

The House Committee on Health and Human Services offers the following substitute to HB 509:

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 medical 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 (d) A license issued by the board shall not be restricted by a particular medical specialty
 236 area.

237 ~~43-34-24.1~~ 43-34-6.

- 238 (a) The board shall not be under the jurisdiction of the Secretary of State but shall be an
 239 independent state agency attached to the Department of Community Health for
 240 administrative purposes only, as provided in Code Section 50-4-3, except that such

241 department shall prepare and submit the budget for the board. The board ~~shall not be a~~
 242 ~~professional licensing board but~~ shall have with respect to all matters within the jurisdiction
 243 of the ~~Composite State Board of Medical Examiners~~ board as provided under this chapter
 244 the powers, duties, and functions of ~~such~~ professional licensing boards as provided in
 245 Chapter 1 of this title.

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

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

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

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

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

274 (f) The venue of any action involving members of the board shall be governed by the laws
 275 of this state relating to venue. The executive director of the board shall not be considered
 276 a member of the board in determining the venue of any such action and no court shall have

277 jurisdiction of any such action solely by virtue of the executive director residing or
 278 maintaining a residence within its jurisdiction.

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

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

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

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

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

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

297 43-34-7.

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

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

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

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

311 (4) The deliberations of the board with respect to an application, an examination, a
 312 complaint, an investigation, or a disciplinary proceeding, except as may be contained in

313 official board minutes; provided, however, that such deliberations may be released only
 314 to another state or federal enforcement agency or lawful licensing authority.

315 ~~43-34-37~~ 43-34-8.

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

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

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

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

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

346 (5) Had his or her license, certificate, or permit to practice ~~medicine pursuant to this~~
 347 chapter revoked, suspended, or annulled by any lawful licensing authority; or had other

348 disciplinary action taken against him or her by any lawful licensing authority; or been
 349 denied a license by any lawful licensing authority;

350 (6) Advertised for or solicited patients; obtained a fee or other thing of value on the
 351 representation that a manifestly incurable disease can be permanently cured; or made
 352 untruthful or improbable statements, or flamboyant or extravagant claims concerning his
 353 or her professional excellence or treatment protocols;

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

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

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

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

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

380 ~~(11.1) Failed to attempt to inform a patient, in a timely manner, that the physician has~~
 381 ~~received the results of a laboratory test. The board shall promulgate rules for the~~
 382 ~~implementation of this paragraph no later than January 1, 2002. Any physician who~~
 383 ~~complies with the rules promulgated by the board for informing his or her patient that the~~

384 ~~results of any laboratory test have been received shall be immune from any civil or~~
 385 ~~criminal liability for such disclosure;~~

386 (12) Been adjudged mentally incompetent by a court of competent jurisdiction, within
 387 or outside this state. Any such adjudication shall automatically suspend the license,
 388 certificate, or permit of any such person and shall prevent the reissuance or renewal of
 389 any license, certificate, or permit so suspended for as long as the adjudication of
 390 incompetence is in effect unless the board, upon a finding that the licensee, certificate
 391 holder, or permit holder is mentally competent, orders otherwise. Any applicant who has
 392 been so adjudged to be mentally incompetent shall not receive a license, certificate, or
 393 permit unless the board, upon a finding that the applicant is mentally competent, orders
 394 otherwise; ~~or~~

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

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

419 (B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
 420 any and all records relating to the mental or physical condition of a licensee, certificate

421 holder, or permit holder or applicant, including psychiatric records; and such records
 422 shall be admissible in any hearing or informal proceeding before the board,
 423 notwithstanding any privilege under a contrary rule of law or statute, including, but not
 424 limited to, Code Section 24-9-21. Every person who shall accept the privilege of
 425 practicing medicine pursuant to this chapter in this state or who shall file an application
 426 to practice medicine pursuant to this chapter in this state shall be deemed to have given
 427 his or her consent to the board's obtaining any such records and to have waived all
 428 objections to the admissibility of such records in any hearing or any informal
 429 proceedings before the board, upon the grounds that the same constitute a privileged
 430 communication; and

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

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

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

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

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

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

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

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

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

456 (22) Failed to comply with an order for child support as defined by Code Section
 457 19-11-9.3; it shall be incumbent upon the applicant, licensee, certificate holder, or permit

458 holder to supply a notice of release to the board from the appropriate child support
 459 authorities within the Department of Human Resources indicating that the licensee,
 460 certificate holder, permit holder, or applicant has come into compliance with an order for
 461 child support so that a license, certificate, or permit may be issued if all other conditions
 462 for the issuance of a license, certificate, or permit are met; or

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

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

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

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

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

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

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

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

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

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

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

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

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

494 (J) Require board approved medical education;

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

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

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

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

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

532 the reporting agency. If the person has continued to meet all other requirements for
533 issuance of a license, certificate, or permit during the period of suspension, reinstatement
534 of the license, certificate, or permit shall be automatic upon receipt of the notice and
535 payment of any reinstatement fee which the board may impose.

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

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

559 (e) In any hearing to determine a licensee's, certificate holder's, permit holder's, or
560 applicant's fitness to practice ~~medicine~~ pursuant to this chapter, any record relating to any
561 patient of the licensee, certificate holder, permit holder, or applicant shall be admissible
562 into evidence, regardless of any statutory privilege which such patient might otherwise be
563 able to invoke. In addition, no such patient may withhold testimony bearing upon a
564 licensee's, certificate holder's, permit holder's, or applicant's fitness to practice ~~medicine~~
565 pursuant to this chapter on the ground of privilege between such licensee, certificate holder,
566 permit holder, or applicant and such patient. Any testimony or written evidence relating
567 to a patient of a licensee, certificate holder, permit holder, or applicant or to the record of

568 any such patient shall be received by the board in camera and shall not be disclosed to the
569 public.

570 (f) In any hearing in which the fitness of a licensee, certificate holder, permit holder, or
571 applicant to practice ~~medicine pursuant to this chapter~~ is in question, the board may
572 exclude all persons from its deliberation of the appropriate action to be taken and may,
573 when in its discretion it deems it necessary, speak to a licensee, certificate holder, permit
574 holder, or applicant in private.

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

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

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

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

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

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

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

605 relating to ~~the practice of medicine pursuant to this chapter~~ involving an action for medical
 606 malpractice. Every licensee, certificate holder, or permit holder shall notify the board of
 607 any settlement or judgment involving the licensee, certificate holder, or permit holder
 608 involving an action for medical malpractice.

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

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

640 (m) The voluntary surrender of a license, certificate, or permit or the failure to renew a
 641 license, certificate, or permit by the end of the established penalty period shall have the

642 same effect as a revocation of said license, certificate, or permit, subject to reinstatement
 643 in the discretion of the board. The board may restore and reissue a license, certificate, or
 644 permit to practice under this chapter and, as a condition thereof, may impose any
 645 disciplinary sanction provided by this Code section.

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

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

654 ~~43-34-38~~ 43-34-9.

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

672 43-34-10.

673 Any licensee, certificate holder, or permit holder who is convicted under the laws of this
 674 state, the United States, or any other state, territory, or country of a felony as defined in
 675 paragraph (5) of Code Section 16-1-3 shall be required to notify the board of the conviction
 676 within ten days of the conviction. The failure to notify the board of a conviction shall be

677 considered grounds for revocation of his or her license, certificate, permit, or other
 678 authorization to conduct a profession regulated under this chapter.

679 ~~43-34-3~~ 43-34-11.

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

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

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

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

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

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

712 ARTICLE 2

713 43-34-20.714 This article shall be known as the 'Medical Practice Act of the State of Georgia.'715 43-34-21.

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

724 ~~43-34-20:~~ 43-34-22.

725 As used in this article, the term:

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

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

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

750 ~~43-34-25:~~

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

753 ~~43-34-26~~ 43-34-23.

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

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

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

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

786 (9) The performance of:

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

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

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

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

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

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

807 ~~43-34-26.1~~ 43-34-24.

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

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

811 (2) 'Controlled substance' means any controlled substance, as defined in Code Section
 812 16-13-21, except any Schedule I controlled substance listed in Code Section 16-13-25.

813 (3) 'Dangerous drug' means any dangerous drug, as defined in Code Section 16-13-71,
 814 but does not include any controlled substance or Schedule I controlled substance.

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

852 with a dispensing procedure and under the authority of an order issued in conformity with
 853 a nurse protocol or job description, if that nurse or ~~physician's~~ physician assistant orders
 854 or dispenses those dangerous drugs, medical treatments, or diagnostic studies:

855 (A) As an agent or employee of:

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

857 (ii) Any county board of health; or

858 (iii) Any organization:

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

863 (II) Established under the authority of or receiving funds pursuant to 42 U.S.C.
 864 Section 254b or 254c of the United States Public Health Service Act,

865 which organization provides that those medical services and dangerous drugs which
 866 are ordered or dispensed by its ~~physician's~~ physician assistants and nurses will be
 867 provided at no cost to the patient or at a cost based solely upon the patient's ability to
 868 pay; and

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

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

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

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

882 (C) Whose services are primarily provided to the medically disadvantaged
 883 and that nurse or ~~physician's~~ physician orders or dispenses such drugs in conformity with
 884 subsection (b) of Code Section 26-4-130 and the rules and regulations established
 885 pursuant thereto by the State Board of Pharmacy.

886 (4) Delegation of authority to a ~~physician's~~ physician assistant pursuant to this subsection
 887 shall be authorized only if that delegation is contained in the job description approved for

888 that ~~physician's~~ physician assistant by the ~~Composite State Board of Medical Examiners~~
889 board.

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

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

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

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

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

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

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

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

923 ~~43-34-26.2~~ 43-34-25.

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

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

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

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

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

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

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

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

953 (B) The method of documentation and mechanism of communication of appropriate
954 medical care information or pharmacy care information, or both; description and
955 required frequency of reports which shall include:

956 (i) Any problems or complications encountered;

957 (ii) A listing of recommendations by pharmacist; and

958 (iii) A complete list of each instance in which drug therapy was modified and how
959 such therapy was modified since the last report; and

960 (6) Stipulate that each such patient must be notified that the pharmacist is authorized to
961 modify drug therapy pursuant to protocol between the pharmacist and the physician.

962 (c) A physician delegating the authority to modify drug therapy must be available through
963 communications for consultation, assistance, and direction. A physician may only delegate
964 the authority to modify drug therapy for a patient under the direct medical care and
965 supervision of that physician.

966 (d) An order delegating the authority to modify drug therapy under this Code section shall
967 not be valid for more than two years from the date such order was issued.

968 (e) Nothing in this Code section shall be construed to expand or change any existing
969 authority for a pharmacist to substitute drugs under Code Section 26-4-81.

970 (f) Nothing in this Code section shall be construed to prohibit hospital pharmacists from
971 participating in drug therapy management by protocol or other legal authority established
972 or approved by a member of the hospital medical staff for the care and treatment of hospital
973 patients.

974 ~~43-34-26.3~~ 43-34-26.

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

976 (1) 'Advanced practice registered nurse' shall have the same meaning as provided in
977 paragraph (1.1) of Code Section 43-26-3.

978 (2) 'Birthing center' means a facility or building where human births occur on a regular
979 or ongoing basis and which is classified by the Department of Community Health as a
980 birthing center.

981 (3) 'Controlled substance' means any controlled substance as defined in Code Section
982 16-13-21 but shall not include any Schedule I controlled substance included in Code
983 Section 16-13-25 or any Schedule II controlled substance included in Code Section
984 16-13-26.

985 (4) 'Dangerous drug' means any dangerous drug as defined in Code Section 16-13-71.

986 (5) 'Delegating physician' means a physician who has entered into a nurse protocol
987 agreement pursuant to this Code section.

988 (6) 'Diagnostic study' means a laboratory test, X-ray, ultrasound, or procedure used to
989 identify a characteristic or distinguishing feature of a particular disease or condition.

990 (7) 'Drug' means any dangerous drug or controlled substance.

991 (8) 'Free health clinic' shall have the same meaning as provided in Code Section
992 51-1-29.4.

993 (9) 'Life threatening' means an emergency situation in which a patient's life or physical
994 well-being will be harmed if certain testing is not performed immediately.

995 (10) 'Nurse protocol agreement' means a written document mutually agreed upon and
 996 signed by an advanced practice registered nurse and a physician, by which document the
 997 physician delegates to that advanced practice registered nurse the authority to perform
 998 certain medical acts pursuant to this Code section, and which acts may include, without
 999 being limited to, the ordering of drugs, medical devices, medical treatments, diagnostic
 1000 studies, or in life-threatening situations radiographic imaging tests. Such agreements
 1001 shall conform to the provisions set forth in subsection (c) of this Code section.

1002 (11) 'Order' means to prescribe pursuant to a nurse protocol agreement which drug,
 1003 medical device, medical treatment, diagnostic study, or in life-threatening situations
 1004 radiographic imaging test is appropriate for a patient and to communicate the same in
 1005 writing, orally, via facsimile, or electronically.

1006 (12) 'Physician' means a person licensed to practice medicine under this ~~chapter~~ article
 1007 and:

1008 (A) Whose principal place of practice is within this state; or

1009 (B) Whose principal place of practice is outside this state but is within 50 miles from
 1010 the location where the nurse protocol agreement is being utilized within this state.

1011 (13) 'Prescription drug order' means a written or oral order of an advanced practice
 1012 registered nurse for a drug or medical device for a specific patient. Such term includes
 1013 an electronic visual image prescription drug order and an electronic data prescription drug
 1014 order.

1015 (14) 'Professional sample' means a complimentary dose of a drug, medication,
 1016 medication voucher, or medical device provided by the manufacturer for use in patient
 1017 care.

1018 (15) 'Radiographic imaging test' means a computed tomography, magnetic resonance
 1019 imaging, positron emission tomography, or nuclear medicine.

1020 (b) In addition to and without limiting the authority granted pursuant to Code Section
 1021 ~~43-34-26.1~~ 43-34-24, a physician may delegate to an advanced practice registered nurse
 1022 in accordance with a nurse protocol agreement the authority to order drugs, medical
 1023 devices, medical treatments, diagnostic studies, or, in life-threatening situations,
 1024 radiographic imaging tests.

1025 (c) A nurse protocol agreement between a physician and an advanced practice registered
 1026 nurse pursuant to this Code section shall:

1027 (1) Be between an advanced practice registered nurse who is in a comparable specialty
 1028 area or field as that of the delegating physician;

1029 (2) Contain a provision for immediate consultation between the advanced practice
 1030 registered nurse and the delegating physician; if the delegating physician is not available,

1031 the delegating physician for purposes of consultation may designate another physician
1032 who concurs with the terms of the nurse protocol agreement;

1033 (3) Identify the parameters under which delegated acts may be performed by the
1034 advanced practice registered nurse, including without limitation the number of refills
1035 which may be ordered, the kinds of diagnostic studies which may be ordered, the extent
1036 to which radiographic image tests may be ordered, and the circumstances under which
1037 a prescription drug order may be executed. In the event the delegating physician
1038 authorizes the advanced practice registered nurse to order an X-ray, ultrasound, or
1039 radiographic imaging test, the nurse protocol agreement shall contain provisions whereby
1040 such X-ray, ultrasound, or radiographic imaging test shall be read and interpreted by a
1041 physician who is trained in the reading and interpretation of such tests; a report of such
1042 X-ray, ultrasound, or radiographic imaging test may be reviewed by the advanced
1043 practice registered nurse; and a copy of such report shall be forwarded to the delegating
1044 physician, except that such provision for an ultrasound shall not be required for an
1045 advanced practice registered nurse acting within his or her scope of practice as authorized
1046 by Code Sections 43-26-3 and 43-26-5;

1047 (4) Require documentation either in writing or by electronic means or other medium by
1048 the advanced practice registered nurse of those acts performed by the advanced practice
1049 registered nurse which are specific to the medical acts authorized by the delegating
1050 physician;

1051 (5) Include a schedule for periodic review by the delegating physician of patient records.
1052 Such patient records review may be achieved with a sampling of such records as
1053 determined by the delegating physician;

1054 (6) Provide for patient evaluation or follow-up examination by the delegating physician
1055 or other physician designated by the delegating physician pursuant to paragraph (2) of
1056 this subsection, with the frequency of such evaluation or follow-up examination based
1057 on the nature, extent, and scope of the delegated act or acts as determined by the
1058 delegating physician in accordance with paragraph (3) of this subsection and accepted
1059 standards of medical practice as determined by the board;

1060 (7) Be reviewed, revised, or updated annually by the delegating physician and the
1061 advanced practice registered nurse;

1062 (8) Be available for review upon written request to the advanced practice registered nurse
1063 by the Georgia Board of Nursing or to the physician by the board; and

1064 (9) Provide that a patient who receives a prescription drug order for any controlled
1065 substance pursuant to a nurse protocol agreement shall be evaluated or examined by the
1066 delegating physician or other physician designated by the delegating physician pursuant

1067 to paragraph (2) of this subsection on at least a quarterly basis or at a more frequent
1068 interval as determined by the board.

1069 (d) A written prescription drug order issued pursuant to this Code section shall be signed
1070 by the advanced practice registered nurse and shall be on a form which shall include,
1071 without limitation, the names of the advanced practice registered nurse and delegating
1072 physician who are parties to the nurse protocol agreement, the patient's name and address,
1073 the drug or device ordered, directions with regard to the taking and dosage of the drug or
1074 use of the device, and the number of refills. A prescription drug order which is transmitted
1075 either electronically or via facsimile shall conform to the requirements set out in paragraphs
1076 (1) and (2) of subsection (c) of Code Section 26-4-80, respectively.

1077 (e) An advanced practice registered nurse may be authorized under a nurse protocol
1078 agreement to request, receive, and sign for professional samples and may distribute
1079 professional samples to patients. The office or facility at which the advanced practice
1080 registered nurse is working shall maintain a list of the professional samples approved by
1081 the delegating physician for request, receipt, and distribution by the advanced practice
1082 registered nurse as well as a complete list of the specific number and dosage of each
1083 professional sample and medication voucher received and dispensed. In addition to the
1084 requirements of this Code section, all professional samples shall be maintained as required
1085 by applicable state and federal laws and regulations.

1086 (f) A managed care system, health plan, hospital, insurance company, or other similar
1087 entity shall not require a physician or advanced practice registered nurse to be a party to
1088 a nurse protocol agreement as a condition for participation in or reimbursement from such
1089 entity.

1090 (g) A delegating physician may not enter into a nurse protocol agreement pursuant to this
1091 Code section with more than four advanced practice registered nurses at any one time,
1092 except this limitation shall not apply to an advanced practice registered nurse that is
1093 practicing:

1094 (1) In a hospital licensed under Title 31;

1095 (2) In any college or university as defined in Code Section 20-8-1;

1096 (3) In the Department of Human Resources;

1097 (4) In any county board of health;

1098 (5) In any free health clinic;

1099 (6) In a birthing center;

1100 (7) In any entity:

1101 (A) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal
1102 Revenue Code, as defined in Code Section 48-1-2, and primarily serves uninsured or
1103 indigent Medicaid and medicare patients; or

- 1104 (B) Which has been established under the authority of or is receiving funds pursuant
1105 to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act;
- 1106 (8) In any local board of education which has a school nurse program; or
- 1107 (9) In a health maintenance organization that has an exclusive contract with a medical
1108 group practice and arranges for the provision of substantially all physician services to
1109 enrollees in health benefits of the health maintenance organization.
- 1110 (h) Nothing in this Code section shall be construed to create a presumption of liability,
1111 either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title
1112 26 who, in good faith, fills a prescription drug order of an advanced practice registered
1113 nurse issued pursuant to a nurse protocol agreement.
- 1114 (i) Nothing in this Code section shall be construed to apply to the practice of a certified
1115 registered nurse anesthetist.
- 1116 (j) Nothing in this Code section shall be construed to require an advanced practice
1117 registered nurse to be a party to a nurse protocol agreement in order to practice as a
1118 registered professional nurse or an advanced practice registered nurse as otherwise
1119 permitted by Article 1 of Chapter 26 of this title.
- 1120 (k) Nothing in this Code section shall be construed to authorize an advanced practice
1121 registered nurse to issue a prescription drug order for a Schedule I or II controlled
1122 substance or authorize refills of any drug for more than 12 months from the date of the
1123 original order except in the case of oral contraceptives, hormone replacement therapy, or
1124 prenatal vitamins which may be refilled for a period of 24 months.
- 1125 (l) Nothing in this Code section shall be construed to allow an advanced practice registered
1126 nurse to perform an abortion or to administer, prescribe, or issue a drug order that is
1127 intended to cause an abortion to occur pharmacologically.
- 1128 (m) The board shall have the authority to promulgate rules and regulations governing a
1129 delegating physician in order to carry out the intents and purposes of this Code section.
1130 Further, the board shall be authorized to:
- 1131 (1) Require that a nurse protocol agreement shall be filed by the delegating physician
1132 with the board within a reasonable time from the date of execution;
- 1133 (2) Determine, after review of a filed nurse protocol agreement, if such nurse protocol
1134 agreement fails to meet accepted standards of medical practice as established by the
1135 board; and
- 1136 (3) Require the delegating physician to amend any such noncompliant nurse protocol
1137 agreement in order to meet such accepted standards.
- 1138 (n) Except for practice settings identified in paragraph (7) of subsection (g) of this Code
1139 section, it shall be unlawful for a physician to be an employee of an advanced practice
1140 registered nurse, alone or in combination with others, if the physician is required to

1141 supervise the employing advanced practice registered nurse. Such conduct shall be subject
 1142 to sanctions by the Georgia Board of Nursing as to the advanced practice registered nurse
 1143 and the board as to the physician.

