

Senate Bill 445

By: Senators Hamrick of the 30th, Mullis of the 53rd, Hooks of the 14th, Chance of the 16th, Rogers of the 21st and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 10 of the Official Code of Georgia Annotated, relating to commerce and
 2 trade, so as to transfer certain powers and duties of the State Board of Cemeterians to the
 3 Georgia Board of Licensing and Regulation and the director of professional licensing; to
 4 amend Part 2 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to
 5 the practice of forestry, so as to transfer certain powers and duties of the State Board of
 6 Registration for Foresters to the Georgia Board of Licensing and Regulation and the director
 7 of professional licensing; to amend Chapter 4 of Title 26 and Articles 2 and 3 of Chapter 13
 8 of Title 16 of the Official Code of Georgia Annotated, relating to pharmacists and
 9 pharmacies, regulation of controlled substances, and dangerous drugs, respectively, so as to
 10 transfer certain powers and duties from the Georgia State Board of Pharmacy to the Georgia
 11 Board of Licensing and Regulation and the director of professional licensing; to amend Title
 12 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as
 13 to create within the office of the Secretary of State the position of director of professional
 14 licensing; to provide for powers, duties, and responsibilities; to provide that the director shall
 15 implement rules and regulations relating to certain regulated professions and businesses; to
 16 provide that the director shall test, license, and discipline persons licensed pursuant to such
 17 title; to create the Georgia Board of Licensing and Regulation; to provide for assignment for
 18 administrative purposes; to provide for membership, appointment, and terms; to provide that
 19 such board shall promulgate rules and regulations governing certain regulated business and
 20 professions; to provide for the continuation of certain rules and regulations; to provide that
 21 such board shall hear administrative appeals from certain actions by the director of
 22 professional licensing; to transfer certain powers and duties of licensing boards and
 23 commissions to the director of professional licensing and the Georgia Board of Licensing and
 24 Regulation; to conform certain provisions relative to Title 24, relating to evidence, to become
 25 effective on January 1, 2013; to amend various titles of the Official Code of Georgia
 26 Annotated so as to correct cross-references and to conform those provisions to the duties of
 27 the director and the Georgia Board of Licensing and Regulation; to provide for effective
 28 dates; to repeal conflicting laws; and for other purposes.

S. B. 445

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

30 PART I

31 SECTION 1-1.

32 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
33 amended by revising Chapter 14, relating to cemetery and funeral services, as follows:

34 "CHAPTER 14

35 10-14-1.

36 This chapter shall be known as and may be cited as the 'Georgia Cemetery and Funeral
37 Services Act of 2000.'

38 10-14-2.

39 (a) The legislature recognizes that purchasers of preneed burial rights, funeral or burial
40 merchandise, or funeral services or burial services may suffer serious economic harm if
41 purchase money is not set aside for future use as intended by the purchaser and that the
42 failure to maintain cemetery grounds properly may cause significant emotional distress.
43 Therefore, it is necessary in the interest of the public welfare to regulate preneed dealers,
44 licensees, registrants, and cemetery companies in this state. However, restrictions shall be
45 imposed only to the extent necessary to protect the public from significant or discernible
46 harm or damage and not in a manner which will unreasonably affect the competitive
47 market.

48 (b) Subject to certain interests of society, the legislature finds that every competent adult
49 has the right to control the decisions relating to his or her own funeral arrangements.
50 Accordingly, unless otherwise stated in this chapter, it is the legislature's express intent that
51 nothing contained in this chapter should be construed or interpreted in any manner as to
52 subject preneed contract purchasers to federal income taxation under the grantor trust rules
53 contained in Sections 671 et seq. of the Internal Revenue Code of 1986, as amended.

54 (c) Nothing herein is intended to prohibit or restrict the sale or purchase of life insurance
55 as a funding vehicle for preneed contracts under this chapter, nor to change the state of the
56 law prior to July 1, 2000, with respect to prohibiting or restricting the sale or purchase of
57 life insurance as a funding vehicle for preneed contracts under this chapter.

58 10-14-3.

59 As used in this chapter, the term:

60 (1) 'Affiliate' means a person who directly or indirectly owns or controls, is owned or
61 controlled by, or is under common ownership or control with another person. Solely for
62 purposes of this definition, the terms 'owns,' 'is owned,' and 'ownership' mean ownership
63 of an equity interest, or the equivalent thereof, of 10 percent or more, and the term
64 'person' means an individual, partnership, committee, association, corporation, or any
65 other organization or group of persons.

66 (2) 'Board' means the State Board of Cemeterians as described and authorized in Chapter
67 8B of Title 43, a professional licensing policy board pursuant to Chapter 1 of Title 43
68 with the authority and responsibilities set forth in such chapter.

69 (3) 'Burial merchandise,' 'funeral merchandise,' or 'merchandise' means any personal
70 property offered or sold by any person for use in connection with the final disposition,
71 memorialization, interment, entombment, or inurnment of human remains.

72 (4) 'Burial right' means the right to use a grave space, mausoleum, or columbarium for
73 the interment, entombment, or inurnment of human remains.

74 (5) 'Burial service' means any service other than a funeral service offered or provided by
75 any person in connection with the final disposition, memorialization, interment,
76 entombment, or inurnment of human remains.

77 (6) 'Care and maintenance' means the perpetual process of keeping a cemetery and its
78 lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums,
79 columbaria, vaults, crypts, utilities, and other improvements, structures, and
80 embellishments in a well cared for and dignified condition, so that the cemetery does not
81 become a nuisance or place of reproach and desolation in the community. As specified
82 in the rules of the Secretary of State, care and maintenance may include, but is not limited
83 to, any or all of the following activities: mowing the grass at reasonable intervals; raking
84 and cleaning the grave spaces and adjacent areas; pruning of shrubs and trees;
85 suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains,
86 water lines, roads, buildings, and other improvements. Care and maintenance may
87 include, but is not limited to, reasonable overhead expenses necessary for such purposes,
88 including maintenance of machinery, tools, and equipment used for such purposes. Care
89 and maintenance may also include repair or restoration of improvements necessary or
90 desirable as a result of wear, deterioration, accident, damage, or destruction. Care and
91 maintenance does not include expenses for the construction and development of new
92 grave spaces or interment structures to be sold to the public.

93 (7) 'Casket' means a container which is designed for the encasement and viewing of a
94 dead human body.

95 (8) 'Cemetery' means a place dedicated to and used, or intended to be used, for
96 permanent interment of human remains. A cemetery may contain land or earth

97 interments; a mausoleum, a vault, or crypt interments; a columbarium or other structure
98 or place used or intended to be used for the inurnment of cremated human remains; or any
99 combination of one or more of such structures or places. Such term shall not include
100 governmentally owned cemeteries, fraternal cemeteries, cemeteries owned and operated
101 by churches, synagogues, or communities, or family burial plots.

102 (9) 'Cemetery company' means any entity that owns or controls cemetery lands or
103 property.

104 (10) 'Columbarium' means a structure or building which is substantially exposed above
105 the ground and which is intended to be used for the inurnment of cremated human
106 remains.

107 (11) 'Common business enterprise' means a group of two or more business entities that
108 share common ownership in excess of 50 percent.

109 (12) 'Cremation' includes any mechanical or thermal process whereby a deceased human
110 being is reduced to ashes. Cremation also includes any other mechanical or thermal
111 process whereby human remains are pulverized, burned, reinterred, or otherwise further
112 reduced in size or quantity.

113 (13) 'Crypt' means a chamber of sufficient size to inter the remains of a deceased human
114 being.

115 (13.1) 'Director' means the director of professional licensing.

116 (14) 'Entombment' means the disposition of a dead human body in a mausoleum,
117 including without limitation a crypt, private mausoleum, or any other permanent
118 above-ground structure not used for inurnment, but shall not include the opening and
119 closing of a grave space, crypt, or niche or the installation of a vault.

120 (15) 'Final disposition' means the final disposal of a deceased human being whether by
121 interment, entombment, inurnment, burial at sea, cremation, or any other means and
122 includes, but is not limited to, any other disposition of remains for which a segregated
123 charge is imposed.

124 (16) 'Funeral director' means any person licensed in this state to practice funeral directing
125 pursuant to the provisions of Chapter 18 of Title 43.

126 (17) 'Funeral service' means any service relating to the transportation, embalming, and
127 interment of a deceased human being, as further described in paragraphs (10), (18), and
128 (19) of Code Section 43-18-1.

129 (18) 'Grave space' or 'lot' means a space of ground in a cemetery intended to be used for
130 the interment in the ground of human remains.

131 (19) 'Human remains' means the bodies of deceased human beings and includes the
132 bodies in any stage of decomposition and the cremated remains.

- 133 (20) 'Interment' means the burial of human remains but shall not include the opening and
134 closing of a grave space, crypt, or niche or the installation of a vault.
- 135 (21) 'Inurnment' means the disposition of the cremated remains of a deceased human
136 being in any fashion, including without limitation in a columbarium niche, cremorial,
137 cremation bench, cremation rock, urn, or other container but shall not include the opening
138 and closing of a grave space, crypt, or niche or the installation of a vault.
- 139 (21.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created
140 by Article 2 of Chapter 1 of Title 43.
- 141 (22) 'Mausoleum' means a structure or building which is substantially exposed above the
142 ground and which is used, or intended to be used, for the entombment of human remains.
- 143 (23) 'Mausoleum section' means any construction unit of a mausoleum which is
144 acceptable to the Secretary of State and which a cemetery uses to initiate its mausoleum
145 program or to add to its existing mausoleum structures.
- 146 (24) 'Monument' means any product used for identifying or permanently decorating a
147 grave site, including, without limitation, monuments, markers, benches, and vases and
148 any base or foundation on which they rest or are mounted.
- 149 (25) 'Niche' means a space used, or intended to be used, for the interment of the cremated
150 remains of one or more deceased human beings.
- 151 (26) 'Nonperpetual care' means any cemetery which does not offer perpetual care as
152 defined in this Code section.
- 153 (27) 'Outer burial container' or 'vault' means an enclosure into which a casket is placed
154 and includes, but is not limited to, containers made of concrete, steel, fiberglass, copper
155 or other metals, polypropylene, sectional concrete enclosures, and crypts.
- 156 (28) 'Perpetual care' means the care and maintenance and the reasonable administration
157 of the cemetery grounds and buildings at the present time and in the future.
- 158 (29) 'Person' or 'entity' means an individual, a corporation, a limited liability company,
159 a general or limited partnership, an association, a joint-stock company, a trust, or any type
160 of incorporated or unincorporated organization.
- 161 (30) 'Preneed contract' means any arrangement or method, of which the provider of
162 burial or funeral merchandise or services has actual knowledge, whereby any person
163 agrees to furnish burial or funeral merchandise or services in the future.
- 164 (31) 'Preneed dealer' means every person, other than a salesperson registered under this
165 chapter, who engages, either for all or part of his or her time, directly or indirectly, as
166 agent, broker, or principal in the retail business of offering, selling, or otherwise dealing
167 in funeral services or burial services or funeral or burial merchandise which is not
168 attached to realty or delivered to the purchaser at the time of sale.

169 (32) 'Preneed interment service' or 'preneed service' means any service which is not
 170 performed at the time of sale and which is offered or provided by any person in
 171 connection with the interment of human remains, except those services offered regarding
 172 mausoleums and the normal and customary installation charges on burial or funeral
 173 merchandise.

174 (32.1) 'Principal' means a sum set aside or escrowed exclusive of income or interest or
 175 other return thereon.

176 (33) 'Sale' or 'sell' means and shall include every contract of sale or disposition of burial
 177 rights, grave spaces, burial services, funeral services, or burial or funeral merchandise for
 178 value. The term 'offer to sell,' 'offer for sale,' or 'offer' shall include any attempt or offer
 179 to dispose of, or solicitation of an offer to buy, grave spaces, burial rights, burial or
 180 funeral services, or burial or funeral merchandise for value. This definition shall not
 181 include wholesalers of burial or funeral merchandise.

182 (34) 'Salesperson' or 'sales agent' means an individual employed or appointed or
 183 authorized by a cemetery, cemetery company, or preneed dealer to sell grave spaces,
 184 burial rights, burial or funeral merchandise, burial or funeral services, or any other right
 185 or thing of value in connection with the final disposition of human remains. The owner
 186 of a cemetery, the executive officers, and general partners of a cemetery company shall
 187 not be deemed to be salespersons within the meaning of this definition unless they are
 188 paid a commission for the sale of said property, lots, rights, burial or funeral merchandise,
 189 or burial or funeral services.

190 (35) 'Secretary of State' means the Secretary of State of the State of Georgia.

191 (36) 'Solicitation' means any communication in the context of an offer or sale of grave
 192 spaces, burial or funeral merchandise, or burial or funeral services which directly or
 193 implicitly requests a response from the recipient.

194 10-14-3.1.

195 The licensing board shall have all administrative powers and other powers necessary to
 196 carry out the provisions of this chapter, including the authority to promulgate rules and
 197 regulations, ~~and the Secretary of State shall delegate to the board all such duties otherwise~~
 198 ~~entrusted to the Secretary of State; provided, however, that the Secretary of State.~~ The
 199 licensing board shall have sole authority over matters relating to the regulation of funds,
 200 trust funds, and escrow accounts and accounting and investigations concerning such
 201 matters.

202 10-14-4.

203 (a)(1) Unless exempt under this chapter, it shall be unlawful for any person to offer for
204 sale or to sell any cemetery burial rights, mausoleum interment rights, columbarium
205 inurnment rights, grave spaces, or other physical locations for the final disposition of
206 human remains in this state unless such person is registered as or employed by and acting
207 on behalf of and under the direction of a person registered as a cemetery owner pursuant
208 to this Code section.

209 (2) Unless exempt under this chapter, it shall be unlawful for any person to offer for sale
210 or sell burial or funeral merchandise or burial services in this state unless such person is
211 registered as or employed by and acting on behalf of and under the direction of a person
212 registered as a cemetery owner under this Code section, a funeral director under Chapter
213 18 of Title 43, or a burial or funeral merchandise dealer under this Code section.

214 (3) Unless exempt under this chapter, it shall be unlawful for any person to offer for sale
215 or to sell any preneed burial or funeral merchandise or preneed burial services in this state
216 unless such person is registered as a preneed dealer or preneed sales agent pursuant to this
217 Code section.

218 (4) It shall be unlawful for any person to offer for sale or to sell any funeral services in
219 this state unless such person is licensed as a funeral director under the provisions of
220 Chapter 18 of Title 43.

221 (b)(1) Every person desiring to be a registered cemetery owner shall file with the
222 Secretary of State a separate registration application for each cemetery owned in a form
223 prescribed by the Secretary of State, executed and duly verified under oath by the
224 applicant, if the applicant is an individual, or by an executive officer or general partner,
225 if the applicant is a corporation or partnership, or by an individual of similar authority,
226 if the applicant is some other entity, and containing the following information:

227 (A) The name, mailing address, and telephone number of the applicant, which for the
228 purposes of this Code section shall be the legal owner of the land upon which the
229 cemetery is located;

230 (B) The location and, if different from the information submitted for subparagraph (A)
231 of this paragraph, the mailing address and telephone number of the cemetery;

232 (C) The location of all records of the applicant which relate to the cemetery;

233 (D) If the applicant is not a natural person, the names of the president, secretary, and
234 registered agent if the applicant is a corporation, of each general partner if the applicant
235 is a partnership, or of individuals of similar authority if the applicant is some other
236 entity and their respective addresses and telephone numbers; the name and address of
237 each person who owns 10 percent or more of any class of ownership interest in the

238 applicant and the percentage of such interest; and the date of formation and the
239 jurisdiction of organization of the applicant;

240 (E) A copy of cemetery rules and regulations, a certified copy of a certificate of
241 existence or certificate of authority issued in accordance with Code Section 14-2-128
242 if the applicant is a corporation, and any amendments to such documents or any
243 substantially equivalent documents. Any such document once filed with the Secretary
244 of State pursuant to this chapter shall be deemed to be on file and incorporated into any
245 subsequent renewal or filing of such cemetery registration; provided, however, that
246 each applicant and registrant is under a continuing duty to update such filing and to
247 notify the Secretary of State regarding any changes or amendments to the articles of
248 incorporation, bylaws, cemetery rules and regulations, or substantially equivalent
249 documents, and provided, further, that any applicant or registrant shall furnish to the
250 Secretary of State additional copies of any such document upon request;

251 (F) A description of any judgment or pending litigation to which the applicant or any
252 affiliate of the applicant is a party and which involves the operation of the cemetery or
253 could materially affect the business or assets of the applicant;

254 (G) Whether the applicant or any affiliate of the applicant owns any other entities in
255 Georgia regulated by this chapter and, if so, the location, mailing address, telephone
256 number, and type of registration of such other entities;

257 (H) A consent to service of process meeting the requirements of Code Section
258 10-14-24 for actions brought by the State of Georgia;

259 (I) The name and business address of each individual employed, appointed, or
260 authorized by the applicant to offer for sale or to sell any grave lots, burial rights, burial
261 or funeral merchandise, or burial services on behalf of the cemetery;

262 (J) A balance sheet of the applicant dated as of the end of the most recent fiscal year
263 and in no event dated more than 15 months prior to the date of filing, which the
264 Secretary of State shall treat as confidential and not open to public inspection;

265 (K) Evidence satisfactory to the Secretary of State that the applicant owns for the
266 cemetery unencumbered fee simple title to contiguous land in the minimum acreage
267 required by this chapter or by rules issued by the Secretary of State in accordance with
268 this chapter, properly zoned for use as a cemetery, and dedicated for such use, and a
269 copy of a plat of survey thereto, provided that nothing herein shall prohibit the
270 encumbrance of the undeveloped portion of cemetery property for the purpose of
271 securing debt incurred for the purpose of developing or improving such property;

272 (L) Evidence satisfactory to the Secretary of State that the applicant has recorded, in
273 the public land records of the county in which the land described in subparagraph (K)
274 of this paragraph is located, a notice that contains the following language:

275 NOTICE

276 The property described herein shall not be sold, conveyed, leased, mortgaged, or
 277 encumbered except as provided by the prior written approval of the Secretary of State,
 278 as provided in the Georgia Cemetery and Funeral Services Act of 2000.

279 Such notice shall have been clearly printed in boldface type of not less than ten points
 280 and may be included on the face of the deed of conveyance to the applicant or may be
 281 contained in a separate recorded instrument that contains a legal description of the
 282 property.

283 (M) The name, address, location, and telephone number of the perpetual care trust
 284 account depository or depositories, the names of the accounts, and the account
 285 numbers;

286 (N) The name, address, and telephone number of each trustee;

287 (O) A copy of a perpetual care trust fund agreement executed by the applicant and
 288 accepted by the trustee, and evidence satisfactory to the Secretary of State of the deposit
 289 into such account of the amount of the initial required deposit, the trust agreement being
 290 conditioned only upon issuance of a certificate of registration;

291 (P) Such other information and documents as the Secretary of State may require by
 292 rule; and

293 (Q) A filing fee of \$100.00.

294 (2) Every person desiring to be a registered preneed dealer shall file with the Secretary
 295 of State a registration application in a form prescribed by the Secretary of State, executed
 296 and duly verified under oath by the applicant, if the applicant is an individual, or by an
 297 executive officer or general partner, if the applicant is a corporation or partnership, or by
 298 an individual of similar authority, if the applicant is some other entity, and containing the
 299 following information:

300 (A) The name of the applicant;

301 (B) The location, mailing address, and telephone number of the applicant's principal
 302 business location in Georgia and the same information for other locations where
 303 business is conducted, together with any trade names associated with each location;

304 (C) All locations of the records of the applicant which relate to preneed sales in
 305 Georgia;

306 (D) If the applicant is not a natural person, the names of the president, secretary, and
 307 registered agent if the applicant is a corporation, of each general partner if the applicant
 308 is a partnership, or of individuals of similar authority, if the applicant is some other
 309 entity and their respective addresses and telephone numbers; the name and address of
 310 each person who owns 10 percent or more of any class of ownership interest in the

- 311 applicant and the percentage of such interest; and the date of formation and the
312 jurisdiction of organization of the applicant;
- 313 (E) A certified copy of a certificate of existence or certificate of authority issued in
314 accordance with Code Section 14-2-128 if the applicant is a corporation;
- 315 (F) A description of any judgment or pending litigation to which the applicant or any
316 affiliate of the applicant is a party and which involves the operation of the applicant's
317 preneed business in Georgia or which could materially affect the business or assets of
318 the applicant;
- 319 (G) Whether the applicant or any affiliate of the applicant owns any other entities in
320 Georgia regulated by this chapter and, if so, the location, mailing address, telephone
321 number, and type of registration of such other entities;
- 322 (H) A consent to service of process meeting the requirements of Code Section
323 10-14-24 for actions brought by the State of Georgia;
- 324 (I) A list of each individual employed, appointed, or authorized by the applicant to
325 offer for sale or to sell any grave lots, burial rights, burial or funeral merchandise, or
326 burial services on behalf of the applicant;
- 327 (J) A balance sheet of the applicant dated as of the end of the most recent fiscal year
328 and in no event dated more than 15 months prior to the date of filing, which the
329 Secretary of State shall treat as confidential and not open to public inspection;
- 330 (K) The name, address, location, and telephone number of the preneed escrow account
331 depository or depositories, the names of the accounts, and the account numbers;
- 332 (L) An executed copy of the escrow agreement required by Code Section 10-14-7;
- 333 (M) The name, address, and telephone number of the escrow agent;
- 334 (N) Such other information and documents as the Secretary of State may require by
335 rule; and
- 336 (O) A filing fee of \$250.00.
- 337 (3) Every person desiring to be a registered burial or funeral merchandise dealer shall file
338 with the Secretary of State a registration application in a form prescribed by the Secretary
339 of State, executed and duly verified under oath by the applicant, if an individual, or by
340 an executive officer or general partner, if the applicant is a corporation or partnership, or
341 by an individual of similar authority, if the applicant is some other entity, and containing
342 the following information:
- 343 (A) The name of the applicant;
- 344 (B) The location, mailing address, and telephone number of the applicant's principal
345 business location in Georgia and the same information for other locations where
346 business is conducted, together with any trade names associated with each location;

- 347 (C) All locations of the records of the applicant which relate to funeral or burial
348 merchandise sales in Georgia;
- 349 (D) If the applicant is not a natural person, the names of the president, secretary, and
350 registered agent if the applicant is a corporation, of each general partner if the applicant
351 is a partnership, or of individuals of similar authority if the applicant is some other
352 entity and their respective addresses and telephone numbers; the name and address of
353 each person who owns 10 percent or more of any class of ownership interest in the
354 applicant and the percentage of such interest; and the date of formation and the
355 jurisdiction of organization of the applicant;
- 356 (E) A certified copy of a certificate of existence or certificate of authority issued in
357 accordance with Code Section 14-2-128 if the applicant is a corporation;
- 358 (F) A description of any judgment or pending litigation to which the applicant or any
359 affiliate of the applicant is a party and which involves the operation of the applicant's
360 funeral or burial merchandise business in Georgia or which could materially affect the
361 business or assets of the applicant;
- 362 (G) Whether the applicant or any affiliate of the applicant owns any other entities in
363 Georgia regulated by this chapter and, if so, the location, mailing address, telephone
364 number, and type of registration of such other entities;
- 365 (H) A consent to service of process meeting the requirements of Code Section
366 10-14-24 for actions brought by the State of Georgia;
- 367 (I) The name and business address of each individual employed, appointed, or
368 authorized by the applicant to offer for sale or to sell any burial or funeral merchandise
369 on behalf of the applicant;
- 370 (J) A balance sheet of the applicant dated as of the end of the most recent fiscal year
371 and in no event dated more than 15 months prior to the date of filing, which the
372 Secretary of State shall treat as confidential and not open to public inspection;
- 373 (K) Such other information and documents as the Secretary of State may require by
374 rule;
- 375 (L) A filing fee of \$100.00; and
- 376 (M) A bond, if required by the rules and regulations of the Secretary of State.
- 377 (c) The Secretary of State may approve an application only after he or she has conducted
378 an investigation of the applicant and determined that such applicant is qualified by
379 character, experience, and financial responsibility to conduct the business for which the
380 applicant is seeking registration in a legal and proper manner. A registration application
381 filed under this Code section shall become effective upon the issuing of a certificate of
382 registration by the Secretary of State or at such earlier time as the Secretary of State
383 determines.

384 (d) Every registration under this subsection shall expire on the first day of August of each
385 year. The registration must be renewed with the Secretary of State each year by the
386 submission of a renewal application containing the information required in an application
387 for initial registration to the extent that such information had not been included in an
388 application or renewal application previously filed together with a sworn statement that all
389 information not provided remains accurate. The filing fee for renewal of registration shall
390 be \$50.00 for each cemetery of cemetery owners, \$100.00 for preneed dealers, and \$50.00
391 for burial or funeral merchandise dealers.

392 (e) The Secretary of State, by rule, may provide for exceptions from registration for
393 cemeteries when the Secretary of State determines that the public interest does not require
394 registration, provided that such cemeteries are in existence on or before July 1, 2000,
395 consist of less than 25 acres, and are operated by nonprofit entities.

396 (f) Notwithstanding any provision to the contrary contained in this Code section, the
397 following shall be exempt from registration as a burial or funeral merchandise dealer:

- 398 (1) Any registered cemetery owner;
- 399 (2) The owner of any cemetery exempt from registration with respect to sales of burial
400 or funeral merchandise sold for use at such cemetery;
- 401 (3) Any licensed funeral director;
- 402 (4) Any person providing interment and disinterment services exclusively at cemeteries
403 exempt from registration;
- 404 (5) Any monument manufacturer or dealer which does not install monuments in
405 cemeteries required to be registered by this Code section;
- 406 (6) Any person who does not offer for sale or sell burial or funeral services or
407 merchandise to the general public; and
- 408 (7) Any registered preneed dealer.

409 In addition, the Secretary of State, by rule, may provide for other exceptions from
410 registration.

411 (g)(1) Any cemetery in operation on August 1, 1986 which offers perpetual care for
412 some designated sections of its property but does not offer perpetual care to other
413 designated sections shall be considered a perpetual care cemetery for purposes of this
414 chapter. No cemetery formed or created on or after July 1, 2000, may fail to offer
415 perpetual care for any part of such cemetery.

416 (2) Any nonperpetual care cemetery which was registered with the Secretary of State
417 prior to August 1, 1986, may continue to be operated as such after that date and a renewal
418 of such registration shall not be required.

419 (3) Any nonperpetual care cemetery which is shown to be of historical significance and
420 is operated solely for historical nonprofit purposes shall be exempt from registration.

421 (4) Except as specifically authorized under paragraphs (2) and (3) of this subsection,
422 from and after August 1, 1986, it shall be unlawful for any person to operate or establish
423 a nonperpetual care cemetery.

424 10-14-5.

425 (a) All individuals who offer preneed contracts to the public, or who execute preneed
426 contracts on behalf of any entity required to be registered as a preneed dealer, and all
427 individuals who offer, sell, or sign contracts for the preneed sale of burial rights shall be
428 registered with the Secretary of State as preneed sales agents, pursuant to this Code section,
429 unless such individuals are exempted under this chapter or individually own a controlling
430 interest in a preneed dealer registered under this chapter.

431 (b) All preneed sales agents must be employed by a registered preneed dealer.

432 (c) A preneed dealer shall be liable for the activities of all preneed sales agents who are
433 employed by the preneed dealer or who perform any type of preneed related activity on
434 behalf of the preneed dealer. If a preneed sales agent violates any provision of this chapter,
435 such preneed sales agent and each preneed dealer who employs such preneed sales agent
436 shall be subject to the penalties and remedies set out in Code Sections 10-14-11, 10-14-19,
437 10-14-20, and 10-14-21.

438 (d) A preneed sales agent may be authorized to sell, offer, and execute preneed contracts
439 on behalf of all entities owned or operated by the agent's sponsoring preneed dealer.

440 (e) If the application for his or her registration is sent by certified mail, return receipt
441 requested, an individual may begin functioning as a preneed sales agent as soon as a
442 completed application for registration, as set forth in subsection (g) of this Code section,
443 is mailed to the Secretary of State, provided that, if any such sales agent fails to meet the
444 qualifications set forth in this chapter, the preneed dealer shall immediately upon
445 notification by the Secretary of State cause such agent to cease any sales activity on its
446 behalf.

447 (f) The qualifications for a preneed sales agent are as follows:

448 (1) The applicant must be at least 18 years of age;

449 (2) The applicant must not be subject to any order of the Secretary of State that restricts
450 his or her ability to be registered as a preneed sales agent; and

451 (3) The applicant must not have been adjudicated, civilly or criminally, to have
452 committed fraud or to have violated any law of any state involving fair trade or business
453 practices, have been convicted of a misdemeanor of which fraud is an essential element
454 or which involves any aspect of the funeral or cemetery business, or have been convicted
455 of a felony.

456 (g) An application for registration as a preneed sales agent shall be submitted to the
457 Secretary of State with an application fee of \$100.00 by the preneed dealer on a form that
458 has been designated by the Secretary of State and shall contain, at a minimum, the
459 following:

460 (1) The name, address, social security number, and date of birth of the applicant and such
461 other information as the Secretary of State may reasonably require of the applicant;

462 (2) The name, address, and license number of the sponsoring preneed dealer;

463 (3) A representation, signed by the applicant, that the applicant meets the requirements
464 set forth in subsection (f) of this Code section;

465 (4) A representation, signed by the preneed dealer, that the applicant is authorized to
466 offer, sell, and sign preneed contracts on behalf of the preneed dealer and that the preneed
467 dealer has informed the applicant of the requirements and prohibitions of this chapter
468 relating to preneed sales, the provisions of the preneed dealer's preneed contract, and the
469 nature of the merchandise, services, or burial rights sold by the preneed dealer;

470 (5) A statement indicating whether the applicant has any type of working relationship
471 with any other preneed dealer or insurance company; and

472 (6) A signed agreement by the applicant consenting to an investigation of his or her
473 background with regard to the matters set forth in this Code section, including, without
474 limitation, his or her criminal history.

475 (h) An individual may be registered as a preneed sales agent on behalf of more than one
476 preneed dealer, provided that the individual has received the written consent of all such
477 preneed dealers.

478 (i) A preneed dealer who has registered a preneed sales agent shall notify the Secretary of
479 State within three business days of a change in such individual's status as a preneed sales
480 agent with such preneed dealer or upon the occurrence of any other event which would
481 disqualify the individual as a preneed sales agent.

482 (j) Upon receipt and review of an application that complies with all of the requirements
483 of this Code section, the Secretary of State shall register the applicant. The department
484 shall by rule provide for annual renewal of registration and a renewal fee of \$50.00.

485 (k) Each cemetery registered under this chapter shall maintain in its files for a period of
486 five years a properly completed and executed application for employment in a form
487 prescribed by the Secretary of State for each employee, officer, independent contractor, or
488 other agent directly or indirectly involved in cemetery or preneed sales or any person
489 occupying a similar status or performing similar functions. If a request is made, said forms
490 shall be made available for inspection by authorized representatives of the Secretary of
491 State.

492 10-14-6.

493 (a)(1) Each cemetery or cemetery company required to be registered by this chapter shall
494 establish and maintain an irrevocable trust fund for each cemetery owned.

495 (2) For trust funds established on or after July 1, 2000, the initial deposit to said
496 irrevocable trust fund shall be the sum of \$10,000.00 and the deposit of said sum shall be
497 made before selling or contracting to sell any burial right. No such initial deposit shall
498 be required with respect to any cemetery for which there is an existing perpetual care
499 account on July 1, 2000. The trust fund shall apply to sales or contracts for sale of lots,
500 grave spaces, niches, mausoleums, columbaria, urns, or crypts in which perpetual care
501 has been promised or guaranteed.

