 'Auricular Detoxification ~~Specialist Technician~~' (~~A.D.S.~~) (A.D.T.) may only  
1890 be used by persons licensed to practice auricular (ear) detoxification therapy under this  
1891 article. Possession of a license to practice as an ~~A.D.S.~~ A.D.T. does not by itself entitle a  
1892 person to identify himself or herself as an acupuncturist. An auricular (ear) detoxification  
1893 ~~specialist technician~~ is strictly limited to five ear points' treatment for detoxification for  
1894 substance abuse, chemical dependency, or both.

1895 (c) No person licensed under this article may advertise or hold himself or herself out to the  
1896 public as being authorized to practice medicine under Article 2 of this chapter.

## ARTICLE 4

1897

1898 43-34-100.

1899 This article shall be known and may be cited as the ~~Physician's~~ Physician Assistant Act.'

1900 43-34-101.

1901 (a) To alleviate the growing shortage and geographic maldistribution of health care  
 1902 services in this state, the General Assembly intends, by this article, to ~~establish a new~~  
 1903 ~~category of health care, namely, assistants to physicians, which category includes new~~  
 1904 ~~types of health care personnel, as well as those persons licensed in presently established~~  
 1905 ~~categories of health care~~ recognize physician assistants and their role in addressing this  
 1906 growing health care shortage.

1907 (b) This article is intended to encourage the more effective utilization of the skills of  
 1908 physicians by enabling them to delegate health care tasks to such assistants where such  
 1909 delegation is consistent with the patient's health and welfare. ~~Toward this end, the General~~  
 1910 ~~Assembly intends to remove legal constraints which presently constitute unnecessary~~  
 1911 ~~hindrances to the more effective delivery of health care services.~~

1912 43-34-102.

1913 As used in this article, the term:

1914 (1) 'Applicant' means an individual seeking licensure as a physician assistant pursuant  
 1915 to this article.

1916 ~~(1)~~(2) 'Alternate supervising physician' means a physician to whom a board approved  
 1917 primary supervising physician has delegated the responsibility of supervising a  
 1918 physician's physician assistant who is licensed to approved for supervision by that  
 1919 primary supervising physician and who agrees to supervise the physician's physician  
 1920 assistant for the primary supervising physician and who is on record with the board.

1921 ~~(2)~~(3) 'Board' means the Georgia Composite State Medical Board of Medical Examiners  
 1922 as created by Code Section 43-34-21.

1923 ~~(3)~~(4) 'Carry out a prescription drug or device order' means to complete, on a form  
 1924 established and approved by the board, a written prescription drug order or a prescription  
 1925 device order pursuant to the authority delegated by a supervising physician.

1926 ~~(4) 'Evaluation agency' means a public or private hospital, school, laboratory, clinic,~~  
 1927 ~~federal or state institution or agency, or similar facility which has been approved by the~~  
 1928 ~~board as possessing personnel and equipment and as having had practice in a health care~~  
 1929 ~~field sufficient to be able to make an objective appraisal, in a manner prescribed by the~~

1930 board, of the proposed physician's assistant's qualifications to perform the tasks described  
1931 in the job description.

1932 (5) 'Job description' means a document, signed by the primary supervising physician and  
1933 the ~~physician's assistant whom the primary supervising physician is supervising,~~  
1934 physician assistant, in which the primary supervising physician delegates to that  
1935 physician assistant authority to perform certain medical acts and which describes the  
1936 professional background and specialty of the primary supervising physician; and the  
1937 qualifications; including related experience of the ~~physician's~~ physician assistant; and  
1938 includes a general description of how the ~~physician's~~ physician assistant will be utilized  
1939 in the practice. A job description shall not be required to contain every activity the  
1940 physician deems the ~~physician's~~ physician assistant qualified to perform but shall confine  
1941 the activities of the ~~physician's~~ physician assistant to those in the scope of practice of the  
1942 primary supervising physician.

1943 (6) 'Physician' means a person lawfully licensed in this state to practice medicine and  
1944 surgery pursuant to Article 2 of this chapter.

1945 (7) '~~Physician's~~ Physician assistant' means ~~a skilled person~~ an individual licensed  
1946 pursuant to this article who is qualified by academic and practical training ~~to provide~~  
1947 ~~patients' services not necessarily within the physical presence but under the personal~~  
1948 ~~direction or supervision of the applying physician to perform certain medical acts and~~  
1949 who must practice with physician supervision and direction pursuant to the job  
1950 description required by this article.

1951 (8) 'Primary supervising physician' means the physician to whom the board grants the  
1952 ~~licenses a physician's assistant pursuant to a board approved job description and who has~~  
1953 ~~the primary responsibility for supervising the practice of that physician's~~ a physician  
1954 assistant pursuant to that physician assistant's job description.

1955 43-34-103.

1956 (a)(1) In order to obtain approval for the utilization of a person as a physician's assistant,  
1957 ~~whether the utilization is in a private practice or through a public or private health care~~  
1958 ~~institution or organization, the licensed physician who will be responsible for the~~  
1959 ~~performance of that assistant licensure as a physician assistant, an applicant~~ shall submit  
1960 an application to the board. Such application shall include:

1961 (1)(A) Evidence submitted by the ~~proposed physician's assistant~~ applicant of his or her  
1962 good moral character; and

1963 (2)(B) Evidence of his or her competency in a health care area related to the job  
1964 description which, as a minimum, shall include:

1965 ~~(A)(i)~~ Evidence of satisfactory completion of a training program approved by the  
 1966 board. If the applicant is not a graduate of an accredited school approved by the  
 1967 board, he or she shall be required to receive board approved refresher training and  
 1968 testing;

1969 ~~(B)~~ ~~A finding by the board approved evaluation agency that the proposed physician's~~  
 1970 ~~assistant is qualified to perform the tasks described in the job description;~~

1971 ~~(C)~~ ~~Any nursing task by a student enrolled in a nursing program approved by the~~  
 1972 ~~Georgia Board of Nursing where any such task is performed under the supervision of~~  
 1973 ~~an authorized instructor lawfully licensed in this state to perform such tasks; and~~

1974 ~~(D)(ii)~~ Evidence that the person who is to be used as a physician's assistant has  
 1975 achieved a satisfactory score on an appropriate examination outlined, approved, or  
 1976 administered by the board applicant has passed the Physician Assistant National  
 1977 Certification Examination (PANCE) administered by the National Commission for  
 1978 the Certification of Physician Assistants (NCCPA), or its successor, or the National  
 1979 Association for the Certification of Anesthesia Assistants, (NACAA) or its successor.

1980 The board may issue a temporary permit to any applicant for licensure who has satisfied  
 1981 the provisions of ~~subparagraphs (A) and (B)~~ division (i) of this ~~paragraph~~ subparagraph  
 1982 and who is an applicant for the next available board approved or administered  
 1983 examination or who has completed this examination and is awaiting the results of such  
 1984 examination. The temporary permit shall expire upon notification of the applicant's  
 1985 failure to achieve a satisfactory score on the board approved or administered examination.  
 1986 A physician assistant licensed pursuant to this paragraph shall not be authorized to  
 1987 perform any medical acts of any sort except as approved for utilization by a physician in  
 1988 a job description pursuant to paragraph (2) of this subsection. ~~The board may grant an~~  
 1989 ~~inactive licensure status to a physician's assistant who is licensed pursuant to this article~~  
 1990 ~~but who is not practicing with the supervision of a board approved primary supervising~~  
 1991 ~~physician;~~

1992 (2) In order to obtain approval for the utilization of a physician assistant, whether the  
 1993 utilization is in a private practice or through a public or private health care institution or  
 1994 organization, the licensed physician who will be responsible for the performance of such  
 1995 physician assistant shall submit an application to the board which shall include:

1996 (i) Evidence that the physician assistant is licensed pursuant to paragraph (1) of this  
 1997 subsection;

1998 ~~(3)~~(ii) A job description meeting the requirements of paragraph (5) of Code Section  
 1999 43-34-102; and

2000 ~~(4)(iii)~~ A fee, established by the board; provided, however, that no fee will be  
 2001 required if the ~~physician's~~ physician assistant is an employee of the state or a county  
 2002 government.

2003 (b)(1) No primary supervising physician shall have more than four ~~physician's assistants~~  
 2004 ~~licensed to him or her~~ physician assistants for supervising at a time; provided, however,  
 2005 that no physician may supervise more than two ~~physician's~~ physician assistants at any one  
 2006 time except as provided in paragraph (2) of this subsection.

2007 (2)(A) A physician may supervise as many as four ~~physician's~~ physician assistants at  
 2008 any one time while practicing in a group practice in which other physician members of  
 2009 such group practice are primary supervising physicians.

2010 (B) A physician may supervise as many as four ~~physician's~~ physician assistants at any  
 2011 one time while acting as an alternate supervising physician:

2012 (i) In an institutional setting such as a hospital or clinic;

2013 (ii) On call for a primary supervising physician or a group practice; or

2014 (iii) If otherwise approved by the board to act as an alternate supervising physician.

2015 (3) A primary supervising physician shall designate in writing to the board such other  
 2016 physicians who may serve as an alternate supervising physician for each ~~physician's~~  
 2017 physician assistant ~~licensed to~~ approved for supervision by such primary supervising  
 2018 physician. The board shall have authority to approve or deny such designations in whole  
 2019 or in part; provided, however, a physician may be listed as an alternate supervising  
 2020 physician for any number of ~~physician's~~ physician assistants so long as he or she only  
 2021 supervises as many ~~physician's~~ physician assistants at any one time as allowed by  
 2022 paragraph (2) of this subsection.

2023 (c)(1) At all times while providing patient services, a physician assistant shall have a  
 2024 signed job description submitted by his or her primary supervising physician and  
 2025 approved by the board.

2026 (2) Nothing in this article shall prevent a primary supervising physician from submitting  
 2027 to the board a new or amended physician assistant job description ~~when a physician's~~  
 2028 ~~assistant, by reason of further education or experience and successfully passing additional~~  
 2029 ~~tests as shall be outlined and administered by the board, becomes capable of performing~~  
 2030 ~~a wider range of medical tasks.~~

2031 (d) ~~A physician's assistant shall be allowed to perform his duties only in the principal~~  
 2032 ~~offices of the applying physicians, which shall be~~ physician assistant is authorized to  
 2033 practice in those public or private places or health facilities where the applying supervising  
 2034 physician regularly sees patients, provided that nothing in this article shall prohibit the  
 2035 rendering of services to a patient by a physician assistant who is not in the physical  
 2036 presence of the supervising physician or preclude a ~~physician's~~ physician assistant from

2037 making house calls ~~and hospital rounds~~, performing hospital duties, serving as an  
2038 ambulance attendant, or performing any functions ~~performed~~ authorized by the ~~applying~~  
2039 supervising physician which the ~~physician's~~ physician assistant is qualified to perform.

2040 (e) A ~~physician's~~ physician assistant may not be utilized to perform the duties of a  
2041 pharmacist licensed under Chapter 4 of Title 26, relating to pharmacists.

2042 (e.1)(1) In addition to the authority granted by Code Section ~~43-34-26.1~~ 43-34-24, a  
2043 ~~physician's~~ physician assistant shall be allowed to carry out a prescription drug order or  
2044 orders for any device as defined in Code Section 26-4-5, any dangerous drug as defined  
2045 in Code Section 16-13-71, or any Schedule III, IV, or V controlled substance as defined  
2046 in Code Section 16-13-21 on a prescription drug order or prescription device order form  
2047 as specified in paragraph (3) of this subsection, pursuant to the authority delegated by the  
2048 supervising physician of that ~~physician's~~ physician assistant. Delegation of such authority  
2049 shall be contained in the job description required by this Code section. The delegating  
2050 physician shall remain responsible for the medical acts of the ~~physician's~~ physician  
2051 assistant performing such delegated acts and shall adequately supervise the ~~physician's~~  
2052 physician assistant. If an existing job description for a ~~physician's~~ physician assistant  
2053 does not contain such authority to carry out a prescription drug or device order as  
2054 provided by this subsection, that ~~physician's~~ physician assistant may not issue any such  
2055 prescription drug or device order until a new job description delegating such authority is  
2056 submitted to and approved by the board. Nothing in this Code section shall be construed  
2057 to authorize the written prescription drug order of a Schedule I or II controlled substance.

2058 (2) Nothing in this subsection shall be construed to create a presumption of liability,  
2059 either civil or criminal, on the part of a pharmacist who is duly licensed under Title 26  
2060 and who in good faith fills a prescription drug or device order presented by a patient  
2061 pursuant to this subsection. The pharmacist shall presume that the prescription drug or  
2062 device order was issued by a ~~physician's~~ physician assistant duly licensed under this  
2063 ~~chapter~~ article who has qualified under this Code section to prescribe pharmaceutical  
2064 agents. The pharmacist shall also presume that the pharmaceutical agent prescribed by  
2065 the ~~physician's~~ physician assistant is an approved pharmaceutical agent, unless the  
2066 pharmacist has actual or constructive knowledge to the contrary.

2067 (3) The ~~physician's~~ physician assistant shall only be authorized to exercise the rights  
2068 granted under this subsection using a prescription drug or device order form which  
2069 includes the name, address, and telephone number of the prescribing supervising  
2070 physician, the patient's name and address, the drug or device prescribed, the number of  
2071 refills, and directions to the patient with regard to the taking and dosage of the drug.  
2072 Such form shall be signed by the ~~physician's~~ physician assistant using the following  
2073 language:

2074 This prescription authorized through: (the prescribing supervising physician) (M.D. or  
 2075 D.O.) by ~~(the physician's assistant)~~ (the physician assistant) ~~PHYSICIAN'S~~  
 2076 ~~ASSISTANT~~ PHYSICIAN ASSISTANT.

2077 The name of the prescribing supervising physician shall be handwritten in the appropriate  
 2078 space by the ~~physician's~~ physician assistant on the prescription drug or device order form.  
 2079 Any form containing less information than that described in this paragraph shall not be  
 2080 offered to or accepted by any pharmacist who is duly licensed under Title 26.

2081 ~~(4) The physician's assistant shall inform the patient that the patient has the right to see~~  
 2082 ~~the physician prior to any prescription drug or device order being carried out by the~~  
 2083 ~~physician's assistant.~~

2084 ~~(5) Unless otherwise restricted by the board or a board approved job description, the~~  
 2085 ~~physician's assistant shall not carry out a prescription drug or device order for more than~~  
 2086 ~~a 30 day supply, except in cases of chronic illnesses where a 90 day supply may be~~  
 2087 ~~ordered. The physician's assistant may authorize refills up to six months from the date~~  
 2088 ~~of the original prescription drug or device order, provided, however, that refills may be~~  
 2089 ~~authorized up to 12 months from the date of the original prescription drug or device order~~  
 2090 ~~for oral contraceptives or other drugs or devices approved by the board.~~

2091 (4) Nothing in this Code section shall be construed to authorize a physician assistant to  
 2092 authorize refills of any drug for more than 12 months from the date of the original  
 2093 prescription drug or device order.

2094 ~~(6)(5) A supervising physician shall personally reevaluate~~ evaluate or examine, at least  
 2095 every three months, any patient receiving controlled substances ~~or, at least every six~~  
 2096 ~~months, any patient receiving other prescription drugs or devices.~~

2097 ~~(7)(6) In addition to the copy of the prescription drug or device order delivered to the~~  
 2098 ~~patient, a record of such prescription shall be maintained in the physician's office~~ patient's  
 2099 medical record in the following manner:

2100 (A) ~~A copy of the prescription drug or device order shall be appended to or otherwise~~  
 2101 ~~maintained in the patient's medical file~~ The physician assistant carrying out a  
 2102 prescription drug or device order shall document such order either in writing or by  
 2103 electronic means; and

2104 (B) ~~The supervising physician shall countersign the prescription drug or device order~~  
 2105 ~~copy or medical record entry for each prescription drug or device order within a~~  
 2106 ~~reasonable time, not to exceed seven working days, unless such countersignature is~~  
 2107 ~~required sooner by a specific regulation, policy, or requirement~~ The supervising  
 2108 physician of a physician assistant who carries out a prescription drug or device order  
 2109 shall conduct a periodic review of the records of patients to whom a physician assistant

2110 issues a prescription drug or device order. Such review may be achieved with a  
 2111 sampling of such records as determined by the board.

2112 ~~(8)(7)~~ A ~~physician's~~ physician assistant is not permitted to prescribe drugs or devices  
 2113 except as authorized in the ~~physician's~~ physician assistant's job description and in  
 2114 accordance with this ~~chapter~~ article.