1144 43-34-27.

1145 (a)(1)(A) Any person who wishes to obtain the right to practice medicine in this state
 1146 and who was not, prior to March 16, 1970, registered or licensed to practice medicine,
 1147 either by the State Board of Medical Examiners or the State Board of Examiners in
 1148 Osteopathy, shall, before it shall be lawful for him or her to practice medicine in this
 1149 state, make application to the board through the executive director, upon such forms
 1150 and in such manner as shall be adopted and prescribed by the board, and shall obtain
 1151 from the board a license to practice medicine. Any person who practices medicine
 1152 without first having obtained a license shall be deemed to have violated this ~~chapter~~
 1153 article. All applicants for a license to practice medicine or for a renewal of any such
 1154 license which has been revoked shall furnish the board with evidence of good moral
 1155 character. Applications from candidates to practice medicine or surgery in any of its
 1156 branches shall be accompanied by proof that the applicant is a graduate of ~~one of the~~
 1157 ~~two colleges of medicine now existing in this state, or from some other~~ legally
 1158 incorporated medical college school or osteopathic college medical school.

1159 (B) The board by rule or regulation may establish standards ~~and procedures~~ for
 1160 evaluating, inspecting, and approving any medical school or osteopathic ~~college not~~
 1161 ~~already approved by it on or before March 16, 1970~~ medical school. The evaluation
 1162 procedure may include consideration of reports from any outside agency having
 1163 expertise in medical school or osteopathic ~~college~~ medical school evaluation; provided,
 1164 however, that the board shall make the final decision on approval of medical schools
 1165 and osteopathic ~~colleges~~ medical schools. Nothing contained in this Code section shall
 1166 prevent the approval of medical schools outside of the United States or the licensing of
 1167 graduates of medical schools outside of the United States if such schools and their
 1168 graduates comply with the standards established in this Code section and by rule of the
 1169 board.

1170 (2) Each medical school or osteopathic medical school in good standing with the board
 1171 shall have a minimum preliminary educational requirement of the completion of a
 1172 two-year premedical college course.

1173 (3) Graduates of board approved medical schools or osteopathic ~~colleges~~ medical schools
 1174 and persons who ~~are~~ graduated on or before July 1, 1985, from medical schools or
 1175 osteopathic ~~colleges~~ medical schools which are not approved by the board must complete
 1176 one year of a ~~board approved internship or postgraduate~~ residency training program to

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

1193 ~~(3)~~(4) If the applicant submits proof that he or she has had postgraduate training ~~as an~~
 1194 ~~intern or resident~~ as required in paragraph ~~(2)~~(3) of this subsection and if he or she
 1195 furnishes satisfactory evidence of ~~attainments and~~ qualifications under this ~~chapter~~ article
 1196 and the rules and regulations of the board, he or she shall be eligible to receive a license
 1197 from the board giving him or her absolute authority to practice medicine in this state;
 1198 ~~provided that the board shall, before approving any internship program not already~~
 1199 ~~approved by it on or before March 16, 1970, evaluate or inspect such internship program~~
 1200 ~~and determine that such internship program meets the standards of programs approved~~
 1201 ~~by the board on or before March 16, 1970; provided, however, that the board may limit~~
 1202 ~~or restrict a license based on lapses in recent clinical training or experience or any other~~
 1203 deficiencies identified by the board.

1204 ~~(4)~~(5) If the date of graduation from an institution mentioned in subparagraph (B) of
 1205 paragraph (1) of this subsection is on or before January 1, 1967, no proof of ~~internship~~
 1206 postgraduate training in an approved hospital need be submitted to obtain a license from
 1207 the board.

1208 (b)(1) Students who have completed the academic curriculum in residence in a foreign
 1209 medical school and who:

1210 (A) Have studied medicine at a medical school located outside of the United States,
 1211 Puerto Rico, and Canada which is ~~recognized by the World Health Organization~~
 1212 approved by the board; and

1213 (B) Have completed all of the formal requirements of the foreign medical school except
 1214 ~~internship or social service~~ any postgraduate training equivalent
 1215 may substitute for the ~~internship or social service~~ postgraduate training equivalent required
 1216 by a foreign country an academic year of supervised clinical training (clinical clerkship)
 1217 prior to entrance into the first year of American Medical Association approved graduate
 1218 education. The supervised clinical training must be under the direction of a medical school
 1219 approved by the liaison committee on medical education.

1220 (2) Before beginning the supervised clinical training, the students must have their
 1221 academic records reviewed and approved by the medical schools supervising their
 1222 clinical training and shall pass the Educational Council for Foreign Medical Graduates
 1223 (ECFMG) qualifying examination.

1224 (3) Students who are judged by the sponsoring medical schools to have successfully
 1225 completed the supervised clinical training shall be eligible to enter the first year of
 1226 American Medical Association approved graduate training program without completing
 1227 ~~social service~~ or internship obligations required by the foreign country and without
 1228 obtaining Educational Council for Foreign Medical Graduates (ECFMG) certification.

1229 ~~(c) Notwithstanding any other contrary provisions of this Code section, a person who has:~~

1230 ~~(1) Completed the academic curriculum in residence in a nonapproved medical school,~~
 1231 ~~as specified in subsection (b) of this Code section;~~

1232 ~~(2) Completed one year of supervised clinical training in a teaching hospital in Georgia~~
 1233 ~~that is approved by the board;~~

1234 ~~(3) Satisfactorily completed one year of a board approved internship or residency~~
 1235 ~~training program in Georgia that is approved by the board;~~

1236 ~~(4) Received a favorable letter of recommendation from the program director of such~~
 1237 ~~board approved internship or residency program; and~~

1238 ~~(5) Satisfactorily completed components 1 and 2 of the Federation Licensing~~
 1239 ~~Examination (FLEX)~~

1240 ~~shall be eligible to apply for a provisional license to practice medicine during the~~
 1241 ~~completion of such person's board approved internship or residency training program. Such~~
 1242 ~~provisional license, if approved by the board, shall allow the holder to practice medicine~~
 1243 ~~in a Health Professional Shortage Area designated as such by the United States Department~~
 1244 ~~of Health and Human Services, based on recommendations by the Department of~~
 1245 ~~Community Health. Such a provisional license shall not be approved pursuant to this~~
 1246 ~~subsection for more than two years and if the licensee leaves, quits, or is expelled from the~~
 1247 ~~approved residency program, the provisional license shall be deemed to be revoked. Such~~
 1248 ~~provisional license shall be issued only upon approval by the board and nothing contained~~
 1249 ~~in this subsection shall be construed to require the issuance of such license.~~

1250 (c) For any applicant who has not passed a board approved licensing examination or a
1251 board approved specialty board examination or recertification examination within seven
1252 years of the date of application, the board shall determine, by an evaluation program
1253 established by rule, such person's fitness to resume active status and may require the person
1254 to complete a period of evaluated clinical experience and successful completion of an
1255 examination. The board may also require a licensee or applicant who is subject to
1256 discipline pursuant to Code Section 43-34-9 to take and pass a clinical competency
1257 assessment or similar examination approved by the board as a condition of licensure.
1258 Nothing contained in this Code section shall be construed so as to require a person who has
1259 previously passed an examination approved by the board for a license to practice medicine
1260 in this state to stand another examination as a condition of renewal of a current unrestricted
1261 license.

1262 (d) The board may approve any examination or examinations that it deems must be passed
1263 in order to meet the requirements for licensure. Such examinations shall be in English.
1264 The board shall establish the passing score which all applicants for licensure shall meet or
1265 exceed. If an applicant fails for the third or any subsequent time any examination which
1266 is required to be passed in order to become a licensed practitioner in this state, the applicant
1267 shall not be eligible to retake any such examination until such applicant furnishes proof of
1268 having completed postgraduate one year of approved Accreditation Council for Graduate
1269 Medical Education (ACGME) training.

1270 43-34-28.

1271 Any qualified applicant who is an alien, except for graduates of accredited Canadian
1272 medical schools as approved by the board, must have resided in the United States for one
1273 year. All qualified applicants who are aliens and who shall comply with all other
1274 requirements of this ~~chapter~~ article shall be eligible to stand the examination provided for
1275 in this ~~chapter~~ article and, upon his or her successful completion thereof, shall be granted
1276 a license to practice medicine upon compliance with all other requirements prescribed as
1277 a prerequisite to the issuance of a license. Graduates of accredited Canadian medical
1278 schools, as approved by the board, are exempt from the residency requirement of one year
1279 in the United States and may be granted a license by endorsement of the Licentiate Medical
1280 Counsel of Canada (LMCC) examination without further examination if the board
1281 determines that the applicant substantially meets the qualifications required for licensure
1282 in this state.

1283 43-34-29.

1284 The board may grant a license without examination to licensees of boards of other states
1285 requiring equal or higher qualifications, ~~upon the same basis as such states reciprocate~~
1286 ~~with this state, all upon the following terms and conditions:~~

1287 ~~(1) If the date of the license from the board of such other state is on or before January 1,~~
1288 ~~1967, no proof of interning in an approved hospital need be submitted to obtain a license~~
1289 ~~from the board giving the applicant absolute authority to practice medicine in this state;~~

1290 ~~(2) The applicant shall prove to the satisfaction of the board that the applicant has~~
1291 ~~graduated from a medical or osteopathic college approved by the board on the date of~~
1292 ~~application, for the purposes of this chapter, provided that the applicant shall not be~~
1293 ~~granted a license by reciprocity if the date of such applicant's graduation from such~~
1294 ~~medical or osteopathic college shall have occurred prior to July 1, 1963, unless such~~
1295 ~~medical or osteopathic college was approved for the purposes of this chapter by the~~
1296 ~~Composite State Board of Medical Examiners or the State Board of Osteopathic~~
1297 ~~Examiners as of the date of such graduation;~~

1298 ~~(3) If the date of the license from the board of such other state is after April 18, 1967, the~~
1299 ~~applicant shall submit proof that he has had the same training as is required for applicants~~
1300 ~~for examination in paragraph (2) of subsection (a) of Code Section 43-34-27, in which~~
1301 ~~event the board shall grant the applicant a license from the board giving the applicant~~
1302 ~~absolute authority to practice medicine in this state, provided that if the date of~~
1303 ~~completion of such internship program occurred prior to July 1, 1963, the board shall not~~
1304 ~~grant such license by reciprocity, except as allowed pursuant to the final proviso of this~~
1305 ~~paragraph, unless the internship program was approved by the board as of the date of~~
1306 ~~completion of such internship program by the applicant; and provided, further, that the~~
1307 ~~board may, in its discretion, waive the requirements of this paragraph after determining~~
1308 ~~that an applicant licensed to practice medicine in another state which does not require an~~
1309 ~~internship or residency has been actively engaged in the practice of medicine in such~~
1310 ~~other state for at least two years.~~

1311 ~~43-34-29.1~~ 43-34-30.

1312 Notwithstanding any other law to the contrary, the board may issue, in its discretion,
1313 without examination, a teacher's license to licensed physicians of other states and foreign
1314 countries for the sole purpose of teaching or demonstrating medicine in a board approved
1315 medical college or its affiliated clinic in this state. If issued after January 1, 1999, a
1316 teacher's license shall be valid for up to two years and may only be renewed, at the board's
1317 discretion, for one additional year.

1318 ~~43-34-30.~~

1319 ~~The board may grant a license without examination to an alien licensee of a board of~~
 1320 ~~another state which requires equal or higher qualifications for licenses, upon the same basis~~
 1321 ~~as such state reciprocates with this state, if such an applicant for a license has resided~~
 1322 ~~within the United States for at least one year.~~

1323 43-34-31.

1324 Licensed physicians of other states and foreign countries may be permitted to enter this
 1325 state for consultation with any licensed physician of this state. A physician from another
 1326 state or from a foreign country shall not be permitted to establish offices in this state for
 1327 the practice of his or her profession, either temporary or permanent, or practice under
 1328 another physician's license, unless he or she obtains a license from the board. ~~A license~~
 1329 ~~may be issued to a physician of another state or a foreign country by comity or reciprocity~~
 1330 ~~if the standards for medical licensure of such a state or foreign country equal those of this~~
 1331 ~~state, and after such state or foreign country agrees to license physicians of this state on a~~
 1332 ~~like basis, provided such agreements are not in conflict with this article.~~

1333 ~~43-34-31.1~~ 43-34-32.

1334 (a) A person who is physically located in another state or foreign country and who,
 1335 through the use of any means, including electronic, radiographic, or other means of
 1336 telecommunication, through which medical information or data is are transmitted, performs
 1337 an act that is part of a patient care service located in this state, including but not limited to
 1338 the initiation of imaging procedures or the preparation of pathological material for
 1339 examination, and that would affect the diagnosis or treatment of the patient is engaged in
 1340 the practice of medicine in this state. Any person who performs such acts through such
 1341 means shall be required to have a license to practice medicine in this state and shall be
 1342 subject to regulation by the board. Any such out-of-state or foreign practitioner shall not
 1343 have ultimate authority over the care or primary diagnosis of a patient who is located in this
 1344 state.

1345 (b) This Code section shall not apply to:

1346 (1) The acts of a doctor of medicine or doctor of ~~osteopathy~~ osteopathic medicine located
 1347 in another state or foreign country who:

1348 (A) Provides consultation services at the request of a physician licensed in this state;
 1349 and

1350 (B) Provides such services on an occasional rather than on a regular or routine basis;

1351 (2) The acts of a physician or ~~osteopath~~ osteopathic physician licensed in another state
 1352 or foreign country who:

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

1373 ~~43-34-32~~ 43-34-33.

1374 The executive director, with the approval of the ~~president~~ chairperson of the board, may
1375 in his or her discretion issue a temporary license to an applicant, which license shall have
1376 the same force and effect as a permanent license until the next regular meeting of the board
1377 when the temporary license shall become void. ~~A temporary license shall not be recorded.~~

1378 ~~43-34-33~~ 43-34-34.

1379 ~~(a) Notwithstanding any other law to the contrary, any person who has resided in the~~
1380 ~~United States for one year, who is a graduate of a school accredited and approved as~~
1381 ~~provided in Code Section 43-34-27, and who is employed by this state in any state operated~~
1382 ~~institution, or who is employed by any state medical college approved by the board may~~
1383 ~~upon the request of the superintendent of such state institution or the dean of such medical~~
1384 ~~college employing the physician be granted an institutional license authorizing such~~
1385 ~~physician to practice medicine, under proper medical supervision in accordance with this~~
1386 ~~Code section, in the state institution or medical college employing the licensee. The~~
1387 ~~institutional license may be renewable biennially, so long as the licensee remains in the~~

1388 employ of the state institution or medical college requesting the license, provided that such
1389 institutional license shall not be prima-facie evidence that the holder thereof meets the
1390 minimum basic requirements for examination by the board or for the issuance of a
1391 permanent license to practice medicine.

1392 (b) ~~Any residency requirement may be waived at the discretion of the board if a job~~
1393 ~~description is submitted to the board indicating that the applicant's duties in one of the~~
1394 ~~medical colleges in this state are strictly of a teaching nature as opposed to direct patient~~
1395 ~~care.~~

1396 (c) ~~A person issued an institutional license pursuant to this Code section shall not engage~~
1397 ~~in the private practice of medicine and shall not receive fees or any other remuneration~~
1398 ~~from his patients. Persons practicing medicine pursuant to an institutional license issued~~
1399 ~~in accordance with this Code section shall receive as their sole remuneration for the~~
1400 ~~practice of medicine the salary and other remuneration paid by the institution. The license~~
1401 ~~of any person who violates this Code section shall be subject to revocation by the board~~
1402 ~~after notice and opportunity for hearing.~~

1403 (d) ~~Any physician applying for an institutional license who meets all other requirements~~
1404 ~~of the board must also furnish documentation of one year of American Medical Association~~
1405 ~~or American Osteopathic Association approved postgraduate training (internship or~~
1406 ~~residency), or other training acceptable to the board. Any postgraduate training requirement~~
1407 ~~may be waived for those physicians whose duties are strictly of a teaching nature in one of~~
1408 ~~the medical colleges in this state.~~

1409 (e) ~~Institutional license holders shall not be permitted to apply for a Drug Enforcement~~
1410 ~~Agency registration number to write prescriptions to be filled outside the institution.~~

1411 (f) ~~On and after July 1, 1983, no institutional license may be granted to any person who~~
1412 ~~previously had not been granted such a license. Any person first granted an institutional~~
1413 ~~license before July 1, 1980, who holds an institutional license on July 1, 1983, may~~
1414 ~~continue to renew that license biennially under the conditions otherwise specified in this~~
1415 ~~Code section. Any person first granted an institutional license on or after July 1, 1980, who~~
1416 ~~holds an institutional license on July 1, 1983, may continue to renew that license biennially~~
1417 ~~under the conditions otherwise specified in this Code section, but these licenses shall expire~~
1418 ~~July 1, 1985, and may not thereafter be renewed.~~

1419 ~~43-34-34~~ 43-34-35.

1420 (a) ~~The board, in its discretion, may issue a provisional license to an applicant who~~
1421 ~~demonstrates to the board that he possesses all the qualifications and meets all requirements~~
1422 ~~necessary to become a licensed practitioner in this state except for having passed any~~
1423 ~~required examination. In such a case, the board may waive the examination requirement~~

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

1437 ~~(b) Notwithstanding subsection (a) of this Code section, a provisional license issued to a~~
 1438 ~~person who held a valid provisional license on or before April 16, 1979, shall be~~
 1439 ~~renewable able to renew such license annually without any one-time-only renewal~~
 1440 ~~limitation, as long as such person continues to meet the other requirements specified in this~~
 1441 ~~Code section article and does not otherwise violate this article.~~

1442 ~~(c) If a license applicant fails, for the third or any subsequent time, any examination which~~
 1443 ~~is required to be passed in order to become a licensed practitioner in this state, the applicant~~
 1444 ~~shall not be eligible to retake any such examination until such applicant furnishes proof of~~
 1445 ~~having completed one year of appropriate education and training as approved by the board.~~

1446 ~~(d) The board shall have the power to promulgate such rules and regulations as may be~~
 1447 ~~necessary to implement the intent of this Code section:~~

1448 ~~43-34-35~~ 43-34-36.

1449 ~~(a) The board shall issue licenses to practice medicine to all persons who shall furnish~~
 1450 ~~satisfactory evidence of attainments and qualifications under this ~~chapter~~ article and the~~
 1451 ~~rules and regulations of the board. Such license shall give absolute authority to the person~~
 1452 ~~to whom it is issued to practice medicine in this state unless restricted pursuant to this~~
 1453 ~~article.~~

1454 ~~(b) It shall be the duty of the executive director, under the direction of the board, to aid in~~
 1455 ~~the enforcement of this chapter and in the prosecution of all persons charged with~~
 1456 ~~violations of its provisions:~~

1457 ~~(c) Every person holding a license issued by the board under this article shall display it in~~
 1458 ~~a conspicuous place in the licensee's principal place of practice:~~

1459 ~~43-34-36.~~

1460 ~~Before any person who obtains a license from the board may lawfully practice medicine,~~
 1461 ~~he shall cause the license to be recorded in the office of the clerk of the superior court of~~
 1462 ~~the county in which he resides. The license shall be recorded by the clerk in a book kept~~
 1463 ~~for that purpose and shall be indexed in the name of the person to whom the license is~~
 1464 ~~granted. The clerk's fee for recording the license shall be the same as for recording a deed.~~
 1465 ~~The clerk shall make a report to the executive director, on December 31 of each year, of~~
 1466 ~~all licenses registered with him. Each applicant receiving a license from the board shall~~
 1467 ~~cause the same to be registered within 30 days.~~

1468 ~~43-34-39.~~

1469 ~~In all cases wherein a license has been revoked and no appeal has been entered within the~~
 1470 ~~time allowed by law, it shall be the duty of the executive director, immediately after the~~
 1471 ~~expiration of the time allowed for appeal, to transmit to the clerk of the superior court in~~
 1472 ~~whose office the revoked license is recorded a copy of the order of the board revoking the~~
 1473 ~~license, certified by the executive director, with the appropriate fee; and it shall be the duty~~
 1474 ~~of the clerk to cancel the record of the license by entering upon the face thereof a copy of~~
 1475 ~~the certified order. In a case in which appeal proceedings are had and not sustained, the~~
 1476 ~~revoked license shall be canceled in the manner above provided, immediately after the final~~
 1477 ~~termination of such case.~~

1478 ~~43-34-40~~ 43-34-37.

1479 The board is authorized to pass upon the good standing and reputation of any medical
 1480 school or osteopathic ~~college~~ medical school. Only such medical schools or osteopathic
 1481 ~~colleges~~ medical schools will be considered in good standing as that possess a full and
 1482 complete faculty for the teaching of medicine, surgery, and obstetrics in all their branches;
 1483 that afford their students adequate clinical and hospital facilities; that have adequate
 1484 curricula as determined by the board in its discretion; that fulfill all their published
 1485 promises, requirements, and other claims respecting advantages to their students and the
 1486 course of instruction; that exact a preliminary educational requirement equal to that
 1487 specified by this ~~chapter~~ article; that require students to furnish testimonials of good moral
 1488 standing; and that give advanced standing only on cards from accredited medical schools
 1489 or osteopathic ~~colleges~~ medical schools. In determining the reputation of the medical
 1490 school or osteopathic ~~college~~ medical school, the right to investigate and make a personal
 1491 inspection of the same is authorized.