502 (3) The initial corpus of the trust fund and all subsequent required deposits shall be
503 deposited in a state bank, state savings and loan institution, savings bank, national bank,
504 or federal savings and loan institution, whose deposits are insured by the Federal Deposit
505 Insurance Corporation or other governmental agency, or a state or federally chartered
506 credit union insured under 12 U.S.C. Section 1781 of the Federal Credit Union Act, or
507 other depository or trustee which is approved by the Secretary of State or which meets
508 the standards contained in the rules and regulations promulgated by the Secretary of
509 State.

510 (4) Each perpetual care trust fund established on or after July 1, 2000, shall be named
511 'The _____ Cemetery _____ Perpetual Care Trust Fund' with the first
512 blank being filled by the name of the cemetery and the second blank being filled by the
513 month and year of the establishment of such trust fund. If a cemetery has a perpetual care
514 trust fund existing on July 1, 2000, and the perpetual care trust fund agreement permits,
515 the cemetery may make additional deposits to such a trust fund on the condition that the
516 entire corpus of the trust fund, any income earned by the trust fund, and any subsequent
517 deposits to the trust fund are thereafter governed by the provisions of this chapter, the
518 'Georgia Cemetery and Funeral Services Act of 2000,' as it existed on July 1, 2000,
519 except for the amount of the initial deposit to the trust fund. If a cemetery owner or
520 company elects to establish a new perpetual care trust fund subject to the provisions of
521 this chapter, the 'Georgia Cemetery and Funeral Services Act of 2000,' as it existed on
522 July 1, 2000, any perpetual care trust fund which existed on July 1, 2000, is subject to the
523 provisions of law in effect on the date of its establishment, and deposits for sales
524 transacted on or after July 1, 2000, shall be deposited in the trust fund established on or
525 after July 1, 2000. If a cemetery existing on July 1, 2000, has an existing perpetual care
526 trust fund which complies with provisions of law in effect on the date of its
527 establishment, a new trust fund created in compliance with this chapter shall not require
528 an initial deposit.

529 (b) Whenever any burial right, cemetery lot, grave space, niche, mausoleum, columbarium,
530 urn, or crypt wherein perpetual care or endowment care is promised or contracted for or
531 guaranteed is sold by any cemetery, the cemetery shall make deposits to the trust fund that
532 equal 15 percent of the sales price of the burial right or 7.5 percent of the total sales price
533 of any mausoleums, niches, columbaria, urns, or crypts, provided that the minimum deposit
534 for each burial right shall be \$50.00; provided, further, that on July 1, 2003, and every three
535 years thereafter, the amount of said minimum deposit shall be adjusted by the rate of
536 change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the
537 United States Department of Labor. The Secretary of State shall adopt such adjustment to
538 the amount of said minimum deposit by rule. Deposits to the trust fund shall be made not
539 later than 30 days following the last day of the month in which payment therefor is made,
540 or, in the case of a free space, the month in which the space is given. In the event any sale
541 is made on an installment basis, not less than a pro rata share of the principal portion of
542 each payment made and allocated to the lot, grave, space, niche, mausoleum, columbarium,
543 urn, or crypt shall be allocated to the required trust fund deposit, provided that all deposits
544 to the trust fund shall be completed within six years from the date of the signing of the
545 perpetual care contract. The manner of any such allocation shall be clearly reflected on the
546 books of the registrant.

547 (c) The initial \$10,000.00 corpus of the perpetual care trust fund shall not be counted as
548 part of the required periodic deposits and shall be considered to be corpus or principal.

549 (d) The income earned by the trust fund shall be retained by the trust fund. At such time
550 as either:

551 (1) The cemetery owner is not licensed and has not been licensed for 90 or more
552 consecutive days to sell burial rights;

553 (2) The cemetery is under the management of a receiver; or

554 (3) Less than 50 percent of available lots are unsold,
555 95 percent of the income from the trust fund shall be paid to the owner or receiver
556 exclusively for covering the costs of care and maintenance of the cemetery, including
557 reasonable administrative expenses incurred in connection therewith. The income of the
558 trust fund shall be paid to the owner or receiver at intervals agreed upon by the recipient
559 and the trustee, but in no case shall the income be paid more often than monthly.

560 (e) There shall be no withdrawals from the trust fund except pursuant to the provisions of
561 this chapter or by court order.

562 (f)(1) The assets of a trust fund shall be invested and reinvested subject to all the terms,
563 conditions, limitations, and restrictions imposed by the laws of the State of Georgia upon
564 executors and trustees regarding the making and depositing of investments with trust
565 moneys pursuant to former Code Sections 53-8-1 through 53-8-4 as such existed on

566 December 31, 1997, if applicable; Code Section 53-8-1; or Code Section 53-12-340.
567 Subject to said terms, conditions, limitations, and restrictions, the trustee of the perpetual
568 care trust fund shall have full power to hold, purchase, sell, assign, transfer, reinvest, and
569 dispose of any of the securities and investments in which any of the assets of said fund
570 are invested, including proceeds of investments.

571 (2) Any state bank, national bank, or other financial institution authorized to act in a
572 fiduciary capacity in this state, which presently or in the future serves as a fiduciary or
573 cofiduciary of the trust fund of a perpetual care cemetery, may invest part or all of such
574 trust fund held by it for investment in interests or participation in one or more common
575 trust funds established by that state bank, national bank, or other financial institution for
576 collective investment, if such investment is not expressly prohibited by the instrument,
577 judgment, decree, or order creating the fiduciary relationship and if, in the case of
578 cofiduciaries the trust institution procures the consent of its cofiduciary or cofiduciaries
579 to such investment, and notwithstanding the fact that such common trust funds are not
580 invested and reinvested subject to all the terms, conditions, limitations, and restrictions
581 imposed by the laws of the State of Georgia upon executors and trustees in the making
582 and disposing of their investments.

583 (3) Notwithstanding any other provision of this subsection, the Secretary of State shall
584 establish rules and regulations for investments of a trust fund established on or after July
585 1, 2000, or otherwise governed by this chapter, the 'Georgia Cemetery and Funeral
586 Services Act of 2000,' as it existed on July 1, 2000, as necessary to preserve the corpus
587 and income of such a fund and for determining what restrictions are necessary for such
588 purpose.

589 (4) At any time, in the event that the perpetual care trust fund contains an amount less
590 than the amount required by this Code section, the cemetery owner shall, within 15 days
591 after the earlier of becoming aware of such fact or having been so notified by the
592 Secretary of State, deposit into the perpetual care trust fund an amount equal to such
593 shortfall. In the event that the Secretary of State and the cemetery owner disagree
594 regarding the amount of such shortfall, no penalty shall be imposed upon the cemetery
595 owner for any failure to comply with this paragraph unless such failure occurs after notice
596 and opportunity for a hearing as provided in Code Section 10-14-23.

597 (g) Moneys of the perpetual care trust fund shall not be invested in or loaned to any
598 business venture controlled by the cemetery owner, a person who owns a controlling
599 interest of a cemetery owner that is not a natural person, or an affiliate of any of these
600 persons or entities.

601 (h) The trustee shall furnish yearly to the Secretary of State a financial report in a form
602 designated by the Secretary of State with respect to the perpetual care trust fund.

603 (i) Upon a finding by a court of competent jurisdiction of failure to deposit or maintain
604 funds in the trust account as required by this chapter or of fraud, theft, or misconduct by
605 the owners of the cemetery or the officers or directors of a cemetery company which has
606 wasted or depleted such funds, the cemetery owners or the officers or directors of a
607 cemetery company may be held jointly and severally liable for any deficiencies in the trust
608 account as required in this chapter.

609 10-14-7.

610 (a)(1) Each preneed dealer which sells burial or funeral merchandise on a preneed basis
611 or preneed burial or funeral services shall establish and maintain a preneed escrow
612 account.

613 (2) With respect to each monument and outer burial container, and except as otherwise
614 provided in paragraph (3) of this subsection, the amount to be deposited to said escrow
615 account shall be not less than 35 percent of the sales price of such monument or outer
616 burial container; in no event shall the amount deposited be less than 110 percent of the
617 wholesale price of such monument or outer burial container. For any other burial or
618 funeral merchandise, the amount to be deposited to said escrow account shall be not less
619 than 100 percent of the sales price of such merchandise; in no event shall the amount
620 deposited be less than 110 percent of the wholesale price of such merchandise. If the
621 contract of sale shall include grave spaces or items not deemed to be burial or funeral
622 merchandise, the portion of the sales price attributable to the sale of the burial or funeral
623 merchandise shall be determined, and it shall only be as to such portion of the total
624 contract as constitutes burial or funeral merchandise that the deposit described in this
625 paragraph shall be required. In the event that the sale of burial or funeral merchandise
626 is under an installment contract, the required trust deposit shall be a pro rata part of the
627 principal portion of each installment payment, such deposit only being required as
628 payments are made by the purchaser for such burial or funeral merchandise. In the event
629 the installment contract is discounted or sold to a third party, the seller shall be required
630 to deposit an amount equal to the undeposited portion of the required deposit of the sales
631 price of such burial or funeral merchandise at such time as if the contract were paid in
632 full.

633 (3) With respect to a monument or outer burial container the itemized sales price of
634 which does not include the installation of such item, 100 percent of the installation cost
635 shall be deposited in the escrow account.

636 (4) With respect to cash advance items and the sale of preneed funeral or burial services,
637 the amount to be deposited to said escrow account shall be 100 percent of the sales price
638 of such funeral or burial services or the full amount of a cash advance item. The time and

639 manner of deposit shall be the same as that specified for deposit of burial or funeral
640 merchandise sale funds to the escrow account.

641 (b) The deposit specified in paragraphs (2) and (3) of subsection (a) of this Code section
642 shall be made not later than 30 days following the last day of the month in which any
643 payment is received.

644 (c) The preneed escrow account shall be established and maintained in a state bank, state
645 savings and loan institution, savings bank, national bank, federal savings and loan
646 association, whose deposits are insured by the Federal Deposit Insurance Corporation or
647 other governmental agency, or a state or federally chartered credit union insured under 12
648 U.S.C. Section 1781 of the Federal Credit Union Act, or other organization approved by
649 the Secretary of State which is located and doing business in this state.

650 (d)(1) Funds shall be released from the escrow account when the burial or funeral
651 merchandise is delivered at the time of need or to the purchaser at the purchaser's request
652 or, in the case of a monument, attached to realty, or at such times as described in the rules
653 and regulations promulgated by the Secretary of State, not exceeding the lesser of 30 days
654 from receipt of application for release or the time within which a preneed dealer is
655 required by law to provide a refund to a purchaser. A preneed dealer is prohibited from
656 requiring preneed delivery to the consumer as a condition of the sale. Outer burial
657 containers may not be delivered prior to need. Deposits made from funds received in
658 payment of preneed services shall remain in the escrow account until such services are
659 performed, at which time said funds may be released to the preneed dealer. The trustee
660 may require certification by the preneed dealer of delivery of merchandise or
661 performance of services before release of funds.

662 (2) The funds on deposit under the terms of this subsection shall be deemed and regarded
663 as escrow funds pending delivery of the burial or funeral merchandise concerned and said
664 funds may not be pledged, hypothecated, transferred, or in any manner encumbered by
665 the escrow agent nor may said funds be offset or taken for the debts of the preneed dealer
666 until such time as the merchandise has been delivered or the services performed; but after
667 delivery of the burial or funeral merchandise concerned.

668 (e) At any time, in the event that the preneed escrow account contains an amount less than
669 the amount required by this Code section, the preneed dealer shall, within 15 days after the
670 earlier of becoming aware of such fact or having been so notified by the Secretary of State,
671 deposit into the preneed account an amount equal to such shortfall. In the event that the
672 Secretary of State and the preneed dealer disagree regarding the amount of such shortfall,
673 no penalty shall be imposed upon the preneed dealer for any failure to comply with this
674 provision unless such failure occurs after notice and opportunity for a hearing as provided
675 in Code Section 10-14-23.

676 (e.1) In the case of release of escrowed funds to a purchaser at the purchaser's request
677 pursuant to paragraph (1) of subsection (d) of this Code section, a sum not less than the
678 lesser of 10 percent of the escrowed amount or one-half of the interest earned upon such
679 funds as of the date of release, as provided by the Secretary of State by rule or regulation,
680 may be retained by the preneed dealer as administrative costs.

681 (f) Upon a finding by a court of competent jurisdiction of failure to deposit or maintain
682 funds in the preneed escrow account as required by this chapter or of fraud, theft, or other
683 misconduct by the preneed dealer or the officers or directors of the preneed dealer which
684 has wasted or depleted such funds, the preneed dealer or the officers or directors of the
685 preneed dealer may be held jointly and severally liable for any deficiencies in the preneed
686 escrow account.

687 10-14-8.

688 (a) The Secretary of State, by order, may prohibit a person who is an employee, officer,
689 independent contractor, or other agent directly involved in the sale of burial rights, burial
690 or funeral merchandise, or burial or funeral services from employment or other association
691 with a registrant under this chapter if the Secretary of State finds that such is in the public
692 interest and that said person:

693 (1) Has willfully made or caused to be made, in any documents filed with the Secretary
694 of State under this chapter, or in any hearings conducted by the Secretary of State, any
695 statement which, at the time and in the light of the circumstances under which it was
696 made, was false or misleading with respect to any material fact, or has willfully omitted
697 to state in any application any material fact which is required to be stated therein or
698 necessary in order to make the statements made, in light of the circumstances under
699 which they were made, not misleading;

700 (2) Has willfully violated or willfully failed to comply with any provision of this chapter
701 or a predecessor law or any regulation or order promulgated or issued under this chapter
702 or any predecessor law;

703 (3) Has been adjudicated, civilly or criminally, to have committed fraud or to have
704 violated any law of any state involving fair trade or business practices, has been
705 convicted of a misdemeanor of which fraud is an essential element or which involves any
706 aspect of the funeral or cemetery business, or has been convicted of a felony;

707 (4) Has engaged in any unethical or dishonest practices in the funeral or cemetery
708 business; or

709 (5) Is permanently or temporarily enjoined, suspended, or barred by any court of
710 competent jurisdiction or by any state or other jurisdiction from engaging in or continuing
711 any conduct or practice involving any aspect of the funeral or cemetery business.

712 (b) Where the Secretary of State finds that there are grounds for the prohibition from
713 employment provided in this Code section, he or she may issue an order prohibiting an
714 employee, officer, independent contractor, or other agent directly or indirectly involved in
715 cemetery or preneed sales or any person occupying a similar status or performing similar
716 functions from employment with a registered cemetery or preneed dealer. Such an order
717 shall not be effective until notice and opportunity for hearing are provided in accordance
718 with Code Section 10-14-23 and until the Secretary of State shall issue a written order in
719 accordance with Code Section 10-14-23; but the Secretary of State may, if he or she finds
720 that the public safety or welfare requires emergency action, immediately issue an order
721 prohibiting such person from such employment. Such an order of immediate prohibition
722 will expire automatically if the Secretary of State fails to afford notice and opportunity for
723 hearing pursuant to Code Section 10-14-23.

724 10-14-9.

725 (a) A registration application may be amended by filing with the Secretary of State an
726 amended application signed by the persons required to sign the original application under
727 Code Section 10-14-4 or 10-14-5.

728 (b) Every applicant registered pursuant to Code Section 10-14-4 or 10-14-5 shall agree to
729 deliver in Georgia, on demand of the Secretary of State, all records and documents
730 concerning funds, accounts, transactions, and activities of said applicant or said applicant
731 shall agree to pay the expenses incurred in sending an auditor approved by the Secretary
732 of State to wherever such records and documents are located for the purpose of conducting
733 an audit pursuant to the provisions of this chapter.

734 (c) When any cemetery or preneed dealer registered under Code Section 10-14-4 is sold
735 or the ownership is otherwise transferred, or a controlling interest is sold or transferred, the
736 vendor or the transferor of such cemetery, preneed dealer, or interest shall remain liable for
737 any funds that should have been deposited prior to the date of such sale or transfer in the
738 perpetual care trust fund or the preneed escrow account, or both.

739 (1) Prior to such sale or transfer, the vendor or transferor shall notify the Secretary of
740 State of the proposed transfer and submit to the Secretary of State any document or
741 record the Secretary of State may require in order to demonstrate that said vendor or
742 transferor is not indebted to the perpetual care trust fund or the preneed escrow account,
743 or both. After the transfer of ownership or control and the presentation of proof of
744 currency of the perpetual care trust fund or the preneed escrow account, or both, by the
745 vendor or transferor, the Secretary of State may require the presentation of proof of the
746 continued current status of the perpetual care trust fund or the preneed escrow account,
747 or both, by the vendee or transferee. The Secretary of State is authorized to recover from

748 such vendor, transferor, vendee, or transferee, for the benefit of the perpetual care trust
 749 fund or the preneed escrow account, or both, all sums which the vendor, transferor,
 750 vendee, or transferee has not properly accounted for and paid into the trust fund.

751 (2) When the vendee or transferee has complied with the provisions of this subsection,
 752 he or she shall submit to the Secretary of State an application for registration and
 753 appropriate fees pursuant to Code Section 10-14-4. The Secretary of State shall then issue
 754 a certificate of registration to said vendee or transferee.

755 10-14-10.

756 (a) Except as otherwise provided in subsections (b) and (c) of this Code section, every
 757 cemetery initially registered according to the provisions of this chapter on or after July 1,
 758 1998, shall consist of not less than ten acres of land.

759 (b) The following cemeteries shall not be subject to the requirement of subsection (a) of
 760 this Code section:

761 (1) All cemeteries registered according to this chapter prior to August 1, 1986; or

762 (2) Cemeteries initially registered on or after August 1, 1986, but before July 1, 1998,
 763 which shall consist of not less than 25 acres of land, except for cemeteries subject to a
 764 provision of previous law, which allowed cemeteries consisting of not less than ten acres
 765 of land dedicated solely for burial purposes and located in counties having a population
 766 of less than 10,000 according to the United States decennial census of 1990 or any future
 767 such census.

768 (c) The Secretary of State may provide by rule or regulation for a smaller minimum size
 769 for a cemetery which consists solely of one or more columbaria.

770 10-14-11.

771 (a) The Secretary of State may issue a stop order denying effectiveness to, or suspending
 772 or revoking the effectiveness of, any registration and shall give notice of such issuance
 773 pursuant to Code Section 10-14-23 if he or she finds that the order is in the public interest
 774 and that:

775 (1) The registration as of its effective date, or as of any earlier date in the case of an
 776 order denying effectiveness, contains an untrue statement of a material fact or omits to
 777 state a material fact required to be stated therein or necessary to make the statements
 778 therein not misleading;

779 (2) The applicant has failed to file financial reports required by subsection (h) of Code
 780 Section 10-14-12;

781 (3) The applicant has failed to pay the filing fees required by Code Section 10-4-4;

- 782 (4) The person or entity registered or sought to be registered or the individual owner,
 783 corporate owner, or person who owns a controlling interest of the corporate owner has
 784 been adjudicated, civilly or criminally, to have committed fraud or to have violated any
 785 law of any state involving fair trade or business practices, has been convicted of a
 786 misdemeanor of which fraud is an essential element or which involves any aspect of the
 787 funeral or cemetery business, or has been convicted of a felony;
- 788 (5) The trustee for the perpetual care trust fund or the escrow agent for the preneed
 789 escrow account has failed to file financial reports required by subsection (h) of Code
 790 Section 10-14-6 or subsection (g) of Code Section 10-14-29;
- 791 (6) The person or entity registered or seeking to be registered has become insolvent or
 792 has filed a voluntary petition for protection from creditors; or
- 793 (7) Any provision of this chapter or any rule, order, or condition lawfully imposed under
 794 this chapter has been willfully violated by:
- 795 (A) The person filing the registration application;
- 796 (B) The registrant's individual owner, corporate owner, or person who owns a
 797 controlling interest of the corporate owner; or
- 798 (C) The trustee or escrow agent of a trust fund or escrow account established and
 799 maintained pursuant to the provisions of this chapter.
- 800 (b) The Secretary of State may deny registration or refuse to grant renewal of registration
 801 if he or she finds that such refusal or denial is in the public interest and that:
- 802 (1) The registration application does not contain a current list of preneed sales agents and
 803 accompanying information as required by Code Section 10-14-4;
- 804 (2) The applicant has not paid filing fees or renewal fees as required by Code Section
 805 10-14-4; or
- 806 (3) The applicant has not filed the financial reports required by Code Section 10-14-4 or
 807 subsection (h) of Code Section 10-14-12.
- 808 (c) In addition to the actions authorized in subsections (a) and (b) of this Code section, the
 809 Secretary of State shall be authorized to impose a penalty fee not to exceed \$500.00 for the
 810 late filing of an application for a renewal registration or late filing of financial reports
 811 required by this chapter, or both. However, the penalty fee or fees imposed for the late
 812 filing of an application for renewal of registration or financial reports may be waived by
 813 the Secretary of State upon a showing to the Secretary of ~~the~~ State that such late filing was
 814 due to circumstances beyond the control of the applicant or registrant despite the exercise
 815 by the applicant or registrant of due diligence in the timely filing of the application or
 816 report.
- 817 (d) The Secretary of State may by order summarily postpone or suspend the effectiveness
 818 of the registration or refuse to register any applicant pending final determination of any

819 proceeding under this Code section. Upon the entry of the order, the Secretary of State shall
820 promptly notify the applicant or registrant of the order and the reasons for the order and
821 that, within 15 days after the receipt of a written request, the matter will be heard. If no
822 hearing is requested and none is ordered by the Secretary of State, the order will remain in
823 effect until it is modified or vacated by the Secretary of State. If a hearing is requested or
824 ordered, the Secretary of State, after notice of an opportunity for hearing to the persons
825 affected, may modify or vacate the order or extend it until final determination.

826 (e) The Secretary of State may vacate or modify a stop order if he or she finds that the
827 conditions which prompted its entry have changed or that it is otherwise in the public
828 interest to do so.

829 (f) No stop order issued under any part of this Code section, except the first sentence of
830 subsection (d) of this Code section, shall become effective until and unless the Secretary
831 of State has complied with the provisions of Code Section 10-14-23.

832 10-14-12.

833 (a) Each registrant under paragraph (1) or (2) of subsection (b), or both, of Code Section
834 10-14-4 shall establish and maintain a separate and distinct account for the perpetual care
835 trust fund for each cemetery and for the preneed escrow account. There shall be no
836 commingling, codeposits, or transfers of funds between the accounts, except pursuant to
837 court order and with the knowledge and consent of the Secretary of State.

838 (b) Each registrant shall keep and maintain separate books, records, accounts, and
839 documents regarding the transaction of its business. The books, records, accounts, and
840 documents related to the keeping of funds pursuant to the provisions of this chapter and the
841 rules and regulations promulgated under this chapter shall be kept and maintained by the
842 registrant separately from the other books, records, accounts, and documents related to the
843 transaction of business.

844 (c) A cemetery owner or an officer or director of a cemetery company may be a trustee of
845 the perpetual care trust fund of a cemetery which the individual or cemetery company owns
846 upon approval of the Secretary of State.

847 (d) The Secretary of State shall have the authority to prescribe or approve the form of the
848 perpetual care trust agreement and shall have the authority to approve or disapprove any
849 amendments to said trust agreement as of July 1, 1983.

850 (e) The Secretary of State shall have the authority to prescribe or approve the form of the
851 preneed escrow account agreement and shall have the authority to approve or disapprove
852 any amendments to said escrow account agreement as of July 1, 1983.

853 (f) A trustee or escrow agent of a registrant may be removed pursuant to the provisions of
854 Code Section 10-14-19 or by other means provided by the laws of this state.

855 (g) Each perpetual care cemetery and preneed dealer shall file a report concerning the
856 perpetual care trust and the preneed escrow account annually with the Secretary of State,
857 provided that, after notice and a hearing, the Secretary of State may order more frequent
858 reports in the event any such report is not filed in a timely manner or if the report filed
859 contains errors and deficiencies. The report shall be on a form prescribed by the Secretary
860 of State.

861 10-14-13.

862 For the purposes of venue for any civil or criminal action under this chapter, any violation
863 of this chapter or of any rule, regulation, or order promulgated under this chapter shall be
864 considered to have been committed in any county in which any act was performed in
865 furtherance of the transaction which violated this chapter, in the county of any violator's
866 principal place of business in this state, in the county of the cemetery's or preneed dealer's
867 or burial or funeral merchandise dealer's location or residence in this state, and in any
868 county in which any violator had control or possession of any proceeds of said violation
869 or of any books, records, documents, or other material or objects which were used in
870 furtherance of said violation.

871 10-14-14.

872 (a) The administration of the provisions of this chapter shall be vested in the Secretary of
873 State.

874 (b) The Secretary of State shall keep a record of all proceedings related to his or her duties
875 under this chapter and shall keep records in which shall be entered the names of all
876 cemeteries, preneed dealers, preneed sales agents, and burial or funeral merchandise
877 dealers to whom certificates of registration are issued, which records shall be open at all
878 times for public inspection.

879 (c) The Secretary of State shall have the authority to administer oaths in, and to prescribe
880 forms for, all matters arising under this chapter.

881 (d) The Secretary of State shall have authority to employ examiners, clerks and
882 stenographers, and other employees as the administration of this law may require. The
883 Secretary of State shall also have authority to appoint and employ investigators who shall
884 have, in any case in which there is a reason to believe a violation of this chapter has
885 occurred or is about to occur, the right and power to serve subpoenas and to swear out and
886 execute search warrants and arrest warrants.

887 (e) The Secretary of State shall have the power to make such rules and regulations from
888 time to time as he or she may deem necessary and proper for the enforcement of this
889 chapter including, without limitation, rules regarding the solicitation of burial or funeral

890 rights, merchandise, or services. The Secretary of State shall regulate such solicitation to
891 protect the public from solicitation which is intimidating, overreaching, vexatious,
892 fraudulent, or misleading; which utilizes undue influence; or which takes undue advantage
893 of a person's ignorance or emotional vulnerability. Such rules and regulations shall be
894 adopted, promulgated, and contested as provided in Chapter 13 of Title 50.

895 10-14-15.

896 (a) The Secretary of State, at his or her discretion:

897 (1) May make such public or private investigations or examinations inside or outside this
898 state as he or she deems necessary to determine whether any person has violated or is
899 about to violate any provision of this chapter or any rule, regulation, or order under this
900 chapter or to aid in the enforcement of this chapter or in the prescribing of rules and
901 regulations under this chapter; and

902 (2) May require or permit any person to file a statement in writing, under oath or
903 otherwise as the Secretary of State determines, as to all the facts and circumstances
904 concerning the matter to be investigated.

905 (b) For the purpose of conducting any investigation as provided in this Code section, the
906 Secretary of State shall have the power to administer oaths, to call any party to testify under
907 oath at such investigations, to require the attendance of witnesses and the production of
908 books, records, and papers, and to take the depositions of witnesses; and, for such purposes,
909 the Secretary of State is authorized to issue a subpoena for any witness or a subpoena for
910 the production of documentary evidence to compel the production of any books, records,
911 or papers. Said subpoenas may be served by certified mail or statutory overnight delivery,
912 return receipt requested, to the addressee's business mailing address or by investigators
913 appointed by the Secretary of State or shall be directed for service to the sheriff of the
914 county where such witness resides or is found or where such person in custody of any
915 books, records, or papers resides or is found. The fees and mileage of the sheriff, witness,
916 or person shall be paid from the funds in the state treasury for the use of the Secretary of
917 State in the same manner that other expenses of the Secretary of State are paid.

918 (c) In case of refusal to obey a subpoena issued under any Code section of this chapter to
919 any person, a superior court of appropriate jurisdiction, upon application by the Secretary
920 of State, may issue to the person an order requiring him or her to appear before the court
921 to show cause why he or she should not be held in contempt for refusal to obey the
922 subpoena. Failure to obey a subpoena may be punished by the court as contempt of court.

923 (d) The Secretary of State is authorized to hold investigative hearings with respect to any
924 matter under this chapter. A hearing as provided for in this Code section may be conducted
925 by any person designated by the Secretary of State for that purpose. A transcript of the

926 testimony and evidence resulting from such hearing may, but need not, be transcribed by
927 the Secretary of State. A report of the investigative hearing shall be included in the
928 investigative report prepared for the Secretary of State. Any recommendations of the
929 designated representative of the Secretary of State shall be advisory only and shall not have
930 the effect of an order of the Secretary of State.

931 (e) The Secretary of State shall have the authority to inspect and review or cause to be
932 reviewed the books of each registrant under this chapter. Said inspection or review may be
933 conducted by the Secretary of State as frequently as the Secretary of State may deem
934 appropriate.

935 10-14-16.

936 (a) The owner of every cemetery may make, adopt, and enforce rules and regulations for
937 the use, care, control, management, restriction, and protection of such cemetery and of all
938 parts and subdivisions thereof; for restricting, limiting, and regulating the use of all
939 property within such cemetery; for regulating and preventing the introduction and care of
940 plants or shrubs within such grounds; for regulating the conduct of persons and preventing
941 improper assemblages therein; and for all other purposes deemed necessary by the owner
942 of the cemetery for the proper conduct of the business of the cemetery and the protection
943 of safeguarding the premises and the principles, plans, and ideas on which the cemetery
944 was organized. From time to time, the owner may amend, add to, revise, change, modify,
945 or abolish such rules and regulations. Such rules and regulations shall be plainly printed
946 or typewritten, posted conspicuously, and maintained, subject to inspection and copy, at
947 the usual place for transacting the regular business of the cemetery; provided, however, that
948 no cemetery to which the provisions of this chapter are applicable shall have the power to
949 adopt any rule or regulation in conflict with any of the provisions of this chapter or in
950 derogation of the contract rights of lot owners or owners of burial rights. Upon request, the
951 registrant shall provide a copy of said rules and regulations to any person who requests it.

952 (b) The owner of every cemetery shall have the further right to establish reasonable rules
953 and regulations regarding the type material, design, composition, finish, and specifications
954 of any and all merchandise to be used or installed in the cemetery. Subject to the provisions
955 of this Code section and rules of the Secretary of State, reasonable rules may further be
956 adopted regarding the installing by the cemetery or others of all merchandise to be installed
957 in the cemetery. Such rules and regulations shall be posted conspicuously and maintained,
958 subject to inspection and copy, at the usual place for transacting the regular business of the
959 cemetery. Upon request, the registrant shall provide a copy of said rules and regulations to
960 any person requesting it. No cemetery owner shall have the right to prevent the use of any
961 merchandise purchased by a lot owner or owner of a burial right, his or her representative,

962 his or her agent, or his or her heirs or assigns from any source, provided the merchandise
963 meets all rules and regulations.

964 (c) All registrants shall have a full and complete schedule of all charges for grave lots,
965 burial rights, burial or funeral merchandise, and burial or funeral services provided by the
966 registrant plainly printed or typewritten, posted conspicuously, and maintained, subject to
967 inspection and copy, at the usual place for transacting the regular business of the cemetery.
968 Upon request, the registrant shall provide a copy of said schedule of charges to any person
969 requesting it.

970 10-14-17.

971 (a) It shall be unlawful for any person:

972 (1) To sell or offer to sell any burial rights, burial or funeral services, or burial or funeral
973 merchandise by means of any oral or written untrue statement of a material fact or any
974 omission to state a material fact necessary in order to make the statements made, in the
975 light of the circumstances under which they are made, not misleading, the buyer not
976 knowing of the untruth or omission, if such person shall not sustain the burden of proof
977 that he did not know, and in the exercise of reasonable care could not have known, of the
978 untruth or omission;

979 (2) To sell or offer to sell any, burial rights, burial or funeral services, or burial or funeral
980 merchandise in violation of any provision of this chapter or rule, regulation, or order
981 promulgated or issued by the Secretary of State under any provision of this chapter;

982 (3) Except as otherwise provided in paragraph (4) of this subsection, in connection with
983 the sale of preneed merchandise or services requiring funds to be deposited into a preneed
984 escrow account, to fail to refund, within three business days of the request of the
985 purchaser or the purchaser's heirs or assigns, the sales prices plus applicable interest as
986 determined according to rules promulgated by the Secretary of State, provided that such
987 request is made prior to the earlier of:

988 (A) The delivery of the merchandise or services; or

989 (B) The death of the person for whose interment or inurnment the merchandise or
990 services are intended to be used.