2115 ~~(9)(8)~~ The board ~~shall~~ may adopt any rules establishing:

2116 ~~(A) The content and use of prescription drug or device order forms;~~

2117 ~~(B) Procedures to evaluate an application for a job description containing the authority~~  
 2118 ~~to carry out a prescription drug or device order;~~

2119 ~~(C) A formulary of prescription drugs or devices which may or may not be included~~  
 2120 ~~in a job description;~~

2121 ~~(D) The maintenance and custody of records for prescription drug or device orders;~~

2122 ~~(E) A minimum of three continuing medical education hours biennially in practice~~  
 2123 ~~specific pharmaceuticals in which the physician's assistant has prescriptive order~~  
 2124 ~~privileges; and~~

2125 ~~(F) Any other rules the board may deem~~ deems necessary or appropriate to carry out  
 2126 the intent and purpose of this Code section or to protect the public welfare.

2127 ~~(10)(9)~~ Nothing in this Code section is intended to repeal any rules established by the  
 2128 board relating to the requirements and duties of ~~physician's~~ physician assistants in remote  
 2129 practice sites.

2130 (10) A physician assistant authorized by a primary supervising physician to order  
 2131 controlled substances pursuant to this Code section is authorized to register with the  
 2132 federal Drug Enforcement Administration.

2133 (11) A physician assistant delegated the authority by the primary supervising physician  
 2134 to carry out a prescription drug or device order shall be required to complete a minimum  
 2135 of three hours of continuing education biennially in practice specific pharmaceuticals in  
 2136 which the physician assistant has prescriptive order privileges.

2137 (e.2) A ~~physician's~~ physician assistant shall be allowed to request, receive, and sign for  
 2138 professional samples and may distribute professional samples to patients, pursuant to  
 2139 authority delegated by the supervising physician of that ~~physician's~~ physician assistant.  
 2140 Delegation of such authority shall be contained in the job description required by this Code  
 2141 section; provided, however, the office or facility at which the ~~physician's~~ physician  
 2142 assistant is working must maintain a list of professional samples approved by the  
 2143 supervising physician for request, receipt, and distribution by the ~~physician's~~ physician  
 2144 assistant as well as a complete list of the specific number and dosage of each professional  
 2145 sample received and dispensed. In addition to the requirements of this Code section, all  
 2146 professional samples shall be maintained as required by applicable state and federal law

2147 and regulations. As used in this subsection, the term 'professional samples' means  
2148 complimentary doses of a drug, medication vouchers, or medical devices provided by the  
2149 manufacturer for use in patient care.

2150 (f) A physician employed by the Department of Human Resources or by any institution  
2151 thereof or by a local health department whose duties are administrative in nature and who  
2152 does not normally provide health care to patients as such employee shall not be authorized  
2153 to apply for or utilize the services of any ~~physician's~~ physician assistant employed by the  
2154 Department of Human Resources or by any institution thereof or by a local health  
2155 department.

2156 (g) Nothing in this article shall be construed to prohibit a ~~physician's~~ physician assistant  
2157 from performing those acts the performance of which have been delegated to that  
2158 ~~physician's~~ physician assistant pursuant to and in conformity with Code Section ~~43-34-26.1~~  
2159 43-34-24.

2160 (h) A physician and a ~~physician's~~ physician assistant may enter into a temporary practice  
2161 agreement exempt from any filing fees with the board by which agreement the physician  
2162 supervises the services provided by the ~~physician's~~ physician assistant to patients at a  
2163 specific facility or program operated by any organization exempt from federal taxes  
2164 pursuant to Section 501(c)(3) of the federal Internal Revenue Code, provided that:

- 2165 (1) Such services are provided primarily to financially disadvantaged patients;
- 2166 (2) Such services are free or at a charge to the patient based solely on the patient's ability  
2167 to pay and provided, further, that such charges do not exceed the actual cost to the facility  
2168 or program;
- 2169 (3) The supervising physician and the ~~physician's~~ physician assistant voluntarily and  
2170 gratuitously donate their services;
- 2171 (4) Prior to providing any patient services, a copy of the temporary practice agreement,  
2172 signed by both the supervising physician and the ~~physician's~~ physician assistant, is on file  
2173 at the facility or program and is sent to the board;
- 2174 (5) The temporary practice agreement is for a specified period of time, limits the services  
2175 of the ~~physician's~~ physician assistant to those within the usual scope of practice of the  
2176 supervising physician, and is signed by both the supervising physician and the ~~physician's~~  
2177 physician assistant prior to the ~~physician's~~ physician assistant providing patient services;  
2178 and
- 2179 (6) The facility or program has notified the board of its intent to provide patient services  
2180 and utilize licensed physicians and ~~physician's~~ physician assistants under the conditions  
2181 set out in this subsection.

2182 (i)(1) Notwithstanding any provision of this article to the contrary, a ~~physician's~~  
2183 physician assistant licensed pursuant to this article or licensed, certified, or otherwise

2184 authorized to practice in any other state or federal jurisdiction and whose license,  
 2185 certification, or authorization is in good standing who responds to a need for medical care  
 2186 created by conditions which characterize those of a state of emergency or public health  
 2187 emergency may render such care that the ~~physician's~~ physician assistant is able to provide  
 2188 with such supervision as is available at the immediate scene or at the local site where  
 2189 such need for medical care exists or at a relief site established as part of a state or local  
 2190 safety plan established pursuant to Chapter 3 of Title 38. Such services shall be provided  
 2191 by a ~~physician's~~ physician assistant in response to the request of an appropriate state or  
 2192 local official implementing a state or local emergency management plan or program, and  
 2193 in accordance with applicable guidelines established by such officials or plans. The  
 2194 authority granted by this Code section shall last no longer than 48 hours or such time as  
 2195 the board may establish under guidelines for supervision of the ~~physician's~~ physician  
 2196 assistant rendering medical care.

2197 (2) For the purposes of this subsection, the term 'public health emergency' has the same  
 2198 meaning as in paragraph (6) of Code Section 38-3-3, and the term 'state of emergency'  
 2199 has the same meaning as in paragraph (7) of Code Section 38-3-3.

2200 (j) A physician assistant shall be allowed to make a pronouncement of death pursuant to  
 2201 authority delegated by the supervising physician of the physician assistant and to certify  
 2202 such pronouncement in the same manner as a physician.

2203 (k) It shall be unlawful for a physician to be an employee of a physician assistant, alone  
 2204 or in combination with others, if the physician is required to supervise the physician  
 2205 assistant; provided, however, that this shall not apply to arrangements of this nature which  
 2206 were approved by the board on or before July 1, 2009. Such conduct shall be subject to  
 2207 sanctions by the board as to the physician and the physician assistant.

2208 43-34-104.

2209 (a) Within a reasonable time after receipt of the documents required by ~~Code Section~~  
 2210 ~~43-34-103~~ this article, the board shall give to the applicant written notice of approval or  
 2211 disapproval of the physician assistant's application; ~~and, if approval of the application is~~  
 2212 ~~given, the board shall issue to the assistant a license authorizing the assistant to perform~~  
 2213 ~~medical tasks under the direction and supervision of the applying physician.~~

2214 (b) The board shall not approve an application unless it finds from the information  
 2215 forwarded with the application that the ~~proposed physician's assistant is fully qualified to~~  
 2216 ~~perform the tasks described in the job description and will be utilized in a manner that will~~  
 2217 ~~not endanger the health and welfare of patients upon whom he may perform the described~~  
 2218 ~~medical tasks~~ applicant has complied with the requirements in this article.

2219 43-34-105.

2220 On receipt of notice of the board's approval, a ~~physician's~~ physician assistant, under the  
2221 direction of the applying physician, may perform the tasks described in the job description,  
2222 provided that nothing in this Code section shall make unlawful the performance of a  
2223 medical task by the ~~physician's~~ physician assistant, whether or not such task is specified  
2224 in the general job description, when it is performed under the direct supervision and in the  
2225 presence of the physician utilizing him or her.

2226 43-34-106.

2227 Any physician, clinic, or hospital using a ~~physician's~~ physician assistant shall post a notice  
2228 to that effect in a prominent place.

2229 43-34-107.

2230 (a) The approval of a physician's utilization of a ~~physician's~~ physician assistant may be  
2231 terminated and the license revoked by the board when, after due notice and a hearing, in  
2232 accordance with this Code section, it shall find that the assistant is incompetent or has  
2233 committed unethical or immoral acts, including, but not limited to, holding himself or  
2234 herself out or permitting another to represent him or her as a licensed physician;  
2235 performing otherwise than at the direction of a physician approved by the board to utilize  
2236 the assistant's services; habitually using intoxicants or drugs to such an extent that he or she  
2237 is unable safely to perform as an assistant to the physician; or being convicted in any court,  
2238 state or federal, of any felony or other criminal offense involving moral turpitude.

2239 (b) Before the board shall give written notice to the ~~physician's~~ physician assistant of  
2240 termination of approval granted by it to an assistant, it will give to the assistant a timely  
2241 and reasonable written notice indicating the general nature of the charges, accusation, or  
2242 complaint preferred against him and stating that the assistant will be given an opportunity  
2243 to be heard concerning such charges or complaints; and it shall hold a public hearing within  
2244 a reasonable time. Following such hearing, the board shall determine, on the basis of its  
2245 regulations, whether the approval of the assistant shall be terminated.

2246 (c) In hearings held pursuant to this Code section, the board shall apply the rules of  
2247 evidence as prescribed in Chapter 13 of Title 50, the 'Georgia Administrative Procedure  
2248 Act.'

2249 (d) The board may impose on a physician assistant any sanction authorized under  
2250 subsection (b) of Code Section 43-34-8 upon a finding of any conduct specified in  
2251 subsection (a) of Code Section 43-34-8.

2252 43-34-108.

2253 In addition to the powers specifically delegated to it in this article, the board shall have the  
2254 authority to perform all acts which are necessary, proper, or incidental to the efficient  
2255 development of the category of health care established by this article. The board shall have  
2256 the authority to promulgate rules and regulations governing the definitions of delegation  
2257 by physicians to qualified persons other than ~~physician's~~ physician assistants of any acts,  
2258 duties, or functions which are permitted by law or established by custom. Any power  
2259 vested by law in the board, but not implemented by specific provisions for the exercise  
2260 thereof, may be executed and carried out by the board in a reasonable manner, pursuant to  
2261 such rules, regulations, and procedures as the board may adopt and subject to such  
2262 limitations as may be provided by law.

2263 ARTICLE 5

2264 43-34-120.

2265 This article shall be known and may be cited as the 'Controlled Substances Therapeutic  
2266 Research Act.'

2267 43-34-121.

2268 (a) The General Assembly finds and declares that the potential medicinal value of  
2269 marijuana has received insufficient study due to a lack of financial incentives for the  
2270 undertaking of appropriate research by private drug manufacturing concerns. Individual  
2271 physicians cannot feasibly utilize marijuana in clinical trials because of federal  
2272 governmental controls which involve expensive, time-consuming approval and monitoring  
2273 procedures.

2274 (b) The General Assembly further finds and declares that limited studies throughout the  
2275 nation indicate that marijuana and certain of its derivatives possess valuable and, in some  
2276 cases, unique therapeutic properties, including the ability to relieve nausea and vomiting  
2277 which routinely accompany chemotherapy and irradiation used to treat cancer patients.  
2278 Marijuana also may be effective in reducing intraocular pressure in glaucoma patients who  
2279 do not respond well to conventional medications.

2280 (c) The General Assembly further finds and declares that, in enabling individual  
2281 physicians and their patients to participate in a state-sponsored program for the  
2282 investigational use of marijuana and its derivatives, qualified physicians and surgeons  
2283 throughout the state will be able to study the benefits of the drug in a controlled clinical  
2284 setting, and additional knowledge will be gained with respect to dosage and effects.

2285 (d) It is the intent of the General Assembly in enacting this article to permit research into  
 2286 the therapeutic applications of marijuana and its derivatives in cancer and glaucoma  
 2287 patients. This would allow qualified physicians approved by the Patient Qualification  
 2288 Review Board created by Code Section 43-34-124 to provide the drug on a compassionate  
 2289 basis to seriously ill persons suffering from the severe side effects of chemotherapy or  
 2290 radiation treatment and to persons suffering from glaucoma who are not responding to  
 2291 conventional treatment, which persons would otherwise have no lawful access to it. It is  
 2292 the further intent of the General Assembly to facilitate clinical trials of marijuana and its  
 2293 derivatives, particularly with respect to persons suffering from cancer and glaucoma who  
 2294 would be benefited by use of the drug.

2295 (e) This article is limited to clinical trials and research into therapeutic applications of  
 2296 marijuana only for use in treating glaucoma and in treating the side effects of  
 2297 chemotherapeutic agents and radiation and should not be construed as either encouraging  
 2298 or sanctioning the social use of marijuana. Nothing in this article shall be construed to  
 2299 encourage the use of marijuana in lieu of or in conjunction with other accepted medical  
 2300 treatment, but only as an adjunct to such accepted medical treatment.

2301 43-34-122.

2302 As used in this article, the term:

2303 (1) ~~'Composite board'~~ 'Board' means the Georgia Composite State Medical Board of  
 2304 ~~Medical Examiners established pursuant to Article 2 of this chapter.~~

2305 (2) 'Marijuana' means marijuana or tetrahydrocannabinol, as defined or listed in Article  
 2306 2 of Chapter 13 of Title 16.

2307 (3) 'Physician' means a person licensed to practice medicine pursuant to Article 2 of this  
 2308 chapter.

2309 (4) 'Program' means the Controlled Substances Therapeutic Research Program  
 2310 established pursuant to Code Section 43-34-123.

2311 (5) 'Review board' means the Patient Qualification Review Board established pursuant  
 2312 to Code Section 43-34-124.

2313 43-34-123.

2314 (a) There is established under the Georgia Composite State Medical Board of Medical  
 2315 ~~Examiners~~ the Controlled Substances Therapeutic Research Program, which shall be  
 2316 administered by the ~~composite~~ board. Under the program, the ~~composite~~ board shall act as  
 2317 a sponsor of state-wide investigational studies, utilizing as drug investigators individual  
 2318 physicians who elect to participate in accordance with the guidelines and protocols  
 2319 developed by the ~~composite~~ board. Such guidelines and protocols shall be designed to

2320 ensure that stringent security and record-keeping requirements for research drugs are met  
2321 and that participants in the program meet those research standards necessary to establish  
2322 empirical bases for the evaluation of marijuana as a medically recognized therapeutic  
2323 substance. The composite board shall promulgate such rules and regulations as it deems  
2324 necessary or advisable to administer the program. In promulgating such guidelines,  
2325 protocols, rules, and regulations, the composite board shall take into consideration those  
2326 pertinent rules and regulations promulgated by the Federal Drug Enforcement Agency, the  
2327 Food and Drug Administration, and the National Institute on Drug Abuse.

2328 (b) The program shall be limited to patients who are certified to the composite board by  
2329 a physician as being:

2330 (1) Cancer patients involved in a life-threatening situation in which treatment by  
2331 chemotherapy or radiology has produced severe side effects; or

2332 (2) Glaucoma patients who are not responding to conventional controlled substances.

2333 (c) No patient may be admitted to the program without full disclosure by the physician of  
2334 the experimental nature of the program and of the possible risks and side effects of the  
2335 proposed treatment.

2336 (d) The cost of any blood test required by the federal Food and Drug Administration prior  
2337 to entrance into the program shall be paid by the patient seeking entrance into the program.

2338 (e) Only the following persons shall have access to the names and other identifying  
2339 characteristics of patients in the program for whom marijuana has been prescribed under  
2340 this article:

2341 (1) The composite board;

2342 (2) The review board created by Code Section 43-34-124;

2343 (3) The Attorney General or his or her designee;

2344 (4) Any person directly connected with the program who has a legitimate need for the  
2345 information; and

2346 (5) Any federal agency having responsibility for the program.

2347 43-34-124.

2348 (a) The composite board shall appoint the Patient Qualification Review Board. Each  
2349 member of the review board shall be approved for such membership by a majority vote of  
2350 the composite board and shall serve at the pleasure of the composite board. The review  
2351 board shall be composed of:

2352 (1) A board certified physician in ophthalmology;

2353 (2) A board certified physician in surgery;

2354 (3) A board certified physician in internal medicine and medical oncology;

2355 (4) A board certified physician in psychiatry;

2356 (5) A board certified physician in radiology; and

2357 (6) A pharmacist licensed under Chapter 4 of Title 26, relating to pharmacists, pharmacy,  
2358 and drugs.