1492 ~~43-34-41.~~

1493 ~~Each medical or osteopathic school or college in good standing with the board shall have~~
 1494 ~~a minimum preliminary educational requirement of the completion of a two-year~~
 1495 ~~premedical college course.~~

1496 ~~43-34-42.~~ 43-34-38.

1497 (a) Physicians and surgeons licensed to practice medicine in accordance with and under
 1498 this article shall be the only persons authorized to administer or perform artificial
 1499 insemination upon any female human being. Any other person or persons who shall attempt
 1500 to administer or perform or who shall actually administer or perform artificial insemination
 1501 upon any female human being shall be guilty of a felony and, upon conviction thereof, shall
 1502 be punished by imprisonment in the penitentiary for not less than one year nor more than
 1503 five years.

1504 (b) Any physician or surgeon who obtains written authorization signed by both the
 1505 husband and the wife authorizing him to perform or administer artificial insemination shall
 1506 be relieved of civil liability to the husband and wife or to any child conceived by artificial
 1507 insemination for the result or results of said artificial insemination, provided that the
 1508 written authorization provided for in this Code section shall not relieve any physician or
 1509 surgeon from any civil liability arising from his own negligent administration or
 1510 performance of artificial insemination.

1511 ~~43-34-42.1~~ 43-34-39.

1512 (a) This Code section shall be known and may be cited as the 'Access to Medical
 1513 Treatment Act.'

1514 (b) Notwithstanding any other provision of law, and except as provided in subsection (c)
 1515 of this Code section, an individual shall have the right to be treated for any illness or
 1516 disease which is potentially life threatening or chronically disabling by a person licensed
 1517 to practice medicine under this article with any experimental or nonconventional medical
 1518 treatment that such individual desires or the legal representative of such individual
 1519 authorizes if such person licensed to practice medicine under this article has personally
 1520 examined such individual and agrees to treat such individual.

1521 (c) A person licensed to practice medicine under this article may provide any medical
 1522 treatment to an individual described in subsection (b) of this Code section if:

1523 (1) There is no reasonable basis to conclude that the medical treatment itself, when
 1524 administered as directed, poses an unreasonable and significant risk of danger to such
 1525 individual; and

1526 (2) The person licensed to practice medicine under this article has provided the patient
 1527 with a written statement and an oral explanation, which the patient has acknowledged by
 1528 the patient's signature or the signature of the patient's legal representative, that discloses
 1529 the facts regarding the nature of the treatment, specifically including that the treatment
 1530 offered is experimental or nonconventional, that the drug or medical device has not been
 1531 approved by the Food and Drug Administration for any indication, as well as the material
 1532 risks generally recognized by reasonably prudent physicians of such treatment's side
 1533 effects.

1534 (d) The treatment of patients in compliance with this Code section by a person licensed to
 1535 practice medicine under this article shall not by itself constitute unprofessional practice or
 1536 conduct.

1537 ~~43-34-43~~ 43-34-40.

1538 In addition to any other remedy or criminal prosecution, whenever it shall appear to the
 1539 board that any person, firm, company, partnership, association, or corporation or the agent,
 1540 officer, or director of such firm, company, partnership, association, or corporation is or has
 1541 been violating any of the provisions of this ~~chapter~~ article or any of the laws of the state
 1542 relating to the practice of medicine, the board may, on its own motion or on the verified
 1543 complaint in writing of any person, file a complaint in its own name in the superior court
 1544 having venue and jurisdiction over the parties, alleging the facts and praying for a
 1545 temporary restraining order and an injunction and permanent injunction against such
 1546 person, firm, company, partnership, association, or corporation, including any agent,
 1547 officer, or director of same, restraining him or her from violating such law. Upon proof
 1548 thereof, the court shall issue such restraining order, injunction, and permanent injunction
 1549 without requiring allegation or proof that the petitioner therefor has no adequate remedy
 1550 at law. No restraining order or injunction, whether temporary, permanent, or otherwise,
 1551 shall be granted without a hearing after at least ten days' notice. It is declared that such
 1552 violation of this ~~chapter~~ article is a menace and a nuisance dangerous to the public health,
 1553 safety, and welfare.

1554 ~~43-34-44~~ 43-34-41.

1555 Any person who shall buy, sell, or fraudulently obtain any diploma, license, record, or
 1556 registration to practice ~~osteopathy~~ osteopathic medicine, illegally obtained or signed, or
 1557 issued unlawfully or under fraudulent representation; or who shall use any of the forms or
 1558 letters, 'Osteopathy,' 'Osteopath,' 'Osteopathist,' 'Diplomate in Osteopathy,' 'D.O.,' 'D.Sc.O.,'
 1559 'Osteopathic Physician,' 'Doctor of Osteopathy,' or any other title or letters, either alone or
 1560 with other qualifying words or phrases, under such circumstances as to induce the belief

1561 that the person who uses such term or terms is engaged in the practice of ~~osteopathy~~
 1562 osteopathic medicine, or anyone who shall hold himself or herself out as practicing any
 1563 other nondrug-giving school of medical practice, without having complied with this article,
 1564 shall be guilty of a ~~misdemeanor~~ felony.

1565 ~~43-34-45.~~

1566 ~~Any person who, by fraud or misrepresentation, shall practice, pretend to practice, or use~~
 1567 ~~the science of osteopathy or other nondrug-giving school of medical practice in treating~~
 1568 ~~diseases of the human body shall be guilty of a misdemeanor.~~

1569 ~~43-34-45.1~~ 43-34-42.

1570 (a) This Code section shall be known and may be cited as the 'Georgia Volunteers in
 1571 Medicine Health Care Act.'

1572 (b) Notwithstanding any other provision of law, the board shall issue a special license to
 1573 qualifying physicians under the terms and conditions set forth in this Code section. The
 1574 special license shall only be issued to a person who:

1575 (1) Is currently licensed to practice medicine in any medical-licensing jurisdiction in the
 1576 United States and whose license is unrestricted and in good standing; or

1577 (2) Is retired from the practice of medicine and not currently engaged in such practice
 1578 either full time or part time and has, prior to retirement, maintained full licensure in good
 1579 standing in any medical-licensing jurisdiction in the United States.

1580 As used in this subsection, the term 'unrestricted' means that no restrictions have been
 1581 placed on a physician's license by the board, no sanctions or disciplinary actions have been
 1582 imposed by the board on a physician, and a physician is not under probation or suspension
 1583 by the board.

1584 (c) The special licensee shall be permitted to practice medicine only in the
 1585 noncompensated employ of public agencies or institutions or not for profit agencies, not
 1586 for profit institutions, nonprofit corporations, or not for profit associations which provide
 1587 medical services only to indigent patients in medically underserved or critical need
 1588 population areas of the state, as determined by the board, or pursuant to Article 8 of
 1589 Chapter 8 of Title 31.

1590 (d) The person applying for the special license under this Code section shall submit to the
 1591 board a copy of his or her medical degree, a copy of his or her license in his or her current
 1592 or previous licensing and regulating jurisdiction, and a notarized statement from the
 1593 employing agency, institution, corporation, association, or health care program, on a form
 1594 prescribed by the board, whereby he or she agrees unequivocally not to receive

1595 compensation for any medical services he or she may render while in possession of the
1596 special license.

1597 (e) The examination by the board, any application fees, and all licensure and renewal fees
1598 ~~must~~ shall be waived for the holder of the special license under this Code section and do
1599 not apply to such person.

1600 (f) If at the time application is made for the special license the physician is not in
1601 compliance with the continuing medical education requirements established by the board,
1602 ~~the physician shall be issued a nonrenewable temporary license to practice for six months~~
1603 ~~provided the applicant is otherwise qualified for such license~~ such person must document
1604 such compliance before a special license is issued.

1605 (g)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons
1606 practicing medicine under and in compliance with a special license issued under this
1607 Code section and the liability of their employers for such practice shall be governed by
1608 Code Section 51-1-29.1.

1609 (2) The liability of persons practicing medicine pursuant to Article 8 of Chapter 8 of
1610 Title 31 under and in compliance with a special license issued under this Code section
1611 and the liability of their employers shall be governed by the provisions of such article.

1612 (h) Nothing contained in this Code section shall be construed to authorize the holder of the
1613 special license provided for in this Code section to perform surgery or any surgical
1614 procedure.

1615 (i) This Code section, being in derogation of the common law, shall be strictly construed.

1616 ~~43-34-46~~ 43-34-43.

1617 (a) Any person who practices medicine without complying with this article or who
1618 otherwise violates any provision of this article shall be guilty of a felony and, upon
1619 conviction thereof, shall be punished by a fine of ~~not less than \$500.00 nor more than~~
1620 \$1,000.00 per each violation or by imprisonment from two to five years, or both.

1621 (b) Any person presenting or attempting to file as his or her own the diploma or certificate
1622 or credentials of another; or who shall give false or forged evidence of any kind to the
1623 board or any member thereof in connection with an application for a license to practice
1624 medicine; or who shall practice medicine under a false or assumed name; or who shall
1625 falsely impersonate any other practitioner of a like or different name shall be guilty of a
1626 felony and, upon conviction thereof, shall be punished by a fine of ~~not less than \$500.00~~
1627 ~~nor more than \$1,000.00~~ \$5,000.00 or by imprisonment from two to five years, or both.

1628 ~~43-34-47~~ 43-34-44.

1629 (a) As used in this Code section, the term:

1630 (1) 'Program director' means a physician licensed in this state who is responsible for
 1631 screening, selecting, and supervising physicians enrolled in one or more of an institution's
 1632 postgraduate training programs.

1633 (2) 'Temporary postgraduate training permit' means a permit issued by the board to a
 1634 graduate of a board approved medical school or osteopathic medical school who is
 1635 enrolled in a postgraduate training program deemed acceptable by the board and who
 1636 does not currently hold a full and unrestricted license in this state.

1637 (3) 'Training institution' means an institution that sponsors and conducts a postgraduate
 1638 training program approved by the Accreditation Council for Graduate Medical Education
 1639 (ACGME); or the American Osteopathic Association (AOA), ~~or other program approved~~
 1640 ~~by the board for the training of interns, residents, or postresidency fellows~~ including
 1641 Canadian schools.

1642 (b)(1) An individual seeking to pursue postgraduate medical training in this state who
 1643 does not hold a license to practice medicine issued under this ~~chapter~~ article shall apply
 1644 to the board for a temporary postgraduate training permit. The application shall be made
 1645 on forms that the board shall furnish and shall be accompanied by the application and
 1646 permit fees set by the board. Such application shall include the following:

1647 (A) Evidence satisfactory to the board that the applicant has been accepted or
 1648 appointed to participate at a training institution in this state in one of the following:

1649 (i) An internship or residency program accredited by either the Accreditation Council
 1650 for Graduate Medical Education or the American Osteopathic Association; or

1651 (ii) A clinical fellowship program at an institution with a residency program
 1652 accredited either by the Accreditation Council for Graduate Medical Education or the
 1653 American Osteopathic Association that is in a clinical field the same as or related to
 1654 the clinical field of the fellowship program;

1655 (B) Information satisfactory to the board that identifies the beginning and ending dates
 1656 of the period for which the applicant has been accepted or appointed to participate in
 1657 the internship, residency, or clinical fellowship program; and

1658 (C) Any other information that the board requires.

1659 Nothing in this Code section shall prohibit an individual from obtaining a full and
 1660 unrestricted license to practice medicine under this article.

1661 (2) If the applicant meets the requirements of paragraph (1) of this subsection, the board
 1662 shall issue a temporary postgraduate training permit to the applicant. A temporary
 1663 postgraduate training permit issued pursuant to this subsection shall be valid only for a
 1664 period of one year but may, in the discretion of the board and upon application duly made
 1665 and payment of the renewal fee required by the board, be renewed annually for the
 1666 duration of the postgraduate training program for a period not to exceed seven years. The

1667 board shall maintain a registry of all individuals who hold temporary postgraduate
1668 training permits.

1669 (3) The holder of a valid temporary postgraduate training permit shall be entitled to
1670 perform such acts as may be prescribed by or incidental to the holder's postgraduate
1671 residency training program, but the holder shall not be entitled otherwise to engage in the
1672 practice of medicine in this state. The holder shall train only under the supervision of the
1673 physicians responsible for supervision as part of the postgraduate training program. The
1674 temporary postgraduate training permit shall authorize the person receiving the permit
1675 to practice in facilities affiliated with the postgraduate training program only if such
1676 practice is part of the training program.

1677 (4) Prior to participating in a postgraduate medical training program in this state,
1678 individuals must either hold a license to practice medicine or a temporary postgraduate
1679 training permit issued by the board or have applied for a temporary postgraduate training
1680 permit. The board shall issue temporary postgraduate training permits to applicants
1681 meeting the board's qualifications within 30 days of receipt by the board of the
1682 application.

1683 (5) A temporary postgraduate training permit issued pursuant to this Code section shall
1684 expire upon the permit holder's withdrawal or termination from, or completion of, the
1685 postgraduate training program or upon obtaining a license to practice medicine under this
1686 article.

1687 (6) The board shall have the authority to discipline the holder of a temporary
1688 postgraduate training permit in the same manner and based upon any ground or violation
1689 enumerated in Code ~~Sections 43-1-19 and 43-34-37~~ Section 43-34-8.

1690 (7) By obtaining a temporary postgraduate training permit, the permit holder consents
1691 to the release of information pursuant to subsection (d) of this Code section from program
1692 directors and supervising physicians and authorizes the ~~president~~ chairperson of the board
1693 to be an agent for service.

1694 (c)(1) The board shall have the authority to refuse to issue or renew or to suspend,
1695 revoke, or limit a temporary postgraduate training permit based upon any of the grounds
1696 or violations enumerated in Code ~~Sections 43-1-19 and 43-34-37~~ Section 43-34-8.

1697 (2) The refusal, suspension, revocation, or limitation of a temporary postgraduate
1698 training permit shall not be deemed to be a contested case under Chapter 13 of Title 50,
1699 the 'Georgia Administrative Procedure Act,' and notice and a hearing within the meaning
1700 of such chapter shall not be required. The individual or permit holder shall be allowed to
1701 appear before the board if he or she so requests regarding such refusal, suspension,
1702 revocation, or limitation.

1703 (d)(1) It is the responsibility of the program director for the training program to notify
 1704 the board upon the permit holder's withdrawal or termination from, or completion of, the
 1705 postgraduate training program.

1706 (2) Program directors shall comply with all other reporting requirements which the board
 1707 by rule and regulation may require.

1708 (3) Failure to comply with the board's reporting requirements shall be grounds for
 1709 disciplinary action by the board.

1710 (e) The board may adopt such rules and regulations as necessary to effect the purpose of
 1711 this Code section.

1712 ARTICLE 3

1713 43-34-60.

1714 This article shall be known and may be cited as the 'Acupuncture Act of Georgia.'

1715 43-34-61.

1716 The General Assembly finds and declares that the practice of acupuncture in Georgia
 1717 affects the public health, safety, and welfare and that it is necessarily a proper subject of
 1718 regulation and control.

1719 43-34-62.

1720 As used in this article, the term:

1721 (1) 'Acupuncture' means a form of therapy developed from traditional and modern
 1722 Oriental concepts for health care that employs Oriental medical techniques, treatment,
 1723 and adjunctive therapies for the promotion, maintenance, and restoration of health and
 1724 the prevention of disease.

1725 (2) 'Auricular (ear) detoxification therapy' means the insertion of disposable acupuncture
 1726 needles into the five auricular acupuncture points stipulated by the National Acupuncture
 1727 Detoxification Association protocol for the sole purpose of treatment of chemical
 1728 dependency.

1729 (3) 'Board' means the Georgia Composite State Medical Board of Medical Examiners
 1730 ~~created by Code Section 43-34-21.~~

1731 (4) 'Practice of acupuncture' means the insertion of disposable acupuncture needles and
 1732 the application of moxibustion to specific areas of the human body based upon Oriental
 1733 medical principles as a therapeutic modality. Dry needling is a technique of the practice
 1734 of acupuncture. Adjunctive therapies within the scope of acupuncture may include
 1735 manual, mechanical, herbal, thermal, electrical, and electromagnetic treatment and the

1736 recommendation of dietary guidelines and exercise, but only if such treatments,
 1737 recommendations, and exercises are based on concepts of traditional Oriental medicine
 1738 and are directly related to acupuncture therapy.

1739 43-34-63.

1740 The board, in consultation with the advisory committee, shall have the power and
 1741 responsibility to:

- 1742 (1) Determine the qualifications and fitness of applicants for licensure and renewal of
 1743 licensure;
- 1744 (2) Adopt and revise rules consistent with the laws of this state that are necessary to
 1745 conduct its business, carry out its duties, and administer this article;
- 1746 (3) Examine for, approve, issue, deny, revoke, suspend, and renew the licenses of
 1747 acupuncture applicants and licensed acupuncturists under this article and conduct
 1748 hearings in connection with these actions;
- 1749 (4) Conduct hearings on complaints concerning violations of this article and the rules
 1750 adopted under this article and cause the prosecution and enjoinder of the violations;
- 1751 (5) Establish application, examination, and licensure fees;
- 1752 (6) Request and receive the assistance of state educational institutions or other state
 1753 agencies and prepare information of consumer interest describing the regulatory functions
 1754 of the board and the procedures by which consumer complaints are filed with and
 1755 resolved by the board. The board shall make the information available to the public and
 1756 appropriate state agencies; and
- 1757 (7) Establish continuing education requirements.

1758 43-34-64.

1759 (a) Each applicant for a license to practice acupuncture shall meet the following
 1760 requirements:

- 1761 (1) Be at least 21 years of age;
- 1762 (2) Submit a completed application required by the board;
- 1763 (3) Submit any fees required by the board;
- 1764 (4) Be certified in acupuncture by a national certification agency accredited by the
 1765 National Organization of Competency Assurance and approved by the board;
- 1766 (5) Have successfully completed a nationally recognized clean needle technique course
 1767 approved by the board; ~~and~~
- 1768 (6) Have obtained professional liability insurance in the amount of at least
 1769 \$100,000.00/\$300,000.00-;

- 1770 (7) Have passed an acupuncture examination offered by an organization accredited by
1771 the National Organization of Competency Assurance and approved by the board; and
1772 (8) Have successfully completed a degree in acupuncture or a formal course of study and
1773 training in acupuncture. The applicant shall submit documentation satisfactory to the
1774 board to show that such education or course of study and training was:
- 1775 (A) Completed at a school that is accredited by the Accreditation Commission for
1776 Acupuncture and Oriental Medicine (ACAOM) or other accrediting entity approved by
1777 the board; or
- 1778 (B) Completed by means of a program of acupuncture study and training that is
1779 substantially equivalent to the acupuncture education offered by an accredited school
1780 of acupuncture approved by the board.
- 1781 (b) Reserved.
- 1782 (c) Before any person licensed to practice acupuncture under this article, who has less than
1783 one year of postgraduate clinical experience, may practice on his or her own, such person
1784 must engage in one year of active practice under the supervision of a licensed acupuncturist
1785 with a minimum of four years active licensed clinical practice. Such supervising
1786 acupuncturist may be licensed in Georgia or any other state or country with licensing
1787 requirements substantially equal to Georgia's licensing requirements and may accumulate
1788 the required four years of active licensed clinical practice in any combination of states so
1789 long as the licensing requirements of such other states or countries are substantially equal
1790 to Georgia's licensing requirements.
- 1791 (d) Each applicant for a license to perform auricular (ear) detoxification therapy as an
1792 auricular (ear) detoxification technician shall meet the following requirements:
- 1793 (1) Be at least 21 years of age;
- 1794 (2) Submit a completed application required by the board;
- 1795 (3) Submit any fees required by the board;
- 1796 (4) Have successfully completed a nationally recognized training program in auricular
1797 (ear) detoxification therapy for the treatment of chemical dependency as approved by the
1798 board; and
- 1799 (5) Have successfully completed a nationally recognized clean needle technique course
1800 approved by the board.
- 1801 (e) The practice of auricular (ear) detoxification therapy may take place in a city, county,
1802 state, federal, or private chemical dependency program approved by the board under the
1803 direct supervision of a licensed acupuncturist or a person authorized to practice
1804 acupuncture by the board who is also authorized to practice medicine under Article 2 of
1805 this chapter.

1806 43-34-65.

1807 After evaluation of an application and other evidence submitted by an applicant, the board
1808 shall notify such applicant that the application and evidence submitted are satisfactory and
1809 accepted or unsatisfactory and rejected. If an application is rejected, the notice shall state
1810 the reasons for rejection.

1811 43-34-66.

1812 (a) Any document evidencing licensure issued by the board is the property of the board
1813 and must be surrendered on demand.

1814 (b) Every person who holds a license issued by the board in accordance with this article
1815 and who is engaged in the active practice of acupuncture or the active practice of auricular
1816 (ear) detoxification therapy as an auricular (ear) detoxification technician shall display the
1817 document evidencing licensure in an appropriate and public manner.

1818 (c) Every person who holds a license issued by the board shall inform the board of any
1819 change of address.

1820 43-34-67.

1821 (a) A license issued under this article shall be renewed biennially if the person holding
1822 such license is not in violation of this article at the time of application for renewal and if
1823 the application fulfills current requirements of continuing education as established by the
1824 board.