991 Certain solicitations during a person's last illness relating to refunds shall be a violation
992 of Part 2 of Article 15 of Chapter 1 of this title, the 'Fair Business Practices Act of 1975,'
993 as set out in Code Section 10-1-393.7;

994 (4) In connection with the sale of monuments or vaults, to fail to refund within three
995 business days of the request of the purchaser or the purchaser's heirs or assigns the full
996 sales price, without interest, provided that such request is made prior to the earlier of:

997 (A) The delivery of the merchandise or services; or

998 (B) The death of the person for whose interment or inurnment the monument or vault
999 is intended to be used.

1000 Certain solicitations during a person's last illness relating to refunds shall be a violation
1001 of Part 2 of Article 15 of Chapter 1 of this title, the 'Fair Business Practices Act of 1975,'
1002 as set out in Code Section 10-1-393.7;

1003 (5) To misappropriate, convert, illegally withhold, or fail to account for any trust funds,
1004 escrow funds, or other funds established or maintained pursuant to this chapter;

1005 (6) Knowingly to cause to be made, in any document filed with the Secretary of State or
1006 in any proceeding under this chapter, any statement which is, at the time it is made and
1007 in the light of the circumstances under which it is made, false or misleading in any
1008 material respect;

1009 (7) To sell, offer to sell, solicit offers to buy, or otherwise engage in the sale of funeral
1010 services if such person is not a licensed funeral director;

1011 (7.1) To sell, offer to sell, solicit offers to buy, or otherwise engage in the sale of burial
1012 rights or burial merchandise if such person is not registered pursuant to the provisions of
1013 this chapter; or

1014 (8) To sell any grave space which has not been platted and pinned.

1015 (b) It shall be unlawful for any person in connection with the ownership, offer, sale, or
1016 purchase of any burial rights, burial or funeral services, or burial or funeral merchandise,
1017 directly or indirectly:

1018 (1) To employ any device, scheme, or artifice to defraud; or

1019 (2) To engage in any transaction, act, practice, or course of business which operates or
1020 would operate as a fraud or deceit upon the purchaser or seller.

1021 (c) In connection with the sale or installation of merchandise, it shall be unlawful for a
1022 cemetery company to:

1023 (1) Impose any condition upon the installation of merchandise obtained from a third
1024 party, other than to require installation by a registrant under this chapter or as may be
1025 otherwise permitted by the rules and regulations of the Secretary of State;

1026 (2) Charge a fee for the installation of merchandise purchased or obtained from and to
1027 be installed by a person or firm other than the cemetery company or its agents, provided
1028 that the cemetery owner may charge a fee not to exceed \$125.00 to reimburse the
1029 cemetery owner for its reasonable costs incurred in assisting in the siting of a monument
1030 on the lot on which it is to be installed, supervision and inspection of the installation to
1031 ensure compliance with the rules and regulations of the cemetery, and any administrative
1032 functions associated with the installation; provided, further, any such fee is properly
1033 disclosed and published as required by this chapter and charged regardless of whether the
1034 installer is or is not the cemetery owner or affiliated therewith;

- 1035 (3) Refuse to mark the place on the grave where the merchandise is to be installed and
 1036 inspect the installation when completed to ensure compliance with cemetery rules and
 1037 regulations;
- 1038 (4) Require any person or firm that installs, places, or sets merchandise to pay any fee
 1039 other than any fee charged pursuant to paragraph (2) of this subsection;
- 1040 (5) Tie the purchase of any grave space or burial right to the purchase of merchandise
 1041 from or through the seller or any other designated person or corporation;
- 1042 (6) Refuse to provide care or maintenance for any portion of a grave site on which a
 1043 monument has been placed, provided that installation has been in accordance with lawful
 1044 rules and regulations of the cemetery;
- 1045 (7) Attempt to waive liability with respect to damage caused by cemetery employees or
 1046 agents to merchandise after installation, where merchandise or installation service is not
 1047 purchased from the cemetery company providing grave space or from or through any
 1048 other person or corporation designated by the person authorized to sell grave space or the
 1049 cemetery company providing grave space; provided, however, that no cemetery company
 1050 may be held liable for the improper installation of merchandise where merchandise is not
 1051 installed by the cemetery company or its agents; or
- 1052 (8) After the promulgation of rules and regulations relating to the subject matter of this
 1053 subsection by the Secretary of State, to require any person who installs, places, or sets
 1054 merchandise to obtain any form of insurance, bond, or surety or make any form of pledge,
 1055 deposit, or monetary guarantee as a condition of entry or access to cemetery property or
 1056 the installation of merchandise thereon, other than as may be in accordance with said
 1057 rules and regulations.
- 1058 (d) Other than the fees for the sale of burial rights, burial or funeral merchandise, and
 1059 burial or funeral services, no other fee may be directly or indirectly charged, contracted for,
 1060 or received by a cemetery company as a condition for a customer to use any burial right,
 1061 burial or funeral merchandise, or burial or funeral service, except for:
- 1062 (1) Charges paid for opening and closing a grave and vault installation;
- 1063 (2) Charges paid for transferring burial rights from one purchaser to another; however,
 1064 no such fee may exceed \$75.00 and such fee must have been disclosed in writing to the
 1065 owner at the time of the initial purchase of the burial right from the cemetery;
- 1066 (3) Charges for sales, documentary, excise, and other taxes actually and necessarily paid
 1067 to a public official, which charges must be supported in fact;
- 1068 (4) Charges for credit life and credit disability insurance, but only as requested by the
 1069 purchaser, and the premiums for which do not exceed the applicable premium chargeable
 1070 in accordance with the rates filed with the Insurance Commissioner; or
- 1071 (5) Charges for interest on unpaid balances in accordance with applicable law.

1072 Nothing herein shall prohibit a cemetery company from charging a reasonable fee for
1073 services it provides in connection with a lawful disinterment, provided such charges do not
1074 exceed the greater of the cemetery company's normal and customary charges for interment
1075 or the actual costs incurred by the cemetery directly attributable to such disinterment.

1076 Nothing herein shall prohibit a cemetery from charging a reasonable fee for actual costs it
1077 incurs due to the commencement of a funeral service at a time other than previously agreed
1078 by the cemetery company, the funeral establishment, and the owner of the burial rights, or
1079 his or her heirs and assigns, provided such charges are calculated in a manner which is
1080 disclosed and published as required by this chapter and that such charges are directly
1081 attributable to extra costs incurred by the cemetery company due to such late
1082 commencement.

1083 (e) In connection with the sale of burial rights, burial or funeral merchandise, or burial or
1084 funeral services, it shall be unlawful for any person to fail to comply with the provisions
1085 of Article 1 of Chapter 1 of this title, 'The Georgia Retail Installment and Home
1086 Solicitation Sales Act' or Part 2 of Article 15 of Chapter 1 of this title, the 'Fair Business
1087 Practices Act of 1975.' For the purposes of this subsection, burial rights, burial or funeral
1088 services, and burial or funeral merchandise shall constitute goods as that term is used in
1089 said article and said part.

1090 (f) In connection with the installation of a monument:

1091 (1) It shall be unlawful for any person installing said monument to fail to comply with
1092 the lawful rules and regulations of the cemetery regarding monument installation,
1093 provided that said rules and regulations are provided in writing to the installer prior to the
1094 installation. In the event such installation is not in conformity with said rules and
1095 regulations, the installer shall be liable to the cemetery for the actual cost of correcting
1096 such installation so it will be in conformity, provided that:

1097 (A) The cemetery has notified the installer by certified mail, return receipt requested,
1098 of the reasons for the nonconformity not later than one year after the date of the
1099 installation; and

1100 (B) The installer, provided it is registered under this chapter, shall have had not less
1101 than 30 days from its receipt of such notice to correct such nonconformity; and

1102 (2) An installer of a monument shall be liable to the cemetery, to its customers, and to
1103 third persons for damages to their respective property and for other damages arising due
1104 to the negligence or intentional act of such installer, which liability may not be waived
1105 by contract.

1106 (g) No program offering free burial rights may be conditioned on any requirement to
1107 purchase additional burial rights, burial or funeral merchandise, or burial or funeral
1108 services.

1109 (h) The contract rights of any purchaser of preneed merchandise shall be freely
1110 transferable without fee except as provided in this chapter.

1111 (i) It shall be unlawful for any owner or operator of a perpetual care cemetery to fail to
1112 provide care and maintenance for the cemetery.

1113 (j) The fees set forth in this Code section shall be annually adjusted to the rate of change
1114 in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United
1115 States Department of Labor. The Secretary of State shall adopt such adjustments to the
1116 amount of said fees by rule.

1117 10-14-18.

1118 (a) A registrant offering to provide burial rights, burial or funeral merchandise, or burial
1119 or funeral services to the public shall:

1120 (1) Provide by telephone, upon request, accurate information regarding the retail prices
1121 of burial or funeral merchandise and services offered for sale by the registrant;

1122 (2) Fully disclose all regularly offered services and merchandise prior to the selection of
1123 burial rights, burial or funeral services, or burial or funeral merchandise. The full
1124 disclosure required shall identify the prices of all burial or rights, burial or funeral
1125 services, and burial or funeral merchandise provided by the registrant;

1126 (3) Not make any false or misleading statements of the legal requirement as to the
1127 necessity of a casket or outer burial container;

1128 (4) Provide a good faith estimate of all fees and costs the customer will incur to use any
1129 burial rights, merchandise, or services purchased;

1130 (5) Provide to the customer a current copy of the rules and regulations of the registrant;

1131 (6) Provide the registrant's policy on cancellation and refunds to each customer;

1132 (7) Provide refunds if burial or funeral merchandise is not delivered as represented; and

1133 (8) Provide the customer, upon the purchase of any burial right or burial or funeral
1134 merchandise or service, a written contract, the form of which has been filed with the
1135 Secretary of State.

1136 (b) In a manner established by rule of the Secretary of State, the written contract shall
1137 provide on the signature page of the contract, clearly and conspicuously in boldface
1138 ten-point type or larger, the following:

1139 (1) The words 'purchase price' together with the sum of all items set out in the contract
1140 in accordance with subsection (d) of this Code section;

1141 (2) The amount to be placed in trust;

1142 (3) Either:

1143 (A) A statement that no further expenses will be incurred at the time of need; or

1144 (B) A statement that additional expenses will be incurred at the time of need, the
1145 registrant's current price for each such expense, and a statement that such prices may
1146 be expected to increase in the future; and

1147 (4) The telephone number designated by the Secretary of State for questions and
1148 complaints.

1149 (c) The written contract shall be completed prior to the signing of the contract by the
1150 customer and a copy of the contract shall be provided to the customer.

1151 (d) The written contract shall provide an itemization of the amounts charged for all burial
1152 rights, burial or funeral services, burial or funeral merchandise, cash advances, and fees and
1153 other charges, which itemization shall be clearly and conspicuously segregated from
1154 everything else on the written contract.

1155 (e) The written contract shall contain a description of the burial or funeral merchandise
1156 covered by the contract to include, when applicable, size, materials from which the burial
1157 or funeral merchandise is made, and other relevant specifications as may be required by the
1158 Secretary of State.

1159 (f) The written contract shall disclose the location at which funeral services are to be
1160 provided and the space number of each lot or grave space.

1161 10-14-19.

1162 (a) Whenever it may appear to the Secretary of State that any person has engaged in, or
1163 is engaging in, or is about to engage in any act or practice or transaction which is
1164 prohibited by this chapter or by any rule, regulation, or order of the Secretary of State
1165 promulgated or issued pursuant to any Code section of this chapter or which is declared to
1166 be unlawful under this chapter, the Secretary of State may, at his or her discretion, act
1167 under any or all of the following paragraphs:

1168 (1) Issue an order, if he or she deems it to be appropriate in the public interest or for the
1169 protection of consumers, prohibiting such person from continuing such act, practice, or
1170 transaction, subject to the right of such person to a hearing as provided in Code Section
1171 10-14-23;

1172 (2) Apply to any superior court of competent jurisdiction in this state for an injunction
1173 restraining such person and such person's agents, employees, partners, officers, and
1174 directors from continuing such act, practice, or transaction or engaging therein or doing
1175 any acts in furtherance thereof, and for appointment of a receiver or an auditor and such
1176 other and further relief as the facts may warrant; or

1177 (3) Transmit such evidence as may be available concerning such act, practice, or
1178 transaction to any district attorney or to the Attorney General, who may, at his or her
1179 individual discretion, institute the necessary criminal proceedings.

1180 (b) In any proceedings for an injunction, the Secretary of State may apply for and be
1181 entitled to have issued the court's subpoena requiring the appearance forthwith of any
1182 defendant and its agents, employees, partners, officers, or directors, and the production of
1183 such documents, books, and records as may appear necessary for the hearing upon the
1184 petition for an injunction. Upon proof of any of the offenses described in this Code section,
1185 the court may grant such injunction and appoint a receiver or an auditor and issue such
1186 other orders for the protection of the public as the facts may warrant.

1187 (c) In any criminal proceeding, either the district attorney or the Attorney General, or both,
1188 may apply for and be entitled to have issued the court's subpoena requiring the appearance
1189 forthwith of any defendant or its agents, employees, partners, officers, or directors and the
1190 production of such documents, books, and records as may appear necessary for the
1191 prosecution of such criminal proceedings.

1192 (d) In any civil proceeding brought under this Code section, if the Secretary of State shall
1193 establish that a perpetual care trust fund or preneed escrow account has not been
1194 established and maintained as required, the assets of the cemetery, cemetery company, or
1195 preneed dealer may be seized and sold by the state under orders of the court to the extent
1196 necessary to provide said perpetual care trust fund or preneed escrow account and set up
1197 the same. In addition, where the registration has been revoked, the whole company
1198 property may be ordered sold after the perpetual care trust fund and preneed escrow
1199 account have been established so that the purchaser of the cemetery may continue to
1200 operate the same and maintain it under the terms of this chapter.

1201 (e) The Secretary of State shall have the authority to petition a court of competent
1202 jurisdiction to remove a trustee or escrow agent for violation of the provisions of this
1203 chapter, the rules and regulations promulgated under this chapter, or for other unlawful acts
1204 and practices.

1205 (f) In addition to any other penalties that may be imposed, any person willfully violating
1206 any provisions of Code Section 10-14-17 or 10-14-18 or of Code Section 10-14-11 or any
1207 rule, regulation, or order of the Secretary of State made pursuant to Code Section 10-14-17,
1208 10-14-18, or 10-14-11 shall be subject to a civil penalty not to exceed \$10,000.00 for a
1209 single violation and not exceeding \$100,000.00 for multiple violations in a single
1210 proceeding or a series of related proceedings. The Secretary of State shall be authorized in
1211 his or her discretion to decline to impose a penalty or to impose any lesser penalty that he
1212 or she may deem to be sufficient and appropriate in any particular case. The amount of
1213 such penalty may be collected by the Secretary of State in the same manner that money
1214 judgments are now enforced in the superior courts of this state, except that the order or
1215 finding of the Secretary of State as to such penalty may be appealed according to the
1216 provisions of Code Section 10-14-22.

1217 10-14-20.

1218 (a) Except as otherwise provided in subsection (b) of this Code section, any person who
 1219 shall willfully violate any provision of this chapter shall be guilty of a misdemeanor and,
 1220 upon conviction thereof, shall be subject to a fine of not more than \$1,000.00 or
 1221 imprisonment not to exceed 12 months, or both.

1222 (b) Any person who shall willfully violate Code Section 10-14-17, Code Section 10-14-18,
 1223 or any provision of this chapter regarding the establishment, maintenance, or reporting of
 1224 any trust, reserve, or escrow funds mandated by this chapter shall be guilty of a felony and,
 1225 upon conviction thereof, shall be punished by a fine of not more than \$10,000.00 or
 1226 imprisonment for not less than one and not more than five years, or both.

1227 (c) Nothing in this chapter shall limit any statutory or common-law right of the state to
 1228 punish any person for violation of any provision of any law.

1229 10-14-21.

1230 (a) Any person who violates any provision of subsection (a) of Code Section 10-14-17
 1231 shall be liable to the person buying such burial lot, burial right, burial merchandise, or
 1232 burial service; and such buyer may bring action in any court of competent jurisdiction to
 1233 recover the consideration paid in cash for the burial lot, burial right, burial merchandise,
 1234 or burial service together with interest at the legal rate from the date of such payment, and
 1235 reasonable attorney's fees and costs.

1236 (b) In addition to the remedy set forth in subsection (a) of this Code section, a purchaser
 1237 may apply to a court of competent jurisdiction in this state for an order authorizing the
 1238 recovery of the preneed escrow deposit if a registrant fails to deliver burial merchandise
 1239 or perform preneed burial services in accordance with the terms of the preneed sales
 1240 contract.

1241 (c) No person may bring action under this Code section more than two years from the date
 1242 of the scheduled completion of the contract for sale or from the date of the sale if there is
 1243 no contract for sale.

1244 (d) Every cause of action under this chapter survives the death of any person who might
 1245 have been a plaintiff or defendant.

1246 (e) Nothing in this chapter shall limit any statutory or common-law right of any person in
 1247 any court for any act involving the sale of a burial lot, burial right, burial merchandise, or
 1248 burial services.

1249 10-14-22.

1250 (a) An appeal may be taken from any order of the Secretary of State resulting from a
 1251 hearing held in accordance with the provisions of Code Section 10-14-23 by any person

1252 adversely affected thereby to the Superior Court of Fulton County, Georgia, by serving on
1253 the Secretary of State, within 20 days after the date of entry of such order, a written notice
1254 of appeal, signed by the appellant, stating:

- 1255 (1) The order from which the appeal is taken;
- 1256 (2) The ground upon which a reversal or modification of such order is sought; and
- 1257 (3) A demand for a certified transcript of the record of such order.

1258 (b) Upon receipt of such notice of appeal, the Secretary of State shall, within ten days
1259 thereafter, make, certify, and deliver to the appellant a transcript of the record of the order
1260 from which the appeal is taken, provided that the appellant shall pay the reasonable costs
1261 of such transcript. The appellant shall, within five days after receipt of such transcript, file
1262 such transcript and a copy of the notice of appeal with the clerk of the court. Said notice
1263 of appeal and transcript of the record shall constitute appellant's complaint. Said complaint
1264 shall thereupon be entered on the trial calendar of the court in accordance with the court's
1265 normal procedures.

1266 (c) If the order of the Secretary of State shall be reversed, the court shall by its mandate
1267 specifically direct the Secretary of State as to his or her further action in the matter,
1268 including the making and entering of any order or orders in connection therewith and the
1269 conditions, limitations, or restrictions to be contained therein.

1270 10-14-23.

1271 (a) Where the Secretary of State has issued any order forbidding the sale of burial lots,
1272 burial rights, burial merchandise, or burial services under any provision of this chapter, he
1273 or she shall promptly send to the cemetery owner, cemetery company, burial or funeral
1274 merchandise dealer, or preneed dealer and to the persons who have filed such application
1275 for registration a notice of opportunity for hearing. Before entering an order refusing to
1276 register any person or entity and after the entering of any order for revocation or
1277 suspension, the Secretary of State shall promptly send to such person or entity a notice of
1278 opportunity for hearing. Hearings shall be conducted by the Secretary of State pursuant to
1279 this Code section.

1280 (b) Notices of opportunity for hearing shall be served by investigators appointed by the
1281 Secretary of State or sent by certified mail or statutory overnight delivery, return receipt
1282 requested, to the addressee's business mailing address, and such notice shall state:

- 1283 (1) The order which has issued or which is proposed to be issued;
- 1284 (2) The ground for issuing such order or proposed order; and
- 1285 (3) That the person to whom such notice is sent will be afforded a hearing upon request
1286 if such request is made within ten days after receipt of the notice.

1287 (c) Whenever a person requests a hearing in accordance with the provisions of this Code
1288 section, there shall immediately be set a date, time, and place for such hearing, and the
1289 person requesting such hearing shall forthwith be notified thereof. The date set for such
1290 hearing shall be within 15 days, but not earlier than five days after the request for hearing
1291 has been made, unless otherwise agreed to by the issuer of the notice and the person
1292 requesting such hearing.

1293 (d) For the purpose of conducting any hearing as provided in this Code section, the
1294 Secretary of State shall have the power to administer oaths, to call any party to testify under
1295 oath at such hearings, to require the attendance of witnesses and the production of books,
1296 records, and papers, and to take the depositions of witnesses; and for such purposes the
1297 Secretary of State is authorized, at the request of the person requesting such hearing or
1298 upon the official's own initiative, to issue a subpoena for any witnesses or a subpoena for
1299 the production of documentary evidence to compel the production of any books, records,
1300 or papers. Said subpoenas may be served by certified mail or statutory overnight delivery,
1301 return receipt requested, to the addressee's business mailing address or by investigators
1302 appointed by the Secretary of State or shall be directed for service to the sheriff of the
1303 county where such witness resides or is found or where such person in custody of any
1304 books, records, or papers resides or is found. The fees and mileage of the sheriff, witness,
1305 or person shall be paid from the funds in the state treasury for the use of the Secretary of
1306 State in the same manner that other expenses of the Secretary of State are paid.

1307 (e) At any hearing conducted under this Code section, a party or an affected person may
1308 appear in his or her own behalf or may be represented by an attorney. A stenographic
1309 record of the testimony and other evidence submitted shall be taken unless the Secretary
1310 of State and the person requesting such hearing shall agree that such a stenographic record
1311 of the testimony shall not be taken. A transcript of the proceeding shall be made available
1312 to a party upon the payment of reasonable costs. The Secretary of State shall pass upon the
1313 admissibility of such evidence, but a party may at any time make objections to such rulings
1314 thereon; and, if the Secretary of State refuses to admit evidence, the party offering the same
1315 shall make a proffer thereof and such proffer shall be made a part of the record of such
1316 hearing.

1317 (f) If the Secretary of State does not receive a request for a hearing within the prescribed
1318 time, he or she may permit an order previously entered to remain in effect or he or she may
1319 enter a proposed order. If a hearing is requested and conducted as provided in this Code
1320 section, the Secretary of State shall issue a written order which shall set forth his or her
1321 findings with respect to the matters involved and enter an order in accordance with the
1322 Secretary's findings.

1323 10-14-24.

1324 When consent to service of process is required under this chapter, such consent to service
1325 of process shall be in the form prescribed by the Secretary of State, shall be irrevocable,
1326 and shall provide that actions brought by the State of Georgia arising out of or founded
1327 upon the sale of burial lots, burial rights, burial services, or burial merchandise in violation
1328 of this chapter may be commenced in any court of competent jurisdiction with proper
1329 venue within this state by the service of process or pleadings upon the Secretary of State
1330 against the person executing such consent. Notwithstanding any provision in any other law
1331 to the contrary, service of any such process or pleadings in any such action against a person
1332 who has filed a consent to service with the Secretary of State shall, if made on the
1333 Secretary of State, be by duplicate copies, one of which shall be filed in the office of the
1334 Secretary of State and the other shall immediately be forwarded by the Secretary of State
1335 by certified mail or statutory overnight delivery to the person against whom such process
1336 or pleadings are directed at such person's latest address on file in the office of the Secretary
1337 of State.

1338 10-14-25.

1339 Any condition, stipulation, or provision binding any person acquiring any burial lot, burial
1340 right, burial merchandise, or burial services to waive:

1341 (1) Compliance with any provision of this chapter or of the rules and regulations
1342 promulgated under this chapter;

1343 (2) Any rights provided by this chapter or by the rules and regulations promulgated
1344 under this chapter; or

1345 (3) Any defenses arising under this chapter or under the rules and regulations
1346 promulgated under this chapter

1347 shall be void.

1348 10-14-26.

1349 For any action taken or any proceeding had under the provisions of this chapter or under
1350 color of the law, the Secretary of State shall be immune from liability and action to the
1351 same extent that any judge of any court of general jurisdiction in this state would be
1352 immune.

1353 10-14-27.

1354 (a) In any action, civil or criminal, a certificate signed and sealed by the Secretary of State,
1355 stating compliance or noncompliance with the provisions of this chapter, shall constitute

1356 prima-facie evidence of such compliance or noncompliance with the provisions of this
1357 chapter and shall be admissible in any such action.

1358 (b) In any action, civil or criminal, copies, photostatic or otherwise, certified by the
1359 Secretary of State of any documents filed in his or her office and of any of his or her
1360 records shall be admissible with the same effect as the original of such documents or
1361 records would have if actually produced.

1362 10-14-28.

1363 (a) Prior law exclusively governs all actions, prosecutions, or proceedings which are
1364 pending or may be initiated on the basis of facts or circumstances occurring before July 1,
1365 2000, except that no civil action may be maintained to enforce any liability under prior law
1366 unless brought within any period of limitation which applied when the cause of action
1367 accrued and, in any event, no later than July 1, 2000.

1368 (b) All effective registrations under prior law, all administrative orders relating to such
1369 registrations, and all conditions imposed upon such registrations remain in effect. They
1370 shall be deemed to have been filed, entered, or imposed under this chapter but are governed
1371 by prior law.

1372 (c) Judicial review of all administrative orders as to which review proceedings have not
1373 been instituted by July 1, 2000, are governed by Code Section 10-14-22, except that no
1374 review proceeding may be instituted unless the petition is filed within any period of
1375 limitation which applied to a review proceeding when the order was entered and, in any
1376 event, no later than August 1, 2000.

1377 10-14-29.

1378 (a) A cemetery company shall start construction of that section of a mausoleum or
1379 columbarium in which sales, contracts for sales, reservations for sales, or agreements for
1380 sales are being made within four years after the date of the first such sale or 50 percent of
1381 the mausoleum or columbarium has been sold and the purchase price has been received,
1382 whichever occurs first. The construction shall be completed within five years after the date
1383 of the first sale made. If the units have not been completely constructed at the earlier of
1384 time of need or the time specified in this subsection, all moneys paid shall be refunded
1385 upon request, plus interest earned thereon for that portion of the moneys deposited in the
1386 preneed escrow account and an amount equal to the interest that would have been earned
1387 on that portion of the moneys that were not so deposited.

1388 (b) A cemetery company that plans to offer for sale space in a section of a mausoleum or
1389 columbarium prior to construction shall establish a preconstruction trust fund by written
1390 instrument. The preconstruction trust fund shall be administered by a corporate trustee

1391 approved by the Secretary of State and not affiliated with the cemetery company and
1392 operated in conformity with applicable provisions of Code Section 10-14-7. The
1393 preconstruction trust fund shall be separate from any other trust funds that may be required
1394 by this chapter.

1395 (c) Before a sale, contract for sale, reservation for sale, or agreement for sale in a
1396 mausoleum section or columbarium may be made, the cemetery company shall compute
1397 the amount to be deposited to the preconstruction trust fund. The total amount to be
1398 deposited in the fund for each unit of the project shall be computed by dividing the cost of
1399 the project plus 10 percent of the cost, as computed by a licensed contractor, engineer, or
1400 architect, by the number of crypts or niches in the mausoleum or columbarium. When
1401 payments are received in installments, the percentage of the installment payment placed
1402 in trust must be identical to the percentage which the payment received bears to the total
1403 cost of the contract, including other burial or funeral merchandise and services purchased.
1404 Preconstruction trust fund payments shall be made within 30 days after the end of the
1405 month in which payment is received.

1406 (d) When the cemetery company delivers a completed crypt, mausoleum, columbarium,
1407 or niche acceptable to the purchaser in lieu of the crypt or niche purchased prior to
1408 construction, all sums deposited to the preconstruction trust fund for that purchaser shall
1409 be paid to the cemetery company.

1410 (e) Upon completion of the mausoleum section or columbarium, the cemetery company
1411 shall certify completion to the trustee and shall be entitled to withdraw all funds deposited
1412 to the account of such mausoleum section or columbarium.

1413 (f) If the mausoleum section or columbarium is not completed within the time limits set
1414 out in this Code section, the trustee shall contract for and cause the project to be completed
1415 and pay therefor from the trust funds deposited to the project's account, paying any balance,
1416 less cost and expenses, to the cemetery company. The cemetery company shall be liable
1417 for any difference between the amount necessary to complete construction and the amount
1418 of trust funds.

1419 (g) On or before January 31 of each year, the trustee shall file with the Secretary of State
1420 in the form prescribed by the Secretary of State, a full and true statement as to the activities
1421 of any trust established pursuant to this Code section for the preceding calendar year.

1422 10-14-30.

1423 The Secretary of State, by rule, may adopt minimum standards for interment of human
1424 remains, including, without limitation, standards for depth of burial, composition of vaults,
1425 caskets, and other containers, siting and marking of burial lots, and minimum standards for
1426 construction of mausoleums and columbaria. In addition, the Secretary of State may, by

1427 rule, provide for the minimum standards for or prohibition of aboveground burial
1428 containers."

1429 **SECTION 1-2.**

1430 Part 2 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the
1431 practice of professional forestry, is revised as follows:

1432 "PART 2

1433 12-6-40.

1434 It is the purpose of this part to protect the public by improving the standards relative to the
1435 practice of professional forestry.

1436 12-6-41.

1437 As used in this part, the term:

1438 (1) 'Board' means the State Board of Registration for Foresters provided for by this part,
1439 a professional licensing board pursuant to Chapter 1 of Title 43 with the authority and
1440 responsibilities set forth in such chapter.

1441 (2) 'Director' means the director of professional licensing.

1442 (3) 'Licensing board' means the Georgia Board of Licensing and Registration created by
1443 Article 2 of Chapter 1 of Title 43.

1444 ~~(2)(4)~~ 'Professional forestry' or 'practice of professional forestry' means any professional
1445 service relating to forestry, such as investigation, evaluation, development of forest
1446 management plans or responsible supervision of forest management, forest protection,
1447 silviculture, forest utilization, forest economics, or other forestry activities in connection
1448 with any public or private lands, provided that forestry instructional and educational
1449 activities shall be exempted. ~~The board shall issue licenses only to those applicants who~~
1450 ~~meet the requirements of this Code section, provided that no person shall be eligible for~~
1451 ~~registration as a registered forester who is not of good character and reputation; provided,~~
1452 ~~further, that employees of the state and federal governments assisting farmers in~~
1453 ~~agricultural programs shall be exempt from this part.~~

1454 ~~(3)(5)~~ 'Registered forester' means a person who has registered and qualified under this
1455 part to engage in professional forestry practices as defined in this Code section.

1456 12-6-42.

1457 (a) A State Board of Registration for Foresters is created, a professional licensing board
1458 pursuant to Chapter 1 of Title 43 with the authority and responsibilities set forth in such
1459 chapter whose duty it shall be to administer this part.

1460 (b) The board shall consist of five foresters who shall be selected and appointed by the
1461 Governor and who shall have the qualifications required by Code Section 12-6-43.

1462 (c) In addition to the five members provided for in subsection (b) of this Code section, the
1463 board shall consist of a sixth member who shall be appointed by the Governor from the
1464 public at large and who shall have no connection whatsoever with the practice of
1465 professional forestry. The initial term of appointment for the additional member provided
1466 for by this subsection shall expire June 30, 1985; thereafter, the Governor shall appoint
1467 successors for terms of five years each.

1468 (d) Every member of the board shall receive a certificate of his or her appointment from
1469 the Governor and before beginning his or her term of office shall file with the Secretary of
1470 State his or her written oath or affirmation for the faithful discharge of his or her official
1471 duty.