2359 (b) The review board shall elect from its members a ~~chairman~~ chairperson and a  
2360 ~~vice-chairman~~ vice chairperson. The review board shall hold regular meetings at least once  
2361 every 60 days and shall meet at such additional times as shall be called by the ~~chairman~~  
2362 chairperson of the review board or the ~~president~~ chairperson of the ~~composite~~ board. Each  
2363 member of the review board shall receive for services for each day's attendance upon  
2364 meetings of such board the same amount authorized by law for members of the General  
2365 Assembly for attendance upon meetings of the General Assembly.

2366 (c) The ~~composite~~ board shall adopt such rules and regulations as it deems necessary for  
2367 the performance of the duties of the review board.

2368 (d) The review board shall review all patient applicants for the program and their  
2369 physicians and shall certify those qualified for participation in the program. The review  
2370 board shall additionally certify pharmacies which are licensed by the state and which are  
2371 otherwise qualified and certify physicians regarding the distribution of marijuana pursuant  
2372 to Code Section 43-34-125. Meetings of the review board to certify patients, physicians,  
2373 or pharmacies shall not be open to the public, as otherwise required by Chapter 14 of  
2374 Title 50.

2375 43-34-125.

2376 (a) The ~~composite~~ board shall apply to contract with the National Institute on Drug Abuse  
2377 for receipt of marijuana pursuant to this article and pursuant to regulations promulgated by  
2378 the National Institute on Drug Abuse, the Food and Drug Administration, and the Federal  
2379 Drug Enforcement Agency.

2380 (b) The ~~composite~~ board shall cause marijuana approved for use in the program to be  
2381 transferred to a certified pharmacy, licensed by the state, for distribution to the certified  
2382 patient by a licensed pharmacist upon a written order for research medication of the  
2383 certified physician, pursuant to this article. Any reasonable costs incurred by the ~~composite~~  
2384 board in obtaining or testing marijuana shall be charged to participating physicians who  
2385 may seek reimbursement from their research subjects utilizing the marijuana.

2386 43-34-126.

2387 Patient participants in the program are immune from state prosecution for possession of  
2388 marijuana as authorized by this article and under the program established in this article. A  
2389 person authorized under this program shall not possess an amount of marijuana in excess  
2390 of the amount prescribed under the authority of this article. The amount prescribed shall

2391 be maintained in the container in which it was placed at the time the prescription was filled.  
 2392 Physician, pharmacy, and pharmacist participants in the program are immune from state  
 2393 prosecution for possession, distribution, and any other use of marijuana, which use is  
 2394 authorized such persons by this article. Any such possession, distribution, or other use not  
 2395 authorized by this article shall be enforced and punished as provided in Chapter 13 of Title  
 2396 16, relating to controlled substances and dangerous drugs, and Chapter 4 of Title 26,  
 2397 relating to pharmacists and pharmacies.

2398 ARTICLE 6

2399 43-34-140.

2400 This article shall be known and may be cited as the 'Respiratory Care Practices Act.'

2401 43-34-141.

2402 The General Assembly finds and declares that the practice of respiratory care in Georgia  
 2403 affects the public health, safety, and welfare and that it is necessarily a proper subject of  
 2404 regulation and control.

2405 43-34-142.

2406 As used in this article, the term:

2407 (1) 'Board' means the Georgia Composite State Medical Board of Medical Examiners as  
 2408 ~~created by Code Section 43-34-21.~~

2409 (2) 'Respiratory care' means the rendering of services to patients with deficiencies or  
 2410 abnormalities which affect the pulmonary and cardiac systems and which services  
 2411 involve therapy, management, rehabilitation, diagnostic evaluation, education, or care of  
 2412 such patients with regard to such deficiencies or abnormalities.

2413 (3) 'Respiratory care professional' means any person certified under this article to  
 2414 practice respiratory care.

2415 43-34-143.

2416 The board, in consultation with the advisory committee, shall have the power and  
 2417 responsibility to:

2418 (1) Determine the qualifications and fitness of applicants for certification, renewal of the  
 2419 certificate, and reciprocal certification;

2420 (2) Adopt and revise rules consistent with the laws of the State of Georgia that are  
 2421 necessary to conduct its business, carry out its duties, and administer this article;

- 2422 (3) Examine for, approve, issue, deny, revoke, suspend, and renew the certification of  
 2423 respiratory care professional applicants and certificate holders under this article and  
 2424 conduct hearings in connection with these actions;
- 2425 (4) Conduct hearings on complaints concerning violations of this article and the rules  
 2426 adopted under this article and cause the prosecution and enjoinder of the violations;
- 2427 (5) Establish application, examination, and certification fees;
- 2428 (6) Request and receive the assistance of state educational institutions or other state  
 2429 agencies;
- 2430 (7) Prepare information of consumer interest describing the regulatory functions of the  
 2431 board and describing the procedures by which consumer complaints are filed with and  
 2432 resolved by the board. The board shall make the information available to the general  
 2433 public and appropriate state agencies; and
- 2434 (8) Establish continuing education requirements.

2435 ~~43-34-144.~~

2436 ~~The board shall, upon application and payment of fees, issue a certification to perform~~  
 2437 ~~respiratory care to persons who are not certified under this article but who were practicing~~  
 2438 ~~respiratory care in this state on April 27, 1993, upon written evidence of such practice~~  
 2439 ~~verified under oath. Such persons shall complete their application for certification no later~~  
 2440 ~~than 18 months following April 27, 1993. A person granted a certification under this Code~~  
 2441 ~~section shall be subject to the other provisions of this article relating to persons granted~~  
 2442 ~~such certifications under Code Section 43-34-145, including but not limited to continuing~~  
 2443 ~~education requirements.~~

2444 ~~43-34-145~~ 43-34-144.

- 2445 (a) Each applicant for certification as a respiratory care professional shall meet the  
 2446 following requirements:
- 2447 (1) Is at least 18 years of age;
- 2448 (2) Has submitted a completed application as required by the board;
- 2449 (3) Has submitted any fees required by the board;
- 2450 (4) Has successfully passed the entry level examination given by the National Board for  
 2451 Respiratory Care, Inc., or such other examination as the board may in its discretion  
 2452 administer or approve; and
- 2453 (5) Has met such other requirements as may be prescribed by the board.
- 2454 (b) In addition to the requirements specified in subsection (a) of this Code section, each  
 2455 applicant for certification under this ~~chapter~~ article shall be working under the supervision  
 2456 or direction of a person licensed under Article 2 of this chapter and shall, in order to

2457 maintain certification, continue to work under the supervision or direction of a person  
 2458 licensed under Article 2 of this chapter.

2459 ~~43-34-146~~ 43-34-145.

2460 After evaluation of an application and other evidence submitted, the board shall notify each  
 2461 applicant that the application and evidence submitted are satisfactory and accepted or  
 2462 unsatisfactory and rejected. If rejected, the notice shall state the reasons for the rejection.

2463 ~~43-34-147~~ 43-34-146.

2464 (a) Any document evidencing certification issued by the board is the property of the board  
 2465 and must be surrendered on demand.

2466 (b) The certificate holder shall display the document evidencing certification in an  
 2467 appropriate and public manner.

2468 (c) The certificate holder shall inform the board of any change of ~~his~~ address.

2469 (d) The certificate shall be renewed biennially if the certificate holder is not in violation  
 2470 of this article at the time of application for renewal and if the applicant fulfills current  
 2471 requirements of continuing education as established by the board.

2472 (e) Each person certified under this article is responsible for renewing his or her certificate  
 2473 before the expiration date.

2474 (f) Under procedures and conditions established by the board, a certificate holder may  
 2475 request that his or her certification be declared inactive. The certificate holder may apply  
 2476 for active status at any time and upon meeting the conditions set by the board shall be  
 2477 declared active.

2478 (g) The board shall be authorized to:

2479 (1) Require persons seeking renewal of certification as respiratory care professionals  
 2480 under this article to complete board approved continuing education;

2481 (2) Establish the number of hours of continuing education to be completed as well as the  
 2482 categories in which the continuing education is to be completed; and

2483 (3) Approve courses offered by institutions of higher learning, specialty societies, or  
 2484 professional organizations.

2485 ~~43-34-147.1~~ 43-34-147.

2486 Upon payment of a fee determined by the board, a temporary permit may be issued to  
 2487 practice respiratory care ~~for a period of:~~

2488 (1) ~~Twelve~~ For a period of 12 months to an applicant for certification under Code  
 2489 Section ~~43-34-147.2~~ 43-34-148 providing that applicant presents written evidence

2490 verified by oath that the applicant was certified, licensed, or practicing respiratory care  
2491 within the last 12 months in another state; or

2492 (2) ~~Eighteen months to~~ To a person who is a graduate of an accredited respiratory  
2493 therapy program accredited by the Commission on Accreditation of Allied Health  
2494 Education Programs, or the equivalent thereof as accepted by the board, pending  
2495 completion of the other requirements for certification under this article.

2496 ~~43-34-147.2~~ 43-34-148.

2497 An individual who has been granted certification, registration, licensure, or other authority  
2498 by whatever name known to practice respiratory care in another state having requirements  
2499 for such authority to practice which are substantially equal to or which exceed the  
2500 requirements for a similar certificate in this state may petition the board for reciprocity in  
2501 this state and, upon submission of an application and requisite fees and upon verification  
2502 by oath and submission of evidence acceptable to the board, may be granted a certificate  
2503 to practice respiratory care in Georgia.

2504 ~~43-34-148.~~ 43-34-149.

2505 (a) The board, in consultation with the advisory committee, may: impose on a respiratory  
2506 care professional any sanction authorized under subsection (b) of Code Section 43-34-8  
2507 upon a finding of any conduct specified in subsection (a) of Code Section 43-34-8.

2508 ~~(1) Refuse to grant or renew certification to an applicant;~~

2509 ~~(2) Administer a public or private reprimand, but a private reprimand shall not be~~  
2510 ~~disclosed to any person except the certificate holder;~~

2511 ~~(3) Suspend the certificate of any certificate holder for a definite period or for an~~  
2512 ~~indefinite period in connection with any condition which may be attached to the~~  
2513 ~~restoration of said certificate;~~

2514 ~~(4) Limit or restrict any certificate as the board deems necessary for the protection of the~~  
2515 ~~public;~~

2516 ~~(5) Revoke any certificate;~~

2517 ~~(6) Levy a fine; and~~

2518 ~~(7) Condition any penalty or withhold formal disposition of any matter pending the~~  
2519 ~~applicant's or certificate holder's submission to such care, counseling, or treatment as the~~  
2520 ~~board may direct.~~

2521 ~~(b) The board may take any action specified in subsection (a) of this Code section upon~~  
2522 ~~a finding by the board that the certificate holder or applicant has:~~

2523 ~~(1) Failed to demonstrate the qualifications or standards for certification contained in this~~  
2524 ~~Code section, or under the laws, rules, or regulations under which certification is sought~~

2525 or held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the  
 2526 board that he meets all the requirements for certification, and, if the board is not satisfied  
 2527 as to the applicant's qualifications, it may deny certification without a prior hearing;  
 2528 provided, however, that the applicant shall be allowed to appear before the board if he so  
 2529 desires;

2530 (2) ~~Knowingly made misleading, deceptive, untrue, or fraudulent representations in the~~  
 2531 ~~practice of a business or profession certified under this title or on any document~~  
 2532 ~~connected therewith, or practiced fraud or deceit or intentionally made any false~~  
 2533 ~~statement in obtaining certification to practice a certified business or profession, or made~~  
 2534 ~~a false statement or deceptive registration with the board;~~

2535 (3) ~~Been convicted of any felony or of any crime involving moral turpitude in the courts~~  
 2536 ~~of this state or any other state, territory, or country or in the courts of the United States.~~  
 2537 ~~As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall~~  
 2538 ~~include any offense which, if committed in this state, would be deemed a felony, without~~  
 2539 ~~regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'~~  
 2540 ~~shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an~~  
 2541 ~~appeal of the conviction has been sought;~~

2542 (4) ~~Been arrested, charged, and sentenced for the commission of any felony or any crime~~  
 2543 ~~involving moral turpitude where:~~

2544 (A) ~~A plea of nolo contendere was entered to the charge;~~

2545 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~  
 2546 ~~granted; or~~

2547 (C) ~~An adjudication or sentence was otherwise withheld or not entered on the charge.~~  
 2548 ~~The plea of nolo contendere or the order entered pursuant to the provisions of Article 3~~  
 2549 ~~of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender~~  
 2550 ~~treatment shall be conclusive evidence of arrest and sentencing for such crime;~~

2551 (5) ~~Had his certificate under this article revoked, suspended, or annulled by any lawful~~  
 2552 ~~authority other than the board; or had other disciplinary action taken against him by any~~  
 2553 ~~such lawful authority other than the board; or was refused the renewal of certification by~~  
 2554 ~~any such lawful authority other than the board, pursuant to disciplinary proceedings;~~

2555 (6) ~~Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct~~  
 2556 ~~or practice harmful to the public, which conduct or practice materially affects the fitness~~  
 2557 ~~of the certificate holder or applicant to practice a business or profession certified under~~  
 2558 ~~this article, or of a nature likely to jeopardize the interest of the public, which conduct or~~  
 2559 ~~practice need not have resulted in actual injury to any person or be directly related to the~~  
 2560 ~~practice of the certified business or profession but shows that the certificate holder or~~  
 2561 ~~applicant has committed any act or omission which is indicative of bad moral character~~

2562 or untrustworthiness. Unprofessional conduct shall include any departure from, or the  
 2563 failure to conform to, the minimal standards of acceptable and prevailing practice of the  
 2564 business or profession certified under this article;

2565 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or  
 2566 encourages any uncertified person or any certificate holder whose certificate has been  
 2567 suspended or revoked by the board to engage in any practice outside the scope of any  
 2568 disciplinary limitation placed upon the certificate holder by the board;

2569 (8) Violated, without regard to whether the violation is criminally punishable, a statute,  
 2570 law, or any rule or regulation of this state, any other state, the professional licensing  
 2571 board regulating the business or profession licensed under this title, the United States, or  
 2572 any other lawful authority, which statute, law, or rule or regulation relates to or in part  
 2573 regulates the practice of a business or profession certified under this article, when the  
 2574 certificate holder or applicant knows or should know that such action is violative of such  
 2575 statute, law, or rule; or violated a lawful order of the board previously entered by the  
 2576 board in a disciplinary hearing, consent decree, or certification reinstatement;

2577 (9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or  
 2578 outside this state. Any such adjudication shall automatically suspend the license of any  
 2579 such person and shall prevent the reissuance or renewal of any license so suspended for  
 2580 as long as the adjudication of incompetence is in effect; or

2581 (10) Displayed an inability to practice a business or profession certified under this article  
 2582 with reasonable skill and safety to the public or has become unable to practice the  
 2583 certified business or profession with reasonable skill and safety to the public by reason  
 2584 of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material.

2585 ~~43-34-149.~~ 43-34-150.

2586 The board shall appoint a respiratory care advisory committee. The committee shall be  
 2587 composed of persons engaged in the practice of respiratory therapy, persons licensed under  
 2588 Article 2 of this chapter who specialize or are board certified in pulmonary medicine, and  
 2589 such members as the board at its discretion may determine. Members shall receive no  
 2590 compensation for service on the committee. The committee shall have such advisory duties  
 2591 and responsibilities as the board may determine.

2592 ~~43-34-150.~~ 43-34-151.

2593 (a) Unless certified under this article or exempted under subsection (b) of this Code  
 2594 section, no person shall:

2595 (1) Practice respiratory care; or

- 2596 (2) Represent himself or herself to be a respiratory care professional who is certified  
 2597 under this article.
- 2598 (b) The prohibition in subsection (a) of this Code section does not apply to:
- 2599 (1) The delivery of respiratory care by health care personnel who have been formally  
 2600 trained in these modalities and who are duly licensed to provide that care under any other  
 2601 provision of this title;
- 2602 (2) The practice of respiratory care which is an integral part of the program of study by  
 2603 students enrolled in a respiratory care education program recognized by the Joint Review  
 2604 Committee for Respiratory Therapy Education and the American Medical Association  
 2605 Committee on Allied Health Education and Accreditation (CAHEA) or the equivalent  
 2606 thereof as accepted by the board. Students enrolled in respiratory therapy education  
 2607 programs shall be identified as 'student-RCP' and shall only provide respiratory care  
 2608 under direct clinical supervision;
- 2609 (3) Self-care by a patient or gratuitous care by a friend or family member who does not  
 2610 represent or hold himself or herself out to be a respiratory care professional;
- 2611 (4) Respiratory care services rendered in the course of an emergency or disaster;
- 2612 (5) Persons in the military services or working in federal facilities when functioning in  
 2613 the course of their assigned duties;
- 2614 (6) The performance of respiratory care diagnostic testing by individuals who are  
 2615 certified or registered as pulmonary function ~~technologist~~ technologists by the National  
 2616 Board for Respiratory Care, or equivalent certifying agency, as recognized by the board;
- 2617 (7) The delivery, assembly, setup, testing, and demonstration of oxygen and aerosol  
 2618 equipment upon the order of a physician licensed under Article 2 of this chapter; or
- 2619 (8) Persons who perform limited respiratory care procedures under the supervision of a  
 2620 certified respiratory care professional in a hospital or nursing home when the board has  
 2621 defined the competencies required to perform such limited respiratory care procedures.
- 2622 (c) Any person violating the prohibition of subsection (a) of this Code section shall be  
 2623 guilty of a misdemeanor.
- 2624 (d) Practitioners regulated under this article shall be covered pursuant to Code Section  
 2625 51-1-29.
- 2626 (e) Nothing in this article shall be construed to permit the practice of medicine as defined  
 2627 by this chapter.
- 2628 ~~43-34-151.~~ 43-34-152.
- 2629 Proceedings under this article shall be governed by Chapter 13 of Title 50, the 'Georgia  
 2630 Administrative Procedure Act.'