1825 (b) Each person licensed under this article is responsible for renewing his or her license
1826 before the expiration date.

1827 (c) Under procedures and conditions established by the board, a license holder may request
1828 that his or her license be declared inactive. The licensee may apply for active status at any
1829 time and, upon meeting the conditions set by the board, shall be declared active.

1830 43-34-68.

1831 (a) Any person who undergoes acupuncture must consent to such procedure and shall be
1832 informed in general terms of the following:

1833 (1) That the practice of acupuncture is based upon the Oriental arts and is completely
1834 distinct and different from traditional western medicine;

1835 (2) That the acupuncturist cannot practice medicine, is not making a medical diagnosis
1836 of the person's disease or condition, and that such person should see a physician if he or
1837 she wants to obtain a medical diagnosis; and

1838 (3) The nature and the purpose of the acupuncture treatment.

1839 (b) The board shall develop a standard informed consent form to be used by persons
 1840 licensed under this article. Such informed consent form shall include the information set
 1841 forth in subsection (a) of this Code section as well as any other and additional information
 1842 the board deems appropriate. The information set forth in the informed consent form shall
 1843 be in language which is easy to read and readily understandable to the consuming public.

1844 43-34-69.

1845 The board, in consultation with the advisory committee, may impose any sanction
 1846 authorized under subsection ~~(d)~~ (b) of Code Section ~~43-1-19 43-34-8~~ upon a finding of any
 1847 conduct specified in subsection (a) of Code Section ~~43-1-19 43-34-8~~ or a finding that such
 1848 conduct involved dividing or agreeing to divide a fee for acupuncture services with any
 1849 person who refers a patient, notwithstanding that such board is not a professional licensing
 1850 board.

1851 43-34-70.

1852 The board shall appoint an acupuncture advisory committee. The advisory committee shall
 1853 ~~be representative of a cross section of the cultural backgrounds of the~~ include members of
 1854 the acupuncture profession licensed to practice acupuncture under this article, persons
 1855 licensed to practice medicine under Article 2 of this chapter who are acupuncturists, and
 1856 such members as the board in its discretion may determine. Members shall receive no
 1857 compensation for service on the committee. The committee shall have such advisory duties
 1858 and responsibilities as the board may determine. ~~The charter acupuncture advisory~~
 1859 ~~committee may include persons eligible for licensing under this article. Subsequent~~
 1860 ~~acupuncture~~ Acupuncture advisory committee members must be licensed pursuant to this
 1861 article.

1862 43-34-71.

1863 (a) Unless licensed under this article or exempted under subsection (b) of this Code
 1864 section, no person shall:

1865 (1) Practice acupuncture or auricular (ear) detoxification therapy; or

1866 (2) Represent himself or herself to be an acupuncturist or auricular (ear) detoxification
 1867 ~~specialist~~ technician who is licensed under this article.

1868 (b) The prohibition in subsection (a) of this Code section does not apply to:

1869 (1) Any person licensed to practice medicine under Article 2 of this chapter;

1870 (2) The practice of acupuncture which is an integral part of the program of study by
 1871 students enrolled in an acupuncture education program under the direct clinical
 1872 supervision of a licensed acupuncturist with at least five years of clinical experience; or

1873 (3) The practice of acupuncture by any person licensed or certified to perform
 1874 acupuncture in any other jurisdiction that has requirements equivalent to or more
 1875 stringent than this article where such person is doing so in the course of regular
 1876 instruction in an approved educational program of acupuncture or in an educational
 1877 seminar of an approved professional organization of acupuncture, provided that in the
 1878 latter case the practice is supervised directly by a person licensed to practice acupuncture
 1879 pursuant to this article or an acupuncturist who is licensed to practice medicine under
 1880 Article 2 of this chapter.

1881 (c) Any person violating subsection (a) of this Code section shall, upon conviction thereof,
 1882 be guilty of a misdemeanor.

1883 43-34-72.

1884 (a) The titles 'Licensed Acupuncturist' (L. Ac.) and 'Acupuncturist' may only be used by
 1885 persons licensed under this article.

1886 (b) The title 'Auricular Detoxification ~~Specialist~~ Technician' (A.D.S.) (A.D.T.) may only
 1887 be used by persons licensed to practice auricular (ear) detoxification therapy under this
 1888 article. Possession of a license to practice as an ~~A.D.S.~~ A.D.T. does not by itself entitle a
 1889 person to identify himself or herself as an acupuncturist. An auricular (ear) detoxification
 1890 ~~specialist technician~~ is strictly limited to five ear points' treatment for detoxification for
 1891 substance abuse, chemical dependency, or both.

1892 (c) No person licensed under this article may advertise or hold himself or herself out to the
 1893 public as being authorized to practice medicine under Article 2 of this chapter.

1894 ARTICLE 4

1895 43-34-100.

1896 This article shall be known and may be cited as the '~~Physician's~~ Physician Assistant Act.'

1897 43-34-101.

1898 (a) To alleviate the growing shortage and geographic maldistribution of health care
 1899 services in this state, the General Assembly intends, by this article, to ~~establish a new~~
 1900 ~~category of health care, namely, assistants to physicians, which category includes new~~
 1901 ~~types of health care personnel, as well as those persons licensed in presently established~~
 1902 ~~categories of health care~~ recognize physician assistants and their role in addressing this
 1903 growing health care shortage.

1904 (b) This article is intended to encourage the more effective utilization of the skills of
 1905 physicians by enabling them to delegate health care tasks to such assistants where such

1906 delegation is consistent with the patient's health and welfare. ~~Toward this end, the General~~
 1907 ~~Assembly intends to remove legal constraints which presently constitute unnecessary~~
 1908 ~~hindrances to the more effective delivery of health care services.~~

1909 43-34-102.

1910 As used in this article, the term:

1911 (1) 'Applicant' means an individual seeking licensure as a physician assistant pursuant
 1912 to this article.

1913 ~~(1)(2)~~ (2) 'Alternate supervising physician' means a physician to whom a board approved
 1914 primary supervising physician has delegated the responsibility of supervising a
 1915 physician's physician assistant who is licensed to approved for supervision by that
 1916 primary supervising physician and who agrees to supervise the physician's physician
 1917 assistant for the primary supervising physician and who is on record with the board.

1918 ~~(2)(3)~~ (3) 'Board' means the Georgia Composite State Medical Board of Medical Examiners
 1919 as created by Code Section 43-34-21.

1920 ~~(3)(4)~~ (4) 'Carry out a prescription drug or device order' means to complete, on a form
 1921 established and approved by the board, a written prescription drug order or a prescription
 1922 device order pursuant to the authority delegated by a supervising physician.

1923 ~~(4) 'Evaluation agency' means a public or private hospital, school, laboratory, clinic,~~
 1924 ~~federal or state institution or agency, or similar facility which has been approved by the~~
 1925 ~~board as possessing personnel and equipment and as having had practice in a health care~~
 1926 ~~field sufficient to be able to make an objective appraisal, in a manner prescribed by the~~
 1927 ~~board, of the proposed physician's assistant's qualifications to perform the tasks described~~
 1928 ~~in the job description.~~

1929 (5) 'Job description' means a document, signed by the primary supervising physician and
 1930 the physician's assistant whom the primary supervising physician is supervising,
 1931 physician assistant, in which the primary supervising physician delegates to that
 1932 physician assistant authority to perform certain medical acts and which describes the
 1933 professional background and specialty of the primary supervising physician; and the
 1934 qualifications; including related experience of the physician's physician assistant; and
 1935 includes a general description of how the physician's physician assistant will be utilized
 1936 in the practice. A job description shall not be required to contain every activity the
 1937 physician deems the physician's physician assistant qualified to perform but shall confine
 1938 the activities of the physician's physician assistant to those in the scope of practice of the
 1939 primary supervising physician.

1940 (6) 'Physician' means a person lawfully licensed in this state to practice medicine and
 1941 surgery pursuant to Article 2 of this chapter.

1942 (7) ~~'Physician's Physician assistant'~~ means ~~a skilled person~~ an individual licensed
 1943 pursuant to this article who is qualified by academic and practical training ~~to provide~~
 1944 ~~patients' services not necessarily within the physical presence but under the personal~~
 1945 ~~direction or supervision of the applying physician to perform certain medical acts and~~
 1946 who must practice with physician supervision and direction pursuant to the job
 1947 description required by this article.

1948 (8) 'Primary supervising physician' means the physician to whom the board grants the
 1949 ~~licenses a physician's assistant pursuant to a board approved job description and who has~~
 1950 ~~the primary responsibility for supervising the practice of that physician's~~ a physician
 1951 assistant pursuant to that physician assistant's job description.

1952 43-34-103.

1953 (a)(1) In order to obtain approval for the utilization of a person as a physician's assistant,
 1954 ~~whether the utilization is in a private practice or through a public or private health care~~
 1955 ~~institution or organization, the licensed physician who will be responsible for the~~
 1956 ~~performance of that assistant licensure as a physician assistant, an applicant~~ shall submit
 1957 an application to the board. Such application shall include:

1958 (1)(A) Evidence submitted by the ~~proposed physician's assistant applicant~~ of his or her
 1959 good moral character; and

1960 (2)(B) Evidence of his or her competency in a health care area related to the job
 1961 description which, as a minimum, shall include:

1962 (A)(i) Evidence of satisfactory completion of a training program approved by the
 1963 board. If the applicant is not a graduate of an accredited school approved by the
 1964 board, he or she shall be required to receive board approved refresher training and
 1965 testing;

1966 (B) ~~A finding by the board approved evaluation agency that the proposed physician's~~
 1967 ~~assistant is qualified to perform the tasks described in the job description;~~

1968 (C) ~~Any nursing task by a student enrolled in a nursing program approved by the~~
 1969 ~~Georgia Board of Nursing where any such task is performed under the supervision of~~
 1970 ~~an authorized instructor lawfully licensed in this state to perform such tasks; and~~

1971 (D)(ii) Evidence that the ~~person who is to be used as a physician's assistant has~~
 1972 ~~achieved a satisfactory score on an appropriate examination outlined, approved, or~~
 1973 ~~administered by the board~~ applicant has passed the Physician Assistant National
 1974 Certification Examination (PANCE) administered by the National Commission for
 1975 the Certification of Physician Assistants (NCCPA), or its successor, or the National
 1976 Association for the Certification of Anesthesia Assistants, (NACAA) or its successor.

1977 The board may issue a temporary permit to any applicant for licensure who has satisfied
 1978 the provisions of ~~subparagraphs (A) and (B)~~ division (i) of this paragraph ~~subparagraph~~
 1979 and who is an applicant for the next available board approved or administered
 1980 examination or who has completed this examination and is awaiting the results of such
 1981 examination. The temporary permit shall expire upon notification of the applicant's
 1982 failure to achieve a satisfactory score on the board approved or administered examination.
 1983 A physician assistant licensed pursuant to this paragraph shall not be authorized to
 1984 perform any medical acts of any sort except as approved for utilization by a physician in
 1985 a job description pursuant to paragraph (2) of this subsection. The board may grant an
 1986 inactive licensure status to a ~~physician's~~ physician assistant who is licensed pursuant to
 1987 this article but who is not practicing with the supervision of a board approved primary
 1988 supervising physician;

1989 (2) In order to obtain approval for the utilization of a physician assistant, whether the
 1990 utilization is in a private practice or through a public or private health care institution or
 1991 organization, the licensed physician who will be responsible for the performance of such
 1992 physician assistant shall submit an application to the board which shall include:

1993 (i) Evidence that the physician assistant is licensed pursuant to paragraph (1) of this
 1994 subsection;

1995 ~~(3)~~(ii) A job description meeting the requirements of paragraph (5) of Code Section
 1996 43-34-102; and

1997 ~~(4)~~(iii) A fee, established by the board; provided, however, that no fee will be
 1998 required if the ~~physician's~~ physician assistant is an employee of the state or a county
 1999 government.

2000 (b)(1) No primary supervising physician shall ~~have more than four physician's assistants~~
 2001 ~~licensed to him or her~~ be a party to a job description with more than four physician
 2002 assistants for supervising at a time; provided, however, that no physician may supervise
 2003 more than two ~~physician's~~ physician assistants at any one time except as provided in
 2004 paragraph (2) of this subsection.

2005 (2)(A) A physician may supervise as many as four ~~physician's~~ physician assistants at
 2006 any one time while practicing in a group practice in which other physician members of
 2007 such group practice are primary supervising physicians.

2008 (B) A physician may supervise as many as four ~~physician's~~ physician assistants at any
 2009 one time while acting as an alternate supervising physician:

2010 (i) In an institutional setting such as a hospital or clinic;

2011 (ii) On call for a primary supervising physician or a group practice; or

2012 (iii) If otherwise approved by the board to act as an alternate supervising physician.

2013 (3) A primary supervising physician shall designate in writing to the board such other
 2014 physicians who may serve as an alternate supervising physician for each ~~physician's~~
 2015 physician assistant licensed to approved for supervision by such primary supervising
 2016 physician. The board shall have authority to approve or deny such designations in whole
 2017 or in part; provided, however, a physician may be listed as an alternate supervising
 2018 physician for any number of ~~physician's~~ physician assistants so long as he or she only
 2019 supervises as many ~~physician's~~ physician assistants at any one time as allowed by
 2020 paragraph (2) of this subsection.

2021 (c)(1) At all times while providing patient services, a physician assistant shall have a
 2022 signed job description submitted by his or her primary supervising physician and
 2023 approved by the board.

2024 (2) Nothing in this article shall prevent a primary supervising physician from submitting
 2025 to the board a new or amended physician assistant job description when a physician's
 2026 assistant, by reason of further education or experience and successfully passing additional
 2027 tests as shall be outlined and administered by the board, becomes capable of performing
 2028 a wider range of medical tasks.

2029 ~~(d) A physician's assistant shall be allowed to perform his duties only in the principal~~
 2030 ~~offices of the applying physicians, which shall be~~ physician assistant is authorized to
 2031 practice in those public or private places or health facilities where the ~~applying supervising~~
 2032 physician ~~regularly~~ sees patients, provided that nothing in this article shall prohibit the
 2033 rendering of services to a patient by a physician assistant who is not in the physical
 2034 presence of the supervising physician or preclude a physician's physician assistant from
 2035 making house calls ~~and hospital rounds,~~ performing hospital duties, serving as an
 2036 ambulance attendant, or performing any functions ~~performed~~ authorized by the ~~applying~~
 2037 supervising physician which the physician's physician assistant is qualified to perform.

2038 (e) A ~~physician's~~ physician assistant may not be utilized to perform the duties of a
 2039 pharmacist licensed under Chapter 4 of Title 26, relating to pharmacists.

2040 (e.1)(1) In addition to the authority granted by Code Section ~~43-34-26.1~~ 43-34-24, a
 2041 physician's physician assistant shall be allowed to carry out a prescription drug order or
 2042 orders for any device as defined in Code Section 26-4-5, any dangerous drug as defined
 2043 in Code Section 16-13-71, or any Schedule III, IV, or V controlled substance as defined
 2044 in Code Section 16-13-21 on a prescription drug order or prescription device order form
 2045 as specified in paragraph (3) of this subsection, pursuant to the authority delegated by the
 2046 supervising physician of that physician's physician assistant. Delegation of such authority
 2047 shall be contained in the job description required by this Code section. The delegating
 2048 physician shall remain responsible for the medical acts of the physician's physician
 2049 assistant performing such delegated acts and shall adequately supervise the physician's

2050 physician assistant. If an existing job description for a ~~physician's~~ physician assistant
 2051 does not contain such authority to carry out a prescription drug or device order as
 2052 provided by this subsection, that ~~physician's~~ physician assistant may not issue any such
 2053 prescription drug or device order until a new job description delegating such authority is
 2054 submitted to and approved by the board. Nothing in this Code section shall be construed
 2055 to authorize the written prescription drug order of a Schedule I or II controlled substance.

2056 (2) Nothing in this subsection shall be construed to create a presumption of liability,
 2057 either civil or criminal, on the part of a pharmacist who is duly licensed under Title 26
 2058 and who in good faith fills a prescription drug or device order presented by a patient
 2059 pursuant to this subsection. The pharmacist shall presume that the prescription drug or
 2060 device order was issued by a ~~physician's~~ physician assistant duly licensed under this
 2061 ~~chapter article~~ who has qualified under this Code section to prescribe pharmaceutical
 2062 agents. The pharmacist shall also presume that the pharmaceutical agent prescribed by
 2063 the ~~physician's~~ physician assistant is an approved pharmaceutical agent, unless the
 2064 pharmacist has actual or constructive knowledge to the contrary.

2065 (3) The ~~physician's~~ physician assistant shall only be authorized to exercise the rights
 2066 granted under this subsection using a prescription drug or device order form which
 2067 includes the name, address, and telephone number of the prescribing supervising
 2068 physician, the patient's name and address, the drug or device prescribed, the number of
 2069 refills, and directions to the patient with regard to the taking and dosage of the drug.
 2070 Such form shall be signed by the ~~physician's~~ physician assistant using the following
 2071 language:

2072 This prescription authorized through: (the prescribing supervising physician) (M.D. or
 2073 D.O.) by ~~(the physician's assistant)~~ (the physician assistant) ~~PHYSICIAN'S~~
 2074 ~~ASSISTANT~~ PHYSICIAN ASSISTANT.

2075 The name of the prescribing supervising physician shall be handwritten in the appropriate
 2076 space by the ~~physician's~~ physician assistant on the prescription drug or device order form.
 2077 Any form containing less information than that described in this paragraph shall not be
 2078 offered to or accepted by any pharmacist who is duly licensed under Title 26.

2079 ~~(4) The physician's assistant shall inform the patient that the patient has the right to see~~
 2080 ~~the physician prior to any prescription drug or device order being carried out by the~~
 2081 ~~physician's assistant.~~

2082 ~~(5) Unless otherwise restricted by the board or a board approved job description, the~~
 2083 ~~physician's assistant shall not carry out a prescription drug or device order for more than~~
 2084 ~~a 30 day supply, except in cases of chronic illnesses where a 90 day supply may be~~
 2085 ~~ordered. The physician's assistant may authorize refills up to six months from the date~~
 2086 ~~of the original prescription drug or device order, provided, however, that refills may be~~

2087 ~~authorized up to 12 months from the date of the original prescription drug or device order~~
 2088 ~~for oral contraceptives or other drugs or devices approved by the board.~~

2089 ~~(4) Nothing in this Code section shall be construed to authorize a physician assistant to~~
 2090 ~~authorize refills of any drug for more than 12 months from the date of the original~~
 2091 ~~prescription drug or device order.~~

2092 ~~(6)(5) A supervising physician shall personally reevaluate evaluate or examine, at least~~
 2093 ~~every three months, any patient receiving controlled substances or, at least every six~~
 2094 ~~months, any patient receiving other prescription drugs or devices.~~

2095 ~~(7)(6) In addition to the copy of the prescription drug or device order delivered to the~~
 2096 ~~patient, a record of such prescription shall be maintained in the physician's office patient's~~
 2097 ~~medical record in the following manner:~~

2098 ~~(A) A copy of the prescription drug or device order shall be appended to or otherwise~~
 2099 ~~maintained in the patient's medical file The physician assistant carrying out a~~
 2100 ~~prescription drug or device order shall document such order either in writing or by~~
 2101 ~~electronic means; and~~

2102 ~~(B) The supervising physician shall countersign the prescription drug or device order~~
 2103 ~~copy or medical record entry for each prescription drug or device order within a~~
 2104 ~~reasonable time, not to exceed seven working days, unless such countersignature is~~
 2105 ~~required sooner by a specific regulation, policy, or requirement The supervising~~
 2106 ~~physician of a physician assistant who carries out a prescription drug or device order~~
 2107 ~~shall conduct a periodic review of the records of patients to whom a physician assistant~~
 2108 ~~issues a prescription drug or device order. Such review may be achieved with a~~
 2109 ~~sampling of such records as determined by the board.~~

2110 ~~(8)(7) A physician's physician assistant is not permitted to prescribe drugs or devices~~
 2111 ~~except as authorized in the physician's physician assistant's job description and in~~
 2112 ~~accordance with this chapter article.~~

2113 ~~(9)(8) The board shall may adopt any rules establishing:~~

2114 ~~(A) The content and use of prescription drug or device order forms;~~

2115 ~~(B) Procedures to evaluate an application for a job description containing the authority~~
 2116 ~~to carry out a prescription drug or device order;~~

2117 ~~(C) A formulary of prescription drugs or devices which may or may not be included~~
 2118 ~~in a job description;~~

2119 ~~(D) The maintenance and custody of records for prescription drug or device orders;~~

2120 ~~(E) A minimum of three continuing medical education hours biennially in practice~~
 2121 ~~specific pharmaceuticals in which the physician's assistant has prescriptive order~~
 2122 ~~privileges; and~~

2123 ~~(F)~~ Any other rules the board ~~may deem~~ deems necessary or appropriate to carry out
 2124 the intent and purpose of this Code section or to protect the public welfare.

2125 ~~(10)~~(9) Nothing in this Code section is intended to repeal any rules established by the
 2126 board relating to the requirements and duties of ~~physician's~~ physician assistants in remote
 2127 practice sites.

2128 (10) A physician assistant authorized by a primary supervising physician to order
 2129 controlled substances pursuant to this Code section is authorized to register with the
 2130 federal Drug Enforcement Administration.