1472 (e) The five members of the board shall be appointed for terms of five years. On the
1473 expiration of the term of any member of the board, the Governor shall in the manner
1474 provided in this Code section appoint for a term of five years a registered forester having
1475 the qualifications required by Code Section 12-6-43 to take the place of the member whose
1476 term on the board is expiring. Each member shall hold office until the expiration of the
1477 term for which that member is appointed or until a successor shall have been duly
1478 appointed and shall have qualified.

1479 12-6-43.

1480 Each member of the board shall be a citizen of the United States and a resident of Georgia
1481 and shall have been engaged in the practice of forestry for at least ten years, provided that
1482 only the citizenship and residency requirements of this Code section shall apply to the
1483 member appointed pursuant to subsection (c) of Code Section 12-6-42.

1484 12-6-44.

1485 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
1486 Section 43-1-2.

1487 12-6-45.

1488 The Governor may remove any member of the board for misconduct, incompetency, or
 1489 neglect of duty. Vacancies in the membership of the board shall be filled for the unexpired
 1490 term by appointment only as provided in this part.

1491 12-6-46.

1492 The board shall hold meetings as necessary. The board shall elect or appoint annually a
 1493 ~~chairman and a vice-chairman~~ chairperson and vice chairperson. The ~~division~~ director of
 1494 ~~the professional licensing boards division, as provided in Chapter 1 of Title 43,~~ shall serve
 1495 as secretary of the board in the same manner as provided by Code Sections 43-1-1 and
 1496 43-1-2.

1497 12-6-47.

1498 (a) The licensing board shall have the power to promulgate rules and regulations, not
 1499 inconsistent with the Constitution and laws of this state, which may be reasonably
 1500 necessary for the proper performance of its duties and the regulation of the proceedings
 1501 before it.

1502 (b) ~~The board shall adopt and have an official seal.~~

1503 12-6-48.

1504 The board shall keep a record of its proceedings. ~~The records of the board shall be~~
 1505 ~~prima-facie evidence of the proceedings of the board set forth therein, and a transcript~~
 1506 ~~thereof, duly certified by the secretary of the board under seal, shall be admissible in~~
 1507 ~~evidence with the same force and effect as if the original were produced.~~

1508 12-6-49.

1509 (a) The minimum qualifications and requirements for registration as a registered forester
 1510 shall be as follows:

1511 (1) Graduation with a baccalaureate degree from a school, college, or department of
 1512 forestry approved by the licensing board, passage of a licensing board approved
 1513 examination after graduation, and a specific record of an additional two years' or more
 1514 experience in forestry work of a character satisfactory to the licensing board indicating
 1515 that the applicant is competent to practice forestry. Such two years' experience need not
 1516 be obtained on lands owned, leased, rented, or held by the applicant or by any person,
 1517 corporation, agency, entity, or institution by which such applicant is employed, so long
 1518 as the applicant works under supervision of a registered forester or under other
 1519 supervision acceptable to the licensing board; or

1520 (2) Graduation from a school of forestry not approved by the licensing board or
 1521 completion of a curriculum approved by the licensing board in which the applicant has
 1522 acquired a minimum of 40 quarter hours' credit, or its equivalent, in forestry subjects,
 1523 provided that such applicant may be licensed only after acquiring two years' experience
 1524 of a character satisfactory to the licensing board and under the supervision of a registered
 1525 forester or under other supervision acceptable to the licensing board, and only after
 1526 passing a licensing board approved examination; provided, however, that an applicant
 1527 who graduates on or after July 1, 1993, from a school of forestry not approved by the
 1528 licensing board or who, on or after July 1, 1993, completes a curriculum approved by the
 1529 licensing board in which the applicant has acquired a minimum of 40 quarter hours'
 1530 credit, or its equivalent, in forestry subjects, may be licensed only after completing three
 1531 years' experience of a character satisfactory to the licensing board and under the
 1532 supervision of a registered forester or under other supervision acceptable to the licensing
 1533 board and only after passing a licensing board approved examination.

1534 (b) The ~~board~~ director shall issue licenses only to those applicants who meet the
 1535 requirements of this Code section, provided that no person shall be eligible for registration
 1536 as a registered forester who is not of good moral character and reputation.

1537 (c) It shall be the duty of the licensing board by rule or regulation to define 'supervision'
 1538 and 'experience' as used in this part, and in so doing the licensing board shall consider and
 1539 give effect to the directness, immediacy, scope, extent, quality, and constancy of such
 1540 supervision, and, as to experience, the nature, quality, and extent thereof.

1541 12-6-49.1.

1542 (a) As used in this Code section, the term:

1543 (1) 'Agency' means the agency within the Department of Human Services which is
 1544 responsible for enforcing orders for child support pursuant to Article 1 of Chapter 11 of
 1545 Title 19, the 'Child Support Recovery Act.'

1546 (2) 'Compliance with an order for child support' means, as set forth in a court order,
 1547 administrative order, or contempt order for child support, the obligor is not more than 60
 1548 calendar days in arrears in making payments in full for current support, periodic
 1549 payments on a support arrearage, or periodic payments on a reimbursement for public
 1550 assistance.

1551 (3) 'Proof of compliance' means the notice of release issued by the agency or a court of
 1552 competent jurisdiction stating that the delinquent obligor is in compliance with an order
 1553 for child support.

1554 (b) The ~~board~~ director shall suspend, as provided for in Code Sections 19-6-28.1 and
 1555 19-11-9.3, the license of any registered forester upon receipt of a record from the agency

1556 or a court of competent jurisdiction stating that such licensee is not in compliance with an
1557 order for child support.

1558 (c) The ~~board~~ director shall deny the application or renewal, as provided for in Code
1559 Sections 19-6-28.1 and 19-11-9.3, of any applicant or licensee upon receipt of a record that
1560 such applicant or licensee is not in compliance with an order for child support from the
1561 agency or court of competent jurisdiction.

1562 (d) Notwithstanding any other provisions of law, the hearings and appeals procedures
1563 provided for in Code Section 19-6-28.1 ~~or~~, 19-11-9.3, or 43-1-3.1, where applicable, shall
1564 be the only such procedures required to suspend a license or deny the issuance or renewal
1565 of an application for a license under this part.

1566 12-6-49.2.

1567 (a) As used in this Code section, the term:

1568 (1) 'Agency' means the Georgia Higher Education Assistance Corporation created in
1569 Code Section 20-3-263 which is responsible for administering a program of guaranteed
1570 educational loans to eligible students and eligible parents known as the Georgia Higher
1571 Education Loan Program.

1572 (2) 'Borrower' means an individual who borrowed a guaranteed educational loan under
1573 the Georgia Higher Education Loan Program.

1574 (3) 'Default' means default as defined by federal law under the Higher Education Act of
1575 1965.

1576 (4) 'Satisfactory repayment status' means the borrower has agreed to repay the defaulted
1577 loan to the agency and has made a payment in the most recent prior 60 days.

1578 (b) The ~~board~~ director shall suspend, as provided for in Code Section 20-3-295, the license
1579 of any registered forester upon receipt of a record from the agency stating that such
1580 licensee is a borrower in default who is not in satisfactory repayment status.

1581 (c) The ~~board~~ director shall deny the application for renewal, as provided for in Code
1582 Section 20-3-295, of any applicant or licensee upon receipt of a record from the agency
1583 stating that such licensee is a borrower in default who is not in satisfactory repayment
1584 status.

1585 (d) Notwithstanding any other provisions of law, the hearings and appeals procedures
1586 provided for in Code Section 20-3-295 or 43-1-3.1, where applicable, shall be the only such
1587 procedures required to suspend a license or deny the issuance or renewal of an application
1588 for a license under this part.

1589 12-6-50.

1590 (a) Applications for registration shall be made on forms prescribed and furnished by the
1591 licensing board; shall contain statements made under oath, showing the applicant's
1592 education and a detailed summary of the applicant's technical work; and shall contain not
1593 fewer than five references, of whom three or more shall be registered foresters having
1594 personal or professional knowledge of the applicant's forestry experience.

1595 (b) The registration fee for a license as a registered forester shall be an amount established
1596 by the licensing board. Should the ~~board~~ director deny the issuance of a license to any
1597 applicant, the initial fee deposited shall be retained by the ~~board~~ director as an application
1598 fee.

1599 12-6-51.

1600 When written examinations are required, they shall be held at such time and place as the
1601 ~~division director of the professional licensing boards division, as provided in Chapter 1 of~~
1602 ~~Title 43,~~ shall determine. The methods of procedure shall be prescribed by the ~~division~~
1603 ~~director of the professional licensing boards division, as provided in Chapter 1 of Title 43.~~
1604 A candidate failing on examination may apply for reexamination in the manner provided
1605 for by the ~~division director of the professional licensing boards division, as provided in~~
1606 ~~Chapter 1 of Title 43.~~ Subsequent examination will be granted upon payment of a fee to
1607 be determined by the licensing board.

1608 12-6-52.

1609 The ~~board~~ director shall issue a license upon payment of a registration fee as provided for
1610 in this part to any applicant who, in the opinion of the ~~board~~ director, has satisfactorily met
1611 all of the requirements of this part. The issuance of a license by the ~~board~~ director shall be
1612 evidence that the person named therein is entitled to all the rights and privileges of a
1613 registered forester while the license remains unrevoked or unexpired. Plans, maps,
1614 specifications, and reports issued by a registrant shall be endorsed with his or her name and
1615 license number during the life of the registrant's license.

1616 12-6-53.

1617 Reserved.

1618 12-6-54.

1619 (a) Any person who is licensed as a registered forester under the laws of another state may
1620 be licensed and registered under the laws of Georgia by reciprocity without having to
1621 qualify under the other provisions of this part, subject to the following conditions:

1622 (1) That the requirements and qualifications for licensing and registration under the laws
 1623 of the state in which such person is licensed are substantially equivalent to those of
 1624 Georgia, such substantial equivalency to be determined by the licensing board; and

1625 (2) That such state permits licensing of foresters registered in Georgia on terms
 1626 substantially equivalent to those of this Code section, such substantial equivalency to be
 1627 determined by the licensing board.

1628 (b) Notwithstanding the foregoing provisions of this Code section, the board director may
 1629 decline to license by reciprocity any person on an individual basis where the board director
 1630 determines that such applicant does not possess good character or has been guilty of fraud
 1631 in making application under the laws of Georgia or of any other state, or where the board
 1632 director determines by examination or otherwise that such applicant is not in fact qualified
 1633 to become licensed as a registered forester.

1634 (c) Any person desiring to become registered under this Code section shall make
 1635 application under oath on blanks to be furnished by the licensing board, shall accompany
 1636 such application with the same fee required for licensing and registration under Code
 1637 Section 12-6-50, and shall cause to be sent to the board director a certificate from the
 1638 proper authority of the state under which such person is already registered certifying
 1639 thereto.

1640 (d) Any license issued under this Code section shall be subject to all provisions of this part
 1641 governing expiration, renewal, renewal fees, revocation, and any and all other provisions
 1642 of law governing or relating to registered foresters.

1643 12-6-55.

1644 Registration shall be determined upon a basis of individual personal qualifications. No
 1645 firm, company, partnership, or corporation can be licensed.

1646 12-6-56.

1647 (a) Licenses shall be valid for up to two years and shall be renewable biennially on the
 1648 renewal date established by the ~~division~~ director ~~of the professional licensing boards~~
 1649 ~~division, as provided in Chapter 1 of Title 43.~~

1650 (b) The licensing board shall require persons who are licensed under this part to complete
 1651 not less than six hours and not more than 20 hours of continuing forestry education as a
 1652 condition of license renewal. The licensing board shall be authorized to approve
 1653 continuing forestry education courses offered by professional organizations, institutions of
 1654 higher learning, qualified individuals, or specialty societies. In addition, the licensing
 1655 board shall be authorized to approve credit for meetings, presentations, or other activities
 1656 considered by the licensing board to be a form of continuing education.

1657 (c) The ~~board~~ director shall be authorized to waive the continuing forestry education
1658 requirement in cases of hardship or illness.

1659 (d) The licensing board shall be authorized to promulgate rules and regulations to ensure
1660 compliance with the requirements of this Code section.

1661 12-6-57.

1662 The ~~board~~ director shall have the authority to refuse to grant a license to an applicant, to
1663 revoke the license of a person licensed by the ~~board~~ director, or to discipline a person
1664 licensed by the ~~board~~ director upon a finding ~~by a majority of the board~~ that the licensee
1665 or applicant has violated the provisions of Code Section 43-1-19. The licensing board shall
1666 have the authority to adopt, by regulation, a code of professional ethics for foresters and
1667 thereby define unethical conduct or practice by applicants or licensees of the ~~board~~ director
1668 for purposes of Code Section 43-1-19.

1669 12-6-58.

1670 A duplicate license to replace any lost, destroyed, or mutilated license may be issued,
1671 subject to the rules of the licensing board, upon payment of a fee established by the
1672 licensing board.

1673 12-6-59.

1674 Reserved.

1675 12-6-60.

1676 In addition to any other remedy or criminal prosecution, whenever it shall appear to the
1677 ~~board~~ director that any person, firm, company, partnership, association, or corporation, or
1678 their agents, officers, or directors, is or has been holding himself, herself, itself, or
1679 themselves out to the public as a registered forester when not so registered, the ~~board~~
1680 director may, on ~~its~~ his or her own motion or on the verified complaint in writing of any
1681 person, file an equitable petition in ~~its own~~ the director's name in the superior court in any
1682 county of this state having jurisdiction of the parties, alleging the facts and praying for a
1683 temporary restraining order, a temporary injunction, or a permanent injunction against such
1684 person, firm, company, partnership, association, or corporation, or their agents, officers,
1685 and directors, restraining him, it, or them from violating such law. Upon proof of the facts
1686 as alleged, the court shall issue such restraining order, temporary injunction, or permanent
1687 injunction without requiring allegation or proof that the petitioner therefor has no adequate
1688 remedy at law.

1689 12-6-61.

1690 (a) No person shall use in connection with his or her name or otherwise assume, use, or
 1691 advertise any title or description tending directly or indirectly to convey the impression that
 1692 he or she is a registered forester without first having been licensed and registered as a
 1693 registered forester as provided in this part.

1694 (b) Except as specifically authorized under this part, no person shall engage in the practice
 1695 of professional forestry, as defined in this part, or in any manner advertise or hold himself
 1696 or herself out as engaged in such practice without first being licensed as a registered
 1697 forester under this part.

1698 (c) Notwithstanding subsection (b) of this Code section or any other provisions of this part,
 1699 nothing in this part shall be construed as preventing or prohibiting any person from
 1700 managing or otherwise conducting forestry practices on land owned, leased, rented, or held
 1701 by such person; nor shall anything in this part prohibit any regular employee or official of
 1702 any person, corporation, agency, institution, or other entity from engaging in professional
 1703 or other forestry practices on lands owned, leased, rented, or held by such person,
 1704 corporation, agency, or other entity; nor shall anything in this part prohibit any graduate
 1705 of a school of forestry from practicing forestry under supervision as authorized in Code
 1706 Section 12-6-49 so as to qualify for licensing as provided in that Code section.

1707 12-6-62.

1708 (a) Any person, firm, or partnership violating any provision of this part shall be guilty of
 1709 a misdemeanor.

1710 (b) Any person who:

1711 (1) Refuses upon request to surrender to the ~~board~~ director or any duly authorized agent
 1712 ~~thereof of the director~~ any license held by such person;

1713 (2) Presents or attempts to use as his or her own the license of another;

1714 (3) Gives any false or forged evidence of any kind to the ~~board or any member thereof~~
 1715 director in obtaining a license;

1716 (4) Attempts to use an expired or revoked license; or

1717 (5) Endorses any documents with his or her name and license number as provided in
 1718 Code Section 12-6-52 after the license of the registrant named thereon has expired or has
 1719 been revoked, unless the license has been renewed or reissued,
 1720 shall be guilty of a misdemeanor.

1721 (c) Any registered forester who endorses any plan, specification, estimate, or map without
 1722 having actually prepared such plan, specification, estimate, or map or without having been
 1723 in the actual charge of the preparation thereof shall be guilty of a misdemeanor.

1724 (d) The ~~board~~ director or such person or persons as may be designated by the ~~board~~
 1725 director to act in it's the director's stead is empowered to prefer charges for any of the
 1726 violations of this part in any court of competent jurisdiction. Where reasonable ground
 1727 existed to believe or suspect the guilt of the accused, such person bringing charges shall be
 1728 immune from liability in damages or otherwise, notwithstanding that the accused was
 1729 acquitted thereof.

1730 (e) It shall be the duty of all duly constituted officers of the law of this state or of any
 1731 political subdivision thereof to enforce the provisions of this part and to prosecute any
 1732 persons, firms, or partnerships violating the same. The Attorney General of the state and
 1733 his or her assistants shall act as legal advisor to the licensing board and the director and
 1734 render such legal assistance as may be necessary in carrying out this part."

1735 SECTION 1-3.

1736 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and
 1737 pharmacies, is revised as follows:

1738 "CHAPTER 4 1739 ARTICLE 1

1740 26-4-1.

1741 This chapter shall be known and may be cited as the 'Georgia Pharmacy Practice Act.'

1742 26-4-2.

1743 The practice of pharmacy in this state is declared to be a learned profession and the practice
 1744 of pharmacy affects the public health, safety, and welfare and is subject to regulation and
 1745 control in the public interest. It is further declared to be a matter of public interest and
 1746 concern that the practice of pharmacy in this state as a learned profession, as defined in this
 1747 chapter, should merit and receive the confidence of the public and that only qualified
 1748 persons be permitted to engage in the practice of pharmacy to ensure the quality of drugs
 1749 and related devices distributed in this state. This chapter shall be liberally construed to
 1750 carry out these objectives and purposes.

1751 26-4-3.

1752 It is the purpose of this chapter to promote, preserve, and protect the public health, safety,
 1753 and welfare by and through the effective control and regulation of the practice of
 1754 pharmacy; the licensure of pharmacists; the licensure, control, and regulation of all sites
 1755 or persons, in or out of this state that distribute, manufacture, or sell drugs or devices used

1756 in the dispensing and administration of drugs within this state; and the regulation and
 1757 control of such other materials as may be used in the diagnosis, treatment, and prevention
 1758 of injury, illness, and disease of a patient or other individual.

1759 26-4-4.

1760 The 'practice of pharmacy' means the interpretation, evaluation, or dispensing of
 1761 prescription drug orders in the patient's best interest; participation in drug and device
 1762 selection, drug administration, drug regimen reviews, and drug or drug related research;
 1763 provision of patient counseling and the provision of those acts or services necessary to
 1764 provide pharmacy care; performing capillary blood tests and interpreting the results as a
 1765 means to screen for or monitor disease risk factors and facilitate patient education, and a
 1766 pharmacist performing such functions shall report the results obtained from such blood
 1767 tests to the patient's physician of choice; and the responsibility for compounding and
 1768 labeling of drugs and devices.

1769 26-4-5.

1770 As used in this chapter, the term:

1771 (1) 'Administer' or 'administration' means the provision of a unit dose of medication to
 1772 an individual patient as a result of the order of an authorized practitioner of the healing
 1773 arts.

1774 (2) 'Board of pharmacy' or 'board' means the Georgia State Board of Pharmacy, a
 1775 professional licensing policy board pursuant to Chapter 1 of Title 43 with the authority
 1776 and responsibility set forth in such chapter.

1777 (3) 'Brand name drug' means the proprietary, specialty, or trade name used by a drug
 1778 manufacturer for a generic drug and placed upon the drug, its container, label, or
 1779 wrapping at the time of packaging.

1780 (4) 'Compounding' means the preparation, mixing, assembling, packaging, or labeling
 1781 of a drug or device as the result of a practitioner's prescription drug order or initiative
 1782 based on the relationship between the practitioner, patient, and pharmacist in the course
 1783 of professional practice or for the purpose of, or as an incident to, research, teaching, or
 1784 chemical analysis and not for sale or dispensing. Compounding also includes the
 1785 preparation of drugs or devices in anticipation of prescription drug orders based on
 1786 routine and regularly observed prescribing patterns.

1787 (5) 'Confidential information' means information maintained by the pharmacist in the
 1788 patient's records or which is communicated to the patient as part of patient counseling
 1789 which is privileged and may be released only to the patient or, as the patient directs, to
 1790 those practitioners and other pharmacists where, in the pharmacist's professional

1791 judgment, such release is necessary to protect the patient's health and well-being; and to
 1792 such other persons or governmental agencies authorized by law to receive such
 1793 confidential information.

1794 (6) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules
 1795 I through V of Code Sections 16-13-25 through 16-13-29, Schedules I through V of 21
 1796 C.F.R. Part 1308, or both.

1797 (7) 'Dangerous drug' means any drug, substance, medicine, or medication as defined in
 1798 Code Section 16-13-71.

1799 (8) 'Deliver' or 'delivery' means the actual, constructive, or attempted transfer of a drug
 1800 or device from one person to another, whether or not for a consideration.

1801 (9) 'Device' means an instrument, apparatus, contrivance, or other similar or related
 1802 article, including any component part or accessory, which is required under federal law
 1803 to bear the label, 'Caution: federal or state law requires dispensing by or on the order of
 1804 a physician.'

1805 (9.1) 'Director' means the director of professional licensing.

1806 (10) 'Dispense' or 'dispensing' means the preparation and delivery of a drug or device to
 1807 a patient, patient's caregiver, or patient's agent pursuant to a lawful order of a practitioner
 1808 in a suitable container appropriately labeled for subsequent administration to, or use by,
 1809 a patient.

1810 (11) 'Distribute' means the delivery of a drug or device other than by administering or
 1811 dispensing.

1812 ~~(11.1) 'Division director' means the division director of the professional licensing boards~~
 1813 ~~division, as provided in Chapter 1 of Title 43.~~

1814 (12) 'Drug' means:

1815 (A) Articles recognized as drugs in any official compendium, or supplement thereto,
 1816 designated from time to time by the licensing board for use in the diagnosis, cure,
 1817 mitigation, treatment, or prevention of disease in humans or animals;

1818 (B) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention
 1819 of disease in humans or animals;

1820 (C) Articles, other than food, intended to affect the structure or any function of the
 1821 body of humans or animals; and

1822 (D) Articles intended for use as a component of any articles specified in subparagraph
 1823 (A), (B), or (C) of this paragraph but does not include devices.

1824 (13) 'Drug regimen review' includes but is not limited to the following activities:

1825 (A) Evaluation of any prescription drug order and patient record for:

1826 (i) Known allergies;

1827 (ii) Rational therapy-contraindications;

- 1828 (iii) Reasonable dose and route of administration; and
1829 (iv) Reasonable directions for use;
- 1830 (B) Evaluation of any prescription drug order and patient record for duplication of
1831 therapy;
- 1832 (C) Evaluation of any prescription drug order and patient record for the following
1833 interactions:
- 1834 (i) Drug-drug;
1835 (ii) Drug-food;
1836 (iii) Drug-disease; and
1837 (iv) Adverse drug reactions; and
- 1838 (D) Evaluation of any prescription drug order and patient record for proper utilization,
1839 including overutilization or underutilization, and optimum therapeutic outcomes.
- 1840 (14) 'Drug researcher' means a person, firm, corporation, agency, department, or other
1841 entity which handles, possesses, or utilizes controlled substances or dangerous drugs, as
1842 defined in Chapter 13 of Title 16, for purposes of conducting research, drug analysis,
1843 animal training, or drug education, as such purposes may be further defined by the
1844 licensing board, and is not otherwise registered as a pharmacist, pharmacy, drug
1845 wholesaler, distributor, supplier, or medical practitioner.
- 1846 (14.1) 'Electronic data prescription drug order' means any digitalized prescription drug
1847 order transmitted to a pharmacy, by a means other than by facsimile, which contains the
1848 secure, personalized digital key, code, number, or other identifier used to identify and
1849 authenticate the prescribing practitioner in a manner required by state laws and licensing
1850 board regulations and includes all other information required by state laws and licensing
1851 board regulations. 'Electronic data prescription drug order' also includes any digitalized
1852 prescription drug order transmitted to a pharmacy that is converted into a visual image
1853 of a prescription order during the transmission process, is received by the pharmacy
1854 through a facsimile, and includes the practitioner's electronic signature.
- 1855 (14.2) 'Electronic data signature' means:
- 1856 (A) A secure, personalized digital key, code, number, or other identifier used for secure
1857 electronic data transmissions which identifies and authenticates the prescribing
1858 practitioner as a part of an electronic data prescription drug order transmitted to a
1859 pharmacy; or
- 1860 (B) An electronic symbol or process attached to or logically associated with a record
1861 and executed or adopted by a prescribing practitioner with the intent to sign an
1862 electronic data prescription drug order, which identifies the prescribing practitioner, as
1863 a part of an electronic data prescription drug order transmitted to a pharmacy.

- 1864 (14.3) 'Electronic signature' means an electronic visual image signature or an electronic
1865 data signature of a practitioner which appears on an electronic prescription drug order.
- 1866 (14.4) 'Electronic visual image prescription drug order' means any exact visual image of
1867 a prescription drug order issued by a practitioner electronically and which bears an
1868 electronic reproduction of the visual image of the practitioner's signature, is either printed
1869 on security paper and presented as a hard copy to the patient or transmitted by the
1870 practitioner via facsimile machine or equipment to a pharmacy, and contains all
1871 information required by state law and regulations of the licensing board.
- 1872 (14.5) 'Electronic visual image signature' means any exact visual image of a practitioner's
1873 signature reproduced electronically on a hard copy prescription drug order presented to
1874 the patient by the practitioner or is a prescription drug order transmitted to a pharmacy
1875 by a practitioner via facsimile machine or equipment.
- 1876 (15) 'Emergency service provider' means licensed ambulance services, first responder
1877 services or neonatal services, or any combination thereof.
- 1878 (16) 'Extern' or 'pharmacy extern' means an individual who is a student currently enrolled
1879 in an approved school or college of pharmacy and who has been assigned by the school
1880 or college of pharmacy to a licensed pharmacy for the purposes of obtaining practical
1881 experience and completing a degree in pharmacy. For the purposes of this chapter, a
1882 pharmacy extern may engage in any activity or perform any function which a pharmacy
1883 intern may perform under the direct supervision of a licensed pharmacist.
- 1884 (17) 'Federal act' or 'Federal Food, Drug, and Cosmetic Act' means the Federal Food,
1885 Drug, and Cosmetic Act of the United States of America, approved June 25, 1938,
1886 officially cited as Public Document 717, 75th Congress (Chapter 675-3rd Sess.) and all
1887 amendments thereto, and all regulations promulgated thereunder by the commissioner of
1888 the ~~Federal~~ United States Food and Drug Administration.
- 1889 (18) 'Generic name' means a chemical name, a common or public name, or an official
1890 name used in an official compendium recognized by the Federal Food, Drug, and
1891 Cosmetic Act, as amended.
- 1892 (18.05) 'Hard copy prescription drug order' means a written, typed, reproduced, or
1893 printed prescription drug order prepared on a piece of paper.
- 1894 (18.1) 'Institution' means any licensed hospital, nursing home, assisted living community,
1895 personal care home, hospice, health clinic, or prison clinic.
- 1896 (19) 'Intern' or 'pharmacy intern' means an individual who is:
1897 (A) A student who is currently enrolled in an approved school or college of pharmacy,
1898 has registered with the ~~board~~ director, and has been licensed as a pharmacy intern;

- 1899 (B) A graduate of an approved school or college of pharmacy who is currently licensed
 1900 by the ~~board~~ director for the purpose of obtaining practical experience as a requirement
 1901 for licensure as a pharmacist; or
- 1902 (C) An individual who does not otherwise meet the requirements of subparagraph (A)
 1903 or (B) of this paragraph and who has established educational equivalency by obtaining
 1904 a Foreign Pharmacy Graduate Examination Committee (~~FPGEC~~) certificate and is
 1905 currently licensed by the ~~board~~ director for the purpose of obtaining practical
 1906 experience as a requirement for licensure as a pharmacist.
- 1907 (20) Reserved.
- 1908 (21) 'Labeling' means the process of preparing and affixing a label to any drug container
 1909 exclusive, however, of the labeling by a manufacturer, packer, or distributor of a
 1910 nonprescription drug or commercially packaged legend drug or device. Any such label
 1911 shall include all information required by federal, state, or federal and state law or rule.
- 1912 (21.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created
 1913 by Article 2 of Chapter 1 of Title 43.
- 1914 (22) 'Manufacturer' means a person engaged in the manufacturing of drugs or devices.
- 1915 (23) 'Manufacturing' means the production, preparation, propagation, conversion, or
 1916 processing of a drug or device, either directly or indirectly, by extraction from substances
 1917 of natural origin or independently by means of chemical or biological synthesis and
 1918 includes any packaging or repackaging of any substance or labeling or relabeling of its
 1919 container and the promotion and marketing of such drugs or devices. Manufacturing also
 1920 includes the preparation and promotion of commercially available products from bulk
 1921 compounds for resale by pharmacies, practitioners, or other persons.
- 1922 (23.5) 'Narcotic treatment program clinic pharmacy' means a pharmacy which is attached
 1923 to, located in, or otherwise a part of and operated by a narcotic treatment program which
 1924 provides an opiate replacement treatment program, as designated or defined by the
 1925 Department of Behavioral Health and Developmental Disabilities or such other state
 1926 agency as may be designated as the state authority for the purposes of implementing the
 1927 narcotic treatment program authorized by federal and state laws and regulations.
- 1928 (24) 'Nonprescription drug' means a drug which may be sold without a prescription and
 1929 which is labeled for use by the consumer in accordance with the requirements of the laws
 1930 and rules of this state and the federal government.
- 1931 (25) 'Patient counseling' means the oral communication by the pharmacist of
 1932 information, as defined in the rules of the licensing board, to the patient, patient's
 1933 caregiver, or patient's agent, in order to improve therapy by ensuring proper use of drugs
 1934 and devices.
- 1935 (26) 'Person' means an individual, corporation, partnership, or association.

- 1936 (27) 'Pharmaceutically equivalent' means drug products that contain identical amounts
1937 of the identical active ingredient, in identical dosage forms, but not necessarily containing
1938 the same inactive ingredients.
- 1939 (28) 'Pharmacist' means an individual currently licensed by this state to engage in the
1940 practice of pharmacy. This recognizes a pharmacist as a learned professional who is
1941 authorized to provide patient services and pharmacy care.
- 1942 (29) 'Pharmacist in charge' means a pharmacist currently licensed in this state who
1943 accepts responsibility for the operation of a pharmacy in conformance with all laws and
1944 rules pertinent to the practice of pharmacy and the distribution of drugs and who is
1945 personally in full and actual charge of such pharmacy and personnel.
- 1946 (30) 'Pharmacy' means:
- 1947 (A) The profession, art, and science that deals with pharmacy care, drugs, or both,
1948 medicines, and medications, their nature, preparation, administration, dispensing, or
1949 effect; or
- 1950 (B) Any place licensed in accordance with this chapter wherein the possessing,
1951 displaying, compounding, dispensing, or selling of drugs may be conducted, including
1952 any and all portions of the building or structure leased, used, or controlled by the
1953 licensee in the conduct of the business or profession licensed by the ~~board~~ director at
1954 the address for which the license was issued.
- 1955 (31) 'Pharmacy care' means those services related to the interpretation, evaluation, or
1956 dispensing of prescription drug orders, the participation in drug and device selection, drug
1957 administration, and drug regimen reviews, and the provision of patient counseling related
1958 thereto.
- 1959 (32) 'Pharmacy technician' means those support persons utilized in pharmacies whose
1960 responsibilities are to provide nonjudgmental technical services concerned with the
1961 preparation for dispensing of drugs under the direct supervision and responsibility of a
1962 pharmacist.
- 1963 (33) 'Practitioner' or 'practitioner of the healing arts' means a physician, dentist,
1964 podiatrist, or veterinarian and shall include any other person licensed under the laws of
1965 this state to use, mix, prepare, dispense, prescribe, and administer drugs in connection
1966 with medical treatment to the extent provided by the laws of this state.
- 1967 (34) 'Preceptor' means an individual who is currently licensed as a pharmacist by the
1968 ~~board~~ director, meets the qualifications as a preceptor under the rules of the licensing
1969 board, and participates in the instructional training of pharmacy interns.
- 1970 (35) 'Prescription drug' or 'legend drug' means a drug which, under federal law, is
1971 required, prior to being dispensed or delivered, to be labeled with either of the following
1972 statements: 'Caution: federal law prohibits dispensing without prescription' or 'Caution:

1973 federal law restricts this drug to use by, or on the order of, a licensed veterinarian'; or a
 1974 drug which is required by any applicable federal or state law or rule to be dispensed
 1975 pursuant only to a prescription drug order or is restricted to use by practitioners only; or
 1976 a controlled substance, as defined in paragraph (6) of this Code section or a dangerous
 1977 drug as defined in paragraph (7) of this Code section.