## ARTICLE 7

2631

2632 43-34-170.

2633 This article shall be known and may be cited as the 'Clinical Perfusionist Licensure Act.'

2634 43-34-171.

2635 As used in this article, the term:

2636 (1) 'Advisory committee' means the committee appointed pursuant to Code Section  
2637 43-34-180.2638 (2) 'Board' means the Georgia Composite State Medical Board of Medical Examiners  
2639 ~~created by Code Section 43-34-21.~~2640 (3) 'Extracorporeal circulation' means the diversion of a patient's blood through a  
2641 heart-lung machine or a similar device that assumes the function of the patient's heart,  
2642 lungs, kidneys, liver, or other organ.2643 (4) 'License' means a license to practice as a licensed clinical perfusionist or provisional  
2644 licensed clinical perfusionist.2645 (5) 'Licensed clinical perfusionist' means a person licensed as such pursuant to this  
2646 article.2647 (6) 'Perfusion' means the functions necessary for the support, treatment, measurement,  
2648 or supplementation of the cardiovascular, circulatory, or respiratory system or other  
2649 organ, or a combination of such activities, and to ensure the safe management of  
2650 physiologic functions by monitoring and analyzing the parameters of the systems under  
2651 the order and supervision of a physician, including, but not limited to:2652 (A) The use of extracorporeal circulation; long-term cardiopulmonary support  
2653 techniques, including extracorporeal carbon dioxide removal and extracorporeal  
2654 membrane oxygenation; and associated therapeutic and diagnostic technologies;2655 (B) Counterpulsation, ventricular assistance, autotransfusion, blood conservation  
2656 techniques, myocardial and organ preservation, extracorporeal life support, and isolated  
2657 limb perfusion;2658 (C) The use of techniques involving blood management, advanced life support, and  
2659 other related functions;2660 (D) In the performance of the acts described in subparagraphs (A) through (C) of this  
2661 paragraph:

2662 (i) The administration of:

2663 (I) Pharmacological and therapeutic agents; or

2664 (II) Blood products or anesthetic agents through the extracorporeal circuit or  
2665 through an intravenous line as ordered by a physician; or

- 2666 (ii) The performance and use of:
- 2667 (I) Coagulation monitoring and analysis;
- 2668 (II) Physiologic monitoring and analysis;
- 2669 (III) Blood gas and chemistry monitoring and analysis;
- 2670 (IV) Hematological monitoring and analysis;
- 2671 (V) Hypothermia and hyperthermia;
- 2672 (VI) Hemoconcentration and hemodilution; and
- 2673 (VII) Hemodialysis; and
- 2674 (E) The observation of signs and symptoms related to perfusion services, the
- 2675 determination of whether the signs and symptoms exhibit abnormal characteristics, and
- 2676 the implementation of appropriate reporting, clinical perfusion protocols, or changes
- 2677 in, or the initiation of, emergency procedures.
- 2678 (7) 'Perfusion protocols' means perfusion related policies and protocols developed or
- 2679 approved by a licensed health care facility or a physician through collaboration with
- 2680 administrators, licensed clinical perfusionists, and other health care professionals.
- 2681 (8) 'Physician' means a person licensed to practice medicine under Article 2 of this
- 2682 chapter.
- 2683 (9) 'Provisional licensed clinical perfusionist' means a person provisionally licensed
- 2684 pursuant to this article.
- 2685 43-34-172.
- 2686 The board, in consultation with the advisory committee, shall have the power and
- 2687 responsibility to:
- 2688 (1) Determine the qualifications and fitness of applicants for licensure and renewal of
- 2689 licensure;
- 2690 (2) Adopt and revise rules consistent with the laws of this state that are necessary to
- 2691 conduct its business, carry out its duties, and administer this article;
- 2692 (3) Examine for, approve, issue, deny, revoke, suspend, sanction, and renew the licenses
- 2693 of board applicants for licensure as licensed clinical perfusionists and provisional
- 2694 licensed clinical perfusionists under this article and conduct hearings in connection with
- 2695 these actions;
- 2696 (4) Conduct hearings on complaints concerning violations of this article and the rules
- 2697 adopted under this article and cause the prosecution and enjoinder of the violations;
- 2698 (5) Establish application, examination, and licensure fees;
- 2699 (6) Request and receive the assistance of state educational institutions or other state
- 2700 agencies and prepare information of consumer interest describing the regulatory
- 2701 functions of the board and the procedures by which consumer complaints are filed with

2702 and resolved by the board. The board shall make the information available to the public  
 2703 and appropriate state agencies; and  
 2704 (7) Establish education, examination, and continuing education requirements.

2705 43-34-173.

2706 (a) Except as otherwise provided in subsection (b) of this Code section, each applicant for  
 2707 a license to practice as a licensed clinical perfusionist shall meet the following  
 2708 requirements:

2709 (1) Be at least 21 years of age;

2710 (2) Submit a completed application required by the board;

2711 (3) Submit any fees required by the board;

2712 (4) Have successfully completed a perfusion education program approved by the board,  
 2713 which program has educational standards at least as stringent as programs approved by  
 2714 the Committee on Allied Health Education and Accreditation (CAHEA) prior to 1994 or  
 2715 the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or  
 2716 its successor;

2717 (5) Pass a competency examination prepared or approved by the board and administered  
 2718 to qualified applicants at least once each calendar year, which examination may be or  
 2719 may include the complete examination given by the American Board of Cardiovascular  
 2720 Perfusion (ABCP) or its successor; and

2721 (6) Have met such other requirements as may be prescribed by the board.

2722 ~~(b) Notwithstanding the provisions of subsection (a) of this Code section, a person may~~  
 2723 ~~apply to the board before January 1, 2003, and be granted a license as a licensed clinical~~  
 2724 ~~perfusionist upon satisfactory proof that the person was operating cardiopulmonary bypass~~  
 2725 ~~systems during cardiac surgical cases in a licensed health care facility as the person's~~  
 2726 ~~primary function for at least six of those eight years immediately preceding the date of~~  
 2727 ~~application.~~

2728 (b) The executive director, with the approval of the chairperson of the board, may in his  
 2729 or her discretion issue a temporary license to an applicant, which license shall have the  
 2730 same force and effect as a permanent license until the next regular meeting of the board at  
 2731 which time the temporary license shall become void.

2732 43-34-174.

2733 (a) A license is not the property of the holder but is the property of the board. A license  
 2734 to practice perfusion is valid for two years. The board may provide that licenses expire on  
 2735 various dates. A person may renew an unexpired license by submitting proof of current  
 2736 certification by the American Board of Cardiovascular Perfusion (ABCP) or its successor

2737 and compliance with the continuing professional education requirements prescribed by the  
2738 board and paying the required renewal fee to the board before the expiration date of the  
2739 license.

2740 (b) The license holder must:

2741 (1) Display the license in an appropriate and public manner; or

2742 (2) Maintain on file at all times during which the license holder provides services in a  
2743 health care facility a true and correct copy of the license certificate in the appropriate  
2744 records of the facility and keep the board informed of any change of address.

2745 (c) A license issued by the board is the property of the board and shall be surrendered on  
2746 demand.

2747 (d) Each person licensed under this article shall be responsible for renewing his or her  
2748 license before the expiration date.

2749 (e) If a person's license has been expired for not more than ~~two years~~ three months, the  
2750 person may renew the license by submitting proof, satisfactory to the board, of compliance  
2751 with the continuing professional education requirements prescribed by the board and any  
2752 penalty fee prescribed by the board.

2753 (f) If a person's license has been expired for more than ~~two years~~ three months, the person  
2754 may not renew the license. The person may obtain a new license by submitting to  
2755 reexamination and complying with the current requirements and procedures for obtaining  
2756 a license.

2757 (g) The board may ~~renew~~ reinstate without reexamination an expired license of a person  
2758 who was licensed in this state, moved to another state or states, is currently licensed or  
2759 certified, and has been in practice in another state or states for two years immediately  
2760 preceding the person's application to ~~renew~~ reinstate a license. The person shall pay the  
2761 required fee as established by the board.

2762 43-34-175.

2763 (a) A license as a provisional licensed clinical perfusionist may be issued by the board to  
2764 a person who submits to the board evidence of having successfully completed an approved  
2765 perfusion education program required for licensure under Code Section 43-34-173 and  
2766 upon the filing of an application and payment of the application fee.

2767 (b) A provisional licensed clinical perfusionist shall be under the supervision and direction  
2768 of a licensed clinical perfusionist at all times during which the provisional licensed clinical  
2769 perfusionist performs perfusion. The board may promulgate rules governing such  
2770 supervision and direction but shall not require the immediate physical presence of the  
2771 supervising licensed clinical perfusionist.

2772 (c) A provisional license shall be valid for two years from the date it is issued and may not  
2773 be renewed. The provisional licensee must comply with all of the requirements for  
2774 licensure under Code Section 43-34-173 prior to the expiration of the two-year provisional  
2775 license period. A provisional licensee may submit an application for licensure as a licensed  
2776 clinical perfusionist once he or she has complied with all of the requirements for licensure  
2777 under Code Section 43-34-173.

2778 (d) If a person fails to meet the requirements for licensure under Code Section 43-34-173  
2779 on or before the expiration of the two-year provisional license period, such person's  
2780 provisional license shall be automatically revoked and surrendered to the board.

2781 43-34-176.

2782 On receipt of an application and application fee, the board may waive the examination and  
2783 educational requirements for an applicant who at the time of application:

2784 (1) Is appropriately licensed or certified in another state, territory, or possession whose  
2785 requirements for the license or certificate are substantially equal to the requirements of  
2786 this article; or

2787 (2) Holds a current certificate as a certified clinical perfusionist issued by the American  
2788 Board of Cardiovascular Perfusion (ABCP) or its successor.

2789 43-34-177.

2790 (a) A person may not engage or offer to engage in perfusion or use the title or represent  
2791 or imply that the person has the title of 'licensed clinical perfusionist' or 'provisional  
2792 licensed clinical perfusionist' or use the letters 'L.C.P.' or 'P.L.C.P.' and may not use any  
2793 facsimile of such titles in any manner to indicate or imply that the person is a licensed  
2794 clinical perfusionist or provisional licensed clinical perfusionist unless the person holds an  
2795 appropriate license issued pursuant to this article or is exempted under the provisions of  
2796 Code Section 43-34-178.

2797 (b) A person may not use the title or represent or imply that such person has the title  
2798 'certified clinical perfusionist' or use the letters 'C.C.P.' and may not use any facsimile of  
2799 such title in any manner to indicate or imply that such person is a certified clinical  
2800 perfusionist certified by the American Board of Cardiovascular Perfusion (ABCP) unless  
2801 the person holds a certificate as a certified clinical perfusionist issued by the American  
2802 Board of Cardiovascular Perfusion (ABCP).

2803 (c) Any person who violates the provisions of subsection (a) or (b) of this Code section  
2804 shall be guilty of a misdemeanor.

2805 43-34-178.

2806 (a) The provisions of Code Section 43-34-177 shall not apply to:

2807 (1) A person licensed as a physician pursuant to Article 2 of this chapter;

2808 (2) A person licensed under this title as a registered professional nurse or a licensed  
 2809 ~~physician's~~ physician assistant or certified as a respiratory care professional under this  
 2810 title if:

2811 (A) The person does not represent to the public, directly or indirectly, that the person  
 2812 is licensed pursuant to this article and does not use any name, title, or designation  
 2813 indicating that he or she is licensed pursuant to this article; and

2814 (B) The person limits his or her acts or practice to the scope of practice authorized by  
 2815 the appropriate licensing agency;

2816 (3) Any person performing autotransfusion who possesses appropriate training and  
 2817 practices within the guidelines of the American Association of Blood Banks under the  
 2818 supervision of a perfusionist licensed under this article or a physician licensed under  
 2819 Article 2 of this chapter;

2820 (4) A student enrolled in an accredited perfusion education program if the perfusion  
 2821 services performed are:

2822 (A) An integral part of the student's course of study; and

2823 (B) Performed under the direct supervision of a licensed clinical perfusionist who is  
 2824 assigned to supervise the student and is on duty and immediately available in the  
 2825 assigned patient care area;

2826 (5) The practice of any legally qualified perfusionist employed by the United States  
 2827 government while in the discharge of his or her official duties; or

2828 (6) A person working as a dialysis care technician in an end stage renal disease facility  
 2829 licensed pursuant to Chapter 44 of Title 31 or a licensed hospital.

2830 (b) Any person violating ~~the prohibition of~~ subsection (a) of this Code section shall be  
 2831 guilty of a felony.

2832 43-34-179.

2833 (a) The board, in consultation with the advisory committee, may: impose on a licensed  
 2834 clinical perfusionist or a provisional licensed clinical perfusionist any sanction authorized  
 2835 under subsection (b) of Code Section 43-34-8 upon a finding of any conduct specified in  
 2836 subsection (a) of Code Section 43-34-8.

2837 ~~(1) Refuse to grant or renew licensure to an applicant;~~

2838 ~~(2) Administer a public or private reprimand, but a private reprimand shall not be~~  
 2839 ~~disclosed to any person except the license holder;~~

- 2840 ~~(3) Suspend the license of any license holder for a definite period or for an indefinite~~  
 2841 ~~period in connection with any condition which may be attached to the restoration of such~~  
 2842 ~~license;~~
- 2843 ~~(4) Limit or restrict any license as the board deems necessary for the protection of the~~  
 2844 ~~public;~~
- 2845 ~~(5) Revoke any license;~~
- 2846 ~~(6) Levy a fine; and~~
- 2847 ~~(7) Condition any penalty or withhold formal disposition of any matter pending the~~  
 2848 ~~applicant's or license holder's submission to such care, counseling, or treatment as the~~  
 2849 ~~board may direct.~~
- 2850 ~~(b) The board may take any action specified in subsection (a) of this Code section upon~~  
 2851 ~~a finding by the board that the license holder or applicant has:~~
- 2852 ~~(1) Failed to demonstrate the qualifications or standards for licensure contained in this~~  
 2853 ~~article or under the laws, rules, or regulations under which licensure is sought or held.~~  
 2854 ~~The applicant shall demonstrate to the satisfaction of the board that he or she meets all~~  
 2855 ~~the requirements for licensure, and, if the board is not satisfied as to the applicant's~~  
 2856 ~~qualifications, it may deny licensure without a prior hearing; provided, however, that the~~  
 2857 ~~applicant shall be allowed to appear before the board if he or she so desires;~~
- 2858 ~~(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the~~  
 2859 ~~practice of a business or profession licensed under this title or on any document~~  
 2860 ~~connected therewith; practiced fraud or deceit or intentionally made any false statement~~  
 2861 ~~in obtaining licensure to practice a licensed business or profession; or made a false~~  
 2862 ~~statement or deceptive registration with the board;~~
- 2863 ~~(3) Been convicted of any felony or of any crime involving moral turpitude in the courts~~  
 2864 ~~of this state or any other state, territory, or country or in the courts of the United States.~~  
 2865 ~~As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall~~  
 2866 ~~include any offense which, if committed in this state, would be deemed a felony, without~~  
 2867 ~~regard to its designation elsewhere; and as used in this paragraph, the term 'conviction'~~  
 2868 ~~shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an~~  
 2869 ~~appeal of the conviction has been sought;~~
- 2870 ~~(4) Been arrested, charged, and sentenced for the commission of any felony or any crime~~  
 2871 ~~involving moral turpitude where:~~
- 2872 ~~(A) A plea of nolo contendere was entered to the charge;~~
- 2873 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~  
 2874 ~~granted; or~~
- 2875 ~~(C) An adjudication or sentence was otherwise withheld or not entered on the charge.~~