2131 (11) A physician assistant delegated the authority by the primary supervising physician
 2132 to carry out a prescription drug or device order shall be required to complete a minimum
 2133 of three hours of continuing education biennially in practice specific pharmaceuticals in
 2134 which the physician assistant has prescriptive order privileges.

2135 (e.2) A ~~physician's~~ physician assistant shall be allowed to request, receive, and sign for
 2136 professional samples and may distribute professional samples to patients, pursuant to
 2137 authority delegated by the supervising physician of that ~~physician's~~ physician assistant.
 2138 Delegation of such authority shall be contained in the job description required by this Code
 2139 section; provided, however, the office or facility at which the ~~physician's~~ physician
 2140 assistant is working must maintain a list of professional samples approved by the
 2141 supervising physician for request, receipt, and distribution by the ~~physician's~~ physician
 2142 assistant as well as a complete list of the specific number and dosage of each professional
 2143 sample received and dispensed. In addition to the requirements of this Code section, all
 2144 professional samples shall be maintained as required by applicable state and federal law
 2145 and regulations. As used in this subsection, the term 'professional samples' means
 2146 complimentary doses of a drug, medication vouchers, or medical devices provided by the
 2147 manufacturer for use in patient care.

2148 (f) A physician employed by the Department of Human Resources or by any institution
 2149 thereof or by a local health department whose duties are administrative in nature and who
 2150 does not normally provide health care to patients as such employee shall not be authorized
 2151 to apply for or utilize the services of any ~~physician's~~ physician assistant employed by the
 2152 Department of Human Resources or by any institution thereof or by a local health
 2153 department.

2154 (g) Nothing in this article shall be construed to prohibit a ~~physician's~~ physician assistant
 2155 from performing those acts the performance of which have been delegated to that
 2156 ~~physician's~~ physician assistant pursuant to and in conformity with Code Section ~~43-34-26.1~~
 2157 43-34-24.

2158 (h) A physician and a ~~physician's~~ physician assistant may enter into a temporary practice
 2159 agreement exempt from any filing fees with the board by which agreement the physician

2160 supervises the services provided by the ~~physician's~~ physician assistant to patients at a
2161 specific facility or program operated by any organization exempt from federal taxes
2162 pursuant to Section 501(c)(3) of the federal Internal Revenue Code, provided that:

2163 (1) Such services are provided primarily to financially disadvantaged patients;

2164 (2) Such services are free or at a charge to the patient based solely on the patient's ability
2165 to pay and provided, further, that such charges do not exceed the actual cost to the facility
2166 or program;

2167 (3) The supervising physician and the ~~physician's~~ physician assistant voluntarily and
2168 gratuitously donate their services;

2169 (4) Prior to providing any patient services, a copy of the temporary practice agreement,
2170 signed by both the supervising physician and the ~~physician's~~ physician assistant, is on file
2171 at the facility or program and is sent to the board;

2172 (5) The temporary practice agreement is for a specified period of time, limits the services
2173 of the ~~physician's~~ physician assistant to those within the usual scope of practice of the
2174 supervising physician, and is signed by both the supervising physician and the ~~physician's~~
2175 physician assistant prior to the ~~physician's~~ physician assistant providing patient services;
2176 and

2177 (6) The facility or program has notified the board of its intent to provide patient services
2178 and utilize licensed physicians and ~~physician's~~ physician assistants under the conditions
2179 set out in this subsection.

2180 (i)(1) Notwithstanding any provision of this article to the contrary, a ~~physician's~~
2181 physician assistant licensed pursuant to this article or licensed, certified, or otherwise
2182 authorized to practice in any other state or federal jurisdiction and whose license,
2183 certification, or authorization is in good standing who responds to a need for medical care
2184 created by conditions which characterize those of a state of emergency or public health
2185 emergency may render such care that the ~~physician's~~ physician assistant is able to provide
2186 with such supervision as is available at the immediate scene or at the local site where
2187 such need for medical care exists or at a relief site established as part of a state or local
2188 safety plan established pursuant to Chapter 3 of Title 38. Such services shall be provided
2189 by a ~~physician's~~ physician assistant in response to the request of an appropriate state or
2190 local official implementing a state or local emergency management plan or program, and
2191 in accordance with applicable guidelines established by such officials or plans. The
2192 authority granted by this Code section shall last no longer than 48 hours or such time as
2193 the board may establish under guidelines for supervision of the ~~physician's~~ physician
2194 assistant rendering medical care.

2195 (2) For the purposes of this subsection, the term 'public health emergency' has the same
 2196 meaning as in paragraph (6) of Code Section 38-3-3, and the term 'state of emergency'
 2197 has the same meaning as in paragraph (7) of Code Section 38-3-3.

2198 (j) A physician assistant shall be allowed to make a pronouncement of death pursuant to
 2199 authority delegated by the supervising physician of the physician assistant and to certify
 2200 such pronouncement in the same manner as a physician.

2201 (k) It shall be unlawful for a physician to be an employee of a physician assistant, alone
 2202 or in combination with others, if the physician is required to supervise the physician
 2203 assistant; provided, however, that this shall not apply to arrangements of this nature which
 2204 were approved by the board on or before July 1, 2009. Such conduct shall be subject to
 2205 sanctions by the board as to the physician and the physician assistant.

2206 43-34-104.

2207 (a) Within a reasonable time after receipt of the documents required by ~~Code Section~~
 2208 ~~43-34-103~~ this article, the board shall give to the applicant written notice of approval or
 2209 disapproval of the physician assistant's application; ~~and, if approval of the application is~~
 2210 ~~given, the board shall issue to the assistant a license authorizing the assistant to perform~~
 2211 ~~medical tasks under the direction and supervision of the applying physician.~~

2212 (b) The board shall not approve an application unless it finds from the information
 2213 forwarded with the application that the ~~proposed physician's assistant is fully qualified to~~
 2214 ~~perform the tasks described in the job description and will be utilized in a manner that will~~
 2215 ~~not endanger the health and welfare of patients upon whom he may perform the described~~
 2216 ~~medical tasks~~ applicant has complied with the requirements in this article.

2217 43-34-105.

2218 On receipt of notice of the board's approval, a ~~physician's~~ physician assistant, under the
 2219 direction of the applying physician, may perform the tasks described in the job description,
 2220 provided that nothing in this Code section shall make unlawful the performance of a
 2221 medical task by the ~~physician's~~ physician assistant, whether or not such task is specified
 2222 in the general job description, when it is performed under the direct supervision and in the
 2223 presence of the physician utilizing him or her.

2224 43-34-106.

2225 Any physician, clinic, or hospital using a ~~physician's~~ physician assistant shall post a notice
 2226 to that effect in a prominent place.

2227 43-34-107.

2228 (a) The approval of a physician's utilization of a ~~physician's~~ physician assistant may be
 2229 terminated and the license revoked by the board when, after due notice and a hearing, in
 2230 accordance with this Code section, it shall find that the assistant is incompetent or has
 2231 committed unethical or immoral acts, including, but not limited to, holding himself or
 2232 herself out or permitting another to represent him or her as a licensed physician;
 2233 performing otherwise than at the direction of a physician approved by the board to utilize
 2234 the assistant's services; habitually using intoxicants or drugs to such an extent that he or she
 2235 is unable safely to perform as an assistant to the physician; or being convicted in any court,
 2236 state or federal, of any felony or other criminal offense involving moral turpitude.

2237 (b) Before the board shall give written notice to the ~~physician's~~ physician assistant of
 2238 termination of approval granted by it to an assistant, it will give to the assistant a timely
 2239 and reasonable written notice indicating the general nature of the charges, accusation, or
 2240 complaint preferred against him and stating that the assistant will be given an opportunity
 2241 to be heard concerning such charges or complaints; and it shall hold a public hearing within
 2242 a reasonable time. Following such hearing, the board shall determine, on the basis of its
 2243 regulations, whether the approval of the assistant shall be terminated.

2244 (c) In hearings held pursuant to this Code section, the board shall apply the rules of
 2245 evidence as prescribed in Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 2246 Act.'

2247 (d) The board may impose on a physician assistant any sanction authorized under
 2248 subsection (b) of Code Section 43-34-8 upon a finding of any conduct specified in
 2249 subsection (a) of Code Section 43-34-8.

2250 43-34-108.

2251 In addition to the powers specifically delegated to it in this article, the board shall have the
 2252 authority to perform all acts which are necessary, proper, or incidental to the efficient
 2253 development of the category of health care established by this article. The board shall have
 2254 the authority to promulgate rules and regulations governing the definitions of delegation
 2255 by physicians to qualified persons other than ~~physician's~~ physician assistants of any acts,
 2256 duties, or functions which are permitted by law or established by custom. Any power
 2257 vested by law in the board, but not implemented by specific provisions for the exercise
 2258 thereof, may be executed and carried out by the board in a reasonable manner, pursuant to
 2259 such rules, regulations, and procedures as the board may adopt and subject to such
 2260 limitations as may be provided by law.

2261

ARTICLE 5

2262 43-34-120.

2263 This article shall be known and may be cited as the 'Controlled Substances Therapeutic
2264 Research Act.'

2265 43-34-121.

2266 (a) The General Assembly finds and declares that the potential medicinal value of
2267 marijuana has received insufficient study due to a lack of financial incentives for the
2268 undertaking of appropriate research by private drug manufacturing concerns. Individual
2269 physicians cannot feasibly utilize marijuana in clinical trials because of federal
2270 governmental controls which involve expensive, time-consuming approval and monitoring
2271 procedures.

2272 (b) The General Assembly further finds and declares that limited studies throughout the
2273 nation indicate that marijuana and certain of its derivatives possess valuable and, in some
2274 cases, unique therapeutic properties, including the ability to relieve nausea and vomiting
2275 which routinely accompany chemotherapy and irradiation used to treat cancer patients.
2276 Marijuana also may be effective in reducing intraocular pressure in glaucoma patients who
2277 do not respond well to conventional medications.

2278 (c) The General Assembly further finds and declares that, in enabling individual
2279 physicians and their patients to participate in a state-sponsored program for the
2280 investigational use of marijuana and its derivatives, qualified physicians and surgeons
2281 throughout the state will be able to study the benefits of the drug in a controlled clinical
2282 setting, and additional knowledge will be gained with respect to dosage and effects.

2283 (d) It is the intent of the General Assembly in enacting this article to permit research into
2284 the therapeutic applications of marijuana and its derivatives in cancer and glaucoma
2285 patients. This would allow qualified physicians approved by the Patient Qualification
2286 Review Board created by Code Section 43-34-124 to provide the drug on a compassionate
2287 basis to seriously ill persons suffering from the severe side effects of chemotherapy or
2288 radiation treatment and to persons suffering from glaucoma who are not responding to
2289 conventional treatment, which persons would otherwise have no lawful access to it. It is
2290 the further intent of the General Assembly to facilitate clinical trials of marijuana and its
2291 derivatives, particularly with respect to persons suffering from cancer and glaucoma who
2292 would be benefited by use of the drug.

2293 (e) This article is limited to clinical trials and research into therapeutic applications of
2294 marijuana only for use in treating glaucoma and in treating the side effects of
2295 chemotherapeutic agents and radiation and should not be construed as either encouraging

2296 or sanctioning the social use of marijuana. Nothing in this article shall be construed to
 2297 encourage the use of marijuana in lieu of or in conjunction with other accepted medical
 2298 treatment, but only as an adjunct to such accepted medical treatment.

2299 43-34-122.

2300 As used in this article, the term:

2301 (1) ~~'Composite board'~~ 'Board' means the Georgia Composite State Medical Board of
 2302 Medical Examiners established pursuant to Article 2 of this chapter.

2303 (2) 'Marijuana' means marijuana or tetrahydrocannabinol, as defined or listed in Article
 2304 2 of Chapter 13 of Title 16.

2305 (3) 'Physician' means a person licensed to practice medicine pursuant to Article 2 of this
 2306 chapter.

2307 (4) 'Program' means the Controlled Substances Therapeutic Research Program
 2308 established pursuant to Code Section 43-34-123.

2309 (5) 'Review board' means the Patient Qualification Review Board established pursuant
 2310 to Code Section 43-34-124.

2311 43-34-123.

2312 (a) There is established under the Georgia Composite State Medical Board of Medical
 2313 Examiners the Controlled Substances Therapeutic Research Program, which shall be
 2314 administered by the ~~composite~~ board. Under the program, the ~~composite~~ board shall act as
 2315 a sponsor of state-wide investigational studies, utilizing as drug investigators individual
 2316 physicians who elect to participate in accordance with the guidelines and protocols
 2317 developed by the ~~composite~~ board. Such guidelines and protocols shall be designed to
 2318 ensure that stringent security and record-keeping requirements for research drugs are met
 2319 and that participants in the program meet those research standards necessary to establish
 2320 empirical bases for the evaluation of marijuana as a medically recognized therapeutic
 2321 substance. The ~~composite~~ board shall promulgate such rules and regulations as it deems
 2322 necessary or advisable to administer the program. In promulgating such guidelines,
 2323 protocols, rules, and regulations, the ~~composite~~ board shall take into consideration those
 2324 pertinent rules and regulations promulgated by the Federal Drug Enforcement Agency, the
 2325 Food and Drug Administration, and the National Institute on Drug Abuse.

2326 (b) The program shall be limited to patients who are certified to the ~~composite~~ board by
 2327 a physician as being:

2328 (1) Cancer patients involved in a life-threatening situation in which treatment by
 2329 chemotherapy or radiology has produced severe side effects; or

2330 (2) Glaucoma patients who are not responding to conventional controlled substances.

2331 (c) No patient may be admitted to the program without full disclosure by the physician of
 2332 the experimental nature of the program and of the possible risks and side effects of the
 2333 proposed treatment.

2334 (d) The cost of any blood test required by the federal Food and Drug Administration prior
 2335 to entrance into the program shall be paid by the patient seeking entrance into the program.

2336 (e) Only the following persons shall have access to the names and other identifying
 2337 characteristics of patients in the program for whom marijuana has been prescribed under
 2338 this article:

2339 (1) The ~~composite~~ board;

2340 (2) The review board created by Code Section 43-34-124;

2341 (3) The Attorney General or his or her designee;

2342 (4) Any person directly connected with the program who has a legitimate need for the
 2343 information; and

2344 (5) Any federal agency having responsibility for the program.

2345 43-34-124.

2346 (a) The ~~composite~~ board shall appoint the Patient Qualification Review Board. Each
 2347 member of the review board shall be approved for such membership by a majority vote of
 2348 the ~~composite~~ board and shall serve at the pleasure of the ~~composite~~ board. The review
 2349 board shall be composed of:

2350 (1) A board certified physician in ophthalmology;

2351 (2) A board certified physician in surgery;

2352 (3) A board certified physician in internal medicine and medical oncology;

2353 (4) A board certified physician in psychiatry;

2354 (5) A board certified physician in radiology; and

2355 (6) A pharmacist licensed under Chapter 4 of Title 26, relating to pharmacists, pharmacy,
 2356 and drugs.

2357 (b) The review board shall elect from its members a ~~chairman~~ chairperson and a
 2358 ~~vice-chairman~~ vice chairperson. The review board shall hold regular meetings at least once
 2359 every 60 days and shall meet at such additional times as shall be called by the ~~chairman~~
 2360 chairperson of the review board or the ~~president~~ chairperson of the ~~composite~~ board. Each
 2361 member of the review board shall receive for services for each day's attendance upon
 2362 meetings of such board the same amount authorized by law for members of the General
 2363 Assembly for attendance upon meetings of the General Assembly.

2364 (c) The ~~composite~~ board shall adopt such rules and regulations as it deems necessary for
 2365 the performance of the duties of the review board.

2366 (d) The review board shall review all patient applicants for the program and their
 2367 physicians and shall certify those qualified for participation in the program. The review
 2368 board shall additionally certify pharmacies which are licensed by the state and which are
 2369 otherwise qualified and certify physicians regarding the distribution of marijuana pursuant
 2370 to Code Section 43-34-125. Meetings of the review board to certify patients, physicians,
 2371 or pharmacies shall not be open to the public, as otherwise required by Chapter 14 of
 2372 Title 50.

2373 43-34-125.

2374 (a) The ~~composite~~ board shall apply to contract with the National Institute on Drug Abuse
 2375 for receipt of marijuana pursuant to this article and pursuant to regulations promulgated by
 2376 the National Institute on Drug Abuse, the Food and Drug Administration, and the Federal
 2377 Drug Enforcement Agency.

2378 (b) The ~~composite~~ board shall cause marijuana approved for use in the program to be
 2379 transferred to a certified pharmacy, licensed by the state, for distribution to the certified
 2380 patient by a licensed pharmacist upon a written order for research medication of the
 2381 certified physician, pursuant to this article. Any reasonable costs incurred by the ~~composite~~
 2382 board in obtaining or testing marijuana shall be charged to participating physicians who
 2383 may seek reimbursement from their research subjects utilizing the marijuana.

2384 43-34-126.

2385 Patient participants in the program are immune from state prosecution for possession of
 2386 marijuana as authorized by this article and under the program established in this article. A
 2387 person authorized under this program shall not possess an amount of marijuana in excess
 2388 of the amount prescribed under the authority of this article. The amount prescribed shall
 2389 be maintained in the container in which it was placed at the time the prescription was filled.
 2390 Physician, pharmacy, and pharmacist participants in the program are immune from state
 2391 prosecution for possession, distribution, and any other use of marijuana, which use is
 2392 authorized such persons by this article. Any such possession, distribution, or other use not
 2393 authorized by this article shall be enforced and punished as provided in Chapter 13 of Title
 2394 16, relating to controlled substances and dangerous drugs, and Chapter 4 of Title 26,
 2395 relating to pharmacists and pharmacies.

2396 ARTICLE 6

2397 43-34-140.

2398 This article shall be known and may be cited as the 'Respiratory Care Practices Act.'

2399 43-34-141.

2400 The General Assembly finds and declares that the practice of respiratory care in Georgia
2401 affects the public health, safety, and welfare and that it is necessarily a proper subject of
2402 regulation and control.

2403 43-34-142.

2404 As used in this article, the term:

2405 (1) 'Board' means the Georgia Composite State Medical Board of Medical Examiners as
2406 ~~created by Code Section 43-34-21.~~

2407 (2) 'Respiratory care' means the rendering of services to patients with deficiencies or
2408 abnormalities which affect the pulmonary and cardiac systems and which services
2409 involve therapy, management, rehabilitation, diagnostic evaluation, education, or care of
2410 such patients with regard to such deficiencies or abnormalities.

2411 (3) 'Respiratory care professional' means any person certified under this article to
2412 practice respiratory care.

2413 43-34-143.

2414 The board, in consultation with the advisory committee, shall have the power and
2415 responsibility to:

2416 (1) Determine the qualifications and fitness of applicants for certification, renewal of the
2417 certificate, and reciprocal certification;

2418 (2) Adopt and revise rules consistent with the laws of the State of Georgia that are
2419 necessary to conduct its business, carry out its duties, and administer this article;

2420 (3) Examine for, approve, issue, deny, revoke, suspend, and renew the certification of
2421 respiratory care professional applicants and certificate holders under this article and
2422 conduct hearings in connection with these actions;

2423 (4) Conduct hearings on complaints concerning violations of this article and the rules
2424 adopted under this article and cause the prosecution and enjoinder of the violations;

2425 (5) Establish application, examination, and certification fees;

2426 (6) Request and receive the assistance of state educational institutions or other state
2427 agencies;

2428 (7) Prepare information of consumer interest describing the regulatory functions of the
2429 board and describing the procedures by which consumer complaints are filed with and
2430 resolved by the board. The board shall make the information available to the general
2431 public and appropriate state agencies; and

2432 (8) Establish continuing education requirements.

2433 ~~43-34-144.~~

2434 ~~The board shall, upon application and payment of fees, issue a certification to perform~~
 2435 ~~respiratory care to persons who are not certified under this article but who were practicing~~
 2436 ~~respiratory care in this state on April 27, 1993, upon written evidence of such practice~~
 2437 ~~verified under oath. Such persons shall complete their application for certification no later~~
 2438 ~~than 18 months following April 27, 1993. A person granted a certification under this Code~~
 2439 ~~section shall be subject to the other provisions of this article relating to persons granted~~
 2440 ~~such certifications under Code Section 43-34-145, including but not limited to continuing~~
 2441 ~~education requirements.~~

2442 ~~43-34-145~~ 43-34-144.

2443 (a) Each applicant for certification as a respiratory care professional shall meet the
 2444 following requirements:

2445 (1) Is at least 18 years of age;

2446 (2) Has submitted a completed application as required by the board;

2447 (3) Has submitted any fees required by the board;

2448 (4) Has successfully passed the entry level examination given by the National Board for
 2449 Respiratory Care, Inc., or such other examination as the board may in its discretion
 2450 administer or approve; and

2451 (5) Has met such other requirements as may be prescribed by the board.

2452 (b) In addition to the requirements specified in subsection (a) of this Code section, each
 2453 applicant for certification under this ~~chapter~~ article shall be working under the supervision
 2454 or direction of a person licensed under Article 2 of this chapter and shall, in order to
 2455 maintain certification, continue to work under the supervision or direction of a person
 2456 licensed under Article 2 of this chapter.

2457 ~~43-34-146~~ 43-34-145.

2458 After evaluation of an application and other evidence submitted, the board shall notify each
 2459 applicant that the application and evidence submitted are satisfactory and accepted or
 2460 unsatisfactory and rejected. If rejected, the notice shall state the reasons for the rejection.