1978 (36) 'Prescription drug order' means a lawful order of a practitioner for a drug or device
 1979 for a specific patient; such order includes an electronic visual image prescription drug
 1980 order and an electronic data prescription drug order.

1981 (37) 'Prospective drug use review' means a review of the patient's drug therapy and
 1982 prescription drug order, as defined in the rules of the licensing board, prior to dispensing
 1983 the drug as part of a drug regimen review.

1984 (37.1) 'Remote automated medication system' means an automated mechanical system
 1985 that is located in a skilled nursing facility or hospice licensed as such pursuant to Chapter
 1986 7 of Title 31 that does not have an on-site pharmacy and in which medication may be
 1987 dispensed in a manner that may be specific to a patient.

1988 (38) 'Reverse drug distributor' means a person, firm, or corporation which receives and
 1989 handles drugs from within this state which are expired, discontinued, adulterated, or
 1990 misbranded, under the provisions of Chapter 3 of this title, the 'Georgia Drug and
 1991 Cosmetic Act,' from a pharmacy, drug distributor, or manufacturer for the purposes of
 1992 destruction or other final disposition or for return to the original manufacturer of a drug.

1993 (38.5) 'Security paper' means a prescription pad or paper that has been approved by the
 1994 licensing board for use and contains the following characteristics:

1995 (A) One or more industry recognized features designed to prevent unauthorized
 1996 copying of a completed or blank prescription form;

1997 (B) One or more industry recognized features designed to prevent the erasure or
 1998 modification of information written on the prescription form by the practitioner; and

1999 (C) One or more industry recognized features designed to prevent the use of counterfeit
 2000 prescription forms.

2001 Where security paper is in the form of a prescription pad, each pad shall bear an
 2002 identifying lot number, and each piece of paper in the pad shall be numbered sequentially
 2003 beginning with the number one.

2004 (39) 'Significant adverse drug reaction' means a drug related incident that may result in
 2005 serious harm, injury, or death to the patient.

2006 (40) 'Substitution' means to dispense pharmaceutically equivalent and therapeutically
 2007 equivalent drug products as regulated by the licensing board in place of the drug
 2008 prescribed.

2009 (41) 'Wholesale distributor' means any person engaged in wholesale distribution of
 2010 drugs, including but not limited to manufacturers; repackagers; own label distributors;
 2011 private label distributors; jobbers; brokers; warehouses, including manufacturers' and
 2012 distributors' warehouses, chain drug warehouses, and wholesale drug warehouses;
 2013 independent wholesale drug traders; and retail and hospital pharmacies that conduct
 2014 wholesale distributions.

2015 ARTICLE 2

2016 26-4-20.

2017 (a) The Georgia State Board of Pharmacy existing immediately preceding July 1, 1998,
 2018 is continued in existence as a professional licensing policy board, and members serving on
 2019 the board immediately preceding that date shall continue to serve out their terms of office
 2020 and until their respective successors are appointed and qualified.

2021 (b) The responsibility for enforcement of the provisions of this chapter shall be vested in
 2022 the ~~Georgia State Board of Pharmacy~~ director. ~~The board shall have all of the duties,~~
 2023 ~~powers, and authority specifically granted by or necessary for the enforcement of this~~
 2024 ~~chapter, as well as such other duties, powers, and authority as it may be granted from time~~
 2025 ~~to time by applicable law.~~

2026 26-4-21.

2027 (a) Each of the seven pharmacist members of the board shall, at the time of appointment:

2028 (1) Be a resident of this state for not less than six months;

2029 (2) Be currently licensed and in good standing to engage in the practice of pharmacy in
 2030 this state;

2031 (3) Be actively engaged in the practice of pharmacy in this state;

2032 (4) Have five years of experience in the practice of pharmacy in this state after licensure;
 2033 and

2034 (5) Not be officially employed as a full-time faculty member by any school or college
 2035 of pharmacy.

2036 (b) The one consumer member of the board shall be a resident of Georgia who has attained
 2037 the age of majority and shall not have any connection whatsoever with the pharmaceutical
 2038 industry.

2039 (c) Appointees to the board shall immediately after their appointment take and subscribe
 2040 to an oath or affirmation before a qualified officer that they will faithfully and impartially
 2041 perform the duties of the office, ~~which~~ and the oath shall be filed with the Secretary of

2042 State, whereupon the Secretary of State shall issue to each appointee a certificate of
2043 appointment.

2044 26-4-22.

2045 (a) The board shall consist of seven members possessing the qualification specified in
2046 subsection (a) of Code Section 26-4-21 and one additional member possessing the
2047 qualifications specified in subsection (b) of Code Section 26-4-21 who shall be appointed
2048 by the Governor for a term of five years or until their successors are appointed and
2049 qualified. Pharmacist members shall represent a diversity of practice settings and
2050 geographic dispersion of practitioners across the state.

2051 (b) At the annual meeting of the Georgia Pharmacy Association, there may be nominated
2052 by such licensed pharmacists as may be present three practicing registered pharmacists who
2053 shall meet the qualifications imposed by subsection (a) of Code Section 26-4-21 to fill the
2054 next vacancy occurring on the board, except a vacancy in the consumer member position
2055 on ~~said~~ the board, by reason of expiration of term. The secretary of ~~said~~ such association
2056 may regularly submit to the Governor the names of the three pharmacists so nominated and
2057 the Governor may make the appointment to fill such vacancy from the names so submitted.
2058 Should any vacancy occur upon the board, other than in the consumer member position on
2059 the board and other than by reason of expiration of term, such vacancy may be filled by
2060 appointment by the Governor for the unexpired term from a group of three practicing
2061 registered pharmacists nominated as provided in this subsection at any regular or special
2062 meeting of the Georgia Pharmacy Association.

2063 (c) The consumer member of the board shall also be appointed by the Governor. Such
2064 member shall vote only on matters relating to administration and policy which do not
2065 directly relate to practical and scientific examination of pharmacists for licensing in
2066 Georgia. Vacancies occurring in the membership of the board occupied by a consumer
2067 shall be filled by the Governor for the unexpired term of office.

2068 26-4-23.

2069 Any member who has failed to attend three consecutive regular monthly meetings of the
2070 board for any reason other than illness of such member shall be subject to removal by the
2071 Governor upon request of the board. The president of the board shall notify the Governor
2072 in writing when any such member has failed to attend three consecutive regular monthly
2073 meetings. Any member of the board may be removed by the Governor as provided in Code
2074 Section 43-1-17.

2075 26-4-24.

2076 The board shall meet at least annually to organize and elect a president and a ~~vice-president~~
 2077 vice president from its members. The ~~division~~ director shall be the secretary of the board
 2078 ~~and shall have all the power, duties, and authority with reference to such board as shall be~~
 2079 ~~prescribed by Chapter 1 of Title 43~~ and shall perform such other duties as may be
 2080 prescribed by the board. ~~All appeals from the decision of the board, all documents or~~
 2081 ~~applications required by law to be filed with the board, and any notice or legal process to~~
 2082 ~~be served upon the board may be filed with or served upon the division director at his or~~
 2083 ~~her office in the county of domicile of the professional licensing boards division.~~

2084 26-4-25.

2085 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
 2086 Section 43-1-2.

2087 26-4-26.

2088 (a) The board shall meet on a regular basis to transact its business. The board shall meet
 2089 at such additional times as it may determine. Such additional meetings may be called by
 2090 the president of the board or by at least two-thirds of the members of the board.

2091 (b) Notice of all meetings of the board shall be given in the manner and pursuant to
 2092 requirements prescribed by Chapter 14 of Title 50 relating to open meetings.

2093 (c) A majority of the members of the board shall constitute a quorum for the conduct of
 2094 a board meeting and, except where a greater number is required by this chapter ~~or by any~~
 2095 ~~rule of the board~~, all actions of the board shall be by a majority of a quorum.

2096 (d) All board meetings ~~and hearings~~ shall be open to the public. The board may, in its
 2097 discretion and according to law, conduct any portion of its meeting in executive session
 2098 closed to the public.

2099 26-4-27.

2100 The licensing board may establish such rules and regulations not inconsistent with this
 2101 chapter and as in its judgment will best carry out the requirements thereof.

2102 26-4-28.

2103 (a) The ~~board~~ director shall have the power, duty, and authority for the ~~control and~~
 2104 ~~regulation of~~ enforcement of laws, rules, and regulations governing the practice of
 2105 pharmacy in the State of Georgia including, but not limited to, the following:

2106 (1) The licensing by examination or by license transfer of applicants who are qualified
 2107 to engage in the practice of pharmacy under the provisions of this chapter;

- 2108 (2) The renewal of licenses to engage in the practice of pharmacy;
- 2109 ~~(3) The establishment and enforcement of compliance with professional standards and~~
- 2110 ~~rules of conduct of pharmacists engaged in the practice of pharmacy;~~
- 2111 ~~(4) The determination and issuance of standards for recognition and approval of degree~~
- 2112 ~~programs of schools and colleges of pharmacy whose graduates shall be eligible for~~
- 2113 ~~licensure in this state, and the specification and enforcement of requirements for practical~~
- 2114 ~~training including internship;~~
- 2115 ~~(5)~~(3) The enforcement of those provisions of this chapter relating to the conduct or
- 2116 competence of pharmacists practicing in this state and the suspension, revocation, or
- 2117 restriction of licenses to engage in the practice of pharmacy;
- 2118 ~~(6)~~(4) The licensure and regulation of pharmacies and pharmacy interns;
- 2119 ~~(7)~~(5)(A) The regulation of other employees in ~~the prescription or pharmacy~~
- 2120 ~~department, including but not limited to the registration and regulation of pharmacy~~
- 2121 ~~technicians. The board shall be required to establish the minimum qualifications for the~~
- 2122 ~~registration of pharmacy technicians and shall be authorized to require the completion~~
- 2123 ~~of~~ The director shall conduct a background check and criminal history record check for
- 2124 each person applying for registration as a pharmacy technician in this state. The
- 2125 certificate of registration, once issued, may be valid for no more than two years and
- 2126 shall be renewable biennially upon payment of a renewal fee and compliance with such
- 2127 other conditions as the licensing board may establish by rule or regulation. The ~~board~~
- 2128 director shall be authorized, subject to the provisions of Code Section 43-1-3.1, to deny
- 2129 registration, to deny renewal, or to revoke or suspend the registration of a pharmacy
- 2130 technician for any of the grounds set forth in Code Section 26-4-60 or Code Section
- 2131 43-1-19. However, ~~said~~ the denial of a technician application, denial of the renewal of
- 2132 a certificate, or suspension or revocation of a technician registration shall not be
- 2133 considered a contested case under Chapter 13 of Title 50, the 'Georgia Administrative
- 2134 Procedure Act,' but ~~said~~ the applicant or registrant shall be entitled to an appearance
- 2135 before the licensing board. The ~~board~~ director shall be required to establish and
- 2136 maintain a registry of pharmacy technicians in this state which contains the name and
- 2137 home address of each pharmacy technician and his or her employer and location of
- 2138 employment. The ~~board~~ director shall establish a process by which the pharmacist in
- 2139 charge of each pharmacy shall provide updated information on the pharmacy
- 2140 technicians in the pharmacy. ~~The board may establish and collect fees from pharmacy~~
- 2141 ~~technicians, their employers, or both for the registration of pharmacy technicians and~~
- 2142 ~~maintenance of the registry.~~
- 2143 (B)(i) In enforcing this paragraph, the ~~board~~ director may, upon reasonable grounds,
- 2144 require a registrant or applicant to submit to a mental or physical examination by

2145 licensed health care providers designated by the licensing board. The results of such
2146 examination shall be admissible in any hearing before the licensing board,
2147 notwithstanding any claim of privilege under a contrary rule of law or statute,
2148 including, but not limited to, Code Section 24-9-21. Every person who shall accept
2149 the privilege of practicing as a pharmacy technician in this state or who shall file an
2150 application for a certificate of registration to practice pharmacy in this state shall be
2151 deemed to have given his or her consent to submit to such mental or physical
2152 examination and to have waived all objections to the admissibility of the results in any
2153 hearing before the licensing board, upon the grounds that the same constitutes a
2154 privileged communication. If a registrant or applicant fails to submit to such an
2155 examination when properly directed to do so by the board director, unless such failure
2156 was due to circumstances beyond his or her control, the board director may enter a
2157 final order upon proper notice, opportunity for a hearing, and proof of such refusal.
2158 Any registrant or applicant who is prohibited from practicing as a pharmacy
2159 technician under this paragraph shall at reasonable intervals be afforded an
2160 opportunity to demonstrate to the board director that he or she can resume or begin
2161 practicing as a pharmacy technician with reasonable skill and safety to patients.

2162 (ii) For the purposes of this paragraph, the board director may, upon reasonable
2163 grounds, obtain any and all records relating to the mental or physical condition of a
2164 registrant or applicant, including psychiatric records; and such records shall be
2165 admissible in any hearing before the licensing board, notwithstanding any claim of
2166 privilege under a contrary rule of law or statute, including, but not limited to, Code
2167 Section 24-9-21. Every person who shall accept the privilege of practicing as a
2168 pharmacy technician in this state or who shall file an application for a certificate of
2169 registration to practice as a pharmacy technician in this state shall be deemed to have
2170 given his or her consent to the board's director's obtaining any such records and to
2171 have waived all objections to the admissibility of such records in any hearing before
2172 the licensing board, upon the grounds that the same constitutes a privileged
2173 communication.

2174 (iii) If any registrant or applicant could, in the absence of this paragraph, invoke a
2175 privilege to prevent the disclosure of the results of the examination provided for in
2176 division (i) of this subparagraph or the records relating to the mental or physical
2177 condition of such registrant or applicant obtained pursuant to division (ii) of this
2178 subparagraph, all such information shall be received by the licensing board in camera
2179 and shall not be disclosed to the public, nor shall any part of the record containing
2180 such information be used against any registrant or applicant in any other type of
2181 proceeding;

2182 ~~(8)~~(6) The collection of professional demographic data;

2183 ~~(9)~~(7) The right to seize any such drugs and devices found by the ~~board~~ director to

2184 constitute an imminent danger to the public health and welfare;

2185 ~~(10)~~ The establishment of minimum specifications for the physical facilities, technical

2186 equipment, environment, supplies, personnel, and procedures for the storage,

2187 compounding, and dispensing of such drugs or devices utilized within the practice of

2188 pharmacy;

2189 ~~(11)~~ The establishment of minimum standards for the purity and quality of such drugs

2190 utilized within the practice of pharmacy;

2191 ~~(12)~~ The establishment of minimum standards for the purity and quality of such devices

2192 and other materials utilized within the practice of pharmacy;

2193 ~~(12.1)~~(8) The licensure for the use of remote automated medication systems; ~~and the~~

2194 ~~regulation and establishment of minimum standards for the use and operation of remote~~

2195 ~~automated medication systems to ensure safe and efficient dispensing, including, but not~~

2196 ~~limited to, appropriate security measures, requirements for skilled nursing facilities and~~

2197 ~~hospices that utilize such systems, training requirements, accuracy and quality assurance~~

2198 ~~measures, recordkeeping requirements, and such other appropriate requirements as~~

2199 ~~determined by the board. The board may establish rules and regulations to implement the~~

2200 ~~requirements of this paragraph.~~

2201 ~~(13)~~(9) The issuance and renewal of licenses of all persons engaged in the manufacture

2202 and distribution of drugs;

2203 ~~(14)~~(10) The issuance and renewal of licenses of all persons engaged in the manufacture

2204 and distribution of devices utilized within the practice of pharmacy;

2205 ~~(15)~~(11) The inspection of any licensed person at all reasonable hours for the purpose

2206 of determining if any provisions of the laws governing the legal distribution of drugs or

2207 devices or the practice of pharmacy are being violated. ~~The board and its officers, agents,~~

2208 ~~and designees~~ director shall cooperate with all agencies charged with the enforcement of

2209 the laws of the United States, of this state, and of all other states relating to drugs,

2210 devices, and the practice of pharmacy;

2211 ~~(16)~~(12) The investigation of alleged violations of this chapter or any other law in this

2212 state pertaining to, or in connection with, persons or firms licensed by the board or

2213 otherwise authorized by the laws of this state to manufacture, sell, distribute, dispense,

2214 or possess drugs, medicines, poisons, cosmetics, or devices, as related to misbranded or

2215 counterfeit drugs, or any rules and regulations promulgated by the licensing board under

2216 this chapter; the conducting of investigative interviews or ~~full~~ licensing board hearings,

2217 with or without the necessity of utilizing the Office of State Administrative Hearings, in

2218 respect thereto when in its discretion it appears to be necessary; and the bringing of such
 2219 violations to the notice of the Attorney General;

2220 ~~(17) The listing at any time upon either a list under Article 3 of Chapter 13 of Title 16,~~
 2221 ~~the 'Dangerous Drug Act,' or upon a schedule under Article 2 of Chapter 13 of Title 16,~~
 2222 ~~the 'Georgia Controlled Substances Act,' of any drug found to be potentially dangerous~~
 2223 ~~to public safety if dispensed without prescription;~~

2224 ~~(18)~~(13) The expunging of the pharmacy related practice record of any pharmacist whose
 2225 record consists of a sole sanction resulting from alcohol impairment and whose pharmacy
 2226 related practice record during a five-year time period dating from the time of the sanction
 2227 has incurred no additional charges or infractions; and

2228 ~~(19)~~(14) Restricting the inspection or examination of records or access to any area
 2229 licensed and under the control of any registrant, which has been issued a permit by the
 2230 ~~board~~ director, to ~~members of the~~ licensing board, agents for the Georgia Drugs and
 2231 Narcotics Agency, the United States Drug Enforcement Administration, the Georgia
 2232 Department of Medical Assistance, or other federal agencies or agencies of this state
 2233 otherwise entitled to such inspections or examinations by law, subpoena, or court order.
 2234 This paragraph specifically prohibits inspections or examinations of ~~board~~ registrants or
 2235 any requirement which forces ~~board~~ registrants to allow inspection or examination, or
 2236 both, of their records by representatives for any nongovernment affiliated, private
 2237 organization for any purpose since the access of patient prescription records is restricted
 2238 by this chapter and access by such private organizations is unnecessary in that this access
 2239 only duplicates existing record-keeping and inspection requirements already addressed
 2240 by the laws and regulations of the licensing board and other government organizations.
 2241 This restriction shall also prohibit a private, nongovernment affiliated organization from
 2242 examining or copying continuing education certificates maintained by individual
 2243 registrants. Nothing in this paragraph shall prohibit the pharmacist in charge from
 2244 voluntarily allowing appropriate agencies and organizations to inspect or examine the
 2245 records and pharmacy area under the control of the pharmacist in charge provided such
 2246 inspections or examinations are for the purposes of ensuring the quality of care provided
 2247 to patients;

2248 (a.1) The licensing board shall have the power, duty, and authority for the control and
 2249 regulation of the practice of pharmacy in the State of Georgia including, but not limited to,
 2250 the following:

2251 (1) The establishment and enforcement of compliance with professional standards and
 2252 rules of conduct of pharmacists engaged in the practice of pharmacy;

2253 (2) The determination and issuance of standards for recognition and approval of degree
 2254 programs of schools and colleges of pharmacy whose graduates shall be eligible for

2255 licensure in this state, and the specification and enforcement of requirements for practical
 2256 training including internship;

2257 (3) The establishment of minimum qualifications for the registration of pharmacy
 2258 technicians and the completion of a background check and criminal history record check
 2259 for each person applying for registration as a pharmacy technician in this state;

2260 (4) The establishment of minimum specifications for the physical facilities, technical
 2261 equipment, environment, supplies, personnel, and procedures for the storage,
 2262 compounding, and dispensing of such drugs or devices utilized within the practice of
 2263 pharmacy;

2264 (5) The establishment of minimum standards for the purity and quality of such drugs
 2265 utilized within the practice of pharmacy;

2266 (6) The establishment of minimum standards for the purity and quality of such devices
 2267 and other materials utilized within the practice of pharmacy;

2268 (7) The regulation and establishment of minimum standards for the use and operation of
 2269 remote automated medication systems to ensure safe and efficient dispensing, including,
 2270 but not limited to, appropriate security measures, requirements for skilled nursing
 2271 facilities and hospices that utilize such systems, training requirements, accuracy and
 2272 quality assurance measures, recordkeeping requirements, and such other appropriate
 2273 requirements as determined by the licensing board. The licensing board may establish
 2274 rules and regulations to implement the requirements of this paragraph;

2275 (8) The listing at any time upon either a list under Article 3 of Chapter 13 of Title 16, the
 2276 'Dangerous Drug Act,' or upon a schedule under Article 2 of Chapter 13 of Title 16, the
 2277 'Georgia Controlled Substances Act,' of any drug found to be potentially dangerous to
 2278 public safety if dispensed without prescription;

2279 ~~(20)~~(9) The requiring of background checks, including, but not limited to, criminal
 2280 history record checks, on any persons or firms applying for licensure or registration
 2281 pursuant to this chapter; and

2282 ~~(21)~~(10) Serving as the sole governmental or other authority which shall have the
 2283 authority to approve or recognize accreditation or certification programs for specialty
 2284 pharmacy practice or to determine the acceptability of entities which may accredit
 2285 pharmacies or certify pharmacists in a specialty of pharmacy practice, and the licensing
 2286 board may require such accreditation or certification as a prerequisite for specialty or
 2287 advanced pharmacy practice. Such accreditation and certification standards for
 2288 specialties shall be set forth in rules promulgated by the licensing board with such rules
 2289 to contain the required qualifications or limitations. Any accreditation or certification for
 2290 specialty pharmacy practice approved or recognized by the licensing board shall be
 2291 deemed sufficient to meet any and all standards, licensure, or requirements, or any

2292 combination thereof, otherwise set forth by any private entity or other government agency
2293 to satisfy its stated goals and standards for such accreditation or certification. Nothing
2294 in this paragraph shall prohibit private entities, government agencies, professional
2295 organizations, or educational institutions from submitting accreditation or certification
2296 programs for the review and potential approval or recognition by the licensing board.
2297 Accreditation and certification for specialty pharmacy practice under this paragraph shall
2298 be subject to the following conditions:

2299 (A) Applications shall be submitted to the director as set forth in rules promulgated or
2300 approved by the licensing board for accreditation or certification;

2301 (B) Only a pharmacist registered by this state and maintaining an active license in good
2302 standing is eligible for certification in a specialty pharmacy practice by the ~~board~~
2303 director;

2304 (C) Only a pharmacy registered by this state and maintaining an active license in good
2305 standing is eligible for accreditation for specialty pharmacy practice by the ~~board~~
2306 director;

2307 (D) Any licensing board approved or recognized accreditation for a specialty pharmacy
2308 practice of a pharmacy is to be deemed sufficient and shall satisfy any standards or
2309 qualifications required for payment of services rendered as set forth by any insurance
2310 company, carrier, or similar third-party payor plan in any policy or contract issued,
2311 issued for delivery, delivered, or renewed on or after July 1, 1999;

2312 (E) Any licensing board approved or recognized specialty certification issued to a
2313 pharmacist is deemed sufficient and shall satisfy any standards or qualifications
2314 required for payment of services rendered as set forth by any insurance company,
2315 carrier, or similar third-party payor plan in any policy or contract issued, issued for
2316 delivery, delivered, or renewed on or after July 1, 1999; and

2317 (F) The ~~board~~ director may deny, revoke, limit, suspend, probate, or fail to renew the
2318 accreditation or specialty certification of a pharmacy, pharmacist, or both for cause as
2319 set forth in Code Section 26-4-60 or for a violation of Chapter 13 of Title 16 or if the
2320 ~~board~~ director determines that a pharmacy, pharmacist, or both, no longer meet the
2321 accreditation or certification requirements of the licensing board. Before such action,
2322 the ~~board~~ director shall serve upon the pharmacist in charge of a pharmacy or
2323 pharmacist an order to show cause why accreditation or certification should not be
2324 denied, revoked, limited, suspended, or probated or why the renewal should not be
2325 refused. The order to show cause shall contain a statement for the basis therefor and
2326 shall call upon the pharmacist in charge of a pharmacy, the pharmacist, or both, to
2327 appear before the licensing board at a time and place not more than 60 days after the
2328 date of the service of the order.

2329 (b) Proceedings by the licensing board in ~~the exercise of its authority to cancel, suspend,~~
 2330 ~~or revoke any license issued under the terms of this chapter~~ an appeal from any action of
 2331 the director shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia
 2332 Administrative Procedure Act.' In all such proceedings the licensing board shall have
 2333 authority to compel the attendance of witnesses and the production of any book, writing,
 2334 or document upon the issuance of a subpoena therefor signed by the ~~secretary of the board~~
 2335 director. In any hearing in which the fitness of a licensee or applicant to practice pharmacy
 2336 is in question, the licensing board may exclude all persons from its deliberation of the
 2337 appropriate action to be taken and may, when it deems it necessary, speak to a licensee or
 2338 applicant in private.

2339 (c) The licensing board shall have such other duties, powers, and authority as may be
 2340 necessary to the enforcement of this chapter and the director shall have the authority as is
 2341 necessary to the enforcement of licensing board rules made pursuant thereto which shall
 2342 include, but are not limited to, the following:

2343 ~~(1) The board may join such professional organizations and associations organized~~
 2344 ~~exclusively to promote the improvement of the standards of the practice of pharmacy for~~
 2345 ~~the protection of the health and welfare of the public and whose activities assist and~~
 2346 ~~facilitate the work of the board;~~

2347 ~~(2)~~(1) The ~~board~~ director may place under seal all drugs or devices that are owned by or
 2348 in the possession, custody, or control of a licensee at the time his or her license is
 2349 suspended or revoked or at the time the ~~board~~ director refuses to renew his or her license.
 2350 Except as otherwise provided in this Code section, drugs or devices so sealed shall not
 2351 be disposed of until appeal rights under Chapter 13 of Title 50, the 'Georgia
 2352 Administrative Procedure Act,' have expired, or an appeal filed pursuant to such chapter
 2353 has been determined. The court involved in an appeal filed pursuant to such chapter may
 2354 order the ~~board~~ director, during the pendency of the appeal, to sell sealed drugs that are
 2355 perishable. The proceeds of such a sale shall be deposited with that court;

2356 ~~(3)~~(2) Except as otherwise provided to the contrary, the licensing board shall exercise
 2357 all of its duties, powers, and authority in accordance with Chapter 13 of Title 50, the
 2358 'Georgia Administrative Procedure Act';

2359 ~~(4)~~(3) In addition to the fees specifically provided for in this chapter, the licensing board
 2360 may assess additional reasonable fees for services rendered to carry out its duties and
 2361 responsibilities as required or authorized by this chapter or the rules and regulations
 2362 promulgated by the licensing board. Such services rendered shall include but not be
 2363 limited to the following:

2364 (A) Issuance of duplicate certificates or identification cards;

2365 (B) Certification of documents;

2366 (C) License transfer;

2367 (D) Examination administration to a licensure applicant; and

2368 (E) Examination materials; and

2369 ~~(5)~~(4) Cost recovery.

2370 (A) For any order issued in resolution of a disciplinary proceeding before the licensing
 2371 board, the licensing board may direct any licensee found guilty of a charge involving
 2372 a violation of any drug laws or rules to pay to the ~~board~~ director a sum not to exceed
 2373 the reasonable costs of the investigation and prosecution of the case and, in any case,
 2374 not to exceed \$25,000.00. The costs to be assessed shall be fixed by the licensing board
 2375 and the costs so recovered shall be paid to the state treasury; and

2376 (B) In the case of a pharmacy or wholesale distributor, the order issued may be made
 2377 to the corporate owner, if any, and to any pharmacist, officer, owner, or partner of the
 2378 pharmacy or wholesale distributor who is found to have had knowledge of or have
 2379 participated knowingly in one or more of the violations set forth in this Code section.

2380 Where an order for recovery of costs is made and timely payment is not made as directed
 2381 in the ~~board's~~ director's decision, the ~~board~~ director may enforce the order for payment
 2382 in the court in the county where the administrative hearing was held. This right of
 2383 enforcement shall be in addition to any other rights the ~~board~~ director may have as to any
 2384 person directed to pay costs. In any action for recovery of costs, proof of the licensing
 2385 board's decision shall be conclusive proof of the validity of the order of payment and the
 2386 terms for payment.

2387 26-4-29.

2388 (a) The agency created in 1908 as the Office of the Chief Drug Inspector and known as the
 2389 Georgia Drugs and Narcotics Agency since 1976 is continued in existence as the Georgia
 2390 Drugs and Narcotics Agency. This agency shall be a budget unit as defined under Code
 2391 Section 45-12-71; provided, however, that the agency shall be assigned for administrative
 2392 purposes only, as defined in Code Section 50-4-3, to the office of the Secretary of State.
 2393 The Georgia Drugs and Narcotics Agency is authorized by this Code section to enforce the
 2394 drug laws of this state. The licensing board shall appoint a an agency director who shall
 2395 be charged with supervision and control of such agency. The agency shall employ the
 2396 number of personnel deemed necessary to properly protect the health, safety, and welfare
 2397 of the citizens of this state. Such personnel shall be pharmacists registered in this state
 2398 when employed as either special agents or the deputy agency director.

2399 (b) The agency director shall hold office at the pleasure of the licensing board, and should
 2400 any vacancy occur in ~~said~~ such office for any cause whatsoever, ~~said~~ the licensing board
 2401 shall appoint a successor at a regular or called meeting. The agency director shall be a

2402 pharmacist registered in this state. The salary of the agency director shall be fixed by the
2403 licensing board. The whole time of the agency director shall be at the disposal of the
2404 licensing board. The agency director, or agency personnel acting on behalf of the agency
2405 director, shall have the duty and the power to:

2406 (1) Visit and inspect factories, warehouses, wholesaling establishments, retailing
2407 establishments, chemical laboratories, and such other establishments in which any drugs,
2408 devices, cosmetics, and such articles known as family remedies, grocer's drugs, and toilet
2409 articles are manufactured, processed, packaged, sold at wholesale, sold at retail, or
2410 otherwise held for introduction into commerce;

2411 (2) Enter and inspect any vehicle used to transport or hold any drugs, devices, cosmetics,
2412 or any of the articles listed in paragraph (1) of this subsection;

2413 (3) Investigate alleged violations of laws and regulations regarding drugs, devices,
2414 cosmetics, or any of the articles listed in paragraph (1) of this subsection;

2415 (4) Take up samples of the articles listed in paragraph (1) of this subsection from any of
2416 the ~~said~~ such establishments for examination and analysis by the state chemist, or under
2417 such person's direction and supervision, as provided by Code Section 26-4-131;

2418 (5) Seize and take possession of all articles which are declared to be contraband under
2419 Chapter 13 of Title 16 and Chapter 3 of this title and this chapter and deliver such articles
2420 to the agency;

2421 (6) Compel the attendance of witnesses and the production of evidence on behalf of the
2422 licensing board via a subpoena issued by the agency director, when there is reason to
2423 believe any violations of laws or regulations concerning drugs, devices, cosmetics, or any
2424 of the articles listed in paragraph (1) of this subsection have occurred; and

2425 (7) Perform such other duties as may be directed by the licensing board.