2876 ~~The plea of nolo contendere or the order entered pursuant to the provisions of Article 3~~  
2877 ~~of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender~~  
2878 ~~treatment shall be conclusive evidence of arrest and sentencing for such crime;~~  
2879 ~~(5) Had his or her license under this article revoked, suspended, or annulled by any~~  
2880 ~~lawful authority other than the board; had other disciplinary action taken against him or~~  
2881 ~~her by any such lawful authority other than the board; or was refused the renewal of~~  
2882 ~~licensure by any such lawful authority other than the board, pursuant to disciplinary~~  
2883 ~~proceedings;~~  
2884 ~~(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct~~  
2885 ~~or practice harmful to the public, which conduct or practice materially affects the fitness~~  
2886 ~~of the license holder or applicant to practice a business or profession licensed under this~~  
2887 ~~article, or of a nature likely to jeopardize the interest of the public, which conduct or~~  
2888 ~~practice need not have resulted in actual injury to any person or be directly related to the~~  
2889 ~~practice of the licensed business or profession but shows that the license holder or~~  
2890 ~~applicant has committed any act or omission which is indicative of bad moral character~~  
2891 ~~or untrustworthiness. Unprofessional conduct shall include any departure from, or the~~  
2892 ~~failure to conform to, the minimal standards of acceptable and prevailing practice of the~~  
2893 ~~business or profession licensed under this article;~~  
2894 ~~(7) Knowingly performed any act which in any way aids, assists, procures, advises, or~~  
2895 ~~encourages any unlicensed person or any license holder whose license has been~~  
2896 ~~suspended or revoked by the board to engage in any practice outside the scope of any~~  
2897 ~~disciplinary limitation placed upon the license holder by the board;~~  
2898 ~~(8) Violated, without regard to whether the violation is criminally punishable, a statute,~~  
2899 ~~law, or any rule or regulation of this state, any other state, the professional licensing~~  
2900 ~~board regulating the business or profession licensed under this article, the United States,~~  
2901 ~~or any other lawful authority, which statute, law, or rule or regulation relates to or in part~~  
2902 ~~regulates the practice of a business or profession licensed under this article, when the~~  
2903 ~~license holder or applicant knows or should know that such action is in violation of such~~  
2904 ~~statute, law, or rule; or violated a lawful order of the board previously entered by the~~  
2905 ~~board in a disciplinary hearing, consent decree, or licensure reinstatement;~~  
2906 ~~(9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or~~  
2907 ~~outside this state. Any such adjudication shall automatically suspend the license of any~~  
2908 ~~such person and shall prevent the reissuance or renewal of any license so suspended for~~  
2909 ~~as long as the adjudication of incompetence is in effect; or~~  
2910 ~~(10) Displayed an inability to practice a business or profession licensed under this article~~  
2911 ~~with reasonable skill and safety to the public or has become unable to practice the~~

2912 ~~licensed business or profession with reasonable skill and safety to the public by reason~~  
 2913 ~~of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material.~~

2914 43-34-180.

2915 The board shall appoint an advisory committee. The advisory committee shall ~~be~~  
 2916 ~~representative of a cross section of the cultural backgrounds of the~~ include clinical  
 2917 perfusionists licensed under this article and such members as the board in its discretion  
 2918 may determine. Members shall receive no compensation for service on the committee. The  
 2919 committee shall have such advisory duties and responsibilities as the board may determine.  
 2920 ~~The initial members of the advisory committee may include persons eligible for licensing~~  
 2921 ~~under this article.~~ Subsequent advisory Advisory committee members must be licensed  
 2922 pursuant to this article.

2923

## ARTICLE 8

2924 43-34-190.

2925 This article shall be known and may be cited as the 'Orthotics and Prosthetics Practice Act.'

2926 43-34-191.

2927 The General Assembly finds that the practice of orthotics and prosthetics in this state is an  
 2928 allied health profession recognized by the American Medical Association, with educational  
 2929 standards established by the Commission on Accreditation of Allied Health Education  
 2930 Programs. The increasing population of elderly and physically challenged individuals who  
 2931 need orthotic and prosthetic services requires that the orthotic and prosthetic professions  
 2932 be regulated to ensure the provision of high-quality services and devices. The people of  
 2933 this state deserve the best care available and will benefit from the assurance of initial and  
 2934 ongoing professional competence of the orthotists and prosthetists practicing in this state.  
 2935 The practice of orthotics and prosthetics serves to improve and enhance the lives of  
 2936 individuals with disabilities by enabling them to resume productive lives following serious  
 2937 illness, injury, or trauma. Unregulated dispensing of orthotic and prosthetic care does not  
 2938 adequately meet the needs or serve the interests of the public. In keeping with  
 2939 requirements imposed on similar health disciplines, licensure of the orthotic and prosthetic  
 2940 professions will help ensure the health and safety of consumers, as well as maximize their  
 2941 functional abilities and productivity levels. This article shall be liberally construed to best  
 2942 carry out these subjects and purposes.

2943 43-34-192.

2944 As used in this article, the term:

2945 (1) 'Assistant' means a person who assists an orthotist, prosthetist, or prosthetist orthotist  
2946 with patient care services and fabrication of orthoses or prostheses under the supervision  
2947 of a licensed orthotist or prosthetist.

2948 (2) 'Board' means the Georgia Composite Medical Board of State Medical Examiners  
2949 ~~created by Code Section 43-34-21.~~

2950 (3) 'Custom fabricated and fitted device' means that an orthosis or prosthesis is fabricated  
2951 to original measurements or a mold, or both, for use by a patient in accordance with a  
2952 prescription and which requires substantial clinical and technical judgment in its design  
2953 and fitting.

2954 (4) 'Custom fitted device' means a prefabricated orthosis or prosthesis sized; or modified,  
2955 or both, for use by a patient in accordance with a prescription and which requires  
2956 substantial clinical judgment and substantive alteration for appropriate use.

2957 (5) 'Facility' means the business location where orthotic or prosthetic care is provided  
2958 and which has the appropriate clinical and laboratory space and equipment to provide  
2959 comprehensive orthotic or prosthetic care. Licensed orthotists and prosthetists must be  
2960 available to either provide care or supervise the provision of care by nonlicensed staff.

2961 (6) 'Level of competence' means a hierarchical position that an individual occupies  
2962 within a field or profession relative to other practitioners in the profession.

2963 (7) 'Licensed orthotist' means a person licensed under this article to practice orthotics and  
2964 who represents himself or herself to the public by title and description of services that  
2965 includes the term 'orthotic,' 'orthotist,' 'brace,' or a similar title or description of services.

2966 (8) 'Licensed physician' means a person licensed to practice medicine under Article 2 of  
2967 this chapter.

2968 (9) 'Licensed podiatrist' means a person licensed to practice podiatry under Chapter 35  
2969 of this title, the 'Georgia Podiatry Practice Act.'

2970 (10) 'Licensed prosthetist' means a person licensed under this article to practice  
2971 prosthetics and who represents himself or herself to the public by title and description of  
2972 services that includes the term 'prosthetic,' 'prosthetist,' 'artificial limb,' or a similar title  
2973 or description of services.

2974 (11) 'Off-the-shelf device' means a prefabricated prosthesis or orthosis sized or modified,  
2975 or both, for use by a patient in accordance with a prescription and which does not require  
2976 substantial clinical judgment and substantive alteration for appropriate use.

2977 (12) 'Orthosis' means a custom designed, fabricated, fitted, modified, or fitted and  
2978 modified device to correct, support, or compensate for a neuromusculoskeletal disorder  
2979 or acquired condition. Orthosis does not include fabric or elastic supports, corsets, arch

2980 supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft  
2981 cervical collars, dental appliances, or other similar devices that are carried in stock and  
2982 sold as over-the-counter items by a drug store, department store, corset shop, or surgical  
2983 supply facility.

2984 (13) 'Orthotic and prosthetic education program' means a course of instruction accredited  
2985 by the Commission on Accreditation of Allied Health Education Programs consisting of:

2986 (A) A basic curriculum of college level instruction in math, physics, biology,  
2987 chemistry, and psychology; and

2988 (B) A specific curriculum in orthotic or prosthetic courses, including:

2989 (i) Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic  
2990 or orthotic components and materials, training and functional capabilities, prosthetic  
2991 or orthotic performance evaluation, prescription considerations, etiology of  
2992 amputations and disease processes necessitating prosthetic or orthotic use, and  
2993 medical management;

2994 (ii) Subject matter related to pediatric and geriatric problems;

2995 (iii) Instruction in acute care techniques, such as immediate and early postsurgical  
2996 prosthetics and fracture bracing techniques; and

2997 (iv) Lectures, demonstrations, and laboratory experiences related to the entire process  
2998 of measuring, casting, fitting, fabricating, aligning, and completing prostheses or  
2999 orthoses.

3000 (14) 'Orthotic and prosthetic scope of practice' means a list that includes the role played  
3001 by an occupant of a particular level of competence, what he or she can be expected to do  
3002 and not to do, and his or her relation to others in the field. These should be based on  
3003 nationally accepted standards of orthotic and prosthetic certifying agencies with  
3004 accreditation by the National Commission for Certifying Agencies.

3005 (15) 'Orthotics' means the science and practice of evaluating, measuring, designing,  
3006 fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from  
3007 a licensed physician or podiatrist for the correction or alleviation of neuromuscular or  
3008 musculoskeletal dysfunction, disease, injury, or deformity.

3009 (16) 'Orthotist' means an allied health professional who is specifically trained and  
3010 educated to provide or manage the provision of a custom designed, fabricated, or  
3011 modified and fitted external orthosis to an orthotic patient based on a clinical assessment  
3012 and a physician's or podiatrist's prescription to restore physiological function or cosmesis  
3013 or both and who represents himself or herself to the public by such title as providing  
3014 orthotic services.

3015 (17) 'Over-the-counter device' means a prefabricated, mass produced device that is  
3016 prepackaged and requires no professional advice or judgment in either size selection or

3017 use and includes fabric or elastic supports, corsets, generic arch supports, and elastic  
3018 hoses.

3019 (18) 'Person' means a natural person.

3020 (19) 'Prosthesis' means a custom designed, fabricated, fitted, modified, or fitted and  
3021 modified device to replace an absent external limb for purposes of restoring physiological  
3022 function or cosmesis or both. Prosthesis does not include artificial eyes, ears, fingers, or  
3023 toes; dental appliances; cosmetic devices such as artificial breasts, eyelashes, or wigs; or  
3024 other devices that do not have a significant impact on the musculoskeletal functions of  
3025 the body.

3026 (20) 'Prosthetics' means the science and practice of evaluating, measuring, designing,  
3027 fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from  
3028 a licensed physician or podiatrist.

3029 (21) 'Prosthetist' means an allied health professional who is specifically trained and  
3030 educated to provide or manage the provision of a custom designed, fabricated, modified,  
3031 and fitted external limb prosthesis to a prosthetic patient based on a clinical assessment  
3032 and a physician's or podiatrist's prescription; to restore physiological function or cosmesis  
3033 or both and who represents himself or herself to the public by such title as providing  
3034 prosthetic services.

3035 (22) 'Prosthetist orthotist' means a person who practices both disciplines of prosthetics  
3036 and orthotics and who represents himself or herself to the public by such title as  
3037 providing prosthetic and orthotic services.

3038 (23) 'Resident' means a person who has completed an education program in either  
3039 orthotics or prosthetics and is continuing his or her clinical education in a residency  
3040 accredited by the National Commission on Orthotic and Prosthetic Education.

3041 (24) 'Technician' means a person who assists an orthotist, prosthetist, or prosthetist  
3042 orthotist with fabrication of orthoses or prostheses but does not provide direct patient  
3043 care.

3044 43-34-193.

3045 This article shall not be construed to prohibit:

3046 (1) A licensed physician from engaging in the practice for which he or she is licensed;

3047 (2) A person licensed in this state under any other law from engaging in the practice for  
3048 which he or she is licensed;

3049 (3) The practice of orthotics or prosthetics by a person who is employed by the federal  
3050 government or any bureau, division, or agency of the federal government while in the  
3051 discharge of the employee's official duties;

3052 (4) The practice of orthotics or prosthetics by:

- 3053 (A) A student enrolled in a school of orthotics or prosthetics; or  
3054 (B) A resident continuing his or her clinical education in a residency accredited by the  
3055 National Commission on Orthotic and Prosthetic Education;
- 3056 (5) The practice of orthotics or prosthetics by a person who is an orthotist or prosthetist  
3057 licensed under the laws of another state or territory of the United States or another  
3058 country and has applied in writing to the board, in a form and substance satisfactory to  
3059 the board, for a license as an orthotist or prosthetist and who is qualified to receive the  
3060 license until:
- 3061 (A) The expiration of six months after the filing of the written application;  
3062 (B) The withdrawal of the application; or  
3063 (C) The denial of the application by the board;
- 3064 (6) A person licensed by this state as a physical therapist or occupational therapist from  
3065 engaging in his or her profession;
- 3066 (7) A licensed podiatrist from engaging in his or her profession;
- 3067 (8) A licensed athletic trainer from engaging in his or her profession;
- 3068 (9) A registered pharmacist from engaging in the practice for which he or she is  
3069 registered;
- 3070 (10) Any person licensed, certified, or permitted under any other article of this chapter  
3071 from engaging in the practice for which he or she is licensed, certified, or permitted;
- 3072 (11) The measuring, molding, or fitting of knee braces by any person;
- 3073 (12) Employees or authorized representatives of an orthotic manufacturer from engaging  
3074 in one or more of the following: evaluating, adjusting, measuring, designing, fabricating,  
3075 assembling, fitting, servicing, training, repairing, replacing, or delivering an orthotic  
3076 device under the order, direction, or prescription of a physician or health provider  
3077 operating within his or her licensed scope of practice and meeting the criteria of the Part  
3078 II Policy and Procedures for Orthotics and Prosthetics Services pursuant to Title XIX of  
3079 the federal Social Security Act, as amended; or
- 3080 (13) A board certified pedorthist from manufacturing, fabricating, dispensing, or any  
3081 combination thereof custom foot orthotics or foot or ankle gauntlets.

3082 43-34-194.

3083 An application for an original license shall be made to the board on a form prescribed  
3084 thereby and shall be accompanied by the required fee, which shall not be refundable. An  
3085 application shall require information that in the judgment of the board will enable it to  
3086 determine the qualifications of the applicant for a license.

3087 43-34-195.

3088 (a) To qualify for a license to practice orthotics or prosthetics, a person shall:

3089 (1)(A) Possess a baccalaureate degree from a college or university;

3090 (B) Have completed the amount of formal training, including, but not limited to, any  
3091 hours of classroom education and clinical practice, established and approved by the  
3092 board; and

3093 (C) Complete a clinical residency in the professional area for which a license is sought  
3094 in accordance with standards, guidelines, or procedures for residencies inside or outside  
3095 this state established and approved by the board. The majority of training must be  
3096 devoted to services performed in the discipline for which the license will be sought and  
3097 under the supervision of a practitioner licensed in orthotics or prosthetics or a person  
3098 certified as an orthotist, prosthetist, or prosthetist orthotist, provided that the  
3099 certification was obtained before the date this article becomes effective; or

3100 (2)(A) Possess an associate's degree from a college or university with specific courses  
3101 of study in human anatomy, physiology, physics, chemistry, and biology; and

3102 (B) Have completed at least five years of continued work experience performed in the  
3103 discipline for which the license will be sought under the supervision of a practitioner  
3104 licensed in such discipline or certified in such discipline by an agency accredited by the  
3105 National Commission for Certifying Agencies;

3106 (3) Pass all written, practical, and oral examinations that are required and approved by  
3107 the board;

3108 (4) Be qualified to practice in accordance with nationally accepted standards of orthotic  
3109 and prosthetic care; and

3110 (5) Have met such other requirements as may be prescribed by the board.

3111 (b) The standards and requirements for licensure established by the board shall be  
3112 substantially equal to or in excess of standards commonly accepted in the profession of  
3113 orthotics or prosthetics. The board shall adopt rules as necessary to set the standards and  
3114 requirements.

3115 (c) A person may be licensed in more than one discipline.

3116 43-34-196.