2461 ~~43-34-147~~ 43-34-146.

2462 (a) Any document evidencing certification issued by the board is the property of the board
 2463 and must be surrendered on demand.

2464 (b) The certificate holder shall display the document evidencing certification in an
 2465 appropriate and public manner.

2466 (c) The certificate holder shall inform the board of any change of his address.

2467 (d) The certificate shall be renewed biennially if the certificate holder is not in violation
 2468 of this article at the time of application for renewal and if the applicant fulfills current
 2469 requirements of continuing education as established by the board.

2470 (e) Each person certified under this article is responsible for renewing his or her certificate
 2471 before the expiration date.

2472 (f) Under procedures and conditions established by the board, a certificate holder may
 2473 request that his or her certification be declared inactive. The certificate holder may apply
 2474 for active status at any time and upon meeting the conditions set by the board shall be
 2475 declared active.

2476 (g) The board shall be authorized to:

2477 (1) Require persons seeking renewal of certification as respiratory care professionals
 2478 under this article to complete board approved continuing education;

2479 (2) Establish the number of hours of continuing education to be completed as well as the
 2480 categories in which the continuing education is to be completed; and

2481 (3) Approve courses offered by institutions of higher learning, specialty societies, or
 2482 professional organizations.

2483 ~~43-34-147.1~~ 43-34-147.

2484 Upon payment of a fee determined by the board, a temporary permit may be issued to
 2485 practice respiratory care ~~for a period of:~~

2486 (1) ~~Twelve~~ For a period of 12 months to an applicant for certification under Code
 2487 Section ~~43-34-147.2~~ 43-34-148 providing that applicant presents written evidence
 2488 verified by oath that the applicant was certified, licensed, or practicing respiratory care
 2489 within the last 12 months in another state; or

2490 (2) ~~Eighteen months to~~ To a person who is a graduate of an accredited respiratory
 2491 therapy program accredited by the Commission on Accreditation of Allied Health
 2492 Education Programs, or the equivalent thereof as accepted by the board, pending
 2493 completion of the other requirements for certification under this article.

2494 ~~43-34-147.2~~ 43-34-148.

2495 An individual who has been granted certification, registration, licensure, or other authority
 2496 by whatever name known to practice respiratory care in another state having requirements
 2497 for such authority to practice which are substantially equal to or which exceed the
 2498 requirements for a similar certificate in this state may petition the board for reciprocity in
 2499 this state and, upon submission of an application and requisite fees and upon verification
 2500 by oath and submission of evidence acceptable to the board, may be granted a certificate
 2501 to practice respiratory care in Georgia.

2502 ~~43-34-148; 43-34-149.~~

2503 (a) The board, in consultation with the advisory committee, may: impose on a respiratory
 2504 care professional any sanction authorized under subsection (b) of Code Section 43-34-8
 2505 upon a finding of any conduct specified in subsection (a) of Code Section 43-34-8.

2506 ~~(1) Refuse to grant or renew certification to an applicant;~~

2507 ~~(2) Administer a public or private reprimand, but a private reprimand shall not be~~
 2508 ~~disclosed to any person except the certificate holder;~~

2509 ~~(3) Suspend the certificate of any certificate holder for a definite period or for an~~
 2510 ~~indefinite period in connection with any condition which may be attached to the~~
 2511 ~~restoration of said certificate;~~

2512 ~~(4) Limit or restrict any certificate as the board deems necessary for the protection of the~~
 2513 ~~public;~~

2514 ~~(5) Revoke any certificate;~~

2515 ~~(6) Levy a fine; and~~

2516 ~~(7) Condition any penalty or withhold formal disposition of any matter pending the~~
 2517 ~~applicant's or certificate holder's submission to such care, counseling, or treatment as the~~
 2518 ~~board may direct.~~

2519 ~~(b) The board may take any action specified in subsection (a) of this Code section upon~~
 2520 ~~a finding by the board that the certificate holder or applicant has:~~

2521 ~~(1) Failed to demonstrate the qualifications or standards for certification contained in this~~
 2522 ~~Code section, or under the laws, rules, or regulations under which certification is sought~~
 2523 ~~or held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the~~
 2524 ~~board that he meets all the requirements for certification, and, if the board is not satisfied~~
 2525 ~~as to the applicant's qualifications, it may deny certification without a prior hearing;~~
 2526 ~~provided, however, that the applicant shall be allowed to appear before the board if he so~~
 2527 ~~desires;~~

2528 ~~(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the~~
 2529 ~~practice of a business or profession certified under this title or on any document~~
 2530 ~~connected therewith, or practiced fraud or deceit or intentionally made any false~~
 2531 ~~statement in obtaining certification to practice a certified business or profession, or made~~
 2532 ~~a false statement or deceptive registration with the board;~~

2533 ~~(3) Been convicted of any felony or of any crime involving moral turpitude in the courts~~
 2534 ~~of this state or any other state, territory, or country or in the courts of the United States.~~
 2535 ~~As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall~~
 2536 ~~include any offense which, if committed in this state, would be deemed a felony, without~~
 2537 ~~regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'~~

2538 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
 2539 appeal of the conviction has been sought;

2540 (4) ~~Been arrested, charged, and sentenced for the commission of any felony or any crime~~
 2541 ~~involving moral turpitude where:~~

2542 (A) ~~A plea of nolo contendere was entered to the charge;~~
 2543 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 2544 ~~granted; or~~

2545 (C) ~~An adjudication or sentence was otherwise withheld or not entered on the charge.~~
 2546 ~~The plea of nolo contendere or the order entered pursuant to the provisions of Article 3~~
 2547 ~~of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender~~
 2548 ~~treatment shall be conclusive evidence of arrest and sentencing for such crime;~~

2549 (5) ~~Had his certificate under this article revoked, suspended, or annulled by any lawful~~
 2550 ~~authority other than the board; or had other disciplinary action taken against him by any~~
 2551 ~~such lawful authority other than the board; or was refused the renewal of certification by~~
 2552 ~~any such lawful authority other than the board, pursuant to disciplinary proceedings;~~

2553 (6) ~~Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct~~
 2554 ~~or practice harmful to the public, which conduct or practice materially affects the fitness~~
 2555 ~~of the certificate holder or applicant to practice a business or profession certified under~~
 2556 ~~this article, or of a nature likely to jeopardize the interest of the public, which conduct or~~
 2557 ~~practice need not have resulted in actual injury to any person or be directly related to the~~
 2558 ~~practice of the certified business or profession but shows that the certificate holder or~~
 2559 ~~applicant has committed any act or omission which is indicative of bad moral character~~
 2560 ~~or untrustworthiness. Unprofessional conduct shall include any departure from, or the~~
 2561 ~~failure to conform to, the minimal standards of acceptable and prevailing practice of the~~
 2562 ~~business or profession certified under this article;~~

2563 (7) ~~Knowingly performed any act which in any way aids, assists, procures, advises, or~~
 2564 ~~encourages any uncertified person or any certificate holder whose certificate has been~~
 2565 ~~suspended or revoked by the board to engage in any practice outside the scope of any~~
 2566 ~~disciplinary limitation placed upon the certificate holder by the board;~~

2567 (8) ~~Violated, without regard to whether the violation is criminally punishable, a statute,~~
 2568 ~~law, or any rule or regulation of this state, any other state, the professional licensing~~
 2569 ~~board regulating the business or profession licensed under this title, the United States, or~~
 2570 ~~any other lawful authority, which statute, law, or rule or regulation relates to or in part~~
 2571 ~~regulates the practice of a business or profession certified under this article, when the~~
 2572 ~~certificate holder or applicant knows or should know that such action is violative of such~~
 2573 ~~statute, law, or rule; or violated a lawful order of the board previously entered by the~~
 2574 ~~board in a disciplinary hearing, consent decree, or certification reinstatement;~~

2575 ~~(9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or~~
 2576 ~~outside this state. Any such adjudication shall automatically suspend the license of any~~
 2577 ~~such person and shall prevent the reissuance or renewal of any license so suspended for~~
 2578 ~~as long as the adjudication of incompetence is in effect; or~~

2579 ~~(10) Displayed an inability to practice a business or profession certified under this article~~
 2580 ~~with reasonable skill and safety to the public or has become unable to practice the~~
 2581 ~~certified business or profession with reasonable skill and safety to the public by reason~~
 2582 ~~of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material.~~

2583 ~~43-34-149.~~ 43-34-150.

2584 The board shall appoint a respiratory care advisory committee. The committee shall be
 2585 composed of persons engaged in the practice of respiratory therapy, persons licensed under
 2586 Article 2 of this chapter who specialize or are board certified in pulmonary medicine, and
 2587 such members as the board at its discretion may determine. Members shall receive no
 2588 compensation for service on the committee. The committee shall have such advisory duties
 2589 and responsibilities as the board may determine.

2590 ~~43-34-150.~~ 43-34-151.

2591 (a) Unless certified under this article or exempted under subsection (b) of this Code
 2592 section, no person shall:

2593 (1) Practice respiratory care; or

2594 (2) Represent himself or herself to be a respiratory care professional who is certified
 2595 under this article.

2596 (b) The prohibition in subsection (a) of this Code section does not apply to:

2597 (1) The delivery of respiratory care by health care personnel who have been formally
 2598 trained in these modalities and who are duly licensed to provide that care under any other
 2599 provision of this title;

2600 (2) The practice of respiratory care which is an integral part of the program of study by
 2601 students enrolled in a respiratory care education program recognized by the Joint Review
 2602 Committee for Respiratory Therapy Education and the American Medical Association
 2603 Committee on Allied Health Education and Accreditation (CAHEA) or the equivalent
 2604 thereof as accepted by the board. Students enrolled in respiratory therapy education
 2605 programs shall be identified as 'student-RCP' and shall only provide respiratory care
 2606 under direct clinical supervision;

2607 (3) Self-care by a patient or gratuitous care by a friend or family member who does not
 2608 represent or hold himself or herself out to be a respiratory care professional;

2609 (4) Respiratory care services rendered in the course of an emergency or disaster;

- 2610 (5) Persons in the military services or working in federal facilities when functioning in
 2611 the course of their assigned duties;
- 2612 (6) The performance of respiratory care diagnostic testing by individuals who are
 2613 certified or registered as pulmonary function ~~technologist~~ technologists by the National
 2614 Board for Respiratory Care, or equivalent certifying agency, as recognized by the board;
- 2615 (7) The delivery, assembly, setup, testing, and demonstration of oxygen and aerosol
 2616 equipment upon the order of a physician licensed under Article 2 of this chapter; or
- 2617 (8) Persons who perform limited respiratory care procedures under the supervision of a
 2618 certified respiratory care professional in a hospital or nursing home when the board has
 2619 defined the competencies required to perform such limited respiratory care procedures.
- 2620 (c) Any person violating the prohibition of subsection (a) of this Code section shall be
 2621 guilty of a misdemeanor.
- 2622 (d) Practitioners regulated under this article shall be covered pursuant to Code Section
 2623 51-1-29.
- 2624 (e) Nothing in this article shall be construed to permit the practice of medicine as defined
 2625 by this chapter.

2626 ~~43-34-151.~~ 43-34-152.

2627 Proceedings under this article shall be governed by Chapter 13 of Title 50, the 'Georgia
 2628 Administrative Procedure Act.'

2629 **ARTICLE 7**

2630 43-34-170.

2631 This article shall be known and may be cited as the 'Clinical Perfusionist Licensure Act.'

2632 43-34-171.

2633 As used in this article, the term:

2634 (1) 'Advisory committee' means the committee appointed pursuant to Code Section
 2635 43-34-180.

2636 (2) 'Board' means the Georgia Composite State Medical Board of Medical Examiners
 2637 ~~created by Code Section 43-34-21.~~

2638 (3) 'Extracorporeal circulation' means the diversion of a patient's blood through a
 2639 heart-lung machine or a similar device that assumes the function of the patient's heart,
 2640 lungs, kidneys, liver, or other organ.

2641 (4) 'License' means a license to practice as a licensed clinical perfusionist or provisional
 2642 licensed clinical perfusionist.

- 2643 (5) 'Licensed clinical perfusionist' means a person licensed as such pursuant to this
2644 article.
- 2645 (6) 'Perfusion' means the functions necessary for the support, treatment, measurement,
2646 or supplementation of the cardiovascular, circulatory, or respiratory system or other
2647 organ, or a combination of such activities, and to ensure the safe management of
2648 physiologic functions by monitoring and analyzing the parameters of the systems under
2649 the order and supervision of a physician, including, but not limited to:
- 2650 (A) The use of extracorporeal circulation; long-term cardiopulmonary support
2651 techniques, including extracorporeal carbon dioxide removal and extracorporeal
2652 membrane oxygenation; and associated therapeutic and diagnostic technologies;
- 2653 (B) Counterpulsation, ventricular assistance, autotransfusion, blood conservation
2654 techniques, myocardial and organ preservation, extracorporeal life support, and isolated
2655 limb perfusion;
- 2656 (C) The use of techniques involving blood management, advanced life support, and
2657 other related functions;
- 2658 (D) In the performance of the acts described in subparagraphs (A) through (C) of this
2659 paragraph:
- 2660 (i) The administration of:
- 2661 (I) Pharmacological and therapeutic agents; or
2662 (II) Blood products or anesthetic agents through the extracorporeal circuit or
2663 through an intravenous line as ordered by a physician; or
- 2664 (ii) The performance and use of:
- 2665 (I) Coagulation monitoring and analysis;
2666 (II) Physiologic monitoring and analysis;
2667 (III) Blood gas and chemistry monitoring and analysis;
2668 (IV) Hematological monitoring and analysis;
2669 (V) Hypothermia and hyperthermia;
2670 (VI) Hemoconcentration and hemodilution; and
2671 (VII) Hemodialysis; and
- 2672 (E) The observation of signs and symptoms related to perfusion services, the
2673 determination of whether the signs and symptoms exhibit abnormal characteristics, and
2674 the implementation of appropriate reporting, clinical perfusion protocols, or changes
2675 in, or the initiation of, emergency procedures.
- 2676 (7) 'Perfusion protocols' means perfusion related policies and protocols developed or
2677 approved by a licensed health care facility or a physician through collaboration with
2678 administrators, licensed clinical perfusionists, and other health care professionals.

2679 (8) 'Physician' means a person licensed to practice medicine under Article 2 of this
2680 chapter.

2681 (9) 'Provisional licensed clinical perfusionist' means a person provisionally licensed
2682 pursuant to this article.

2683 43-34-172.

2684 The board, in consultation with the advisory committee, shall have the power and
2685 responsibility to:

2686 (1) Determine the qualifications and fitness of applicants for licensure and renewal of
2687 licensure;

2688 (2) Adopt and revise rules consistent with the laws of this state that are necessary to
2689 conduct its business, carry out its duties, and administer this article;

2690 (3) Examine for, approve, issue, deny, revoke, suspend, sanction, and renew the licenses
2691 of board applicants for licensure as licensed clinical perfusionists and provisional
2692 licensed clinical perfusionists under this article and conduct hearings in connection with
2693 these actions;

2694 (4) Conduct hearings on complaints concerning violations of this article and the rules
2695 adopted under this article and cause the prosecution and enjoinder of the violations;

2696 (5) Establish application, examination, and licensure fees;

2697 (6) Request and receive the assistance of state educational institutions or other state
2698 agencies and prepare information of consumer interest describing the regulatory
2699 functions of the board and the procedures by which consumer complaints are filed with
2700 and resolved by the board. The board shall make the information available to the public
2701 and appropriate state agencies; and

2702 (7) Establish education, examination, and continuing education requirements.

2703 43-34-173.

2704 (a) Except as otherwise provided in subsection (b) of this Code section, each applicant for
2705 a license to practice as a licensed clinical perfusionist shall meet the following
2706 requirements:

2707 (1) Be at least 21 years of age;

2708 (2) Submit a completed application required by the board;

2709 (3) Submit any fees required by the board;

2710 (4) Have successfully completed a perfusion education program approved by the board,
2711 which program has educational standards at least as stringent as programs approved by
2712 the Committee on Allied Health Education and Accreditation (CAHEA) prior to 1994 or

2713 the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or
2714 its successor;

2715 (5) Pass a competency examination prepared or approved by the board and administered
2716 to qualified applicants at least once each calendar year, which examination may be or
2717 may include the complete examination given by the American Board of Cardiovascular
2718 Perfusion (ABCP) or its successor; and

2719 (6) Have met such other requirements as may be prescribed by the board.

2720 ~~(b) Notwithstanding the provisions of subsection (a) of this Code section, a person may~~
2721 ~~apply to the board before January 1, 2003, and be granted a license as a licensed clinical~~
2722 ~~perfusionist upon satisfactory proof that the person was operating cardiopulmonary bypass~~
2723 ~~systems during cardiac surgical cases in a licensed health care facility as the person's~~
2724 ~~primary function for at least six of those eight years immediately preceding the date of~~
2725 ~~application.~~

2726 (b) The executive director, with the approval of the chairperson of the board, may in his
2727 or her discretion issue a temporary license to an applicant, which license shall have the
2728 same force and effect as a permanent license until the next regular meeting of the board at
2729 which time the temporary license shall become void.

2730 43-34-174.

2731 (a) A license is not the property of the holder but is the property of the board. A license
2732 to practice perfusion is valid for two years. The board may provide that licenses expire on
2733 various dates. A person may renew an unexpired license by submitting proof of current
2734 certification by the American Board of Cardiovascular Perfusion (ABCP) or its successor
2735 and compliance with the continuing professional education requirements prescribed by the
2736 board and paying the required renewal fee to the board before the expiration date of the
2737 license.

2738 (b) The license holder must:

2739 (1) Display the license in an appropriate and public manner; or

2740 (2) Maintain on file at all times during which the license holder provides services in a
2741 health care facility a true and correct copy of the license certificate in the appropriate
2742 records of the facility and keep the board informed of any change of address.

2743 (c) A license issued by the board is the property of the board and shall be surrendered on
2744 demand.

2745 (d) Each person licensed under this article shall be responsible for renewing his or her
2746 license before the expiration date.

2747 (e) If a person's license has been expired for not more than ~~two years~~ three months, the
2748 person may renew the license by submitting proof, satisfactory to the board, of compliance

2749 with the continuing professional education requirements prescribed by the board and any
2750 penalty fee prescribed by the board.

2751 (f) If a person's license has been expired for more than ~~two years~~ three months, the person
2752 may not renew the license. The person may obtain a new license by submitting to
2753 reexamination and complying with the current requirements and procedures for obtaining
2754 a license.

2755 (g) The board may ~~renew~~ reinstate without reexamination an expired license of a person
2756 who was licensed in this state, moved to another state or states, is currently licensed or
2757 certified, and has been in practice in another state or states for two years immediately
2758 preceding the person's application to ~~renew~~ reinstate a license. The person shall pay the
2759 required fee as established by the board.

2760 43-34-175.

2761 (a) A license as a provisional licensed clinical perfusionist may be issued by the board to
2762 a person who submits to the board evidence of having successfully completed an approved
2763 perfusion education program required for licensure under Code Section 43-34-173 and
2764 upon the filing of an application and payment of the application fee.

2765 (b) A provisional licensed clinical perfusionist shall be under the supervision and direction
2766 of a licensed clinical perfusionist at all times during which the provisional licensed clinical
2767 perfusionist performs perfusion. The board may promulgate rules governing such
2768 supervision and direction but shall not require the immediate physical presence of the
2769 supervising licensed clinical perfusionist.

2770 (c) A provisional license shall be valid for two years from the date it is issued and may not
2771 be renewed. The provisional licensee must comply with all of the requirements for
2772 licensure under Code Section 43-34-173 prior to the expiration of the two-year provisional
2773 license period. A provisional licensee may submit an application for licensure as a licensed
2774 clinical perfusionist once he or she has complied with all of the requirements for licensure
2775 under Code Section 43-34-173.

2776 (d) If a person fails to meet the requirements for licensure under Code Section 43-34-173
2777 on or before the expiration of the two-year provisional license period, such person's
2778 provisional license shall be automatically revoked and surrendered to the board.

2779 43-34-176.

2780 On receipt of an application and application fee, the board may waive the examination and
2781 educational requirements for an applicant who at the time of application:

2782 (1) Is appropriately licensed or certified in another state, territory, or possession whose
 2783 requirements for the license or certificate are substantially equal to the requirements of
 2784 this article; or

2785 (2) Holds a current certificate as a certified clinical perfusionist issued by the American
 2786 Board of Cardiovascular Perfusion (ABCP) or its successor.

2787 43-34-177.

2788 (a) A person may not engage or offer to engage in perfusion or use the title or represent
 2789 or imply that the person has the title of 'licensed clinical perfusionist' or 'provisional
 2790 licensed clinical perfusionist' or use the letters 'L.C.P.' or 'P.L.C.P.' and may not use any
 2791 facsimile of such titles in any manner to indicate or imply that the person is a licensed
 2792 clinical perfusionist or provisional licensed clinical perfusionist unless the person holds an
 2793 appropriate license issued pursuant to this article or is exempted under the provisions of
 2794 Code Section 43-34-178.

2795 (b) A person may not use the title or represent or imply that such person has the title
 2796 'certified clinical perfusionist' or use the letters 'C.C.P.' and may not use any facsimile of
 2797 such title in any manner to indicate or imply that such person is a certified clinical
 2798 perfusionist certified by the American Board of Cardiovascular Perfusion (ABCP) unless
 2799 the person holds a certificate as a certified clinical perfusionist issued by the American
 2800 Board of Cardiovascular Perfusion (ABCP).