2426 (c)(1) The agency director, deputy agency director, and special agents of the Georgia
2427 Drugs and Narcotics Agency shall have the authority and power that sheriffs possess to
2428 make arrests of any persons violating or charged with violating Chapter 13 of Title 16
2429 and Chapter 3 of this title and this chapter. The deputy director and special agents shall
2430 be required to be P.O.S.T. certified peace officers under Chapter 8 of Title 35, the
2431 'Georgia Peace Officer Standards and Training Act.'

2432 (2) In case of such arrest, the agency director, deputy agency director, or any of the
2433 special agents shall immediately deliver the person so arrested to the custody of the
2434 sheriff of the county wherein the offense is alleged to have been committed. The duty
2435 of the sheriff in regard to the person delivered to the sheriff by any such person arrested
2436 under power of this Code section shall be the same as if the sheriff had made the original
2437 arrest.

2438 (c.1) When the deputy agency director or a special agent employed by the Georgia Drugs
 2439 and Narcotics Agency leaves the agency under honorable conditions after accumulating 25
 2440 years of service in the agency, as a result of a disability arising in the line of duty, or
 2441 pursuant to approval by the ~~State Board of Pharmacy~~ licensing board, such agency director
 2442 or agent shall be entitled to retain his or her weapon and badge pursuant to approval by the
 2443 ~~State Board of Pharmacy~~ licensing board, and, upon leaving the agency, the director of the
 2444 Georgia Drugs and Narcotics Agency shall retain his or her weapon and badge pursuant to
 2445 approval by the ~~State Board of Pharmacy~~ licensing board.

2446 (d) Except as otherwise provided in this chapter, upon receiving a summary report from
 2447 agency personnel, the agency director shall report to the ~~board~~ director what have been
 2448 determined to be violations of the drug laws and rules over which the licensing board has
 2449 authority. After such reports have been made to the ~~board~~ director, the ~~board can~~ director
 2450 may instruct the agency director to:

2451 (1) Cite any such person or establishment to appear before the ~~cognizant member of the~~
 2452 ~~board~~ director for an investigative interview;

2453 (2) Forward such reports to the Attorney General's office for action decided on by the
 2454 ~~board~~ director; or

2455 (3) Take whatever other action the ~~board~~ director deems necessary.

2456 (e) The Georgia Drugs and Narcotics Agency shall compile and submit to the General
 2457 Assembly during each annual legislative session a list of known dangerous drugs as defined
 2458 in subsection (a) of Code Section 16-13-71 and any other drugs or devices which the
 2459 licensing board has determined may be dangerous or detrimental to the public health and
 2460 safety and should require a prescription, and the Georgia Drugs and Narcotics Agency shall
 2461 assist the ~~State Board of Pharmacy~~ licensing board during each annual legislative session
 2462 by compiling and submitting a list of substances to add to or reschedule substances
 2463 enumerated in the schedules in Code Sections 16-13-25 through 16-13-29 by using the
 2464 guidelines set forth in Code Section 16-13-22.

2465 (1) The ~~State Board of Pharmacy~~ director is authorized and directed to publish in print
 2466 or electronically and distribute the 'Dangerous Drug List' as prepared by the Georgia
 2467 Drugs and Narcotics Agency and the 'Georgia Controlled Substances Act' as enacted by
 2468 law.

2469 (2) The ~~Georgia State Board of Pharmacy~~ licensing board shall provide for a fee as
 2470 deemed reasonable or at no cost, such number of copies of the 'Dangerous Drug List' and
 2471 'Georgia Controlled Substances Act' to law enforcement officials, school officials,
 2472 parents, and other interested citizens as are required.

2473 26-4-30.

2474 This chapter shall not be construed to prohibit the sale by general merchants or other
2475 nonpharmacy retailers of nonprescription drugs when sold only in their original and
2476 unbroken packages.

2477 ARTICLE 3

2478 26-4-40.

2479 (a) Except as otherwise provided in this chapter, it shall be unlawful for any individual to
2480 engage in the practice of pharmacy unless currently licensed to practice under the
2481 provisions of this chapter.

2482 (b) Practitioners authorized under the laws of this state to compound drugs and to dispense
2483 drugs to their patients in the practice of their respective professions shall not be required
2484 to be licensed under the provisions of this chapter; however, practitioners shall meet the
2485 same standards, record-keeping requirements, and all other requirements for the dispensing
2486 of drugs applicable to pharmacists.

2487 (c) Any individual who, after ~~hearing, shall be~~ notice and the opportunity for a hearing as
2488 provided in Code Section 43-1-3.1, is found by the ~~board~~ director to have unlawfully
2489 engaged in the practice of pharmacy shall be subject to a fine to be established by the
2490 licensing board and imposed by the ~~board~~ director for each offense. Each violation of this
2491 chapter pertaining to unlawfully engaging in the practice of pharmacy shall also constitute
2492 a felony punishable upon conviction thereof by a fine of not less than \$500.00 nor more
2493 than \$1,000.00 or by imprisonment for not less than two nor more than five years, or both.

2494 26-4-41.

2495 (a) **Qualifications.** To obtain a license to engage in the practice of pharmacy, an applicant
2496 for licensure by examination shall:

2497 (1) Have submitted an application in the form prescribed by the licensing board;

2498 (2) Have attained the age of majority;

2499 (3) Be of good moral character;

2500 (4) Have graduated and received a professional undergraduate degree from a college or
2501 school of pharmacy as the same may be approved by the licensing board; provided,
2502 however, that, since it would be impractical for the licensing board to evaluate a school
2503 or college of pharmacy located in another country, the licensing board may accept a
2504 graduate from such a school or college so long as the graduate has completed all
2505 requirements of the Foreign Pharmacy Equivalency Certification Program administered
2506 by the National Association of Boards of Pharmacy. This shall include successful

2507 completion of all required examinations and the issuance of the equivalency certificate
2508 and be based upon an individual evaluation by the board director of the applicant's
2509 educational experience, professional background, and proficiency in the English
2510 language;

2511 (5) Have completed an internship or other program that has been approved by the
2512 licensing board or demonstrated to the board's director's satisfaction that experience in
2513 the practice of pharmacy which meets or exceeds the minimum internship requirements
2514 of the licensing board;

2515 (6) Have successfully passed an examination or examinations approved by the licensing
2516 board; and

2517 (7) Have paid the fees specified by the licensing board for the examination and any
2518 related materials and have paid for the issuance of the license.

2519 **(b) Examinations.**

2520 (1) The examination for licensure required under paragraph (6) of subsection (a) of this
2521 Code section shall be made available at least two times during each year. The licensing
2522 board shall determine the content and subject matter of each examination, and the director
2523 shall determine the place, time, and date of administration of the examination.

2524 (2) The examination shall be prepared to measure the competence of the applicant to
2525 engage in the practice of pharmacy. The board director may employ, cooperate, and
2526 contract with any organization or consultant in the preparation and grading of an
2527 examination, but shall retain the sole discretion and responsibility for determining which
2528 applicants have successfully passed such an examination.

2529 (3) Any person who takes the licensing board approved examination and fails the
2530 examination may repeat the examination at regular intervals of administration; however,
2531 a person shall not take the examination more than three times without permission from
2532 the board director. A person who has taken the licensing board approved examination
2533 and failed the examination for the third time shall not practice as a pharmacy intern. A
2534 person who takes the licensing board approved examination and successfully completes
2535 the examination must become licensed within two years of the examination date or the
2536 results of the examination shall become invalid.

2537 **(c) Internship and other training programs.**

2538 (1) All applicants for licensure by examination shall obtain practical experience in the
2539 practice of pharmacy concurrent with or after college attendance or both under such terms
2540 and conditions as the licensing board shall determine.

2541 (2) The licensing board shall establish such licensure requirements for interns and
2542 standards for internship or any other experiential program necessary to qualify an

2543 applicant for the licensure examination and shall also determine the qualifications of
2544 preceptors used in practical experience programs.

2545 26-4-42.

2546 (a) In order for a pharmacist currently licensed in another jurisdiction to obtain a license
2547 as a pharmacist by license transfer in this state, an applicant shall:

2548 (1) Complete and file a form applying for licensure with the ~~board~~, director which ~~form~~
2549 shall include the applicant's name, address, and other such information as prescribed by
2550 the licensing board, and, after an investigation by agents acting on behalf of the ~~board~~
2551 director, if so requested by the ~~board~~ director, produce evidence satisfactory to the ~~board~~
2552 director which shows the applicant has the age, moral character, background, education,
2553 and experience demanded of applicants for registration by examination under this chapter
2554 and by the rules and regulations promulgated under this chapter;

2555 (2) Have attained the age of majority;

2556 (3) Be of good moral character;

2557 (4) Have possessed at the time of initial licensure as a pharmacist all qualifications
2558 necessary to have been eligible for licensure at that time in this state;

2559 (5) Have presented to the ~~board~~ director proof of initial licensure by examination and
2560 proof that such license is in good standing;

2561 (6) Have presented to the ~~board~~ director proof that any other license granted to the
2562 applicant by any other state has not been suspended, revoked, or otherwise restricted for
2563 any reason except nonrenewal or for the failure to obtain the required continuing
2564 education credits in any state where the applicant is currently licensed but not engaged
2565 in the practice of pharmacy;

2566 (7) Have successfully passed an examination by the ~~board~~ director on Georgia pharmacy
2567 law and licensing board regulations; and

2568 (8) Have paid the fees specified by the licensing board.

2569 (b) No applicant shall be eligible for license transfer unless the state in which the applicant
2570 was licensed as a pharmacist also grants licensure transfer to pharmacists duly licensed by
2571 examination in this state under like circumstances and conditions.

2572 (c) To obtain a license to engage in the practice of pharmacy in this state, a pharmacist
2573 who is a graduate of a pharmacy school or college located in another country must
2574 complete all requirements of the Foreign Pharmacy Equivalency Certification Program
2575 administered by the National Association of Boards of Pharmacy. This shall include
2576 without being limited to successful completion of all required examinations, the issuance
2577 of the equivalency certificate, and an individual evaluation by the ~~board~~ director of the

2578 applicant's proficiency in the English language. Additionally, a foreign pharmacy graduate
2579 applicant shall:

- 2580 (1) Have submitted an application in the form prescribed by the licensing board;
- 2581 (2) Have attained the age of majority;
- 2582 (3) Be of good moral character;
- 2583 (4) Have possessed at the time of initial licensure as a pharmacist all qualifications
2584 necessary to have been eligible for licensure at that time in this state;
- 2585 (5) Have graduated and been granted a pharmacy degree from a college or school of
2586 pharmacy recognized by the National Association of Boards of Pharmacy Foreign
2587 Pharmacy Graduate Examination Committee;
- 2588 (6) Have successfully passed an examination approved by the licensing board; and
- 2589 (7) Have paid the fees specified by the licensing board.

2590 26-4-43.

2591 A temporary license may be issued by the ~~division~~ director ~~upon the approval of the~~
2592 ~~president of the board~~ if an applicant produces satisfactory evidence of fulfilling the
2593 requirements for licensure under this article, except the examination requirement, and
2594 evidence of an emergency situation justifying such temporary license. ~~All temporary~~
2595 ~~licenses shall expire at the end of the month during which the first board meeting is~~
2596 ~~conducted following the issuance of such license and may not be reissued or renewed.~~

2597 26-4-44.

2598 (a) Each pharmacist shall apply for renewal of his or her license biennially pursuant to the
2599 rules and regulations promulgated by the licensing board. A pharmacist who desires to
2600 continue in the practice of pharmacy in this state shall file with the ~~board~~ director an
2601 application in such form and containing such data as the licensing board may require for
2602 renewal of the license. Notice of any change of employment or change of business address
2603 shall be filed with the ~~division~~ director within ten days after such change. If the ~~board~~
2604 director finds that the applicant has been licensed and that such license has not been
2605 revoked or placed under suspension and that the applicant has paid the renewal fee, has
2606 continued his or her pharmacy education in accordance with Code Section 26-4-45 and the
2607 rules and regulations of the licensing board, and is entitled to continue in the practice of
2608 pharmacy, then the ~~board~~ director shall issue a license to the applicant.

2609 (b) If a pharmacist fails to make application to the ~~board~~ director for renewal of his or her
2610 license as set forth in and in accordance with the provisions of this chapter, the pharmacist
2611 must apply for reinstatement pursuant to the rules of the licensing board.

2612 26-4-44.1.

2613 (a) The licensing board shall provide by rule for an inactive pharmacist license status for
2614 those individuals who elect to apply for such status. Persons who are granted inactive
2615 status shall be exempt from the requirements of continuing pharmaceuticals education.

2616 (b) The licensing board shall provide by rule for reactivation of a pharmacist license for
2617 those persons who wish to have an active license. Such individuals must first file a
2618 reactivation application with the ~~board~~ director and comply with the requirements for
2619 reactivation as set forth by licensing board rule.

2620 26-4-44.2.

2621 (a) As used in this Code section, the term 'service member' means an active duty member
2622 of the regular or reserve component of the United States Armed forces, the United States
2623 Coast Guard, the Georgia National Guard, or the Georgia Air National Guard who was on
2624 ordered federal duty for a period of 90 days or longer.

2625 (b) Any service member whose license issued pursuant to this article expired while such
2626 service member was serving on active duty outside the state shall be permitted to practice
2627 pharmacy in accordance with such expired license and shall not be charged with a violation
2628 of this chapter related to practicing pharmacy with an expired license for a period of six
2629 months from the date of his or her discharge from active duty or reassignment to a location
2630 within the state. Any such service member shall be entitled to renew such expired license
2631 without penalty within six months after the date of his or her discharge from active duty
2632 or reassignment to a location within the state. The service member must present to the
2633 ~~board~~ director either a copy of the official military orders or a written verification signed
2634 by the service member's commanding officer to waive any charges.

2635 26-4-45.

2636 The licensing board shall establish a program of continuing professional pharmaceutical
2637 education for the renewal of pharmacist licenses. Notwithstanding any other provision of
2638 this chapter, no pharmacist license shall be renewed by the ~~board or the division~~ director
2639 until the pharmacist submits to the ~~board~~ director satisfactory proof of his or her
2640 participation, during the biennium preceding his or her application for renewal, in a
2641 minimum of 30 hours of approved programs of continuing professional pharmacy
2642 education as defined in this Code section. Continuing professional pharmacy education
2643 shall consist of educational programs providing training pertinent to the practice of
2644 pharmacy and approved by the licensing board under this Code section. The licensing
2645 board shall approve educational programs for persons practicing pharmacy in this state on
2646 a reasonable nondiscriminatory fee basis and may contract with institutions of higher

2647 learning, professional organizations, or qualified individuals for the providing of approved
2648 programs. In addition to such programs, the licensing board shall allow the continuing
2649 professional pharmacy education requirement to be fulfilled by the completion of approved
2650 correspondence courses which provide the required hours of approved programs of
2651 continuing professional pharmaceutical education or to be fulfilled by a combination of
2652 approved correspondence courses and other approved educational programs. The licensing
2653 board may, consistent with the requirements of this Code section, promulgate rules and
2654 regulations to implement and administer this Code section, including the establishment of
2655 a committee to prescribe standards, approve and contract for educational programs, and set
2656 the required minimum number of hours per year.

2657 26-4-46.

2658 (a) To obtain a license as a pharmacy intern, an applicant shall:

- 2659 (1) Have submitted an application in the form prescribed by the licensing board of
2660 pharmacy;
- 2661 (2) Have attained the age of majority;
- 2662 (3) Be of good moral character; and
- 2663 (4) Have paid the fees specified by the licensing board for the issuance of the license.

2664 (b) The following individuals shall be eligible to be licensed as a pharmacy intern:

- 2665 (1) A student who is currently enrolled in an approved school or college of pharmacy;
- 2666 (2) An individual who is a graduate of an approved school or college of pharmacy who
2667 is currently licensed by the board director for the purpose of obtaining practical
2668 experience as a requirement for licensure as a pharmacist; or
- 2669 (3) An individual who does not meet the requirements of paragraphs (1) and (2) of this
2670 subsection and is a graduate of a pharmacy school or college located in another country
2671 but who has completed all requirements of the Foreign Pharmacy Equivalency
2672 Certification Program administered by the National Association of Boards of Pharmacy.
2673 This shall include without being limited to successful completion of all required
2674 examinations, the issuance of the equivalency certificate, and an individual evaluation by
2675 the board director of the applicant's proficiency in the English language.

2676 (c) The licensing board shall approve all internship programs for the purpose of providing
2677 the practical experience necessary for licensure as a pharmacist. A pharmacy intern is
2678 authorized to engage in the practice of pharmacy under the supervision of a pharmacist.
2679 The licensing board shall adopt rules regarding the licensure of interns and the standards
2680 for internship programs.

2681 26-4-47.

2682 (a) Licenses issued under Code Section 26-4-46 shall bear the date of issuance and shall
2683 be valid for up to five years. Unless ~~said~~ such license is renewed by the ~~board~~ director, the
2684 license shall expire.

2685 (b) Any license issued pursuant to Code Section 26-4-46 shall expire at the time a
2686 pharmacy intern withdraws or is expelled, suspended, or dismissed, ~~or withdraws~~ from an
2687 approved school or college of pharmacy or is otherwise licensed as a pharmacist pursuant
2688 to this title.

2689 (c) Any license issued pursuant to Code Section 26-4-46 shall expire upon notification that
2690 a person has taken and failed the licensing board examination for the third time.

2691 26-4-48.

2692 Licenses issued pursuant to Code Section 26-4-46 which ~~shall~~ expire by lapse of time may
2693 be renewed upon application, unless, at the time of expiration, there ~~shall be~~ is pending
2694 action before the licensing board or the director to suspend or revoke such license.

2695 26-4-49.

2696 (a) Every person, firm, corporation, agency, department, or other entity located within this
2697 state which handles, possesses, or utilizes controlled substances or dangerous drugs, as
2698 defined in Chapter 13 of Title 16, for the purposes of conducting research, analysis, animal
2699 training, or drug education, as such purposes may be further defined by the licensing board,
2700 and is not otherwise registered as a pharmacist, pharmacy, drug wholesaler, distributor,
2701 supplier, or practitioner shall biennially register with the ~~State Board of Pharmacy~~ director
2702 for a drug researcher permit which shall entitle the holder thereof to purchase, receive,
2703 possess, or dispose of such controlled substances and dangerous drugs for such purposes.
2704 In applying for the permit:

2705 (1) The application for registration shall be made on a form to be prescribed by the
2706 licensing board and furnished by ~~said board~~ the director and shall show at a minimum the
2707 name of the person responsible for filing the application, the name of the applying firm,
2708 corporation, agency, department, or other entity, if applicable, the address where the
2709 controlled substances or dangerous drugs will be kept secured and can be inspected by
2710 the ~~board~~ director, together with such other information as may be required by the
2711 licensing board;

2712 (2) The person filing the application for the permit shall be the responsible person for the
2713 safe and proper storage and accountability, as defined under Chapter 13 of Title 16, for
2714 any and all controlled substances and dangerous drugs. Such person shall be responsible
2715 for maintaining exact and accurate records regarding the purchase, receipt, utilization,

2716 and disposal of all controlled substances and dangerous drugs utilized for purposes
 2717 granted by this permit. All records must be maintained for a minimum of two years ~~and~~
 2718 ~~be readily available for inspection by agents of the board;~~ and

2719 (3) Before approval by the ~~board~~ director for any permit issued under this Code section,
 2720 the application for registration must successfully undergo a thorough investigation by
 2721 ~~agents of the board~~ the director to ensure the applicant complies with all applicable laws,
 2722 rules, and regulations pursuant to handling controlled substances and dangerous drugs as
 2723 defined under Chapter 13 of Title 16.

2724 (b) The licensing board may require that the application for registration as a drug
 2725 researcher be accompanied by a fee in an amount established under rules promulgated by
 2726 the licensing board, and the licensing board may establish conditions for exemptions from
 2727 such fees. Such registration shall not be transferable and shall expire on the expiration date
 2728 established by the ~~division~~ director and may be renewed pursuant to rules and regulations
 2729 promulgated by the licensing board. If not renewed, the registration shall lapse and
 2730 become null and void.

2731 (c) The licensing board shall have the authority to promulgate rules and regulations
 2732 governing the holder of a drug researcher permit as defined under this Code section.

2733 (d) A drug researcher permit may, subject to the provisions of Code Section 43-1-3.1, be
 2734 suspended or revoked or the registrant may be reprimanded, fined, or placed on probation
 2735 by the ~~board~~ director if the registrant fails to comply with all applicable local, state, or
 2736 federal laws, rules, and regulations.

2737 (e) A holder of a drug researcher permit who is not also licensed as a pharmacist practicing
 2738 in a duly licensed pharmacy shall not engage in the sale, distribution, or dispensing of
 2739 controlled substances or dangerous drugs.

2740 (f) Any person, firm, or corporation which violates any provision of this Code section shall
 2741 be guilty of a felony and, upon conviction thereof, be punished by imprisonment for not
 2742 less than one year nor more than five years or by a fine not to exceed \$10,000.00 or both.

2743 26-4-50.

2744 (a) No pharmacist shall be authorized to modify drug therapy pursuant to Code Section
 2745 43-34-24 unless that pharmacist:

2746 (1) Is licensed to practice as a pharmacist in this state;

2747 (2) Has successfully completed a course of study regarding modification of drug therapy
 2748 and approved by the licensing board;

2749 (3) Annually successfully completes a continuing education program regarding
 2750 modification of drug therapy and approved by the licensing board; and

- 2751 (4) Is certified by the ~~board~~ director as meeting the requirements of paragraphs (1)
 2752 through (3) of this subsection.
- 2753 (b) Nothing in this Code section shall be construed to expand or change any existing
 2754 authority for a pharmacist to substitute drugs.

2755 ARTICLE 4

2756 26-4-60.

2757 (a) The ~~board of pharmacy~~ director, subject to the provisions of Code Section 43-1-3.1,
 2758 may refuse to issue or renew, or may suspend, revoke, or restrict the licenses of, or fine any
 2759 person pursuant to the procedures set forth in this Code section, upon one or more of the
 2760 following grounds:

- 2761 (1) Unprofessional conduct as that term is defined by the rules of the licensing board;
- 2762 (2) Incapacity that prevents a licensee from engaging in the practice of pharmacy with
 2763 reasonable skill, competence, and safety to the public;
- 2764 (3) Being guilty of one or more of the following:
- 2765 (A) A felony;
- 2766 (B) Any act involving moral turpitude; or
- 2767 (C) Violations of the pharmacy or drug laws of this state, or rules and regulations
 2768 pertaining thereto, or of laws, rules, and regulations of any other state, or of the federal
 2769 government;
- 2770 (4) Misrepresentation of a material fact by a licensee in securing the issuance or renewal
 2771 of a license;
- 2772 (5) Engaging or aiding and abetting an individual to engage in the practice of pharmacy
 2773 without a license falsely using the title of 'pharmacist' or 'pharmacy intern,' or falsely
 2774 using the term 'pharmacy' in any manner;
- 2775 (6) Failing to pay the costs assessed in a disciplinary hearing pursuant to subsection (c)
 2776 of Code Section 26-4-28;
- 2777 (7)(A) Becoming unfit or incompetent to practice pharmacy by reason of:
- 2778 (i) Intemperance in the use of alcoholic beverages, narcotics, or habit-forming drugs
 2779 or stimulants; or
- 2780 (ii) Any abnormal physical or mental condition which threatens the safety of persons
 2781 to whom such person may compound or dispense prescriptions, drugs, or devices or
 2782 for whom he or she might manufacture, prepare, or package or supervise the
 2783 manufacturing, preparation, or packaging of prescriptions, drugs, or devices.
- 2784 (B) In enforcing this paragraph, the ~~board~~ director may, upon reasonable grounds,
 2785 require a licensee or applicant to submit to a mental or physical examination by

2786 licensed health care providers designated by the licensing board. The results of such
 2787 examination shall be admissible in any hearing before the licensing board,
 2788 notwithstanding any claim of privilege under a contrary rule of law or statute,
 2789 including, but not limited to, Code Section 24-9-21. Every person who ~~shall accept~~
 2790 accepts the privilege of practicing pharmacy in this state or who shall file an application
 2791 for a license to practice pharmacy in this state shall be deemed to have given his or her
 2792 consent to submit to such mental or physical examination and to have waived all
 2793 objections to the admissibility of the results in any hearing before the licensing board,
 2794 upon the grounds that the same constitutes a privileged communication. If a licensee
 2795 or applicant fails to submit to such an examination when properly directed to do so by
 2796 the ~~board~~ director, unless such failure was due to circumstances beyond his or her
 2797 control, the ~~board~~ director may enter a final order upon proper notice and the
 2798 opportunity for a hearing as provided in Code Section 43-1-3.1, hearing, and proof of
 2799 such refusal. Any licensee or applicant who is prohibited from practicing pharmacy
 2800 under this paragraph shall at reasonable intervals be afforded an opportunity to
 2801 demonstrate to the ~~board~~ director that he or she can resume or begin the practice of
 2802 pharmacy with reasonable skill and safety to patients.

2803 (C) For the purposes of this paragraph, the ~~board~~ director may, upon reasonable
 2804 grounds, obtain any and all records relating to the mental or physical condition of a
 2805 licensee or applicant, including psychiatric records; and such records shall be
 2806 admissible in any hearing before the licensing board, notwithstanding any claim of
 2807 privilege under a contrary rule of law or statute, including, but not limited to, Code
 2808 Section 24-9-21. Every person who shall accept the privilege of practicing pharmacy
 2809 in this state or who shall file an application for a license to practice pharmacy in this
 2810 state shall be deemed to have given his or her consent to the ~~board's~~ director's obtaining
 2811 any such records and to have waived all objections to the admissibility of such records
 2812 in any hearing before the licensing board, upon the grounds that the same constitutes
 2813 a privileged communication.

2814 (D) If any licensee or applicant could, in the absence of this paragraph, invoke a
 2815 privilege to prevent the disclosure of the results of the examination provided for in
 2816 subparagraph (B) of this paragraph or the records relating to the mental or physical
 2817 condition of such licensee or applicant obtained pursuant to subparagraph (C) of this
 2818 paragraph, all such information shall be received by the licensing board or the director
 2819 in camera and shall not be disclosed to the public, nor shall any part of the record
 2820 containing such information be used against any licensee or applicant in any other type
 2821 of proceeding;

2822 (8) Being adjudicated to be mentally ill or insane;

- 2823 (9) Violating any rules and regulations promulgated by the licensing board;
- 2824 (10) Promoting to the public in any manner a drug which may be dispensed only
2825 pursuant to prescription;
- 2826 (11) Regularly employing the mails or other common carriers to sell, distribute, and
2827 deliver a drug which requires a prescription directly to a patient; provided, however, that
2828 this provision shall not prohibit the use of the mails or other common carriers to sell,
2829 distribute, and deliver a prescription drug directly to:
- 2830 (A) A patient or directly to a patient's guardian or caregiver or a physician or physician
2831 acting as the patient's agent for whom the prescription drug was prescribed if:
- 2832 (i) Such prescription drugs are prescribed for complex chronic, terminal, or rare
2833 conditions;
- 2834 (ii) Such prescription drugs require special administration, comprehensive patient
2835 training, or the provision of supplies and medical devices or have unique patient
2836 compliance and safety monitoring requirements;
- 2837 (iii) Due to the prescription drug's high monetary cost, short shelf life, special
2838 manufacturer specified packaging and shipping requirements or instructions which
2839 require temperature sensitive storage and handling, limited availability or distribution,
2840 or other factors, the drugs are not carried in the regular inventories of retail
2841 pharmacies such that the drugs could be immediately dispensed to multiple retail
2842 walk-in patients;
- 2843 (iv) Such prescription drug has an annual retail value to the patient of more than
2844 \$10,000.00;
- 2845 (v) The patient receiving the prescription drug consents to the delivery of the
2846 prescription drug via expedited overnight common carrier and designates the specialty
2847 pharmacy to receive the prescription drug on his or her behalf;
- 2848 (vi) The specialty pharmacy utilizes, as appropriate and in accordance with standards
2849 of the manufacturer, United States Pharmacopeia, and Federal Drug Administration
2850 and other standards adopted by the ~~State Board of Pharmacy~~ licensing board,
2851 temperature tags, time temperature strips, insulated packaging, or a combination of
2852 these; and
- 2853 (vii) The specialty pharmacy establishes and notifies the enrollee of its policies and
2854 procedures to address instances in which medications do not arrive in a timely manner
2855 or in which they have been compromised during shipment and to assure that the
2856 pharmacy replaces or makes provisions to replace such drugs; or
- 2857 (B) An institution or to sell, distribute, or deliver prescription drug refills, upon his or
2858 her request, to an enrollee in a health benefits plan of a group model health maintenance
2859 organization or its affiliates by a pharmacy which is operated by that same group model

2860 health maintenance organization and licensed under Code Section 26-4-110. Any
2861 pharmacy using the mails or other common carriers to dispense prescriptions pursuant
2862 to this paragraph shall comply with the following conditions:

2863 (i) The pharmacy shall provide an electronic, telephonic, or written communications
2864 mechanism which reasonably determines whether the medications distributed by the
2865 mails or other common carriers have been received by the enrollee and through which
2866 a pharmacist employed by the group model health maintenance organization or a
2867 pharmacy intern under his or her direct supervision is enabled to offer counseling to
2868 the enrollee as authorized by and in accordance with his or her obligations under Code
2869 Section 26-4-85, unless the enrollee refuses such consultation or counseling pursuant
2870 to subsection (e) of such Code section. In addition, the enrollee shall receive
2871 information indicating what he or she should do if the integrity of the packaging or
2872 medication has been compromised during shipment;

2873 (ii) In accordance with clinical and professional standards, the ~~State Board of~~
2874 Pharmacy licensing board shall promulgate a list of medications which may not be
2875 delivered by the mails or other common carriers. However, until such list is
2876 promulgated, the group model health maintenance organization shall not deliver by
2877 use of the mails or other common carriers Class II controlled substance medications,
2878 medications which require refrigeration, chemotherapy medications deemed by the
2879 federal Environmental Protection Agency as dangerous, medications in suppository
2880 form, and other medications which, in the professional opinion of the dispensing
2881 pharmacist, may be clinically compromised by distribution through the mail or other
2882 common carriers;

2883 (iii) The pharmacy shall utilize, as appropriate and in accordance with standards of
2884 the manufacturer, United States Pharmacopeia, and Federal Drug Administration and
2885 other standards adopted by the ~~State Board of Pharmacy~~ licensing board, temperature
2886 tags, time temperature strips, insulated packaging, or a combination of these; and

2887 (iv) The pharmacy shall establish and notify the enrollee of its policies and
2888 procedures to address instances in which medications do not arrive in a timely manner
2889 or in which they have been compromised during shipment and to assure that the
2890 pharmacy replaces or makes provisions to replace such drugs.