3117 The board, in consultation with the advisory committee, may impose on a licensed orthotist  
3118 or prosthetist any sanction authorized under subsection (b) of Code Section 43-34-8 upon  
3119 a finding of any conduct specified in subsection (a) of Code Section 43-34-8. ~~shall have the~~  
3120 ~~power and responsibility to:~~

3121 ~~(1) Determine the qualifications and fitness of applicants for licensure and renewal of~~  
3122 ~~licensure;~~

- 3123 ~~(2) Adopt and revise rules consistent with the laws of this state that are necessary to~~  
 3124 ~~conduct its business, carry out its duties, and administer this article;~~
- 3125 ~~(3) Examine for, approve, issue, deny, revoke, suspend, sanction, and renew the licenses~~  
 3126 ~~of board applicants for licensure as licensed orthotists and prosthetists and provisional~~  
 3127 ~~licensed orthotists and prosthetists under this article and conduct hearings in connection~~  
 3128 ~~with these actions;~~
- 3129 ~~(4) Conduct hearings on complaints concerning violations of this article and the rules~~  
 3130 ~~adopted under this article and cause the prosecution and enjoinder of the violations;~~
- 3131 ~~(5) Establish application, examination, and licensure fees;~~
- 3132 ~~(6) Request and receive the assistance of state educational institutions or other state~~  
 3133 ~~agencies and prepare information of consumer interest describing the regulatory functions~~  
 3134 ~~of the board and the procedures by which consumer complaints are filed with and~~  
 3135 ~~resolved by the board. The board shall make the information available to the public and~~  
 3136 ~~appropriate state agencies; and~~
- 3137 ~~(7) Establish education, examination, and continuing education requirements.~~

3138 43-34-197.

- 3139 (a) No person shall work as an assistant to an orthotist, prosthetist, or prosthetist orthotist  
 3140 and provide patient care services or fabrication of orthoses or prostheses unless he or she  
 3141 is doing the work under the supervision of a licensed orthotist, prosthetist, or prosthetist  
 3142 orthotist.
- 3143 (b) No person shall work as a technician unless the work is performed under the  
 3144 supervision of a person licensed under this article.

3145 43-34-198.

- 3146 (a) Until July 1, 2007, a person certified as an orthotist, prosthetist, or prosthetist orthotist  
 3147 by the American Board for Certification in Orthotics and Prosthetics, Incorporated or the  
 3148 Board of Orthotist/Prosthetist Certification, or holding similar certifications from other  
 3149 accrediting bodies with equivalent educational requirements and examination standards,  
 3150 may apply for and may be granted orthotic or prosthetic licensure under this article upon  
 3151 payment of the required fee. After that date, any applicant for licensure as an orthotist or  
 3152 a prosthetist shall meet the requirements of subsection (a) of Code Section 43-34-195.
- 3153 (b) On and after July 1, 2007, no person shall practice orthotics or prosthetics in this state  
 3154 and hold himself or herself out as being able to practice such professions unless he or she  
 3155 is licensed in accordance with this article or is exempt from such licensing. A person who  
 3156 violates this subsection shall, upon conviction thereof, be guilty of a misdemeanor.

3157 ~~(c) Not later than August 30, 2006, a person who has practiced full time for a minimum~~  
3158 ~~of the past seven years in this state in a prosthetic orthotic facility as an orthotist or~~  
3159 ~~prosthetist may file with the board an application and the license fee determined by the~~  
3160 ~~board in order to continue to practice orthotics or prosthetics without satisfaction of the~~  
3161 ~~examination and education requirements. The board shall investigate the work history,~~  
3162 ~~qualifications, and fitness of the applicant. The investigation may include, but not be~~  
3163 ~~limited to, completion by the applicant of a questionnaire regarding the applicant's work~~  
3164 ~~history and scope of practice. The board shall complete its investigation for purposes of~~  
3165 ~~this Code section within six months of receipt of a fully completed application. If, after~~  
3166 ~~receipt of the application fee, a fully completed application, and the completion of the~~  
3167 ~~investigation, the board determines that the applicant satisfied the work history~~  
3168 ~~requirements of this Code section and met all other qualifications for licensure, except the~~  
3169 ~~examination and education requirements, the board shall issue a license to practice~~  
3170 ~~orthotics or prosthetics. A license issued to a person under this subsection shall not be~~  
3171 ~~renewed without compliance with the requirements of Code Section 43-34-195.~~

3172 43-34-199.

3173 A licensed orthotist may provide care or services only if the care or services are provided  
3174 pursuant to an order from a licensed physician or podiatrist. A licensed prosthetist may  
3175 provide care or services only if the care or services are provided pursuant to an order from  
3176 a licensed physician or podiatrist.

3177 43-34-200.

3178 (a) The expiration date and renewal period for each license issued under this article shall  
3179 be set by the board. A license shall be valid for a period of up to two years and shall be  
3180 renewed biennially as provided by rule of the board. The board shall establish continuing  
3181 education requirements for the renewal of a license. These requirements shall be based on  
3182 established standards of competence in the field of orthotics or prosthetics.

3183 (b) A person who has permitted his or her license to expire or who has had his or her  
3184 license on inactive status may have his or her license restored by:

3185 (1) Making application to the board;

3186 (2) Filing proof acceptable to the board of his or her fitness to have his or her license  
3187 restored including, but not limited to, sworn evidence certifying to active practice in  
3188 another jurisdiction satisfactory to the board; and

3189 (3) Paying the required restoration fee.

3190 If the person has not maintained an active practice in another jurisdiction satisfactory to the  
3191 board, the board shall determine, by an evaluation program established by rule, such

3192 person's fitness to resume active status and may require the person to complete a period of  
 3193 evaluated clinical experience and successful completion of an examination.

3194 (c) A person whose license expired while he or she was:

3195 (1) In federal service on active duty within the armed forces of the United States or with  
 3196 the state militia and called into service or training; or

3197 (2) In training or education under the supervision of the United States preliminary to  
 3198 induction into military service

3199 may have his or her license renewed or restored without paying a lapsed renewal fee if,  
 3200 within two years after termination from the service, training, or education except under  
 3201 conditions other than honorable, he or she furnishes the board with satisfactory evidence  
 3202 that he or she has been so engaged and that his or her service, training, or education has  
 3203 been terminated.

3204 43-34-201.

3205 A person who notifies the board on forms prescribed thereby may elect to place his or her  
 3206 license on an inactive status and shall, subject to rules of the board, be excused from  
 3207 payment of renewal fees until he or she notifies the board of his or her desire to resume  
 3208 active status. A person requesting restoration from inactive status shall be required to pay  
 3209 the current renewal fee and shall be required to restore his or her license as provided in  
 3210 Code Section 43-34-200. An orthotist or prosthetist whose license is on inactive status  
 3211 shall not practice orthotics or prosthetics in this state.

3212 43-34-202.

3213 The board may, at its discretion, license as an orthotist or prosthetist, without examination  
 3214 and on payment of the required fee, an applicant who is an orthotist or prosthetist and is:

3215 (1) Licensed under the laws of another state, territory, or country, if the requirements for  
 3216 licensure in that state, territory, or country in which the applicant is licensed were, at the  
 3217 date of his or her licensure, equal to or more stringent than the requirements in force in  
 3218 this state on that date; or

3219 (2) Certified as an orthotist or prosthetist by a national certifying organization that is  
 3220 accredited by the National Commission for Certifying Agencies and has educational and  
 3221 testing standards equal to or more stringent than the licensing requirements of this state.

3222 ~~43-34-203.~~

3223 ~~(a) The board, in consultation with the advisory committee, may:~~

3224 ~~(1) Refuse to grant or renew a license to an applicant;~~

- 3225 ~~(2) Administer a public or private reprimand, but a private reprimand shall not be~~  
3226 ~~disclosed to any person except the licensee;~~
- 3227 ~~(3) Suspend any license for a definite period or for an indefinite period in connection~~  
3228 ~~with any condition which may be attached to the restoration of said license;~~
- 3229 ~~(4) Limit or restrict any license as the board deems necessary for the protection of the~~  
3230 ~~public;~~
- 3231 ~~(5) Revoke any license;~~
- 3232 ~~(6) Levy a fine; and~~
- 3233 ~~(7) Condition any penalty or withhold formal disposition of any matter pending the~~  
3234 ~~applicant's or licensee's submission to such care, counseling, or treatment as the board~~  
3235 ~~may direct.~~
- 3236 ~~(b) The board may take any action specified in subsection (a) of this Code section upon~~  
3237 ~~a finding by the board that the licensee or applicant has:~~
- 3238 ~~(1) Failed to demonstrate the qualifications or standards for licensure contained in this~~  
3239 ~~article, or under the laws, rules, or regulations under which licensure is sought or held;~~  
3240 ~~it shall be incumbent upon the applicant to demonstrate to the satisfaction of the board~~  
3241 ~~that he or she meets all the requirements for issuance of a license, and, if the board is not~~  
3242 ~~satisfied as to the applicant's qualifications, it may deny a license without a prior hearing;~~  
3243 ~~provided, however, that the applicant shall be allowed to appear before the board if he or~~  
3244 ~~she so desires;~~
- 3245 ~~(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the~~  
3246 ~~practice of a business or profession licensed under this title or on any document~~  
3247 ~~connected therewith, practiced fraud or deceit or intentionally made any false statement~~  
3248 ~~in obtaining certification to practice a licensed business or profession, or made a false~~  
3249 ~~statement or deceptive registration with the board;~~
- 3250 ~~(3) Been convicted of any felony or of any crime involving moral turpitude in the courts~~  
3251 ~~of this state or any other state, territory, or country or in the courts of the United States.~~  
3252 ~~As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall~~  
3253 ~~include any offense which, if committed in this state, would be deemed a felony, without~~  
3254 ~~regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'~~  
3255 ~~shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an~~  
3256 ~~appeal of the conviction has been sought;~~
- 3257 ~~(4) Been arrested, charged, and sentenced for the commission of any felony or any crime~~  
3258 ~~involving moral turpitude where:~~
- 3259 ~~(A) A plea of nolo contendere was entered to the charge;~~
- 3260 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~  
3261 ~~granted; or~~

3262 ~~(C) An adjudication or sentence was otherwise withheld or not entered on the charge.~~  
3263 ~~The plea of nolo contendere or the order entered pursuant to the provisions of Article 3~~  
3264 ~~of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender~~  
3265 ~~treatment shall be conclusive evidence of arrest and sentencing for such crime;~~  
3266 ~~(5) Had his or her license under this article revoked, suspended, or annulled by any~~  
3267 ~~lawful authority other than the board; or had other disciplinary action taken against him~~  
3268 ~~or her by any such lawful authority other than the board; or was refused the renewal of~~  
3269 ~~a license by any such lawful authority other than the board, pursuant to disciplinary~~  
3270 ~~proceedings;~~  
3271 ~~(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct~~  
3272 ~~or practice harmful to the public, which conduct or practice materially affects the fitness~~  
3273 ~~of the licensee or applicant to practice a business or profession licensed under this article;~~  
3274 ~~or of a nature likely to jeopardize the interest of the public, which conduct or practice~~  
3275 ~~need not have resulted in actual injury to any person or be directly related to the practice~~  
3276 ~~of the licensed business or profession but shows that the licensee or applicant has~~  
3277 ~~committed any act or omission which is indicative of bad moral character or~~  
3278 ~~untrustworthiness. Unprofessional conduct shall include any departure from, or the~~  
3279 ~~failure to conform to, the minimal standards of acceptable and prevailing practice of the~~  
3280 ~~business or profession licensed under this article;~~  
3281 ~~(7) Knowingly performed any act which in any way aids, assists, procures, advises, or~~  
3282 ~~encourages any unlicensed person or any licensee whose license has been suspended or~~  
3283 ~~revoked by the board to engage in any practice outside the scope of any disciplinary~~  
3284 ~~limitation placed upon the licensee by the board;~~  
3285 ~~(8) Violated, without regard to whether the violation is criminally punishable, a statute,~~  
3286 ~~law, or any rule or regulation of this state, any other state, the professional licensing~~  
3287 ~~board regulating the business or profession licensed under this title, the United States, or~~  
3288 ~~any other lawful authority, which statute, law, or rule or regulation relates to or in part~~  
3289 ~~regulates the practice of a business or profession licensed under this article, when the~~  
3290 ~~licensee or applicant knows or should know that such action is violative of such statute,~~  
3291 ~~law, or rule; or violated a lawful order of the board previously entered by the board in a~~  
3292 ~~disciplinary hearing, consent decree, or license reinstatement;~~  
3293 ~~(9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or~~  
3294 ~~outside this state. Any such adjudication shall automatically suspend the license of any~~  
3295 ~~such person and shall prevent the reissuance of renewal of any license so suspended for~~  
3296 ~~as long as the adjudication of incompetence is in effect; or~~  
3297 ~~(10) Displayed any inability to practice a business or profession licensed under this~~  
3298 ~~article with reasonable skill and safety to the public or has become unable to practice the~~

3299 ~~licensed business or profession with reasonable skill and safety to the public by reason~~  
 3300 ~~of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material.~~

3301 ~~43-34-204~~ 43-34-203.

3302 The board shall appoint the advisory committee. The advisory committee shall ~~be~~  
 3303 ~~representative of a cross section of the cultural backgrounds of the~~ include licensed  
 3304 orthotists and prosthetists licensed under this article and such members as the board in its  
 3305 discretion may determine. Members shall receive no compensation for service on the  
 3306 committee. The committee shall have such advisory duties and responsibilities as the  
 3307 board may determine. The initial members of the advisory committee may include persons  
 3308 eligible for licensing under this article. Subsequent advisory committee members must be  
 3309 licensed pursuant to this article.

3310 **ARTICLE 9**

3311 ~~43-34-240~~.

3312 This article shall be known and may be cited as the 'Georgia Cosmetic Laser Services Act.'

3313 ~~43-34-241~~.

3314 This article is enacted for the purpose of safeguarding the public health, safety, and welfare  
 3315 by providing for state administrative control, supervision, and regulation of the practice of  
 3316 providing cosmetic laser services. It is the intention of the General Assembly that cosmetic  
 3317 laser services be made available and affordable to the people of this state in a safe, reliable  
 3318 manner. Unregulated cosmetic laser services do not adequately meet the needs or serve the  
 3319 interests of the public. Licensure of those performing cosmetic laser services and required  
 3320 education and training of such practitioners will help ensure the health and safety of  
 3321 consumers. The practice of providing cosmetic laser services is declared to be affected  
 3322 with the public interest; and this article shall be liberally construed so as to accomplish the  
 3323 purpose stated in this Code section.

3324 ~~43-34-242~~.

3325 As used in this article, the term:

3326 (1) 'Board' means the ~~Composite State Board of Medical Examiners~~ Georgia Composite  
 3327 Medical Board created by Code Section ~~43-34-21~~ 43-34-22.

3328 (2) 'Consulting physician' means a person licensed to practice medicine under this  
 3329 chapter and:

3330 (A) Whose principal place of practice is within this state; or

3331 (B) Whose principal place of practice is outside this state but is within 50 miles from  
 3332 the facility with whom he or she has an agreement to provide services in accordance  
 3333 with Code Section 43-34-248.

3334 (3) 'Consumer' means a person on whom cosmetic laser services are or are to be  
 3335 performed.

3336 (4) 'Cosmetic laser practitioner' means a person licensed under this article to provide  
 3337 cosmetic laser services as defined in this article and whose license is in good standing.

3338 (5) 'Cosmetic laser services' means nonablative elective cosmetic light based skin, photo  
 3339 rejuvenation, or hair removal using lasers and pulsed light devices approved by the  
 3340 United States Food and Drug Administration for noninvasive procedures. Such services  
 3341 and the provision thereof shall not be considered to be the practice of medicine.

3342 (6) 'Facility' means any location, place, area, structure, office, institution, or business or  
 3343 a part thereof in which is performed or provided cosmetic laser services regardless of  
 3344 whether a fee is charged for such services.

3345 (7) 'License' means a valid and current certificate of registration issued by the board  
 3346 which shall give the person to whom it is issued authority to engage in the practice  
 3347 prescribed thereon.

3348 (8) 'Licensee' means any person holding a license under this article.

3349 (9) 'Medical practitioner' means a registered professional nurse, licensed practical nurse,  
 3350 nurse practitioner, ~~physician's~~ physician assistant, or physician.

3351 (10) 'Nurse' means a registered professional nurse, licensed practical nurse, or nurse  
 3352 practitioner.

3353 (11) 'Person' means a natural person.

3354 43-34-243.

