

The Senate Regulated Industries and Utilities Committee offered the following substitute to SB 104:

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"43-34-242.

As used in this article, the term:

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

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

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

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

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

46 SECTION 2.

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

49 "43-34-244.

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

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

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

56 (A) Holds a current valid license or certificate of registration as a physician's assistant,
 57 licensed practical nurse, nurse, esthetician, or master cosmetologist, or has previously
 58 held a license or certificate of registration as a medical practitioner; and

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

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

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

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

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

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

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

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

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

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

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

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

112 **SECTION 3.**

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

115 "43-34-248.

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

118 (1) Be trained in laser modalities;

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

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

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

134 (b) Any facility providing cosmetic laser services other than hair removal using lasers or
 135 pulsed light devices shall have a supervisor present at the facility or immediately available
 136 for consultation and supervision either personally or via telecommunications. The
 137 supervisor shall supervise the performance of all cosmetic laser services performed by a
 138 person other than the consulting physician. The supervisor shall be a physician licensed
 139 under this chapter who is trained in laser modalities or a senior laser practitioner.

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

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

149 **SECTION 4.**

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

152 "43-34-249.

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

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

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

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

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

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

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

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

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

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

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

188 **SECTION 5.**

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

190 "43-34-249.1.

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

197 **SECTION 6.**

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

200 "43-34-250.

201 The board shall appoint an advisory committee. The advisory committee shall be
 202 representative of a cross section of the cultural backgrounds, to the extent practical, of the

203 licensed cosmetic laser practitioners licensed under this article and such members as the
204 board in its discretion may determine. The advisory committee shall include at least one
205 person licensed to practice medicine under this chapter and specialized in a field with
206 expertise in the biologic behavior of the skin. Members shall receive no compensation for
207 service on the committee. The committee shall have such advisory duties and
208 responsibilities as the board may determine, including but not limited to consulting with
209 the board on the issuance, denial, suspension, and revocation of licenses and the
210 promulgation of rules and regulations under this article. The initial members of the
211 advisory committee may include persons eligible for licensing under this article.
212 Subsequent advisory committee members must be licensed pursuant to this article."

213

SECTION 7.

214 This Act shall become effective only if and when the "Georgia Cosmetic Laser Services
215 Act," approved May 29, 2007 (Ga. L. 2007, p. 626), becomes effective as provided in Section
216 2 therein.

217

SECTION 8.

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