2801 (c) Any person who violates the provisions of subsection (a) or (b) of this Code section
 2802 shall be guilty of a misdemeanor.

2803 43-34-178.

2804 (a) The provisions of Code Section 43-34-177 shall not apply to:

2805 (1) A person licensed as a physician pursuant to Article 2 of this chapter;

2806 (2) A person licensed under this title as a registered professional nurse or a licensed
 2807 ~~physician's~~ physician assistant or certified as a respiratory care professional under this
 2808 title if:

2809 (A) The person does not represent to the public, directly or indirectly, that the person
 2810 is licensed pursuant to this article and does not use any name, title, or designation
 2811 indicating that he or she is licensed pursuant to this article; and

2812 (B) The person limits his or her acts or practice to the scope of practice authorized by
 2813 the appropriate licensing agency;

2814 (3) Any person performing autotransfusion who possesses appropriate training and
 2815 practices within the guidelines of the American Association of Blood Banks under the

2816 supervision of a perfusionist licensed under this article or a physician licensed under
 2817 Article 2 of this chapter;

2818 (4) A student enrolled in an accredited perfusion education program if the perfusion
 2819 services performed are:

2820 (A) An integral part of the student's course of study; and

2821 (B) Performed under the direct supervision of a licensed clinical perfusionist who is
 2822 assigned to supervise the student and is on duty and immediately available in the
 2823 assigned patient care area;

2824 (5) The practice of any legally qualified perfusionist employed by the United States
 2825 government while in the discharge of his or her official duties; or

2826 (6) A person working as a dialysis care technician in an end stage renal disease facility
 2827 licensed pursuant to Chapter 44 of Title 31 or a licensed hospital.

2828 (b) Any person violating ~~the prohibition of~~ subsection (a) of this Code section shall be
 2829 guilty of a felony.

2830 43-34-179.

2831 ~~(a) The board, in consultation with the advisory committee, may: impose on a licensed~~
 2832 ~~clinical perfusionist or a provisional licensed clinical perfusionist any sanction authorized~~
 2833 ~~under subsection (b) of Code Section 43-34-8 upon a finding of any conduct specified in~~
 2834 ~~subsection (a) of Code Section 43-34-8.~~

2835 ~~(1) Refuse to grant or renew licensure to an applicant;~~

2836 ~~(2) Administer a public or private reprimand, but a private reprimand shall not be~~
 2837 ~~disclosed to any person except the license holder;~~

2838 ~~(3) Suspend the license of any license holder for a definite period or for an indefinite~~
 2839 ~~period in connection with any condition which may be attached to the restoration of such~~
 2840 ~~license;~~

2841 ~~(4) Limit or restrict any license as the board deems necessary for the protection of the~~
 2842 ~~public;~~

2843 ~~(5) Revoke any license;~~

2844 ~~(6) Levy a fine; and~~

2845 ~~(7) Condition any penalty or withhold formal disposition of any matter pending the~~
 2846 ~~applicant's or license holder's submission to such care, counseling, or treatment as the~~
 2847 ~~board may direct.~~

2848 ~~(b) The board may take any action specified in subsection (a) of this Code section upon~~
 2849 ~~a finding by the board that the license holder or applicant has:~~

2850 ~~(1) Failed to demonstrate the qualifications or standards for licensure contained in this~~
 2851 ~~article or under the laws, rules, or regulations under which licensure is sought or held.~~

2852 ~~The applicant shall demonstrate to the satisfaction of the board that he or she meets all~~
 2853 ~~the requirements for licensure, and, if the board is not satisfied as to the applicant's~~
 2854 ~~qualifications, it may deny licensure without a prior hearing, provided, however, that the~~
 2855 ~~applicant shall be allowed to appear before the board if he or she so desires;~~
 2856 ~~(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the~~
 2857 ~~practice of a business or profession licensed under this title or on any document~~
 2858 ~~connected therewith; practiced fraud or deceit or intentionally made any false statement~~
 2859 ~~in obtaining licensure to practice a licensed business or profession; or made a false~~
 2860 ~~statement or deceptive registration with the board;~~
 2861 ~~(3) Been convicted of any felony or of any crime involving moral turpitude in the courts~~
 2862 ~~of this state or any other state, territory, or country or in the courts of the United States.~~
 2863 ~~As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall~~
 2864 ~~include any offense which, if committed in this state, would be deemed a felony, without~~
 2865 ~~regard to its designation elsewhere; and as used in this paragraph, the term 'conviction'~~
 2866 ~~shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an~~
 2867 ~~appeal of the conviction has been sought;~~
 2868 ~~(4) Been arrested, charged, and sentenced for the commission of any felony or any crime~~
 2869 ~~involving moral turpitude where:~~
 2870 ~~(A) A plea of nolo contendere was entered to the charge;~~
 2871 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~
 2872 ~~granted; or~~
 2873 ~~(C) An adjudication or sentence was otherwise withheld or not entered on the charge.~~
 2874 ~~The plea of nolo contendere or the order entered pursuant to the provisions of Article 3~~
 2875 ~~of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender~~
 2876 ~~treatment shall be conclusive evidence of arrest and sentencing for such crime;~~
 2877 ~~(5) Had his or her license under this article revoked, suspended, or annulled by any~~
 2878 ~~lawful authority other than the board; had other disciplinary action taken against him or~~
 2879 ~~her by any such lawful authority other than the board; or was refused the renewal of~~
 2880 ~~licensure by any such lawful authority other than the board, pursuant to disciplinary~~
 2881 ~~proceedings;~~
 2882 ~~(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct~~
 2883 ~~or practice harmful to the public, which conduct or practice materially affects the fitness~~
 2884 ~~of the license holder or applicant to practice a business or profession licensed under this~~
 2885 ~~article, or of a nature likely to jeopardize the interest of the public, which conduct or~~
 2886 ~~practice need not have resulted in actual injury to any person or be directly related to the~~
 2887 ~~practice of the licensed business or profession but shows that the license holder or~~
 2888 ~~applicant has committed any act or omission which is indicative of bad moral character~~

2889 ~~or untrustworthiness. Unprofessional conduct shall include any departure from, or the~~
 2890 ~~failure to conform to, the minimal standards of acceptable and prevailing practice of the~~
 2891 ~~business or profession licensed under this article;~~

2892 ~~(7) Knowingly performed any act which in any way aids, assists, procures, advises, or~~
 2893 ~~encourages any unlicensed person or any license holder whose license has been~~
 2894 ~~suspended or revoked by the board to engage in any practice outside the scope of any~~
 2895 ~~disciplinary limitation placed upon the license holder by the board;~~

2896 ~~(8) Violated, without regard to whether the violation is criminally punishable, a statute,~~
 2897 ~~law, or any rule or regulation of this state, any other state, the professional licensing~~
 2898 ~~board regulating the business or profession licensed under this article, the United States,~~
 2899 ~~or any other lawful authority, which statute, law, or rule or regulation relates to or in part~~
 2900 ~~regulates the practice of a business or profession licensed under this article, when the~~
 2901 ~~license holder or applicant knows or should know that such action is in violation of such~~
 2902 ~~statute, law, or rule; or violated a lawful order of the board previously entered by the~~
 2903 ~~board in a disciplinary hearing, consent decree, or licensure reinstatement;~~

2904 ~~(9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or~~
 2905 ~~outside this state. Any such adjudication shall automatically suspend the license of any~~
 2906 ~~such person and shall prevent the reissuance or renewal of any license so suspended for~~
 2907 ~~as long as the adjudication of incompetence is in effect; or~~

2908 ~~(10) Displayed an inability to practice a business or profession licensed under this article~~
 2909 ~~with reasonable skill and safety to the public or has become unable to practice the~~
 2910 ~~licensed business or profession with reasonable skill and safety to the public by reason~~
 2911 ~~of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material.~~

2912 43-34-180.

2913 The board shall appoint an advisory committee. The advisory committee shall ~~be~~
 2914 ~~representative of a cross section of the cultural backgrounds of the~~ include clinical
 2915 perfusionists licensed under this article and such members as the board in its discretion
 2916 may determine. Members shall receive no compensation for service on the committee. The
 2917 committee shall have such advisory duties and responsibilities as the board may determine.
 2918 ~~The initial members of the advisory committee may include persons eligible for licensing~~
 2919 ~~under this article. Subsequent advisory~~ Advisory committee members must be licensed
 2920 pursuant to this article.

2921 ARTICLE 8

2922 43-34-190.

2923 This article shall be known and may be cited as the 'Orthotics and Prosthetics Practice Act.'

2924 43-34-191.

2925 The General Assembly finds that the practice of orthotics and prosthetics in this state is an
 2926 allied health profession recognized by the American Medical Association, with educational
 2927 standards established by the Commission on Accreditation of Allied Health Education
 2928 Programs. The increasing population of elderly and physically challenged individuals who
 2929 need orthotic and prosthetic services requires that the orthotic and prosthetic professions
 2930 be regulated to ensure the provision of high-quality services and devices. The people of
 2931 this state deserve the best care available and will benefit from the assurance of initial and
 2932 ongoing professional competence of the orthotists and prosthetists practicing in this state.
 2933 The practice of orthotics and prosthetics serves to improve and enhance the lives of
 2934 individuals with disabilities by enabling them to resume productive lives following serious
 2935 illness, injury, or trauma. Unregulated dispensing of orthotic and prosthetic care does not
 2936 adequately meet the needs or serve the interests of the public. In keeping with
 2937 requirements imposed on similar health disciplines, licensure of the orthotic and prosthetic
 2938 professions will help ensure the health and safety of consumers, as well as maximize their
 2939 functional abilities and productivity levels. This article shall be liberally construed to best
 2940 carry out these subjects and purposes.

2941 43-34-192.

2942 As used in this article, the term:

2943 (1) 'Assistant' means a person who assists an orthotist, prosthetist, or prosthetist orthotist
 2944 with patient care services and fabrication of orthoses or prostheses under the supervision
 2945 of a licensed orthotist or prosthetist.

2946 (2) 'Board' means the Georgia Composite Medical Board of State Medical Examiners
 2947 ~~created by Code Section 43-34-21.~~

2948 (3) 'Custom fabricated and fitted device' means that an orthosis or prosthesis is fabricated
 2949 to original measurements or a mold, or both, for use by a patient in accordance with a
 2950 prescription and which requires substantial clinical and technical judgment in its design
 2951 and fitting.

2952 (4) 'Custom fitted device' means a prefabricated orthosis or prosthesis sized, or modified,
 2953 or both, for use by a patient in accordance with a prescription and which requires
 2954 substantial clinical judgment and substantive alteration for appropriate use.

- 2955 (5) 'Facility' means the business location where orthotic or prosthetic care is provided
2956 and which has the appropriate clinical and laboratory space and equipment to provide
2957 comprehensive orthotic or prosthetic care. Licensed orthotists and prosthetists must be
2958 available to either provide care or supervise the provision of care by nonlicensed staff.
- 2959 (6) 'Level of competence' means a hierarchical position that an individual occupies
2960 within a field or profession relative to other practitioners in the profession.
- 2961 (7) 'Licensed orthotist' means a person licensed under this article to practice orthotics and
2962 who represents himself or herself to the public by title and description of services that
2963 includes the term 'orthotic,' 'orthotist,' 'brace,' or a similar title or description of services.
- 2964 (8) 'Licensed physician' means a person licensed to practice medicine under Article 2 of
2965 this chapter.
- 2966 (9) 'Licensed podiatrist' means a person licensed to practice podiatry under Chapter 35
2967 of this title, the 'Georgia Podiatry Practice Act.'
- 2968 (10) 'Licensed prosthetist' means a person licensed under this article to practice
2969 prosthetics and who represents himself or herself to the public by title and description of
2970 services that includes the term 'prosthetic,' 'prosthetist,' 'artificial limb,' or a similar title
2971 or description of services.
- 2972 (11) 'Off-the-shelf device' means a prefabricated prosthesis or orthosis sized or modified,
2973 or both, for use by a patient in accordance with a prescription and which does not require
2974 substantial clinical judgment and substantive alteration for appropriate use.
- 2975 (12) 'Orthosis' means a custom designed, fabricated, fitted, modified, or fitted and
2976 modified device to correct, support, or compensate for a neuromusculoskeletal disorder
2977 or acquired condition. Orthosis does not include fabric or elastic supports, corsets, arch
2978 supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft
2979 cervical collars, dental appliances, or other similar devices that are carried in stock and
2980 sold as over-the-counter items by a drug store, department store, corset shop, or surgical
2981 supply facility.
- 2982 (13) 'Orthotic and prosthetic education program' means a course of instruction accredited
2983 by the Commission on Accreditation of Allied Health Education Programs consisting of:
- 2984 (A) A basic curriculum of college level instruction in math, physics, biology,
2985 chemistry, and psychology; and
- 2986 (B) A specific curriculum in orthotic or prosthetic courses, including:
- 2987 (i) Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic
2988 or orthotic components and materials, training and functional capabilities, prosthetic
2989 or orthotic performance evaluation, prescription considerations, etiology of
2990 amputations and disease processes necessitating prosthetic or orthotic use, and
2991 medical management;

- 2992 (ii) Subject matter related to pediatric and geriatric problems;
2993 (iii) Instruction in acute care techniques, such as immediate and early postsurgical
2994 prosthetics and fracture bracing techniques; and
2995 (iv) Lectures, demonstrations, and laboratory experiences related to the entire process
2996 of measuring, casting, fitting, fabricating, aligning, and completing prostheses or
2997 orthoses.
- 2998 (14) 'Orthotic and prosthetic scope of practice' means a list that includes the role played
2999 by an occupant of a particular level of competence, what he or she can be expected to do
3000 and not to do, and his or her relation to others in the field. These should be based on
3001 nationally accepted standards of orthotic and prosthetic certifying agencies with
3002 accreditation by the National Commission for Certifying Agencies.
- 3003 (15) 'Orthotics' means the science and practice of evaluating, measuring, designing,
3004 fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from
3005 a licensed physician or podiatrist for the correction or alleviation of neuromuscular or
3006 musculoskeletal dysfunction, disease, injury, or deformity.
- 3007 (16) 'Orthotist' means an allied health professional who is specifically trained and
3008 educated to provide or manage the provision of a custom designed, fabricated, or
3009 modified and fitted external orthosis to an orthotic patient based on a clinical assessment
3010 and a physician's or podiatrist's prescription to restore physiological function or cosmesis
3011 or both and who represents himself or herself to the public by such title as providing
3012 orthotic services.
- 3013 (17) 'Over-the-counter device' means a prefabricated, mass produced device that is
3014 prepackaged and requires no professional advice or judgment in either size selection or
3015 use and includes fabric or elastic supports, corsets, generic arch supports, and elastic
3016 hoses.
- 3017 (18) 'Person' means a natural person.
- 3018 (19) 'Prosthesis' means a custom designed, fabricated, fitted, modified, or fitted and
3019 modified device to replace an absent external limb for purposes of restoring physiological
3020 function or cosmesis or both. Prosthesis does not include artificial eyes, ears, fingers, or
3021 toes; dental appliances; cosmetic devices such as artificial breasts, eyelashes, or wigs; or
3022 other devices that do not have a significant impact on the musculoskeletal functions of
3023 the body.
- 3024 (20) 'Prosthetics' means the science and practice of evaluating, measuring, designing,
3025 fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from
3026 a licensed physician or podiatrist.
- 3027 (21) 'Prosthetist' means an allied health professional who is specifically trained and
3028 educated to provide or manage the provision of a custom designed, fabricated, modified,

3029 and fitted external limb prosthesis to a prosthetic patient based on a clinical assessment
 3030 and a physician's or podiatrist's prescription; to restore physiological function or cosmesis
 3031 or both and who represents himself or herself to the public by such title as providing
 3032 prosthetic services.

3033 (22) 'Prosthetist orthotist' means a person who practices both disciplines of prosthetics
 3034 and orthotics and who represents himself or herself to the public by such title as
 3035 providing prosthetic and orthotic services.

3036 (23) 'Resident' means a person who has completed an education program in either
 3037 orthotics or prosthetics and is continuing his or her clinical education in a residency
 3038 accredited by the National Commission on Orthotic and Prosthetic Education.

3039 (24) 'Technician' means a person who assists an orthotist, prosthetist, or prosthetist
 3040 orthotist with fabrication of orthoses or prostheses but does not provide direct patient
 3041 care.

3042 43-34-193.

3043 This article shall not be construed to prohibit:

3044 (1) A licensed physician from engaging in the practice for which he or she is licensed;

3045 (2) A person licensed in this state under any other law from engaging in the practice for
 3046 which he or she is licensed;

3047 (3) The practice of orthotics or prosthetics by a person who is employed by the federal
 3048 government or any bureau, division, or agency of the federal government while in the
 3049 discharge of the employee's official duties;

3050 (4) The practice of orthotics or prosthetics by:

3051 (A) A student enrolled in a school of orthotics or prosthetics; or

3052 (B) A resident continuing his or her clinical education in a residency accredited by the
 3053 National Commission on Orthotic and Prosthetic Education;

3054 (5) The practice of orthotics or prosthetics by a person who is an orthotist or prosthetist
 3055 licensed under the laws of another state or territory of the United States or another
 3056 country and has applied in writing to the board, in a form and substance satisfactory to
 3057 the board, for a license as an orthotist or prosthetist and who is qualified to receive the
 3058 license until:

3059 (A) The expiration of six months after the filing of the written application;

3060 (B) The withdrawal of the application; or

3061 (C) The denial of the application by the board;

3062 (6) A person licensed by this state as a physical therapist or occupational therapist from
 3063 engaging in his or her profession;

3064 (7) A licensed podiatrist from engaging in his or her profession;

- 3065 (8) A licensed athletic trainer from engaging in his or her profession;
- 3066 (9) A registered pharmacist from engaging in the practice for which he or she is
3067 registered;
- 3068 (10) Any person licensed, certified, or permitted under any other article of this chapter
3069 from engaging in the practice for which he or she is licensed, certified, or permitted;
- 3070 (11) The measuring, molding, or fitting of knee braces by any person;
- 3071 (12) Employees or authorized representatives of an orthotic manufacturer from engaging
3072 in one or more of the following: evaluating, adjusting, measuring, designing, fabricating,
3073 assembling, fitting, servicing, training, repairing, replacing, or delivering an orthotic
3074 device under the order, direction, or prescription of a physician or health provider
3075 operating within his or her licensed scope of practice and meeting the criteria of the Part
3076 II Policy and Procedures for Orthotics and Prosthetics Services pursuant to Title XIX of
3077 the federal Social Security Act, as amended; or
- 3078 (13) A board certified pedorthist from manufacturing, fabricating, dispensing, or any
3079 combination thereof custom foot orthotics or foot or ankle gauntlets.

3080 43-34-194.

3081 An application for an original license shall be made to the board on a form prescribed
3082 thereby and shall be accompanied by the required fee, which shall not be refundable. An
3083 application shall require information that in the judgment of the board will enable it to
3084 determine the qualifications of the applicant for a license.

3085 43-34-195.

3086 (a) To qualify for a license to practice orthotics or prosthetics, a person shall:

3087 (1)(A) Possess a baccalaureate degree from a college or university;

3088 (B) Have completed the amount of formal training, including, but not limited to, any
3089 hours of classroom education and clinical practice, established and approved by the
3090 board; and

3091 (C) Complete a clinical residency in the professional area for which a license is sought
3092 in accordance with standards, guidelines, or procedures for residencies inside or outside
3093 this state established and approved by the board. The majority of training must be
3094 devoted to services performed in the discipline for which the license will be sought and
3095 under the supervision of a practitioner licensed in orthotics or prosthetics or a person
3096 certified as an orthotist, prosthetist, or prosthetist orthotist, provided that the
3097 certification was obtained before the date this article becomes effective; or

3098 (2)(A) Possess an associate's degree from a college or university with specific courses
3099 of study in human anatomy, physiology, physics, chemistry, and biology; and

3100 (B) Have completed at least five years of continued work experience performed in the
 3101 discipline for which the license will be sought under the supervision of a practitioner
 3102 licensed in such discipline or certified in such discipline by an agency accredited by the
 3103 National Commission for Certifying Agencies;

3104 (3) Pass all written, practical, and oral examinations that are required and approved by
 3105 the board;

3106 (4) Be qualified to practice in accordance with nationally accepted standards of orthotic
 3107 and prosthetic care; and

3108 (5) Have met such other requirements as may be prescribed by the board.

3109 (b) The standards and requirements for licensure established by the board shall be
 3110 substantially equal to or in excess of standards commonly accepted in the profession of
 3111 orthotics or prosthetics. The board shall adopt rules as necessary to set the standards and
 3112 requirements.

3113 (c) A person may be licensed in more than one discipline.

3114 43-34-196.