3355 This article shall not be construed to prohibit:

3356 (1) A licensed physician from engaging in the practice for which he or she is licensed;

3357 (2) A licensed ~~physician's~~ physician assistant from engaging in the practice for which he  
 3358 or she is licensed;

3359 (3) A person licensed by this state as a registered professional nurse, licensed practical  
 3360 nurse, or nurse practitioner from engaging in his or her profession;

3361 (4) A licensed esthetician from engaging in his or her profession;

3362 (5) A master cosmetologist from engaging in his or her profession;

3363 (6) Any person licensed under any other article of this chapter from engaging in the  
 3364 practice for which he or she is licensed;

3365 (7) A person licensed in this state under any other law from engaging in the practice for  
 3366 which he or she is licensed;

3367 (8) The practice of providing cosmetic laser services by a person who is employed by the  
 3368 federal government or any bureau, division, or agency of the federal government while  
 3369 in the discharge of the employee's official duties;

3370 (9) The practice of providing cosmetic laser services by a student enrolled in an  
 3371 accredited school of nursing or medical school as part of his or her training; or

3372 (10) Employees or authorized representatives of a manufacturer of a laser used for  
 3373 cosmetic laser services from engaging in one or more of the following: evaluating,  
 3374 adjusting, measuring, designing, fabricating, assembling, fitting, servicing, training,  
 3375 repairing, replacing, or delivering a laser used to provide cosmetic laser services under  
 3376 the order, direction, or prescription of a physician or health provider operating within his  
 3377 or her licensed scope of practice.

3378 43-34-244.

3379 (a) There shall be two levels of a license for a cosmetic laser practitioner: assistant laser  
 3380 practitioner and senior laser practitioner.

3381 (b) Any person desiring to obtain a license as a cosmetic laser practitioner under the terms  
 3382 of this article shall make application to the board as follows:

3383 (1) An applicant for an 'assistant laser practitioner' license shall present proof that he or  
 3384 she:

3385 (A) Holds a current valid license or certificate of registration as a ~~physician's~~ physician  
 3386 assistant, nurse, esthetician, or master cosmetologist, or has previously held a license  
 3387 or certificate of registration as a medical practitioner; and

3388 (B) Has received at least three laser certificates from attending laser/intense pulsed  
 3389 light (IPL) courses as approved by the board, directly taught by a licensed physician or  
 3390 certified continuing medical education or continuing education educator.

3391 If, after review of the application, it is determined that the applicant is at least 21 years  
 3392 of age; has met the minimum educational requirements; is of good moral character; and  
 3393 is possessed of the requisite skill to perform properly cosmetic laser services, a license  
 3394 shall be issued to the applicant entitling the applicant to practice the occupation of  
 3395 cosmetic laser practitioner at the assistant laser practitioner level under the direct  
 3396 supervision of a senior laser practitioner.

3397 (2) An applicant for a 'senior laser practitioner' license shall present proof that he or she:

3398 (A) Holds a current valid license or certificate of registration as a ~~physician's~~ physician  
 3399 assistant or nurse or has previously held a license or certificate of registration as a  
 3400 medical practitioner;

3401 (B) Has at least three years of clinical or technological medical experience, or both;

3402 (C) Has been or was licensed or nationally board certified as a medical practitioner for  
3403 at least three years; and

3404 (D) Has received at least two laser certificates from attending laser/intense pulsed light  
3405 (IPL) continuing medical education courses as approved by the board, directly taught  
3406 by a licensed physician or certified continuing medical education or continuing  
3407 education educator.

3408 If, after review of the application, it is determined that the applicant is at least 21 years  
3409 of age; has met the minimum educational and clinical training requirements to perform  
3410 cosmetic laser services with indirect supervision; is of good moral character; and is  
3411 possessed of the requisite skill to perform properly these services, a license shall be  
3412 issued to the applicant entitling the applicant to practice the occupation of cosmetic laser  
3413 practitioner at the senior laser practitioner level pursuant to the protocols of a consulting  
3414 physician.

3415 (c) The board shall be authorized to waive any education requirements under this Code  
3416 section in cases of hardship, disability, or illness or under such other circumstances as the  
3417 board deems appropriate with respect to any applicant who has practiced as a cosmetic  
3418 laser practitioner prior to July 1, 2007.

3419 (d) Should an applicant have a current cosmetic laser practitioner license or certificate of  
3420 registration in force from another state, country, territory of the United States, or the  
3421 District of Columbia, where similar reciprocity is extended to this state and licensure  
3422 requirements are substantially equal to those in this state, and have paid a fee and have  
3423 submitted an application, the applicant may be issued a license at the appropriate level  
3424 entitling him or her to practice the occupation of a cosmetic laser practitioner at that level,  
3425 unless the board, in its discretion, sees fit to require a written or a practical examination  
3426 subject to the terms and provisions of this article. The board shall be authorized to waive  
3427 any education or experience requirements applicable to any person who holds a current  
3428 license or certificate to practice as a cosmetic laser practitioner outside of this state and  
3429 who desires to obtain a license at a level authorized under this Code section to practice as  
3430 a cosmetic laser practitioner in this state in cases of hardship, disability, or illness or under  
3431 such other circumstances as the board deems appropriate.

3432 43-34-245.

3433 (a) All licenses shall expire biennially unless renewed. All applications for renewal of a  
3434 license shall be filed with the board prior to the expiration date, accompanied by the  
3435 biennial renewal fee prescribed by the board. A license which has expired for failure of  
3436 the holder to renew may only be restored after application and payment of the prescribed  
3437 restoration fee within the time period established by the board and provided the applicant

3438 meets such requirements as the board may establish by rule. Any license which has not  
3439 been restored within such period following its expiration may not be renewed, restored, or  
3440 reissued thereafter. The holder of such a canceled license may apply for and obtain a valid  
3441 license only upon compliance with all relevant requirements for issuance of a new license.

3442 (b) As a condition of license renewal, the board shall require licensees to provide proof,  
3443 in a form approved by the board, of a minimum of five hours of continuing education  
3444 courses as approved by the board in the area of cosmetic laser services, equipment safety  
3445 and operation, procedures, and relative skin modalities, directly taught by a licensed  
3446 physician or certified continuing medical education or continuing education educator.

3447 43-34-246.

3448 (a) The board shall have authority to refuse to grant or restore a license to an applicant or  
3449 to discipline a cosmetic laser practitioner under this article upon a finding by the board that  
3450 the licensee or applicant has:

3451 (1) Displayed an inability or has become unable to practice as a cosmetic laser  
3452 practitioner with reasonable skill and safety to consumers by reason of illness, use of  
3453 alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any  
3454 mental or physical condition:

3455 (A) In enforcing this paragraph the board may, upon reasonable grounds, require a  
3456 licensee or applicant to submit to a mental or physical examination by an appropriate  
3457 practitioner of the healing arts designated by the board. The expense of such mental or  
3458 physical examination shall be borne by the licensee or applicant. The results of such  
3459 examination shall be admissible in any hearing before the board, notwithstanding any  
3460 claim of privilege under a contrary rule of law or statute, including, but not limited to,  
3461 Code Section 24-9-21. Every person who shall accept the privilege of practicing  
3462 cosmetic laser services in this state or who shall file an application for a license to  
3463 provide cosmetic laser services in this state shall be deemed to have given his or her  
3464 consent to submit to such mental or physical examination and to have waived all  
3465 objections to the admissibility of the results in any hearing before the board upon the  
3466 grounds that the same constitutes a privileged communication. If a licensee or  
3467 applicant fails to submit to such an examination when properly directed to do so by the  
3468 board, unless such failure was due to circumstances beyond his or her control, the board  
3469 may enter a final order upon proper notice, hearing, and proof of such refusal. Any  
3470 licensee or applicant who is prohibited from practicing cosmetic laser services under  
3471 this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate  
3472 to the board that he or she can resume or begin the practice of cosmetic laser  
3473 practitioner with reasonable skill and safety to consumers;

3474 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
3475 any and all records relating to the mental or physical condition of a licensee or  
3476 applicant, including psychiatric records; and such records shall be admissible in any  
3477 hearing before the board, notwithstanding any privilege under a contrary rule of law or  
3478 statute, including, but not limited to, Code Section 24-9-21. Every person who shall  
3479 accept the privilege of practicing as a cosmetic laser practitioner in this state or who  
3480 shall file an application to practice cosmetic laser services in this state shall be deemed  
3481 to have given his or her consent to the board's obtaining any such records and to have  
3482 waived all objections to the admissibility of such records in any hearing before the  
3483 board upon the grounds that the same constitute a privileged communication; and

3484 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a  
3485 privilege to prevent the disclosure of the results of the examination provided for in  
3486 subparagraph (A) of this paragraph or the records relating to the mental or physical  
3487 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this  
3488 paragraph, all such information shall be received by the board in camera and shall not  
3489 be disclosed to the public, nor shall any part of the record containing such information  
3490 be used against any licensee or applicant in any other type of proceeding;

3491 (2) Been convicted of a felony or crime involving moral turpitude in the courts of this  
3492 state, the United States, or the conviction of an offense in another jurisdiction which if  
3493 committed in this state would be deemed a felony. For the purpose of this Code section,  
3494 a 'conviction' shall include a finding or verdict of guilty, a plea of guilty, or a plea of nolo  
3495 contendere in a criminal proceeding regardless of whether the adjudication of guilt or  
3496 sentence is withheld or not entered thereon pursuant to the provisions of Code Sections  
3497 42-8-60 through 42-8-64, relating to first offenders, or any comparable rule or statute;

3498 (3) Knowingly made misleading, deceptive, untrue, or fraudulent representations to a  
3499 consumer or other person or entity in connection with the practice of providing cosmetic  
3500 laser services or in any document connected therewith; practiced fraud or deceit or  
3501 intentionally made any false statement in obtaining or attempting to obtain a license to  
3502 practice cosmetic laser services or as a cosmetic laser practitioner; or made a false or  
3503 deceptive biennial registration with the board;

3504 (4) Has had a license or certificate of registration as a medical practitioner revoked,  
3505 suspended, or denied;

3506 (5) Practiced cosmetic laser services contrary to this article or to the rules and regulations  
3507 of the board; knowingly aided, assisted, procured, or advised any person to provide  
3508 cosmetic laser services contrary to this article or to the rules and regulations of the board;  
3509 or knowingly performed any act which in any way aids, assists, procures, advises, or  
3510 encourages any unlicensed person to provide cosmetic laser services;

3511 (6) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or  
3512 practice harmful to the public, which conduct or practice need not have resulted in actual  
3513 injury to any person, as determined as a result of an investigation initiated upon the  
3514 board's own motion or as a result of a sworn written request for investigation, by or on  
3515 behalf of a consumer, of an act or acts which occurred within three years of such  
3516 initiation or request; or

3517 (7) Failed to report to the board any act or omission of a licensee or applicant or any  
3518 other person which violates the provisions of this article.

3519 (b)(1) When the board finds that any person is unqualified to be granted a license or  
3520 finds that any person should be disciplined pursuant to subsection (a) of this Code  
3521 section, the board may take any one or more of the following actions:

3522 (A) Refuse to grant or restore a license to an applicant;

3523 (B) Administer a public or private reprimand, but a private reprimand shall not be  
3524 disclosed to any person except the licensee;

3525 (C) Suspend any license for a definite period;

3526 (D) Limit or restrict any license;

3527 (E) Revoke any license;

3528 (F) Condition the penalty or withhold formal disposition, upon the cosmetic laser  
3529 practitioner's submission to the care, counseling, or treatment of physicians or other  
3530 professional persons, and the completion of such care, counseling, or treatment, as  
3531 directed by the board; or

3532 (G) Impose a fine not to exceed \$500.00 for each violation of law, rule, or regulation  
3533 of the board.

3534 (2) In addition to or in conjunction with the actions enumerated pursuant to paragraph (1)  
3535 of this subsection the board may make a finding adverse to the licensee or applicant but  
3536 withhold imposition of judgment and penalty, or it may impose the judgment and penalty  
3537 but suspend enforcement thereof and place the licensee or applicant on probation, which  
3538 probation may be vacated upon noncompliance with such reasonable terms as the board  
3539 may impose.

3540 (c) In its discretion, the board may restore and reissue a license issued under this article  
3541 and, as a condition thereof, it may impose any disciplinary or corrective measure provided  
3542 in this article.

3543 (d) A person, firm, corporation, association, authority, or other entity shall be immune  
3544 from civil and criminal liability for reporting the acts or omissions of a licensee or  
3545 applicant which violate the provisions of subsection (a) of this Code section or any other  
3546 provision of law relating to a licensee's or applicant's fitness to practice as a cosmetic laser  
3547 practitioner, if such report is made in good faith without fraud or malice. Any person who

3548 testifies without fraud or malice before the board in any proceeding involving a violation  
3549 of the provisions of subsection (a) of this Code section or any other law relating to a  
3550 licensee's or applicant's fitness to practice as a cosmetic laser practitioner shall be immune  
3551 from civil and criminal liability for so testifying.

3552 43-34-247.

3553 The practice of providing cosmetic laser services is declared to be an activity affecting the  
3554 public interest and involving the health, safety, and welfare of the public. Such practice  
3555 when engaged in by a person who is not licensed as a cosmetic laser practitioner or  
3556 otherwise licensed to practice a profession which is permitted under law to perform  
3557 cosmetic laser services is declared to be harmful to the public health, safety, and welfare.  
3558 The board or the district attorney of the circuit where such unlicensed practice exists, or  
3559 any person or organization having an interest therein, may bring a petition to restrain and  
3560 enjoin such unlicensed practice in the superior court of the county where such unlicensed  
3561 person resides. It shall not be necessary in order to obtain an injunction under this Code  
3562 section to allege or prove that there is no adequate remedy at law, or to allege or prove any  
3563 special injury.

3564 43-34-248.

3565 Any facility providing cosmetic laser services shall have an agreement with a consulting  
3566 physician who shall:

- 3567 (1) Be trained in laser modalities;  
3568 (2) Establish proper protocols for the cosmetic laser services provided at the facility and  
3569 file such protocols with the board; and  
3570 (3) Be available for emergency consultation with the cosmetic laser practitioner or  
3571 anyone employed by the facility.

3572 43-34-249.

3573 (a) Prior to receiving cosmetic laser services from a cosmetic laser practitioner, a person  
3574 must consent in writing to such services and shall be informed in writing of the general  
3575 terms of the following:

- 3576 (1) The nature and purpose of such proposed procedure;  
3577 (2) Any material risks generally recognized and associated with the cosmetic laser  
3578 service to be performed which, if disclosed to a reasonably prudent person in the  
3579 customer's position, could reasonably be expected to cause such prudent person to decline  
3580 such proposed cosmetic laser services on the basis of the material risk of injury that could  
3581 result from such proposed services;

3582 (3) The type of license the individual who will be performing the cosmetic laser service  
3583 has obtained; and

3584 (4) The steps to be followed after the cosmetic laser service is performed in the event of  
3585 any complications.

3586 (b) It shall be the responsibility of the cosmetic laser practitioner to ensure that the  
3587 information required by subsection (a) of this Code section is disclosed and that the consent  
3588 provided for in this Code section is obtained.

3589 (c) Where the consumer is under 18 years of age, the consent of the consumer's parent or  
3590 legal guardian shall be required.

3591 (d) The board shall be required to adopt and have the authority to promulgate rules and  
3592 regulations governing and establishing the standards necessary to implement this Code  
3593 section specifically including but not limited to the disciplining of a cosmetic laser  
3594 practitioner who fails to comply with this Code section.

3595 (e) Nothing in this Code section shall prohibit the information provided for in this Code  
3596 section from being disclosed through the use of video tapes, audio tapes, pamphlets,  
3597 booklets, or other means of communication or through conversations with the cosmetic  
3598 laser practitioner; provided, however, that such information is also provided in writing and  
3599 attached to the consent form which the consumer signs.

3600 43-34-250.

3601 The board shall appoint an advisory committee. The advisory committee shall be  
3602 ~~representative of a cross section of the cultural backgrounds, to the extent practical, of the~~  
3603 include licensed cosmetic laser practitioners licensed under this article and such members  
3604 as the board in its discretion may determine. Members shall receive no compensation for  
3605 service on the committee. The committee shall have such advisory duties and  
3606 responsibilities as the board may determine, including but not limited to consulting with  
3607 the board on the issuance, denial, suspension, and revocation of licenses and the  
3608 promulgation of rules and regulations under this article. The initial members of the  
3609 advisory committee may include persons eligible for licensing under this article.  
3610 Subsequent advisory committee members must be licensed pursuant to this article.

3611 43-34-251.

3612 (a) It shall be unlawful for any person licensed as a cosmetic laser practitioner to perform  
3613 cosmetic laser services within any area within one inch of the nearest part of the eye socket  
3614 of any consumer.

3615 (b) It shall be unlawful for any person licensed as a cosmetic laser practitioner to  
3616 administer any pharmaceutical agent or other substance by injection.

3617 43-34-252.