2891 For purposes of subparagraph (B) of this paragraph, the term 'group model health
2892 maintenance organization' means a health maintenance organization that has an
2893 exclusive contract with a medical group practice to provide or arrange for the provision
2894 of substantially all physician services to enrollees in health benefits plans of the health
2895 maintenance organization;

- 2896 (12) Unless otherwise authorized by law, dispensing or causing to be dispensed a
 2897 different drug or brand of drug in place of the drug or brand of drug ordered or prescribed
 2898 without the prior authorization of the practitioner ordering or prescribing the same;
- 2899 (13) Violating or attempting to violate a statute, law, or any lawfully promulgated rule
 2900 or regulation of this state, any other state, the licensing board, the United States, or any
 2901 other lawful authority without regard to whether the violation is criminally punishable;
 2902 ~~which when such~~ statute, law, rule, or regulation relates to or in part regulates the practice
 2903 of pharmacy; and when the licensee or applicant knows or should know that such action
 2904 ~~is violative of~~ violates such statute, law, or rule; or violating either a public or
 2905 confidential lawful order of the licensing board or the director previously entered by the
 2906 licensing board or the director in a disciplinary hearing, consent decree, or license
 2907 reinstatement; or
- 2908 (14) Having his or her license to practice pharmacy revoked, suspended, or annulled by
 2909 any lawful licensing authority of this or any other state, having disciplinary action taken
 2910 against him or her by any lawful licensing authority of this or any other state, or being
 2911 denied a license by any lawful licensing authority of this or any other state.
- 2912 (b) The licensing board or the director shall have the power to suspend or revoke the
 2913 license of the pharmacist in charge when a complete and accurate record of all controlled
 2914 substances on hand, received, manufactured, sold, dispensed, or otherwise disposed of has
 2915 not been kept by the pharmacy in conformance with the record-keeping and inventory
 2916 requirements of federal law and the rules of the licensing board.
- 2917 (c) Any person whose license to practice pharmacy in this state has been suspended,
 2918 revoked, or restricted pursuant to this chapter, whether voluntarily or by action of the
 2919 board, shall have the right, at reasonable intervals, to petition the ~~board~~ director for
 2920 reinstatement of such license pursuant to rules and regulations promulgated by the
 2921 licensing board. Such petition shall be made in writing and in the form prescribed by the
 2922 licensing board. The ~~board~~ director may, in ~~its~~ his or her discretion, grant or deny such
 2923 petition, or ~~it~~ the director may modify ~~it's~~ the original finding to reflect any circumstances
 2924 which have changed sufficiently to warrant such modifications.
- 2925 (d) Nothing in this Code section shall be construed as barring criminal prosecutions for
 2926 violations of this chapter.
- 2927 (e) All final decisions by the licensing board or the director shall be subject to ~~judicial~~
 2928 administrative review pursuant to Chapter 13 of Title 50, the 'Georgia Administrative
 2929 Procedure Act.'
- 2930 (f) Any individual or entity whose license to practice pharmacy is revoked, suspended, or
 2931 not renewed shall return his or her license to the ~~offices of the board~~ director within ten
 2932 days after receipt of notice of such action.

2933 (g) For purposes of this Code section, a conviction shall include a finding or verdict of
 2934 guilty, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of
 2935 whether the adjudication of guilt or sentence is withheld or not entered thereon.

2936 (h) Nothing in this Code section shall be construed as barring or prohibiting pharmacists
 2937 from providing or distributing health or drug product information or materials to patients
 2938 which are intended to improve the health care of patients.

2939 (i) The ~~board~~ director shall have the power to suspend any license issued under Article 3
 2940 of this chapter when such holder is not in compliance with a court order for child support
 2941 as provided in Code Section 19-6-28.1 or 19-11-9.3. The ~~board~~ director shall also have the
 2942 power to deny the application for issuance or renewal of a license under Article 3 of this
 2943 chapter when such applicant is not in compliance with a court order for child support as
 2944 provided in either of such Code sections. The hearings and appeals procedures provided
 2945 for in such Code sections shall be the only such procedures required to suspend or deny any
 2946 license issued under Article 3 of this chapter.

2947 (j) Nothing in this chapter shall prohibit any person from assisting any duly licensed
 2948 pharmacist or practitioner in the measuring of quantities of medication and the typing of
 2949 labels therefor, but excluding the dispensing, compounding, or mixing of drugs, provided
 2950 that such duly licensed pharmacist or practitioner shall be physically present in the
 2951 dispensing area and actually observing the actions of such person in doing such measuring
 2952 and typing, and provided, further, that no prescription shall be given to the person
 2953 requesting the same unless the contents and the label thereof shall have been verified by
 2954 a licensed pharmacist or practitioner.

2955 (k) The ~~board~~ director shall have the power to suspend any license issued under Article 3
 2956 of this chapter when such holder is a borrower in default who is not in satisfactory
 2957 repayment status as provided in Code Section 20-3-295. The ~~board~~ director shall also have
 2958 the power to deny the application for issuance or renewal of a license under Article 3 of
 2959 this chapter when such applicant is a borrower in default who is not in satisfactory
 2960 repayment status as provided in Code Section 20-3-295. The hearings and appeals
 2961 procedures provided for in Code Section 20-3-295 shall be the only such procedures
 2962 required to suspend or deny any license issued under Article 3 of this chapter.

2963 26-4-61.

2964 (a) The provisions of ~~subsection (e) of Code Section 50-13-18~~ 43-1-3.1 with respect to
 2965 emergency action by a professional licensing board and summary suspension of a license
 2966 are adopted and incorporated by reference into this Code section.

2967 (b) Whenever a notice of summary suspension, notice of hearing, initial or recommended
 2968 decision, or final decision of the licensing board or the director in a disciplinary proceeding

2969 is docketed, it shall be personally served upon the licensee or applicant or served by
 2970 certified mail or statutory overnight delivery, return receipt requested, to the last known
 2971 address of record with the ~~board~~ director. If such material is served by certified mail or
 2972 statutory overnight delivery and is returned marked 'unclaimed' or 'refused' or is otherwise
 2973 undeliverable and if the licensee or applicant cannot, after reasonable effort, be located, the
 2974 director ~~for the board~~ shall be deemed to be the agent for service for such licensee or
 2975 applicant for purposes of this Code section and service upon the director shall be deemed
 2976 to be service upon the licensee or applicant.

2977 (c) If any licensee or applicant after reasonable notice fails to appear at any hearing of the
 2978 licensing board for that licensee or applicant, the licensing board may proceed to hear the
 2979 evidence against such licensee or applicant and take action as if such licensee or applicant
 2980 had been present.

2981 26-4-62.

2982 Except as otherwise provided in this chapter or in Chapter 13 of Title 16, any violation of
 2983 this chapter shall constitute a misdemeanor.

2984 ARTICLE 5

2985 26-4-80.

2986 (a) All persons engaging in the practice of pharmacy in this state must be licensed by the
 2987 ~~board~~ director.

2988 (b) Prescription drugs shall be dispensed only pursuant to a valid prescription drug order.
 2989 A pharmacist shall not dispense a prescription which the pharmacist knows or should know
 2990 is not a valid prescription.

2991 (c) A prescription drug order may be accepted by a pharmacist or pharmacy intern or
 2992 extern in written form, orally, via an electronic visual image prescription drug order, or via
 2993 an electronic data prescription drug order as set forth in this chapter or as set forth in
 2994 regulations promulgated by the licensing board. Provisions for accepting a prescription
 2995 drug order for a Schedule II controlled substance are set forth in subsection (l) of this Code
 2996 section, the licensing board's regulations, or the regulations of the United States Drug
 2997 Enforcement Administration in 21 C.F.R. 1306. Electronic prescription drug orders shall
 2998 either be an electronic visual image of a prescription drug order or an electronic data
 2999 prescription drug order and shall meet the requirements set forth in regulations
 3000 promulgated by the licensing board. A hard copy prescription prepared by a practitioner
 3001 or a practitioner's agent, which bears an electronic visual image of the practitioner's

3002 signature and is not sent by facsimile, must be printed on security paper. Prescriptions
3003 transmitted either electronically or via facsimile shall meet the following requirements:

3004 (1) Electronically transmitted prescription drug orders shall be transmitted by the
3005 practitioner or, in the case of a prescription drug order to be transmitted via facsimile, by
3006 the practitioner or the practitioner's agent under supervision of the practitioner, to the
3007 pharmacy of the patient's choice with no intervening person or intermediary having
3008 access to the prescription drug order. For purposes of this paragraph, 'intervening person
3009 or intermediary' shall not include a person who electronically formats or reconfigures data
3010 or information for purposes of integrating into and between computer or facsimile
3011 systems of practitioners and pharmacists;

3012 (2) Prescription drug orders transmitted by facsimile or computer shall include:

3013 (A) In the case of a prescription drug order for a dangerous drug, the complete name
3014 and address of the practitioner;

3015 (B) In the case of a prescription drug order for a controlled substance, the complete
3016 name, address, and DEA registration number of the practitioner;

3017 (C) The telephone number of the practitioner for verbal confirmation;

3018 (D) The name and address of the patient;

3019 (E) The time and date of the transmission;

3020 (F) The full name of the person transmitting the order; and

3021 (G) The signature of the practitioner in a manner as defined in regulations promulgated
3022 by the licensing board or, in the case of a controlled substances prescription, in
3023 accordance with 21 C.F.R. 1301.22;

3024 (3) An electronically transmitted, issued, or produced prescription drug order which
3025 meets the requirements of this Code section shall be deemed the original order;

3026 (4) The pharmacist shall exercise professional judgment regarding the accuracy and
3027 authenticity of any electronically transmitted, issued, or produced prescription drug order
3028 consistent with federal and state laws and rules and regulations adopted pursuant to the
3029 same;

3030 (5) An electronically encrypted, issued, or produced prescription drug order transmitted
3031 from a practitioner to a pharmacist shall be considered a highly confidential transaction
3032 and ~~the said~~ such transmission, issuance, or production shall not be compromised by
3033 unauthorized interventions, control, change, altering, manipulation, or accessing patient
3034 record information by any other person or party in any manner whatsoever between the
3035 time after the practitioner has electronically transmitted, issued, or produced a
3036 prescription drug order and such order has been received by the pharmacy of the patient's
3037 choice. For purposes of this paragraph, 'unauthorized interventions, control, change,
3038 altering, manipulation, or accessing patient record information' shall not include

3039 electronic formatting or reconfiguring of data or information for purposes of integrating
3040 into and between computer or facsimile systems of practitioners and pharmacists;

3041 (6) Any pharmacist ~~that~~ who transmits, receives, or maintains any prescription or
3042 prescription refill either orally, in writing, or electronically shall ensure the security,
3043 integrity, and confidentiality of the prescription and any information contained therein;
3044 and

3045 (7) The licensing board shall promulgate rules and regulations which may provide
3046 specific exceptions under this Code section for institutional settings such as hospital
3047 pharmacies, nursing home pharmacies, clinic pharmacies, or pharmacies owned or
3048 operated directly by health maintenance organizations.

3049 (d) Information contained in the patient medication record or profile shall be considered
3050 confidential information as defined in this title. Confidential information may be released
3051 to the patient or the patient's authorized representative, the prescriber or other licensed
3052 health care practitioners then caring for the patient, another licensed pharmacist, or the
3053 ~~board or its representative, or any other person duly authorized to receive such information~~
3054 director. In accordance with Code Section 24-9-40, confidential information may be
3055 released to others only on the written release of the patient, court order, or subpoena.

3056 (e) Except as authorized under subsection (j) of this Code section, a prescription may not
3057 be refilled without authorization. When refills are dispensed pursuant to authorization
3058 contained on the original prescription or when no refills are authorized on the original
3059 prescription but refills are subsequently authorized by the practitioner, the refill
3060 authorization shall be recorded on the original prescription document and the record of any
3061 refill made shall be maintained on the back of the original prescription document or on
3062 some other uniformly maintained record and the dispensing pharmacist shall record the
3063 date of the refill, the quantity of the drug dispensed, and the dispensing pharmacist's
3064 initials; provided, however, that an original prescription for a Schedule III, IV, or V
3065 controlled substance which contains no refill information may not be authorized to be
3066 refilled more than five times or after six months from the date of issuance, whichever
3067 occurs first. Authorization for any additional refill of a Schedule III, IV, or V controlled
3068 substance prescription in excess of five refills or after six months from the date of issuance
3069 of the prescription shall be treated as a new prescription.

3070 (f) When filling a prescription or refilling a prescription which may be refilled, the
3071 pharmacist shall exercise professional judgment in the matter. No prescription shall be
3072 filled or refilled with greater frequency than the approximate interval of time that the
3073 dosage regimen ordered by the prescriber would indicate, unless extenuating circumstances
3074 are documented which would justify a shorter interval of time before the filling or refilling
3075 of the prescription.

3076 (g) The pharmacist who fills or refills a prescription shall record the date of dispensing and
3077 indicate the identity of the dispensing pharmacist on the prescription document or some
3078 other appropriate and uniformly maintained record. If this record is maintained on the
3079 original prescription document, the original dispensing and any refills must be recorded on
3080 the back of the prescription.

3081 (h) When the patient no longer seeks personal consultation or treatment from the
3082 practitioner, the practitioner and patient relationship is terminated. A prescription becomes
3083 invalid after the practitioner and patient relationship is terminated which is defined as a
3084 reasonable period of time not to exceed six months in which the patient could have
3085 established a new practitioner and patient relationship as established by the licensing board
3086 through the promulgation of rules and regulations.

3087 (i) All prescription drug orders must bear the signature of the prescribing practitioner as
3088 defined in Code Section 16-13-21. Physician assistants must comply with all applicable
3089 laws regarding signatures. Further, the nature of such signature must meet the
3090 requirements set forth in regulations promulgated by the licensing board. A physically
3091 applied signature stamp is not acceptable in lieu of an original signature. Except as
3092 otherwise provided for in this subsection, when an oral prescription drug order or the oral
3093 authorization for the refilling of a prescription drug order is received which has been
3094 transmitted by someone other than the practitioner, the name of the individual making the
3095 transmission and the date, time, and location of the origin of the transmission must be
3096 recorded on the original prescription drug order or other record by the pharmacist receiving
3097 the transmission. No one other than the practitioner or an agent authorized by the
3098 practitioner shall transmit such prescriptions in any manner. In institutional settings such
3099 as hospital pharmacies, nursing home pharmacies, clinic pharmacies, or pharmacies owned
3100 or operated directly by health maintenance organizations, the name of the individual
3101 making the transmission is not required to be placed on the order.

3102 (j) A pharmacist licensed by the ~~board~~ director may dispense up to a 72 hour supply of a
3103 prescribed medication in the event the pharmacist is unable to contact the practitioner to
3104 obtain refill authorization, provided that:

- 3105 (1) The prescription is not for a controlled substance;
- 3106 (2) In the pharmacist's professional judgment, the interruption of therapy might
3107 reasonably produce undesirable health consequences or may cause physical or mental
3108 discomfort;
- 3109 (3) The dispensing pharmacist notifies the practitioner or his or her agent of the
3110 dispensing within seven working days after the prescription is refilled pursuant to this
3111 subsection;

3112 (4) The pharmacist properly records the dispensing as a separate nonrefillable
3113 prescription. ~~Said~~ Such document shall be filed as is required of all other prescription
3114 records. This document shall be serially numbered and contain all information required
3115 of other prescriptions. In addition it shall contain the number of the prescription from
3116 which it was refilled;

3117 (5) The pharmacist shall record on the patient's record and on the new document the
3118 circumstances which warrant such dispensing; and

3119 (6) The pharmacist does not employ this provision regularly for the same patient on the
3120 same medication.

3121 (k) All out-patient prescription drug orders which are dispensed shall be appropriately
3122 labeled in accordance with the rules and regulations promulgated by the licensing board
3123 as follows:

3124 (1) Before an out-patient prescription drug is released from the dispensing area, the
3125 prescription drug shall bear a label containing the name and address of the pharmacy, a
3126 prescription number, the name of the prescriber, the name of the patient, directions for
3127 taking the medication, the date of the filling or refilling of the prescription, the initials or
3128 identifying code of the dispensing pharmacist, and any other information which is
3129 necessary, required, or, in the pharmacist's professional judgment, appropriate; and

3130 (2) The pharmacist who fills an out-patient prescription drug order shall indicate the
3131 identity of the dispensing pharmacist on the label of the prescription drug. Identification
3132 may be made by placing initials on the label of the dispensed drug. The label shall be
3133 affixed to the outside of the container of the dispensed drug by means of adhesive or tape
3134 or any other means which will assure that the label remains attached to the container.

3135 (l) A Schedule II controlled substance prescription drug order in written form signed in
3136 indelible ink by the practitioner may be accepted by a pharmacist and the Schedule II
3137 controlled substance may be dispensed by such pharmacist. Other forms of Schedule II
3138 controlled substance prescription drug orders may be accepted by a pharmacist and the
3139 Schedule II controlled substance may be dispensed by such pharmacist in accordance with
3140 regulations promulgated by the licensing board and in accordance with DEA regulations
3141 found in 21 C.F.R. 1306. A pharmacist shall require a person picking up a Schedule II
3142 controlled substance prescription to present a government issued photo identification
3143 document or such other form of identification which documents legibly the full name of
3144 the person taking possession of the Schedule II controlled substance subject to the rules
3145 adopted by the licensing board.

3146 (m) No licensee nor any other entity shall be permitted to provide facsimile machines or
3147 equipment, computer software, technology, hardware, or supplies related to the electronic
3148 transmission of prescription drug orders to any practitioner which restricts such practitioner

3149 from issuing prescription drug orders for certain prescription drugs or restricts a patient
3150 from choosing the retail pharmacy to which an electronic prescription drug order may be
3151 transmitted.

3152 (n) Institutions including, but not limited to, hospitals, long-term care facilities, and
3153 inpatient hospice facilities which utilize electronic medical record systems that meet the
3154 information requirements for prescription drug orders for patients pursuant to this Code
3155 section shall be considered to be in compliance with this Code section.

3156 (o) Nothing in this Code section shall be construed to prohibit any insurance company,
3157 hospital or medical service plan, health care provider network, health maintenance
3158 organization, health care plan, employer, or other similar entity providing health insurance
3159 from offering incentives to pharmacies, pharmacists, and practitioners that accept or utilize
3160 electronic data prescription drug orders.

3161 (p) Pharmacists dispensing prescriptions pursuant to a remote automated medication
3162 system in accordance with the rules and regulations adopted by the ~~State Board of~~
3163 ~~Pharmacy~~ licensing board pursuant to paragraph ~~(12.1)~~ (7) of subsection ~~(a)~~ (a.1) of Code
3164 Section 26-4-28 shall be considered in compliance with this Code section.

3165 26-4-80.1.

3166 (a) Effective October 1, 2011, every hard copy prescription drug order for any Schedule
3167 II controlled substance written in this state by a practitioner must be written on security
3168 paper.

3169 (b) A pharmacist shall not fill a hard copy prescription drug order for any Schedule II
3170 controlled substance from a practitioner unless it is written on security paper, except that
3171 a pharmacist may provide emergency supplies in accordance with ~~the~~ licensing board
3172 requirements and ~~other~~ any insurance contract requirements.

3173 (c) If a hard copy of an electronic data prescription drug order for any Schedule II
3174 controlled substance is given directly to the patient, the manually signed hard copy
3175 prescription drug order must be on approved security paper that meets the requirements of
3176 paragraph (38.5) of Code Section 26-4-5.

3177 (d) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized
3178 use of security paper and shall promptly report to appropriate authorities any theft or
3179 unauthorized use.

3180 (e) All vendors shall have their security paper approved by the licensing board prior to
3181 marketing or sale in this state.

3182 (f) The licensing board shall create a seal of approval that confirms that security paper
3183 contains all three industry recognized characteristics required by paragraph (38.5) of Code
3184 Section 26-4-5. The seal shall be affixed to all security paper used in this state.

3185 (g) The licensing board may adopt rules necessary for the administration of this Code
3186 section.

3187 (h) The security paper requirements in this Code section shall not apply to:

3188 (1) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or
3189 electronic means; or

3190 (2) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents
3191 of a nursing home, inpatients or residents of a mental health facility, or individuals
3192 incarcerated in a local, state, or federal correctional facility when the health care
3193 practitioner authorized to write prescriptions writes the order into the patient's medical
3194 or clinical record, the order is given directly to the pharmacy, and the patient never has
3195 the opportunity to handle the written order.

3196 26-4-81.

3197 (a) In accordance with this Code section, a pharmacist may substitute a drug with the same
3198 generic name in the same strength, quantity, dose, and dosage form as the prescribed brand
3199 name drug product which is, in the pharmacist's reasonable professional opinion,
3200 pharmaceutically equivalent.

3201 (b) If a practitioner of the healing arts prescribes a drug by its generic name, the
3202 pharmacist shall dispense the lowest retail priced drug product which is in stock and which
3203 is, in the pharmacist's reasonable professional opinion, pharmaceutically equivalent.

3204 (c) Substitutions as provided for in subsections (a) and (b) of this Code section are
3205 authorized for the express purpose of making available to the consumer the lowest retail
3206 priced drug product which is in stock and which is, in the pharmacist's reasonable
3207 professional opinion, both therapeutically equivalent and pharmaceutically equivalent.

3208 (d)(1) Whenever a substitution is made, the pharmacist shall record on the original
3209 prescription the fact that there has been a substitution and the identity of the dispensed
3210 drug product and its manufacturer. Such prescription shall be made available for
3211 inspection by the ~~board or its representative~~ director in accordance with the rules of the
3212 licensing board.

3213 (2) If a pharmacist substitutes a generic drug product for a brand name prescribed drug
3214 product when dispensing a prescribed medication, the brand name and the generic name
3215 of the drug product, with an explanation of 'generic for (insert name of brand name
3216 prescribed drug product)' or similar language to indicate substitution has occurred, must
3217 appear on the prescription label and be affixed to the container or an auxiliary label,
3218 unless the prescribing practitioner indicated that the name of the drug may not appear
3219 upon the prescription label; provided, however, that this paragraph shall not apply to

3220 medication dispensed for in-patient hospital services or to medications in specialty
3221 packaging for dosing purposes as defined by the licensing board.

3222 (e) The substitution of any drug by a registered pharmacist pursuant to this Code section
3223 does not constitute the practice of medicine.

3224 (f) A patient for whom a prescription drug order is intended may instruct a pharmacist not
3225 to substitute a generic name drug in lieu of a brand name drug.

3226 (g) A practitioner of the healing arts may instruct the pharmacist not to substitute a generic
3227 name drug in lieu of a brand name drug by including the words 'brand necessary' in the
3228 body of the prescription. When a prescription is a hard copy prescription drug order, such
3229 indication of brand necessary must be in the practitioner's own handwriting and shall not
3230 be printed, applied by rubber stamp, or any such similar means. When the prescription is
3231 an electronic prescription drug order, the words 'brand necessary' are not required to be in
3232 the practitioner's own handwriting and may be included on the prescription in any manner
3233 or by any method. When a practitioner has designated 'brand necessary' on an electronic
3234 prescription drug order, a generic drug shall not be substituted without the practitioner's
3235 express consent, which shall be documented by the pharmacist on the prescription and by
3236 the practitioner in the patient's medical record.

3237 26-4-82.

3238 (a) In dispensing drugs, no individual other than a licensed pharmacist shall perform or
3239 conduct those duties or functions which require professional judgment. It shall be the
3240 responsibility of the supervising pharmacist to ensure that no other employee of the
3241 pharmacy, including pharmacy technicians, performs or conducts those duties or functions
3242 which require professional judgment.

3243 (b) For all prescriptions, it shall be the responsibility of the pharmacist on duty at a facility
3244 to ensure that only a pharmacist or a pharmacy intern under the direct supervision of a
3245 pharmacist provides professional consultation and counseling with patients or other
3246 licensed health care professionals, and that only a pharmacist or a pharmacy intern under
3247 the direct supervision of a pharmacist accepts initial telephoned prescription orders or
3248 provides information in any manner relative to prescriptions or prescription drugs.

3249 (c) In the dispensing of all prescription drug orders:

3250 (1) The pharmacist shall be responsible for all activities of the pharmacy technician in
3251 the preparation of the drug for delivery to the patient;

3252 (2) The pharmacist shall be present and personally supervising the activities of the
3253 pharmacy technician at all times;

3254 (3) When electronic systems are employed within the pharmacy, pharmacy technicians
3255 may enter information into the system and prepare labels; provided, however, that it shall

3256 be the responsibility of the pharmacist to verify the accuracy of the information entered
3257 and the label produced in conjunction with the prescription drug order;

3258 (4) When a prescription drug order is presented for refilling, it shall be the responsibility
3259 of the pharmacist to review all appropriate information and make the determination as to
3260 whether to refill the prescription drug order; and

3261 (5) Pharmacy technicians in the dispensing area shall be easily identifiable.

3262 (d) The licensing board of pharmacy shall promulgate rules and regulations regarding the
3263 activities and utilization of pharmacy technicians in pharmacies, including the
3264 establishment of a registry as required in paragraph (7) of subsection (a) of Code Section
3265 26-4-28; provided, however, that the pharmacist to pharmacy technician ratio shall not
3266 exceed one pharmacist providing direct supervision of three pharmacy technicians. The
3267 ~~board~~ director may consider and approve an application to increase the ratio in a pharmacy
3268 located in a licensed hospital. Such application must be made in writing and must be
3269 submitted to the ~~board~~ director by the pharmacist in charge of a specific hospital pharmacy
3270 in this state. One of the three technicians must:

3271 (1) Have successfully passed a certification program approved by the licensing board of
3272 pharmacy;

3273 (2) Have successfully passed an employer's training and assessment program which has
3274 been approved by the licensing board of pharmacy; or

3275 (3) Have been certified by either the Pharmacy Technician Certification Board or any
3276 other nationally recognized certifying body approved by the licensing board of pharmacy.

3277 (e) In addition to the utilization of pharmacy technicians, a pharmacist may be assisted by
3278 and directly supervise one pharmacy intern and one pharmacy extern.

3279 26-4-83.

3280 (a) The ~~board of pharmacy~~ director may refuse to renew or may suspend, revoke, or
3281 restrict the licenses of or fine any person or pharmacy pursuant to the procedures set forth
3282 in this Code section and rules and regulations established by the licensing board upon the
3283 failure to maintain an appropriate patient record system.

3284 (b) A patient record system shall be maintained by all pharmacies for patients for whom
3285 prescription drug orders are dispensed. The patient record system shall provide for the
3286 immediate retrieval of information necessary by the pharmacist to identify previously
3287 dispensed drugs at the time a prescription drug order is presented for dispensing. The
3288 pharmacist or the pharmacist's designee shall make a reasonable effort to obtain, record,
3289 and maintain the following information:

3290 (1) The full name of the patient for whom the drug is intended;

3291 (2) The address and telephone number of the patient;

3292 (3) The date of birth of the patient; and

3293 (4) The gender of the patient.

3294 (c) The pharmacist shall make a reasonable effort to obtain from the patient or the patient's
3295 agent and shall record any known allergies, drug reactions, idiosyncrasies, and chronic
3296 conditions or disease states of the patient and identify any other drugs, including
3297 over-the-counter drugs or devices, currently being used by the patient which may relate to
3298 prospective drug use review unless the patient or the patient's agent refuses to provide such
3299 information. The pharmacist shall make a reasonable effort to obtain, record, and maintain
3300 the following information:

3301 (1) A list of all prescription drug orders obtained by the patient at the pharmacy where
3302 the prescription drug order is being filled for at least the preceding two years, showing
3303 the prescription number, the name and strength of the drug, the quantity and date
3304 dispensed, and the name of the prescribing practitioner; and

3305 (2) Comments from the pharmacist relevant to the individual's drug therapy, including
3306 any other information peculiar to the specific patient or drug.

3307 (d) A patient record shall be maintained for a period of not less than two years from the
3308 date of the last entry in the profile record. This record may be a hard copy of a
3309 computerized form.

3310 26-4-84.

3311 (a) The ~~board of pharmacy~~ director may refuse to renew or may suspend, revoke, or
3312 restrict the licenses of or fine any person or pharmacy pursuant to the procedures set forth
3313 in this Code section upon the failure to review patient records and prescription drug orders.

3314 (b) A pharmacist shall review the patient record and each prescription drug order presented
3315 for dispensing for the purposes of promoting therapeutic appropriateness by identifying:

3316 (1) Overutilization or underutilization;

3317 (2) Therapeutic duplications;

3318 (3) Drug-disease contraindications;

3319 (4) Drug-drug interactions;

3320 (5) Incorrect drug dosage, dosage form, or duration of drug therapy;

3321 (6) Drug-allergy interactions; and

3322 (7) Clinical abuse or misuse.

3323 (c) Upon recognizing any of the above situations, the pharmacist shall take appropriate
3324 steps to avoid or resolve the situation or problem which shall, if necessary, include
3325 consultation with the prescribing practitioner.

3326 26-4-85.

3327 (a) The ~~board of pharmacy~~ director may refuse to renew or may suspend, revoke, or
3328 restrict the licenses of or fine any person or pharmacy pursuant to the procedures set forth
3329 in this Code section upon the failure to offer to counsel patients.

3330 (b) Upon receipt of a prescription drug order and following a review of the patient's record,
3331 the pharmacist or the pharmacy intern operating under the direct supervision of the
3332 pharmacist shall personally offer to discuss matters which will enhance or optimize drug
3333 therapy with each patient or caregiver of such a patient. Such discussion shall be in person,
3334 whenever practicable, or by telephone and shall include appropriate elements of patient
3335 counseling, based on the professional judgment of the pharmacist. Such elements may
3336 include but are not limited to the following:

3337 (1) The name and description of the drug;

3338 (2) The dosage form, dose, route of administration and duration of therapy;

3339 (3) The intended use of the drug and expected action or result;

3340 (4) Any special directions or precautions for preparation, administration, or use by the
3341 patient;

3342 (5) Common severe side effects or adverse effects or interactions and therapeutic
3343 contraindications that may be encountered, including their avoidance, and the action
3344 required if such side effect, adverse effect, interaction, or therapeutic contraindication
3345 occurs;

3346 (6) Techniques for self-monitoring of drug therapy;

3347 (7) The proper storage of the drug;

3348 (8) Prescription refill information;

3349 (9) The action to be taken in the event of a missed dose; and

3350 (10) The comments of the pharmacist relevant to the patient's drug therapy, including
3351 any other information peculiar to the specific patient or drug.

3352 (c) Additional forms of patient information may be used to supplement verbal patient
3353 counseling when appropriate or available.

3354 (d) Patient counseling, as described in this Code section, shall not be required for:

3355 (1) In-patients of a hospital or institution where other health care professionals are
3356 authorized to administer the drug or drugs;

3357 (2) Inmates of corrections institutions where pharmacy services are provided by the
3358 Department of Corrections or by a county or municipal political subdivision either
3359 directly or by a subcontractor of the above; or

3360 (3) Patients receiving drugs from the Department of Public Health; provided, however,
3361 that pharmacists who provide drugs to patients in accordance with Code Section 43-34-23

3362 shall include in all dispensing procedures a written process whereby the patient or the
3363 caregiver of the patient is provided with the information required under this Code section.

3364 (e) A pharmacist shall not be required to counsel a patient or the caregiver of the patient
3365 when the patient or the caregiver of the patient refuses such consultation or counseling.

3366 26-4-86.

3367 The licensing board may establish regulations governing the compounding of medication
3368 by pharmacists and pharmacies licensed in this state.

3369 26-4-87.

3370 The licensing board shall promulgate rules and regulations governing the appropriate and
3371 proper storage and handling of controlled substances and dangerous drugs as defined in
3372 Chapter 13 of Title 16 which are consistent with those standards established by the United
3373 States Pharmacopeial Convention.

3374 26-4-88.

3375 (a) No person shall engage in the dispensing of any medicines, drugs, or poisons unless
3376 said person is a pharmacist licensed in accordance with this chapter or a pharmacy intern
3377 dispensing such items in accordance with this chapter.

3378 (b) This chapter shall not apply to practitioners of the healing arts prescribing,
3379 compounding their own prescriptions, or dispensing drugs or medicines except as provided
3380 in Code Section 26-4-130.

3381 (c) Nothing in this Code section shall prohibit any person from assisting any duly licensed
3382 pharmacist or practitioner, provided that such duly licensed pharmacist or practitioner shall
3383 be physically present in the prescription area and actually observing the actions of such
3384 person performing such tasks; provided, further, that no prescription shall be given to the
3385 person requesting the same unless the contents and the label thereof shall have been
3386 verified by a licensed pharmacist or practitioner.