3115 The board, in consultation with the advisory committee, may impose on a licensed orthotist
 3116 or prosthetist any sanction authorized under subsection (b) of Code Section 43-34-8 upon
 3117 a finding of any conduct specified in subsection (a) of Code Section 43-34-8. ~~shall have the~~
 3118 ~~power and responsibility to:~~

3119 ~~(1) Determine the qualifications and fitness of applicants for licensure and renewal of~~
 3120 ~~licensure;~~

3121 ~~(2) Adopt and revise rules consistent with the laws of this state that are necessary to~~
 3122 ~~conduct its business, carry out its duties, and administer this article;~~

3123 ~~(3) Examine for, approve, issue, deny, revoke, suspend, sanction, and renew the licenses~~
 3124 ~~of board applicants for licensure as licensed orthotists and prosthetists and provisional~~
 3125 ~~licensed orthotists and prosthetists under this article and conduct hearings in connection~~
 3126 ~~with these actions;~~

3127 ~~(4) Conduct hearings on complaints concerning violations of this article and the rules~~
 3128 ~~adopted under this article and cause the prosecution and enjoinder of the violations;~~

3129 ~~(5) Establish application, examination, and licensure fees;~~

3130 ~~(6) Request and receive the assistance of state educational institutions or other state~~
 3131 ~~agencies and prepare information of consumer interest describing the regulatory functions~~
 3132 ~~of the board and the procedures by which consumer complaints are filed with and~~
 3133 ~~resolved by the board. The board shall make the information available to the public and~~
 3134 ~~appropriate state agencies; and~~

3135 ~~(7) Establish education, examination, and continuing education requirements.~~

3136 43-34-197.

3137 (a) No person shall work as an assistant to an orthotist, prosthetist, or prosthetist orthotist
3138 and provide patient care services or fabrication of orthoses or prostheses unless he or she
3139 is doing the work under the supervision of a licensed orthotist, prosthetist, or prosthetist
3140 orthotist.

3141 (b) No person shall work as a technician unless the work is performed under the
3142 supervision of a person licensed under this article.

3143 43-34-198.

3144 (a) Until July 1, 2007, a person certified as an orthotist, prosthetist, or prosthetist orthotist
3145 by the American Board for Certification in Orthotics and Prosthetics, Incorporated or the
3146 Board of Orthotist/Prosthetist Certification, or holding similar certifications from other
3147 accrediting bodies with equivalent educational requirements and examination standards,
3148 may apply for and may be granted orthotic or prosthetic licensure under this article upon
3149 payment of the required fee. After that date, any applicant for licensure as an orthotist or
3150 a prosthetist shall meet the requirements of subsection (a) of Code Section 43-34-195.

3151 (b) On and after July 1, 2007, no person shall practice orthotics or prosthetics in this state
3152 and hold himself or herself out as being able to practice such professions unless he or she
3153 is licensed in accordance with this article or is exempt from such licensing. A person who
3154 violates this subsection shall, upon conviction thereof, be guilty of a misdemeanor.

3155 ~~(c) Not later than August 30, 2006, a person who has practiced full time for a minimum
3156 of the past seven years in this state in a prosthetic orthotic facility as an orthotist or
3157 prosthetist may file with the board an application and the license fee determined by the
3158 board in order to continue to practice orthotics or prosthetics without satisfaction of the
3159 examination and education requirements. The board shall investigate the work history,
3160 qualifications, and fitness of the applicant. The investigation may include, but not be
3161 limited to, completion by the applicant of a questionnaire regarding the applicant's work
3162 history and scope of practice. The board shall complete its investigation for purposes of
3163 this Code section within six months of receipt of a fully completed application. If, after
3164 receipt of the application fee, a fully completed application, and the completion of the
3165 investigation, the board determines that the applicant satisfied the work history
3166 requirements of this Code section and met all other qualifications for licensure, except the
3167 examination and education requirements, the board shall issue a license to practice
3168 orthotics or prosthetics. A license issued to a person under this subsection shall not be
3169 renewed without compliance with the requirements of Code Section 43-34-195.~~

3170 43-34-199.

3171 A licensed orthotist may provide care or services only if the care or services are provided
 3172 pursuant to an order from a licensed physician or podiatrist. A licensed prosthetist may
 3173 provide care or services only if the care or services are provided pursuant to an order from
 3174 a licensed physician or podiatrist.

3175 43-34-200.

3176 (a) The expiration date and renewal period for each license issued under this article shall
 3177 be set by the board. A license shall be valid for a period of up to two years and shall be
 3178 renewed biennially as provided by rule of the board. The board shall establish continuing
 3179 education requirements for the renewal of a license. These requirements shall be based on
 3180 established standards of competence in the field of orthotics or prosthetics.

3181 (b) A person who has permitted his or her license to expire or who has had his or her
 3182 license on inactive status may have his or her license restored by:

3183 (1) Making application to the board;

3184 (2) Filing proof acceptable to the board of his or her fitness to have his or her license
 3185 restored including, but not limited to, sworn evidence certifying to active practice in
 3186 another jurisdiction satisfactory to the board; and

3187 (3) Paying the required restoration fee.

3188 If the person has not maintained an active practice in another jurisdiction satisfactory to the
 3189 board, the board shall determine, by an evaluation program established by rule, such
 3190 person's fitness to resume active status and may require the person to complete a period of
 3191 evaluated clinical experience and successful completion of an examination.

3192 (c) A person whose license expired while he or she was:

3193 (1) In federal service on active duty within the armed forces of the United States or with
 3194 the state militia and called into service or training; or

3195 (2) In training or education under the supervision of the United States preliminary to
 3196 induction into military service

3197 may have his or her license renewed or restored without paying a lapsed renewal fee if,
 3198 within two years after termination from the service, training, or education except under
 3199 conditions other than honorable, he or she furnishes the board with satisfactory evidence
 3200 that he or she has been so engaged and that his or her service, training, or education has
 3201 been terminated.

3202 43-34-201.

3203 A person who notifies the board on forms prescribed thereby may elect to place his or her
 3204 license on an inactive status and shall, subject to rules of the board, be excused from

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

3210 43-34-202.

3211 The board may, at its discretion, license as an orthotist or prosthetist, without examination
 3212 and on payment of the required fee, an applicant who is an orthotist or prosthetist and is:

3213 (1) Licensed under the laws of another state, territory, or country, if the requirements for
 3214 licensure in that state, territory, or country in which the applicant is licensed were, at the
 3215 date of his or her licensure, equal to or more stringent than the requirements in force in
 3216 this state on that date; or

3217 (2) Certified as an orthotist or prosthetist by a national certifying organization that is
 3218 accredited by the National Commission for Certifying Agencies and has educational and
 3219 testing standards equal to or more stringent than the licensing requirements of this state.

3220 ~~43-34-203.~~

3221 ~~(a) The board, in consultation with the advisory committee, may:~~

3222 ~~(1) Refuse to grant or renew a license to an applicant;~~

3223 ~~(2) Administer a public or private reprimand, but a private reprimand shall not be~~
 3224 ~~disclosed to any person except the licensee;~~

3225 ~~(3) Suspend any license for a definite period or for an indefinite period in connection~~
 3226 ~~with any condition which may be attached to the restoration of said license;~~

3227 ~~(4) Limit or restrict any license as the board deems necessary for the protection of the~~
 3228 ~~public;~~

3229 ~~(5) Revoke any license;~~

3230 ~~(6) Levy a fine; and~~

3231 ~~(7) Condition any penalty or withhold formal disposition of any matter pending the~~
 3232 ~~applicant's or licensee's submission to such care, counseling, or treatment as the board~~
 3233 ~~may direct.~~

3234 ~~(b) The board may take any action specified in subsection (a) of this Code section upon~~
 3235 ~~a finding by the board that the licensee or applicant has:~~

3236 ~~(1) Failed to demonstrate the qualifications or standards for licensure contained in this~~
 3237 ~~article, or under the laws, rules, or regulations under which licensure is sought or held;~~
 3238 ~~it shall be incumbent upon the applicant to demonstrate to the satisfaction of the board~~
 3239 ~~that he or she meets all the requirements for issuance of a license, and, if the board is not~~

3240 satisfied as to the applicant's qualifications, it may deny a license without a prior hearing;
 3241 provided, however, that the applicant shall be allowed to appear before the board if he or
 3242 she so desires;

3243 ~~(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the~~
 3244 ~~practice of a business or profession licensed under this title or on any document~~
 3245 ~~connected therewith, practiced fraud or deceit or intentionally made any false statement~~
 3246 ~~in obtaining certification to practice a licensed business or profession, or made a false~~
 3247 ~~statement or deceptive registration with the board;~~

3248 ~~(3) Been convicted of any felony or of any crime involving moral turpitude in the courts~~
 3249 ~~of this state or any other state, territory, or country or in the courts of the United States.~~
 3250 ~~As used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall~~
 3251 ~~include any offense which, if committed in this state, would be deemed a felony, without~~
 3252 ~~regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'~~
 3253 ~~shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an~~
 3254 ~~appeal of the conviction has been sought;~~

3255 ~~(4) Been arrested, charged, and sentenced for the commission of any felony or any crime~~
 3256 ~~involving moral turpitude where:~~

3257 ~~(A) A plea of nolo contendere was entered to the charge;~~

3258 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~
 3259 ~~granted; or~~

3260 ~~(C) An adjudication or sentence was otherwise withheld or not entered on the charge.~~
 3261 ~~The plea of nolo contendere or the order entered pursuant to the provisions of Article 3~~
 3262 ~~of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender~~
 3263 ~~treatment shall be conclusive evidence of arrest and sentencing for such crime;~~

3264 ~~(5) Had his or her license under this article revoked, suspended, or annulled by any~~
 3265 ~~lawful authority other than the board; or had other disciplinary action taken against him~~
 3266 ~~or her by any such lawful authority other than the board; or was refused the renewal of~~
 3267 ~~a license by any such lawful authority other than the board, pursuant to disciplinary~~
 3268 ~~proceedings;~~

3269 ~~(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct~~
 3270 ~~or practice harmful to the public, which conduct or practice materially affects the fitness~~
 3271 ~~of the licensee or applicant to practice a business or profession licensed under this article,~~
 3272 ~~or of a nature likely to jeopardize the interest of the public, which conduct or practice~~
 3273 ~~need not have resulted in actual injury to any person or be directly related to the practice~~
 3274 ~~of the licensed business or profession but shows that the licensee or applicant has~~
 3275 ~~committed any act or omission which is indicative of bad moral character or~~
 3276 ~~untrustworthiness. Unprofessional conduct shall include any departure from, or the~~

3277 failure to conform to, the minimal standards of acceptable and prevailing practice of the
 3278 business or profession licensed under this article;
 3279 ~~(7) Knowingly performed any act which in any way aids, assists, procures, advises, or~~
 3280 ~~encourages any unlicensed person or any licensee whose license has been suspended or~~
 3281 ~~revoked by the board to engage in any practice outside the scope of any disciplinary~~
 3282 ~~limitation placed upon the licensee by the board;~~
 3283 ~~(8) Violated, without regard to whether the violation is criminally punishable, a statute,~~
 3284 ~~law, or any rule or regulation of this state, any other state, the professional licensing~~
 3285 ~~board regulating the business or profession licensed under this title, the United States, or~~
 3286 ~~any other lawful authority, which statute, law, or rule or regulation relates to or in part~~
 3287 ~~regulates the practice of a business or profession licensed under this article, when the~~
 3288 ~~licensee or applicant knows or should know that such action is violative of such statute,~~
 3289 ~~law, or rule; or violated a lawful order of the board previously entered by the board in a~~
 3290 ~~disciplinary hearing, consent decree, or license reinstatement;~~
 3291 ~~(9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or~~
 3292 ~~outside this state. Any such adjudication shall automatically suspend the license of any~~
 3293 ~~such person and shall prevent the reissuance of renewal of any license so suspended for~~
 3294 ~~as long as the adjudication of incompetence is in effect; or~~
 3295 ~~(10) Displayed any inability to practice a business or profession licensed under this~~
 3296 ~~article with reasonable skill and safety to the public or has become unable to practice the~~
 3297 ~~licensed business or profession with reasonable skill and safety to the public by reason~~
 3298 ~~of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material.~~

3299 ~~43-34-204~~ 43-34-203.

3300 The board shall appoint the advisory committee. The advisory committee shall be
 3301 ~~representative of a cross section of the cultural backgrounds of the~~ include licensed
 3302 orthotists and prosthetists licensed under this article and such members as the board in its
 3303 discretion may determine. Members shall receive no compensation for service on the
 3304 committee. The committee shall have such advisory duties and responsibilities as the
 3305 board may determine. The initial members of the advisory committee may include persons
 3306 eligible for licensing under this article. Subsequent advisory committee members must be
 3307 licensed pursuant to this article.

3308 ARTICLE 9

3309 43-34-240.

3310 This article shall be known and may be cited as the 'Georgia Cosmetic Laser Services Act.'

3311 43-34-241.

3312 This article is enacted for the purpose of safeguarding the public health, safety, and welfare
 3313 by providing for state administrative control, supervision, and regulation of the practice of
 3314 providing cosmetic laser services. It is the intention of the General Assembly that cosmetic
 3315 laser services be made available and affordable to the people of this state in a safe, reliable
 3316 manner. Unregulated cosmetic laser services do not adequately meet the needs or serve the
 3317 interests of the public. Licensure of those performing cosmetic laser services and required
 3318 education and training of such practitioners will help ensure the health and safety of
 3319 consumers. The practice of providing cosmetic laser services is declared to be affected
 3320 with the public interest; and this article shall be liberally construed so as to accomplish the
 3321 purpose stated in this Code section.

3322 43-34-242.

3323 As used in this article, the term:

3324 (1) 'Board' means the ~~Composite State Board of Medical Examiners~~ Georgia Composite
 3325 Medical Board created by Code Section ~~43-34-21~~ 43-34-22.

3326 (2) 'Consulting physician' means a person licensed to practice medicine under this
 3327 chapter and:

3328 (A) Whose principal place of practice is within this state; or

3329 (B) Whose principal place of practice is outside this state but is within 50 miles from
 3330 the facility with whom he or she has an agreement to provide services in accordance
 3331 with Code Section 43-34-248.

3332 (3) 'Consumer' means a person on whom cosmetic laser services are or are to be
 3333 performed.

3334 (4) 'Cosmetic laser practitioner' means a person licensed under this article to provide
 3335 cosmetic laser services as defined in this article and whose license is in good standing.

3336 (5) 'Cosmetic laser services' means nonablative elective cosmetic light based skin, photo
 3337 rejuvenation, or hair removal using lasers and pulsed light devices approved by the
 3338 United States Food and Drug Administration for noninvasive procedures. Such services
 3339 and the provision thereof shall not be considered to be the practice of medicine.

3340 (6) 'Facility' means any location, place, area, structure, office, institution, or business or
 3341 a part thereof in which is performed or provided cosmetic laser services regardless of
 3342 whether a fee is charged for such services.

3343 (7) 'License' means a valid and current certificate of registration issued by the board
 3344 which shall give the person to whom it is issued authority to engage in the practice
 3345 prescribed thereon.

3346 (8) 'Licensee' means any person holding a license under this article.

3347 (9) 'Medical practitioner' means a registered professional nurse, licensed practical nurse,
3348 nurse practitioner, ~~physician's~~ physician assistant, or physician.

3349 (10) 'Nurse' means a registered professional nurse, licensed practical nurse, or nurse
3350 practitioner.

3351 (11) 'Person' means a natural person.

3352 43-34-243.

3353 This article shall not be construed to prohibit:

3354 (1) A licensed physician from engaging in the practice for which he or she is licensed;

3355 (2) A licensed ~~physician's~~ physician assistant from engaging in the practice for which he
3356 or she is licensed;

3357 (3) A person licensed by this state as a registered professional nurse, licensed practical
3358 nurse, or nurse practitioner from engaging in his or her profession;

3359 (4) A licensed esthetician from engaging in his or her profession;

3360 (5) A master cosmetologist from engaging in his or her profession;

3361 (6) Any person licensed under any other article of this chapter from engaging in the
3362 practice for which he or she is licensed;

3363 (7) A person licensed in this state under any other law from engaging in the practice for
3364 which he or she is licensed;

3365 (8) The practice of providing cosmetic laser services by a person who is employed by the
3366 federal government or any bureau, division, or agency of the federal government while
3367 in the discharge of the employee's official duties;

3368 (9) The practice of providing cosmetic laser services by a student enrolled in an
3369 accredited school of nursing or medical school as part of his or her training; or

3370 (10) Employees or authorized representatives of a manufacturer of a laser used for
3371 cosmetic laser services from engaging in one or more of the following: evaluating,
3372 adjusting, measuring, designing, fabricating, assembling, fitting, servicing, training,
3373 repairing, replacing, or delivering a laser used to provide cosmetic laser services under
3374 the order, direction, or prescription of a physician or health provider operating within his
3375 or her licensed scope of practice.

3376 43-34-244.

3377 (a) There shall be two levels of a license for a cosmetic laser practitioner: assistant laser
3378 practitioner and senior laser practitioner.

3379 (b) Any person desiring to obtain a license as a cosmetic laser practitioner under the terms
3380 of this article shall make application to the board as follows:

3381 (1) An applicant for an 'assistant laser practitioner' license shall present proof that he or
3382 she:

3383 (A) Holds a current valid license or certificate of registration as a ~~physician's~~ physician
3384 assistant, nurse, esthetician, or master cosmetologist, or has previously held a license
3385 or certificate of registration as a medical practitioner; and

3386 (B) Has received at least three laser certificates from attending laser/intense pulsed
3387 light (IPL) courses as approved by the board, directly taught by a licensed physician or
3388 certified continuing medical education or continuing education educator.

3389 If, after review of the application, it is determined that the applicant is at least 21 years
3390 of age; has met the minimum educational requirements; is of good moral character; and
3391 is possessed of the requisite skill to perform properly cosmetic laser services, a license
3392 shall be issued to the applicant entitling the applicant to practice the occupation of
3393 cosmetic laser practitioner at the assistant laser practitioner level under the direct
3394 supervision of a senior laser practitioner.

3395 (2) An applicant for a 'senior laser practitioner' license shall present proof that he or she:

3396 (A) Holds a current valid license or certificate of registration as a ~~physician's~~ physician
3397 assistant or nurse or has previously held a license or certificate of registration as a
3398 medical practitioner;

3399 (B) Has at least three years of clinical or technological medical experience, or both;

3400 (C) Has been or was licensed or nationally board certified as a medical practitioner for
3401 at least three years; and

3402 (D) Has received at least two laser certificates from attending laser/intense pulsed light
3403 (IPL) continuing medical education courses as approved by the board, directly taught
3404 by a licensed physician or certified continuing medical education or continuing
3405 education educator.

3406 If, after review of the application, it is determined that the applicant is at least 21 years
3407 of age; has met the minimum educational and clinical training requirements to perform
3408 cosmetic laser services with indirect supervision; is of good moral character; and is
3409 possessed of the requisite skill to perform properly these services, a license shall be
3410 issued to the applicant entitling the applicant to practice the occupation of cosmetic laser
3411 practitioner at the senior laser practitioner level pursuant to the protocols of a consulting
3412 physician.

3413 (c) The board shall be authorized to waive any education requirements under this Code
3414 section in cases of hardship, disability, or illness or under such other circumstances as the
3415 board deems appropriate with respect to any applicant who has practiced as a cosmetic
3416 laser practitioner prior to July 1, 2007.

3417 (d) Should an applicant have a current cosmetic laser practitioner license or certificate of
3418 registration in force from another state, country, territory of the United States, or the
3419 District of Columbia, where similar reciprocity is extended to this state and licensure
3420 requirements are substantially equal to those in this state, and have paid a fee and have
3421 submitted an application, the applicant may be issued a license at the appropriate level
3422 entitling him or her to practice the occupation of a cosmetic laser practitioner at that level,
3423 unless the board, in its discretion, sees fit to require a written or a practical examination
3424 subject to the terms and provisions of this article. The board shall be authorized to waive
3425 any education or experience requirements applicable to any person who holds a current
3426 license or certificate to practice as a cosmetic laser practitioner outside of this state and
3427 who desires to obtain a license at a level authorized under this Code section to practice as
3428 a cosmetic laser practitioner in this state in cases of hardship, disability, or illness or under
3429 such other circumstances as the board deems appropriate.

3430 43-34-245.

3431 (a) All licenses shall expire biennially unless renewed. All applications for renewal of a
3432 license shall be filed with the board prior to the expiration date, accompanied by the
3433 biennial renewal fee prescribed by the board. A license which has expired for failure of
3434 the holder to renew may only be restored after application and payment of the prescribed
3435 restoration fee within the time period established by the board and provided the applicant
3436 meets such requirements as the board may establish by rule. Any license which has not
3437 been restored within such period following its expiration may not be renewed, restored, or
3438 reissued thereafter. The holder of such a canceled license may apply for and obtain a valid
3439 license only upon compliance with all relevant requirements for issuance of a new license.
3440 (b) As a condition of license renewal, the board shall require licensees to provide proof,
3441 in a form approved by the board, of a minimum of five hours of continuing education
3442 courses as approved by the board in the area of cosmetic laser services, equipment safety
3443 and operation, procedures, and relative skin modalities, directly taught by a licensed
3444 physician or certified continuing medical education or continuing education educator.

3445 43-34-246.

3446 ~~(a) The board shall have authority to refuse to grant or restore a license to an applicant or~~
3447 ~~to discipline a cosmetic laser practitioner under this article upon a finding by the board that~~
3448 ~~the licensee or applicant has:~~ may impose on a cosmetic laser practitioner or applicant any
3449 sanction authorized under subsection (b) of Code Section 43-34-8 upon a finding of any
3450 conduct specified in subsection (a) of Code Section 43-34-8.

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.

3652 **SECTION 3.**

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.

3686 **SECTION 4.**

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."

3707 SECTION 5.

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;"

3718 SECTION 6.

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."

3734 **SECTION 7.**

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."

3743 **SECTION 8.**

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.