3618 Any person who owns a facility in which cosmetic laser services are offered or performed  
3619 in noncompliance with the requirements of this article shall be guilty of a misdemeanor.

3620 43-34-253.

3621 Any person convicted of violating any provision of this article shall be guilty of a  
3622 misdemeanor."

3623 **SECTION 2.**

3624 The following Code sections of the Official Code of Georgia Annotated are amended by  
3625 replacing "Composite State Board of Medical Examiners" or "Composite State Board of  
3626 Medical Examiners of Georgia" wherever either occurs with "Georgia Composite Medical  
3627 Board":

3628 (1) Code Section 20-3-476, relating to the authorization and administration of loan  
3629 programs for attendance at the college of osteopathic medicine;

3630 (2) Code Section 20-3-512, relating to medical student loans and scholarships;

3631 (3) Code Section 20-3-513, relating to the State Medical Education Board and student  
3632 loans and scholarships;

3633 (4) Code Section 31-9-6.1, relating to the disclosure of information to persons  
3634 undergoing certain surgical or diagnostic procedures;

3635 (5) Code Section 31-9A-6.1, relating to civil and professional penalties for violation of  
3636 the Woman's Right to Know Act;

3637 (6) Code Section 31-11-81, relating to definitions regarding emergency services;

3638 (7) Code Section 31-34-4, relating to loan applicant qualifications;

3639 (8) Code Section 31-38-2, relating to certain exemptions to Chapter 38 of Title 31;

3640 (9) Code Section 33-3-27, relating to the reports of awards under medical malpractice  
3641 insurance policies;

3642 (10) Code Section 33-20B-2, relating to definitions regarding rural health care access;

3643 (11) Code Section 34-9-1, relating to definitions regarding workers' compensation;

3644 (12) Code Section 43-5-13, relating to certain exemptions to the operation of Chapter 5  
3645 of Title 43;

3646 (13) Code Section 43-34A-2, relating to definitions regarding a patient's rights;

3647 (14) Code Section 43-34A-3, relating to physician profiles and the dissemination of such  
3648 profiles to the public;

3649 (15) Code Section 43-34A-6, relating to a patient's right to file a grievance with the state  
3650 board; and

3651 (16) Code Section 43-35-3, relating to definitions regarding the practice of podiatry.

**SECTION 3.**

3652

3653 The following Code sections of the Official Code of Georgia Annotated are amended by  
3654 replacing "physician's assistant" and "physician's assistants" wherever either occurs with  
3655 "physician assistant" and "physician assistants", respectively:

3656 (1) Code Section 20-2-774, relating to self-administration of asthma medication by a  
3657 public school student;

3658 (2) Code Section 24-9-67.1, relating to expert opinion testimony in civil actions;

3659 (3) Code Section 26-4-80, relating to dispensing prescription drugs;

3660 (4) Code Section 31-7-16, relating to determination or pronouncement of death of patient  
3661 in a nursing home;

3662 (5) Code Section 31-9-6.1, relating to disclosure of certain information to persons  
3663 undergoing certain surgical or diagnostic procedures;

3664 (6) Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to  
3665 Know Act";

3666 (7) Code Section 31-11-60.1, relating to a program for physician control over emergency  
3667 medical services to nonhospital patients;

3668 (8) Code Section 31-22-9.1, relating to who may perform HIV tests;

3669 (9) Code Section 33-20A-3, relating to definitions relative to the "Patient Protection Act  
3670 of 1996";

3671 (10) Code Section 33-24-58.2, relating to minimum health benefit policy coverage for  
3672 newborn babies and their mothers;

3673 (11) Code Section 33-24-72, relating to health benefit policy requirements under the  
3674 "Breast Cancer Patient Care Act";

3675 (12) Code Section 34-9-415, relating to testing in drug-free workplace programs;

3676 (13) Code Section 40-6-392, relating to chemical tests for alcohol or drugs in blood for  
3677 driving under the influence of alcohol, drugs, or other intoxicating substances;

3678 (14) Code Section 42-4-70, relating to definitions relative to deductions from inmate  
3679 accounts for expenses;

3680 (15) Code Section 42-5-55, relating to deductions from inmate accounts for payment of  
3681 certain damages and medical costs;

3682 (16) Code Section 43-1-28, relating to the "Georgia Volunteers in Health Care  
3683 Specialties Act"; and

3684 (17) Code Section 51-2-5.1, relating to relationship between hospital and health care  
3685 provider prerequisite to liability.

**SECTION 4.**

3686

3687 Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to the  
 3688 regulation of controlled substances, is amended by revising paragraph (23) of Code Section  
 3689 16-13-21, relating to definitions regarding the regulation of controlled substances, as follows:

3690 "(23) 'Practitioner' means:

3691 (A) A physician, dentist, pharmacist, podiatrist, veterinarian, scientific investigator, or  
 3692 other person licensed, registered, or otherwise authorized under the laws of this state  
 3693 to distribute, dispense, conduct research with respect to, or to administer a controlled  
 3694 substance in the course of professional practice or research in this state;

3695 (B) A pharmacy, hospital, or other institution licensed, registered, or otherwise  
 3696 authorized by law to distribute, dispense, conduct research with respect to, or to  
 3697 administer a controlled substance in the course of professional practice or research in  
 3698 this state;

3699 (C) An advanced practice registered nurse acting pursuant to the authority of Code  
 3700 Section ~~43-34-26.3~~ 43-34-26. For purposes of this chapter and Code Section  
 3701 ~~43-34-26.3~~ 43-34-26, an advanced practice registered nurse is authorized to register  
 3702 with the federal Drug Enforcement Administration and appropriate state authorities; or

3703 (D) A ~~physician's~~ physician assistant acting pursuant to the authority of subsection  
 3704 (e.1) of Code Section 43-34-103. For purposes of this chapter and subsection (e.1) of  
 3705 Code Section 43-34-103, a ~~physician's~~ physician assistant is authorized to register with  
 3706 the federal Drug Enforcement Administration and appropriate state authorities."

**SECTION 5.**

3707

3708 Article 3 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to  
 3709 dangerous drugs, is amended by revising paragraph (4.1) of Code Section 16-13-72, relating  
 3710 to the sale, distribution, or possession of dangerous drugs, as follows:

3711 "(4.1) A physician in conformity with Code Section ~~43-34-26.1~~ 43-34-24 may delegate  
 3712 to a nurse or a ~~physician's~~ physician assistant the authority to possess vaccines and such  
 3713 other drugs as specified by the physician for adverse reactions to those vaccines, and a  
 3714 nurse or ~~physician's~~ physician assistant may possess such drugs pursuant to that  
 3715 delegation; provided, however, that nothing in this paragraph shall be construed to restrict  
 3716 any authority of nurses or ~~physician's~~ physician assistants existing under other provisions  
 3717 of law;"

**SECTION 6.**

3718

3719 Article 3 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to the  
3720 practice of pharmacy, is amended by revising Code Section 26-4-50, relating to certification  
3721 for drug therapy modification, as follows:

3722 "26-4-50.

3723 (a) No pharmacist shall be authorized to modify drug therapy pursuant to Code Section  
3724 ~~43-34-26.2~~ 43-34-25 unless that pharmacist:

3725 (1) Is licensed to practice as a pharmacist in this state;

3726 (2) Has successfully completed a course of study regarding modification of drug therapy  
3727 and approved by the board;

3728 (3) Annually successfully completes a continuing education program regarding  
3729 modification of drug therapy and approved by the board; and

3730 (4) Is certified by the board as meeting the requirements of paragraphs (1) through (3)  
3731 of this subsection.

3732 (b) Nothing in this Code section shall be construed to expand or change any existing  
3733 authority for a pharmacist to substitute drugs."

**SECTION 7.**

3734

3735 Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to  
3736 prescription drugs, is amended by revising paragraph (3) of subsection (d) of Code Section  
3737 26-4-85, relating to patient counseling and optimizing drug therapy, as follows:

3738 "(3) Patients receiving drugs from the Department of Human Resources Division of  
3739 Public Health; provided, however, that pharmacists who provide drugs to patients in  
3740 accordance with Code Section ~~43-34-26.1~~ 43-34-24 shall include in all dispensing  
3741 procedures a written process whereby the patient or the caregiver of the patient is  
3742 provided with the information required under this Code section."

**SECTION 8.**

3743

3744 Article 7 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to  
3745 practitioners of the healing arts, is amended by revising subsection (b) of Code Section  
3746 26-4-130, relating to the regulation of dispensing drugs, as follows:

3747 "(b) The other provisions of this chapter and Article 3 of Chapter 13 of Title 16 shall not  
3748 apply to practitioners of the healing arts prescribing or compounding their own  
3749 prescriptions and dispensing drugs except as provided in this Code section. Nor shall such  
3750 provisions prohibit the administration of drugs by a practitioner of the healing arts or any  
3751 person under the supervision of such practitioner or by the direction of such practitioner  
3752 except as provided in this Code section. Any term used in this subsection and defined in

3753 Code Section ~~43-34-26.1~~ 43-34-24 shall have the meaning provided for such term in Code  
 3754 Section ~~43-34-26.1~~ 43-34-24. The other provisions of this chapter and Articles 2 and 3 of  
 3755 Chapter 13 of Title 16 shall not apply to persons authorized by Code Section ~~43-34-26.1~~  
 3756 43-34-24 to order, dispense, or administer drugs when such persons order, dispense, or  
 3757 administer those drugs in conformity with Code Section ~~43-34-26.1~~ 43-34-24. When a  
 3758 person dispenses drugs pursuant to the authority delegated to that person under the  
 3759 provisions of Code Section ~~43-34-26.1~~ 43-34-24, with regard to the drugs so dispensed,  
 3760 that person shall comply with the requirements placed upon practitioners by subsections  
 3761 (c) and (d) of this Code section."

### 3762 SECTION 9.

3763 Chapter 10 of Title 31 of the Official Code of Georgia Annotated, relating to vital records,  
 3764 is amended by revising Code Section 31-10-16, relating to criteria for determining death, as  
 3765 follows:

3766 "31-10-16.

3767 (a) A person may be pronounced dead by a qualified physician, ~~or~~ by a registered  
 3768 professional nurse authorized to make a pronouncement of death under Code Section  
 3769 31-7-176.1, or by a physician assistant authorized to make a pronouncement of death under  
 3770 subsection (j) of Code Section 43-34-103, if it is determined that the individual has  
 3771 sustained either (1) irreversible cessation of circulatory and respiratory function; or (2)  
 3772 irreversible cessation of all functions of the entire brain, including the brain stem.

3773 (b) A person who acts in good faith in accordance with the provisions of subsection (a) of  
 3774 this Code section shall not be liable for damages in any civil action or subject to  
 3775 prosecution in any criminal proceeding for such act.

3776 (c) The criteria for determining death authorized in subsection (a) of this Code section  
 3777 shall be cumulative to and shall not prohibit the use of other medically recognized criteria  
 3778 for determining death."

### 3779 SECTION 10.

3780 Chapter 11 of Title 31 of the Official Code of Georgia Annotated, relating to emergency  
 3781 medical services, is amended by revising paragraphs (5) and (6) of Code Section 31-11-2,  
 3782 relating to definitions, as follows:

3783 "(5) 'Cardiac technician' means a person who, having been trained and certified as an  
 3784 emergency medical technician and having completed additional training in advanced  
 3785 cardiac life support techniques in a training course approved by the department, is so  
 3786 certified by the Composite State Board of Medical Examiners, now known as the Georgia

3787 Composite Medical Board, prior to January 1, 2002, or the Department of Human  
 3788 Resources on and after January 1, 2002.  
 3789 (6) 'Composite board' means the ~~Composite State Board of Medical Examiners Georgia~~  
 3790 Composite Medical Board."

3791 **SECTION 11.**

3792 Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to  
 3793 general provisions regarding insurance, is amended by revising subsections (c) and (d) of  
 3794 Code Section 33-24-56.4, relating to the payment for telemedicine services, as follows:

3795 "(c) It is the intent of the General Assembly to mitigate geographic discrimination in the  
 3796 delivery of health care by recognizing the application of and payment for covered medical  
 3797 care provided by means of telemedicine, provided that such services are provided by a  
 3798 physician or by another health care practitioner or professional acting within the scope of  
 3799 practice of such health care practitioner or professional and in accordance with the  
 3800 provisions of Code Section ~~43-34-31.1~~ 43-34-32.

3801 (d) On and after July 1, 2005, every health benefit policy that is issued, amended, or  
 3802 renewed shall include payment for services that are covered under such health benefit  
 3803 policy and are appropriately provided through telemedicine in accordance with Code  
 3804 Section ~~43-34-31.1~~ 43-34-32 and generally accepted health care practices and standards  
 3805 prevailing in the applicable professional community at the time the services were provided.  
 3806 The coverage required in this Code section may be subject to all terms and conditions of  
 3807 the applicable health benefit plan."

3808 **SECTION 12.**

3809 Article 1 of Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to  
 3810 nurses, is amended by revising paragraph (12) of subsection (a) of Code Section 43-26-5,  
 3811 relating to the general powers of the Georgia Board of Nursing, as follows:

3812 "(12) Be authorized to enact rules and regulations for registered professional nurses in  
 3813 their performing acts under a nurse protocol as authorized in Code Section ~~43-34-26.1~~  
 3814 43-34-24 and enact rules and regulations for advanced practice registered nurses in  
 3815 performing acts as authorized in Code Section ~~43-34-26.3~~ 43-34-26;"

3816 **SECTION 13.**

3817 Chapter 30 of Title 43 of the Official Code of Georgia Annotated, relating to optometrists,  
 3818 is amended by revising subsection (a) of Code Section 43-30-13, relating to the construction  
 3819 of the chapter, as follows:

3820 "(a) Nothing in this chapter shall be construed to apply to physicians and surgeons duly  
 3821 licensed to practice medicine, nor to prevent persons from selling spectacles or eyeglasses  
 3822 on prescription from any duly qualified optometrist or physician, nor to prevent any person  
 3823 from selling glasses as articles of merchandise or from using test cards in connection with  
 3824 the sale of such glasses at a permanently located place when not trafficking or attempting  
 3825 to traffic upon assumed skill in optometry; nor shall anything in this chapter be construed  
 3826 to authorize any registered optometrist to prescribe or administer drugs except as permitted  
 3827 by law or practice medicine or surgery in any manner as defined by the laws of this state;  
 3828 nor shall this chapter be construed to authorize any such person to use the title of 'M.D.' or  
 3829 any other title mentioned in Code Section ~~43-34-20~~ or ~~43-34-26~~ 43-34-22 or 43-34-23."

3830

#### SECTION 14.

3831 Chapter 34A of Title 43 of the Official Code of Georgia, relating to a patient's right to know,  
 3832 is amended by revising paragraph (3) of Code Section 43-34A-2, relating to definitions  
 3833 regarding a patient's right to know, as follows:

3834 "(3) 'Disciplinary action' means any final hospital disciplinary action or any final  
 3835 disciplinary action taken by the ~~Composite State Board of Medical Examiners Georgia~~  
 3836 Composite Medical Board under subsection (b) of Code Section ~~43-34-37~~ 43-34-8 within  
 3837 the immediately preceding ten-year period. No such disciplinary action taken prior to  
 3838 April 11, 2001, shall be included within the definition of this term."

3839

#### SECTION 15.

3840 Article 2 of Chapter 2 of Title 45 of the Official Code of Georgia Annotated, relating to the  
 3841 eligibility and qualifications for office, is amended by revising subsection (d) of Code  
 3842 Section 45-2-7, relating to the employment of aliens, as follows:

3843 "(d) The prohibitions of subsection (a) of this Code section shall not apply to the  
 3844 employment of aliens licensed under Code Section ~~43-34-33~~ 43-34-28, relating to the  
 3845 licensing of aliens to practice medicine or pharmacy."

3846

#### SECTION 16.

3847 Chapter 1 of Title 51 of the Official Code of Georgia, relating to torts, is amended by  
 3848 revising paragraph (14) of subsection (a) of Code Section 51-1-29.5, relating to definitions,  
 3849 as follows:

3850 "(14) 'Medical care' means any act defined as the practice of medicine under Code  
 3851 Section ~~43-34-20~~ 43-34-22."

3852 **SECTION 17.**

3853 Code Sections 43-34-240 through 43-34-253 shall become effective as amended in Section  
3854 1 of this Act only if funds are specially appropriated for the purposes of Ga. L. 2007, p. 626  
3855 in a General Appropriations Act making specific reference to such Act and shall become  
3856 effective when funds so appropriated become available for expenditure. All other provisions  
3857 of this Act shall become effective on July 1, 2009.

3858 **SECTION 18.**

3859 All laws and parts of laws in conflict with this Act are repealed.