3387 (d) With respect to pharmacy technicians, the following functions require the professional
3388 judgment of a pharmacist, or pharmacy intern under the supervision of a pharmacist, and
3389 may not be performed by a pharmacy technician:

3390 (1) Acceptance of initial oral prescriptions;

3391 (2) Certification of a filled or finished prescription or prescription drug order;

3392 (3) Weighing or measuring active ingredients without a mechanism of verification;

3393 (4) Reconstitution of prefabricated medication without a mechanism of verification;

3394 (5) Verification of the constituents of final IV admixtures for accuracy, efficacy, and
3395 patient utilization;

3396 (6) Entry of orders on patient medication profiles without verification by a pharmacist;
 3397 and
 3398 (7) Provision of drug information that has not been prepared or approved by the
 3399 pharmacist.

3400 26-4-89.

3401 (a) Any person who shall sell or dispense drugs by the use of vending machines shall be
 3402 guilty of a misdemeanor.

3403 (b) A remote automated medication system shall not be considered a vending machine for
 3404 purposes of this Code section.

3405 26-4-90.

3406 Nothing in this chapter shall be interpreted to prohibit a pharmacist or pharmacy from
 3407 being remunerated for professional pharmacy care services.

3408 ARTICLE 6

3409 26-4-110.

3410 (a) All facilities engaged in the manufacture, production, sale, or distribution of drugs or
 3411 devices utilized in the practice of pharmacy or pharmacies where drugs or devices are
 3412 dispensed or pharmacy care is provided shall be licensed by the board director and shall
 3413 biennially renew their license with the board director. Where operations are conducted at
 3414 more than one location, each such location shall be licensed by the board director.

3415 (b) The licensing board may by rule determine the licensure classifications of all persons
 3416 and facilities licensed as a pharmacy under this article and establish minimum standards
 3417 for such persons and facilities.

3418 (c)(1) The licensing board shall establish by rule, under the powers granted to it under
 3419 Article 2 of this chapter and as may be required from time to time under federal law the
 3420 criteria which each person must meet to qualify for licensure as a pharmacy in each
 3421 classification. The board director may issue licenses with varying restrictions to such
 3422 persons where the board director deems it necessary.

3423 (2) All applications for a new license shall be accompanied by a fee. Upon the filing of
 3424 an application for a license, the board director may cause a thorough investigation of the
 3425 applicant to be made, and, if satisfied that the applicant possesses the necessary
 3426 qualifications and that the pharmacy will be conducted in accordance with law, shall issue
 3427 a license.

- 3428 (d) Each pharmacy shall have a pharmacist in charge. Whenever an applicable rule
3429 requires or prohibits action by a pharmacy, responsibility shall be that of the owner and the
3430 pharmacist in charge of the pharmacy, whether the owner is a sole proprietor, partnership,
3431 association, corporation, or otherwise. The pharmacist in charge shall be responsible for
3432 notifying the ~~board~~ director in accordance with it's the licensing board's rules and
3433 regulations of updated information regarding the registration of pharmacy technicians.
- 3434 (e) The ~~board~~ director may enter into agreements with other states or with third parties for
3435 the purpose of exchanging information concerning licensure of any pharmacy.
- 3436 (f) The ~~board~~ director may deny or refuse to renew a pharmacy license if ~~it~~ the director
3437 determines that the granting or renewing of such license would not be in the public interest.
- 3438 (g) It shall be unlawful for any person in connection with any place of business or in any
3439 manner to take, use, or exhibit the title 'drug store,' 'pharmacy,' 'apothecary,' or any
3440 combination of such titles or any title or designation of like import or other term to take the
3441 place of such title, unless such place of business is licensed as a pharmacy under the
3442 provisions of this chapter, has submitted a written request to the ~~board~~ director and
3443 received a waiver from this subsection, or meets the provisions of any rule or regulation
3444 regarding use of such titles and promulgated by the licensing board.
- 3445 (h) Every pharmacy licensed under this chapter shall have a prescription department which
3446 shall be kept clean and free of all materials not currently in use in the practice of
3447 compounding or preparing a medication for dispensing. The space behind the prescription
3448 counter shall be kept free of obstruction at all times.
- 3449 (i) During hours of operation, every pharmacy licensed pursuant to this chapter shall have
3450 a prescription department under the personal supervision of a duly licensed pharmacist who
3451 shall have personal supervision of not more than one pharmacy at the same time, provided
3452 that nothing in this chapter shall be construed to prohibit any pharmacist from having
3453 personal supervision of a pharmacy located in a hospital, nursing home, college of
3454 pharmacy, or a pharmacy owned and operated directly by a health maintenance
3455 organization. Every pharmacy licensed under this chapter, except those located within and
3456 owned and operated by a duly licensed and accredited hospital, nursing home, or college
3457 of pharmacy or a pharmacy complying with subsection (j) of this Code section, shall have
3458 a prescription department open for business at all times that the business establishment is
3459 open to the public, except that during temporary absences of any licensed pharmacist not
3460 to exceed three hours daily or more than one and one-half hours at any one time the
3461 prescription department shall be closed and no prescription shall be filled or dispensed.
- 3462 (j) If a pharmacy is located in a general merchandising establishment, or if the owner of
3463 the pharmacy so chooses, a portion of the space of the business establishment may be set
3464 aside and permanently enclosed or otherwise secured. Only that permanently enclosed or

3465 otherwise secured area shall be subject to the provisions of this chapter and shall be
3466 registered as a pharmacy. In such case, the area to be registered as a pharmacy shall be
3467 permanently enclosed with a partition built from the floor to the ceiling or otherwise
3468 secured in a manner as provided by the licensing board through rules and regulations.

3469 26-4-110.1.

3470 (a) As used in this Code section, the term:

3471 (1) 'Enrollee' means a person eligible to receive health care benefits under a health
3472 benefit plan.

3473 (2) 'Health benefit plan' means any hospital or medical insurance policy or certificate,
3474 health care plan contract or certificate, qualified higher deductible health plan, health
3475 maintenance organization subscriber contract, or any managed care plan.

3476 (3) 'Insurer' means a corporation or other entity which is licensed or otherwise authorized
3477 to offer a health benefit plan in this state.

3478 (4) 'Pharmacy benefits manager' means any person, corporation, or other entity that
3479 administers the prescription drug, prescription device, or both prescription drug and
3480 device portion of a health benefit plan on behalf of an insurer but shall not include any
3481 pharmacy benefits manager offered pursuant to Chapter 18 of Title 45 or offered on
3482 behalf of recipients of medical assistance under Titles XIX and XXI of the federal Social
3483 Security Act.

3484 (b) Every pharmacy benefit manager providing services or benefits in this state which
3485 constitutes the practice of pharmacy as defined in Code Section 26-4-4 shall be licensed
3486 to practice as a pharmacy in this state and shall comply with those provisions of Code
3487 Section 26-4-110, except subsections (h), (i), and (j) thereof. As a condition for licensing,
3488 every pharmacy benefit manager shall permit the ~~board~~ director or agents or employees
3489 ~~thereof of the director~~ to inspect the premises of such pharmacy benefit manager whether
3490 those premises are located within or outside this state.

3491 26-4-111.

3492 (a) The licensing board shall specify by rule the pharmacy licensure procedures to be
3493 followed, including but not limited to specification of forms for use in applying for such
3494 licensure and times, places, and applicable fees.

3495 (b) Applicants for licensure to distribute, manufacture, sell, purchase, or produce drugs or
3496 devices within this state shall file with the ~~board~~ director a verified application containing
3497 such information as the licensing board requires of the applicant relative to the
3498 qualifications for a license.

3499 (c) Pharmacy licenses issued by the ~~board~~ director pursuant to this chapter shall not be
3500 transferable or assignable.

3501 (d) The licensing board shall specify by rule minimum standards for responsibility of any
3502 person or pharmacy that has employees or personnel engaged in the practice of pharmacy,
3503 manufacture, distribution, production, sale, or use of drugs or devices in the conduct of
3504 their business. If the licensed person is a pharmacy located in this state, that portion of the
3505 facility to which such license applies shall be operated only under the direct supervision
3506 of a pharmacist licensed to practice in this state.

3507 26-4-112.

3508 The ~~board~~ director shall be notified immediately upon the occurrence of any of the
3509 following:

3510 (1) Permanent closing of a licensed pharmacy;

3511 (2) Change of ownership, management, or location of a licensed pharmacy;

3512 (3) Change of the pharmacist in charge of a licensed pharmacy;

3513 (4) Any theft or loss of drugs or devices of a licensed pharmacy;

3514 (5) Any known conviction of any employee of a licensed pharmacy of any state or
3515 federal drug laws;

3516 (6) Disasters, accidents, theft, destruction, or loss of records of a licensed pharmacy
3517 required to be maintained by state or federal law;

3518 (7) Occurrence at a licensed pharmacy of a significant adverse drug reaction as defined
3519 by rules of the licensing board; or

3520 (8) Any and all other matters and occurrences at a licensed pharmacy as the licensing
3521 board may require by rule.

3522 26-4-113.

3523 (a) No person shall operate as a pharmacy until a pharmacy license has been issued to such
3524 person by the ~~board~~ director.

3525 (b) Except where otherwise permitted by law, it shall be unlawful for a manufacturer,
3526 wholesale distributor, or a reverse drug distributor to distribute or deliver drugs or devices
3527 to or receive drugs or devices from any person or firm in this state not licensed under this
3528 chapter. Any person who distributes or delivers drugs or devices to or receives drugs or
3529 devices from a person or firm not licensed under this chapter shall be subject to a fine to
3530 be imposed by the ~~board~~ director for each offense in addition to such other disciplinary
3531 action the ~~board~~ director may take under this chapter. Each such violation shall also
3532 constitute a misdemeanor.

3533 (c) The board director may suspend, revoke, deny, or refuse to renew the pharmacy license
 3534 of, reprimand, issue a letter of concern to, or fine any person licensed under this article on
 3535 any of the following grounds:

3536 (1) The finding by the board director of violations of any federal or state laws relating
 3537 to the practice of pharmacy, drug samples, wholesale or retail drug or device distribution,
 3538 or distribution of controlled substances;

3539 (2) Any felony convictions under federal or state laws;

3540 (3) The furnishing of false or fraudulent material in any application made in connection
 3541 with drug or device manufacturing or distribution;

3542 (4) Suspension or revocation by the federal or state government of any license currently
 3543 or previously held by the applicant for the manufacture or distribution of any drugs or
 3544 devices including controlled substances;

3545 (5) Obtaining any remuneration by fraud, misrepresentation, or deception;

3546 (6) Dealing with drugs or devices that are known or should have been known to be stolen
 3547 drugs or devices;

3548 (7) Purchasing or receiving of a drug or device from a source other than a person or
 3549 pharmacy licensed under the laws of the state except where otherwise provided;

3550 (8) Wholesale drug distributors, other than pharmacies, dispensing or distributing drugs
 3551 or devices directly to patients; or

3552 (9) Violations of any of the provisions of this chapter or of any of the rules adopted by
 3553 the licensing board under this chapter.

3554 (d) Reinstatement of a pharmacy license that has been suspended, revoked, or restricted
 3555 by the board director may be granted in accordance with the rules of the licensing board.

3556 26-4-114.

3557 (a) A pharmacy located within and owned and operated by a school or college of
 3558 pharmacy in this state may apply to the board director for a special pharmacy permit which
 3559 shall entitle the holder thereof to purchase, receive, possess, or dispose of drugs for
 3560 educational or research purposes. The application shall include the name of a registered
 3561 pharmacist who shall be responsible for maintaining accurate records regarding the
 3562 purchase, receipt, possession, and disposal of drugs utilized for educational or research
 3563 purposes. If the board director certifies that the application complies with applicable laws
 3564 and rules and regulations, the board director shall issue the permit.

3565 (b) A holder of a special pharmacy permit under subsection (a) of this Code section shall
 3566 not engage in the sale or dispensing of drugs.

3567 (c) The licensing board shall have the authority to promulgate rules and regulations
 3568 governing the holder of a special pharmacy permit under this Code section and the director

3569 may exempt the holder thereof from requirements otherwise applicable to other
3570 pharmacies.

3571 26-4-115.

3572 (a) All persons, firms, or corporations, whether located in this state or in any other state,
3573 engaged in the business of selling or distributing drugs at wholesale in this state, in the
3574 business of supplying drugs to manufacturers, compounders, and processors in this state,
3575 or in the business of a reverse drug distributor shall biennially register with the ~~board~~
3576 director as a drug wholesaler, distributor, reverse drug distributor, or supplier. The
3577 application for registration shall be made on a form to be prescribed by the licensing board
3578 and furnished by ~~said board~~ the director and shall show each place of business of the
3579 applicant for registration, together with such other information as may be required by the
3580 licensing board. The application shall be accompanied by a fee in an amount established
3581 by the licensing board for each place of business registered by the applicant. Such
3582 registration shall not be transferable and shall expire on the expiration date established by
3583 the ~~division~~ director. Registration shall be renewed pursuant to the rules and regulations
3584 of the licensing board and a renewal fee prescribed by the licensing board shall be required.
3585 If not renewed, the registration shall lapse and become null and void. Registrants shall be
3586 subject to such rules and regulations with respect to sanitation or equipment as the
3587 licensing board may, from time to time, adopt for the protection of the public health and
3588 safety. Such registration may be suspended or revoked or the registrant may be
3589 reprimanded, fined, or placed on probation by the ~~board~~ director if the registrant fails to
3590 comply with any law of this state, the United States, or any other state having to do with
3591 the control of pharmacists, pharmacies, wholesale distribution, or reverse drug distribution
3592 of controlled substances or dangerous drugs as defined in Chapter 13 of Title 16; if the
3593 registrant fails to comply with any rule or regulation promulgated by the licensing board;
3594 or if any registration or license issued to the registrant under the federal act is suspended
3595 or revoked.

3596 (b) Every drug wholesaler, distributor, or supplier registered as provided in Chapter 13 of
3597 Title 16 or in subsection (a) of this Code section, except reverse drug distributors, shall:

3598 (1) Submit reports, upon request from the Georgia Drugs and Narcotics Agency, to
3599 account for all transactions with licensed persons or firms located within this state; such
3600 reportable transactions shall include all dangerous drugs and controlled substances as
3601 defined in Chapter 13 of Title 16. Such reports shall be submitted to the Georgia Drugs
3602 and Narcotics Agency; and

3603 (2) Automatically submit reports of any excessive purchases of controlled substances by
3604 licensed persons or firms located within this state using the federal Drug Enforcement

3605 Administration guidelines to define 'excessive purchases' as set forth under the provisions
3606 of 21 C.F.R. Sec. 1301. Such reports shall be submitted to the Georgia Drugs and
3607 Narcotics Agency.

3608 (c) The licensing board shall be authorized to promulgate rules and regulations to facilitate
3609 compliance with this Code section. Such rules and regulations shall include a requirement
3610 that all wholesale drug distributors required to register pursuant to this Code section shall
3611 make adequate provision for the return of outdated drugs, both full and partial containers,
3612 for up to six months after the labeled expiration date for prompt full credit or replacement.

3613 (d) The provisions of subsection (b) of this Code section shall not apply to any wholesaler,
3614 manufacturer, distributor, or supplier who only ships controlled substances directly to a
3615 licensed wholesaler within this state.

3616 (e) Any person, firm, or corporation which violates any provision of this Code section
3617 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment
3618 for not less than one year nor more than five years or by a fine not to exceed \$25,000.00,
3619 or both.

3620 (f) Any practitioner who knowingly transfers any controlled substance or dangerous drug
3621 as such terms are defined in Chapter 13 of Title 16 by purchasing from or returning to a
3622 person, firm, or corporation which is not registered as required in subsection (a) of this
3623 Code section or as required in Chapter 13 of Title 16 shall be guilty of a felony and, upon
3624 conviction thereof, shall be punished by imprisonment for not less than one year nor more
3625 than three years or by a fine not to exceed \$10,000.00, or both.

3626 26-4-115.1.

3627 Every wholesale distributor registered as provided in Chapter 13 of Title 16 or subsection
3628 (a) of Code Section 26-4-115, except those which are exclusively reverse drug distributors,
3629 shall provide to the Department of Community Health such information, with regard to the
3630 controlled substances and dangerous drugs which are distributed by that wholesale
3631 distributor, as is determined by that department to be necessary or useful in the
3632 department's efficient administration of the state plan for medical assistance, as defined in
3633 Code Section 49-4-141, and in the department's determination of possible violations of
3634 Chapter 13 of Title 16, ~~which;~~ such information shall include but not be limited to price
3635 and quantity information.

3636 26-4-116.

3637 (a) Dangerous drugs and controlled substances as defined under Chapter 13 of Title 16
3638 shall only be issued to the medical director of an emergency service provider from a
3639 pharmacy licensed in this state only in accordance with the provisions of this Code section.

3640 (b) The medical director of an emergency service provider and the issuing pharmacy must
3641 have a signed contract or agreement designating the issuing pharmacy as the provider of
3642 drugs and consultant services and a copy must be filed with the ~~state board~~ director and the
3643 Department of Public Health prior to any drugs being issued. The medical director of an
3644 emergency service provider may only have one contractual relationship with one pharmacy
3645 per county serviced by such emergency service provider.

3646 (c) A manual of policies and procedures for the handling, storage, labeling, and record
3647 keeping of all drugs must be written, approved, and signed by the medical director of an
3648 emergency service provider and the pharmacist in charge of the issuing pharmacy. The
3649 manual shall contain procedures for the safe and effective use of drugs from acquisition to
3650 final disposition.

3651 (d) A written record of all drugs issued to the medical director of an emergency service
3652 provider must be maintained by the issuing pharmacy and emergency service provider.
3653 Agents of the Georgia Drugs and Narcotics Agency may review all records to determine
3654 the accuracy and proper accountability for the use of all drugs.

3655 (e) To provide for the proper control and accountability of drugs, a written record of all
3656 drugs used by such emergency service provider shall be provided to the issuing pharmacy
3657 within 72 hours of use.

3658 (f) A pharmacist from the contracting issuing pharmacy shall physically inspect the drugs
3659 of such emergency service provider to determine compliance with appropriate policies and
3660 procedures for the handling, storage, labeling, and record keeping of all drugs not less than
3661 annually and maintain records of such inspection for a period of not less than two years.
3662 Such an inspection shall, at a minimum, verify that:

- 3663 (1) Drugs are properly stored, especially those requiring special storage conditions;
3664 (2) Drugs are properly accounted for by personnel of such emergency service provider;
3665 (3) Proper security measures to prohibit unauthorized access to the drugs are
3666 implemented; and
3667 (4) All policies and procedures are followed and enforced.

3668 (g) All outdated, expired, unused, or unusable drugs shall be returned to the issuing
3669 pharmacy for proper disposition in a manner acceptable to the licensing board.

3670 26-4-117.

3671 (a) It shall be the duty of the prosecuting attorney of the court of competent jurisdiction
3672 to whom the ~~board~~ director or some other person shall report a violation of this chapter to
3673 cause appropriate proceedings to be commenced and prosecuted for the enforcement of the
3674 penalties as in such case may be provided.

3675 (b) The ~~board~~ director, or any person, corporation, or association, in addition to the
3676 remedies set forth in this chapter, may bring an action in a court having competent
3677 jurisdiction over the parties and subject matter to enjoin violations of this chapter. Such
3678 injunction may issue notwithstanding the existence of an adequate remedy at law.

3679 26-4-118.

3680 (a) This Code section shall be known and may be cited as 'The Pharmacy Audit Bill of
3681 Rights.'

3682 (b) Notwithstanding any other law, when an audit of the records of a pharmacy is
3683 conducted by a managed care company, insurance company, third-party payor, the
3684 Department of Community Health under Article 7 of Chapter 4 of Title 49, or any entity
3685 that represents such companies, groups, or department, it shall be conducted in accordance
3686 with the following bill of rights:

3687 (1) The entity conducting the initial on-site audit must give the pharmacy notice at least
3688 one week prior to conducting the initial on-site audit for each audit cycle;

3689 (2) Any audit which involves clinical or professional judgment must be conducted by or
3690 in consultation with a pharmacist;

3691 (3) Any clerical or record-keeping error, such as a typographical error, scrivener's error,
3692 or computer error, regarding a required document or record may not in and of itself
3693 constitute fraud; however, such claims may be subject to recoupment. No such claim
3694 shall be subject to criminal penalties without proof of intent to commit fraud;

3695 (4) A pharmacy may use the records of a hospital, physician, or other authorized
3696 practitioner of the healing arts for drugs or medicinal supplies written or transmitted by
3697 any means of communication for purposes of validating the pharmacy record with respect
3698 to orders or refills of a legend or narcotic drug;

3699 (5) A finding of an overpayment or underpayment may be a projection based on the
3700 number of patients served having a similar diagnosis or on the number of similar orders
3701 or refills for similar drugs; however, recoupment of claims must be based on the actual
3702 overpayment or underpayment unless the projection for overpayment or underpayment
3703 is part of a settlement as agreed to by the pharmacy;

3704 (6) Each pharmacy shall be audited under the same standards and parameters as other
3705 similarly situated pharmacies audited by the entity;

3706 (7) A pharmacy shall be allowed at least 30 days following receipt of the preliminary
3707 audit report in which to produce documentation to address any discrepancy found during
3708 an audit;

3709 (8) The period covered by an audit may not exceed two years from the date the claim
3710 was submitted to or adjudicated by a managed care company, insurance company,

- 3711 third-party payor, the Department of Community Health under Article 7 of Chapter 4 of
 3712 Title 49, or any entity that represents such companies, groups, or department;
- 3713 (9) An audit may not be initiated or scheduled during the first seven calendar days of any
 3714 month due to the high volume of prescriptions filled during that time unless otherwise
 3715 consented to by the pharmacy;
- 3716 (10) The preliminary audit report must be delivered to the pharmacy within 120 days
 3717 after conclusion of the audit. A final audit report shall be delivered to the pharmacy
 3718 within six months after receipt of the preliminary audit report or final appeal, as provided
 3719 for in subsection (c) of this Code section, whichever is later; and
- 3720 (11) The audit criteria set forth in this subsection shall apply only to audits of claims
 3721 submitted for payment after July 1, 2006. Notwithstanding any other provision in this
 3722 subsection, the agency conducting the audit shall not use the accounting practice of
 3723 extrapolation in calculating recoupments or penalties for audits.
- 3724 (c) Recoupments of any disputed funds shall only occur after final internal disposition of
 3725 the audit, including the appeals process as set forth in subsection (d) of this Code section.
- 3726 (d) Each entity conducting an audit shall establish an appeals process under which a
 3727 pharmacy may appeal an unfavorable preliminary audit report to the entity. If, following
 3728 the appeal, the entity finds that an unfavorable audit report or any portion thereof is
 3729 unsubstantiated, the entity shall dismiss the audit report or said portion without the
 3730 necessity of any further proceedings.
- 3731 (e) Each entity conducting an audit shall provide a copy of the final audit report, after
 3732 completion of any review process, to the plan sponsor.
- 3733 (f) This Code section shall not apply to any investigative audit which involves fraud,
 3734 willful misrepresentation, or abuse including without limitation investigative audits under
 3735 Article 7 of Chapter 4 of Title 49, Code Section 33-1-16, or any other statutory provision
 3736 which authorizes investigations relating to insurance fraud.

3737 **ARTICLE 7**

3738 26-4-130.

3739 (a) For purposes of this Code section, the term:

3740 (1) 'Drugs' means drugs as defined in this chapter and controlled substances as defined
 3741 in Article 2 of Chapter 13 of Title 16.

3742 (2) 'Practitioner' or 'practitioner of the healing arts' means, notwithstanding Code Section
 3743 26-4-5, a person licensed as a dentist, physician, podiatrist, or veterinarian under Chapter
 3744 11, 34, 35, or 50, respectively, of Title 43.

3745 (b) The other provisions of this chapter and Article 3 of Chapter 13 of Title 16 shall not
3746 apply to practitioners of the healing arts prescribing or compounding their own
3747 prescriptions and dispensing drugs except as provided in this Code section. Nor shall such
3748 provisions prohibit the administration of drugs by a practitioner of the healing arts or any
3749 person under the supervision of such practitioner or by the direction of such practitioner
3750 except as provided in this Code section. Any term used in this subsection and defined in
3751 Code Section 43-34-23 shall have the meaning provided for such term in Code Section
3752 43-34-23. The other provisions of this chapter and Articles 2 and 3 of Chapter 13 of Title
3753 16 shall not apply to persons authorized by Code Section 43-34-23 to order, dispense, or
3754 administer drugs when such persons order, dispense, or administer those drugs in
3755 conformity with Code Section 43-34-23. When a person dispenses drugs pursuant to the
3756 authority delegated to that person under the provisions of Code Section 43-34-23, with
3757 regard to the drugs so dispensed, that person shall comply with the requirements placed
3758 upon practitioners by subsections (c) and (d) of this Code section.

3759 (c) All practitioners who dispense drugs shall comply with all record-keeping, labeling,
3760 packaging, and storage requirements imposed upon pharmacists and pharmacies with
3761 regard to such drugs pursuant to this chapter and Chapter 13 of Title 16.

3762 (d) All practitioners who dispense drugs shall make all records required to be kept under
3763 subsection (c) of this Code section available for inspection by the ~~board~~ director.

3764 (e) Any practitioner who desires to dispense drugs shall notify, at the time of the renewal
3765 of that practitioner's license to practice, ~~that practitioner's respective licensing board~~ the
3766 director of that practitioner's intention to dispense drugs. ~~That licensing board shall notify~~
3767 ~~the board regarding each practitioner concerning whom that board has received a~~
3768 ~~notification of intention to dispense drugs. The licensing board's notification shall include~~
3769 ~~the following information:~~

3770 (1) ~~The name and address of the practitioner;~~

3771 (2) ~~The state professional license number of the practitioner;~~

3772 (3) ~~The practitioner's Drug Enforcement Administration license number; and~~

3773 (4) ~~The name and address of the office or facility from which such drugs shall be~~
3774 ~~dispensed and the address where all records pertaining to such drugs shall be maintained.~~

3775 (f) The licensing board shall have the authority to promulgate rules and regulations
3776 governing the dispensing of drugs pursuant to this Code section.

3777 (g) This Code section shall not apply to practitioners who provide to their patients at no
3778 cost manufacturer's samples of drugs.

3779 26-4-131.

3780 The examination of specimens of foods, drugs, and cosmetics shall be made by the state
 3781 chemist or under direction of that chemist and supervision for the purpose of determining
 3782 from such examination whether such articles are adulterated or misbranded within the
 3783 meaning of this title; and, in the case of drugs and cosmetics, if it shall appear from any
 3784 such examination that any such specimens are adulterated or misbranded within the
 3785 meaning of this title, a copy of the results of the analysis of the examination of such article,
 3786 duly authenticated by the analyst or officer making such examination under the oath of
 3787 such analyst or officer, shall be forwarded to the board director without delay. If it shall
 3788 appear to the satisfaction of the board director and the Attorney General, in the case of
 3789 adulterated or misbranded drugs, that the article involved was shipped in interstate
 3790 commerce or the act complained of comes under the supervision and jurisdiction of the
 3791 United States, the board director shall certify the case to the United States district attorney
 3792 in whose district the violation may have been committed.

3793 ARTICLE 8

3794 26-4-140.

3795 This article shall be known and may be cited as the 'Third-party Prescription Program Law
 3796 of 1983.'

3797 26-4-141.

3798 The General Assembly finds that certain practices are unfair to providers of
 3799 pharmaceuticals, are burdensome and costly to those providers, result in unfair increased
 3800 costs to certain consumers, and threaten the availability of pharmaceuticals to the public.
 3801 The General Assembly further finds that there is a need for regulation of certain practices
 3802 engaged in by some third-party prescription program administrators.

3803 26-4-142.

3804 As used in this article, the term:

3805 (1) 'Administrator' means that person, corporation, or business entity which administers
 3806 a program, is legally liable for any payments to a participating pharmacy under a
 3807 program, or both.

3808 (2) 'Commissioner' means the Commissioner of Insurance.

3809 (3) 'Contract' means a program contract.

3810 (4) 'Enrollee' means a consumer who receives pharmaceuticals under a program.

3811 (5) 'Participating pharmacy' means a pharmacy having a contract to provide
3812 pharmaceuticals to enrollees under a program.

3813 (6) 'Pharmaceuticals' means drugs, devices, or services available from a pharmacy.

3814 (7) 'Prevailing rate' means the average wholesale price of the pharmaceutical during the
3815 applicable period, plus the usual, customary, and reasonable dispensing fee added thereto,
3816 provided that in no event shall the amount submitted for reimbursement by a pharmacy
3817 under this article exceed the eighty-fifth percentile of the retail prices charged by all
3818 pharmacies in Georgia for the same or similar pharmaceuticals during such period of time
3819 or the actual price charged by the submitting pharmacy to consumers, other than
3820 enrollees, for the same or similar pharmaceuticals during such period of time, whichever
3821 is less.

3822 (8) 'Program' means a third-party prescription program.

3823 (9) 'Program contract' means that contract creating rights and obligations between a
3824 participating pharmacy and a program or administrator.

3825 (10) 'Program identification card' means a document which identifies enrollees as
3826 participants in a program.

3827 (11) 'Third-party prescription program' means any system of providing payments or
3828 reimbursement of payments made for pharmaceuticals pursuant to a contract between a
3829 pharmacy and another party, including insurance companies and administrators of
3830 programs, who are not consumers of the pharmaceuticals under that contract and shall
3831 include, without being limited to, insurance plans whereby an enrollee receives
3832 pharmaceuticals which are paid for by insurance companies or administrators, or by an
3833 agent of his or her employer, or by others.

3834 26-4-143.

3835 (a) Unless the program is exempt under subsection (b) of this Code section, no
3836 administrator, person, corporation, or business entity shall offer, operate, or administer a
3837 program in this state unless that program has been submitted to the Commissioner, in a
3838 manner provided by the Commissioner, and is approved by the Commissioner as
3839 complying with the requirements of this article.

3840 (b)(1) A program contract existing immediately prior to January 1, 1984, shall be exempt
3841 from the requirements of this article but shall not be renewed or otherwise extended
3842 beyond its renewal or expiration date, respectively, as specified immediately prior to
3843 January 1, 1984, unless the program under the renewed or extended contract is approved
3844 by the Commissioner under subsection (a) of this Code section, except that if no such
3845 expiration or renewal date is provided in that program contract, the program contract shall
3846 be submitted not later than March 1, 1984, to the Commissioner for approval.

3847 (2) A program providing pharmaceuticals pursuant to Article 7 of Chapter 4 of Title 49,
 3848 the 'Georgia Medical Assistance Act of 1977,' shall be exempt from the requirements of
 3849 this article.

3850 (3) A policy or plan regulated under Title 33, relating to insurance, which does not
 3851 include or utilize a third-party prescription program or contract shall be exempt from the
 3852 requirements of this article.

3853 (c) A program approved by the Commissioner may have that approval revoked or
 3854 suspended if it fails to meet any requirements therefor specified in this article or if it fails
 3855 to be administered in conformity with those requirements.

3856 (d) Disapproval or revocation or suspension of approval of a program by the
 3857 Commissioner shall constitute a contested case for purposes of Chapter 13 of Title 50, the
 3858 'Georgia Administrative Procedure Act.'

3859 26-4-144.

3860 (a) A program offered in this state and not exempt under subsection (b) of Code Section
 3861 26-4-143 shall provide all of the following:

3862 (1) A statement of the method, frequency, and amount of claim reimbursement to
 3863 participating pharmacies;

3864 (2) That any valid claim for pharmaceuticals under this program will be paid to a
 3865 participating pharmacy within 30 days after the claim is received by the administrator if
 3866 that claim is complete, accurate, and legible, as determined by the administrator;

3867 (3) That any valid claim not paid as required in paragraph (2) of this Code section shall
 3868 be subject to interest at the rate specified in paragraph (1) of subsection (b) of Code
 3869 Section 33-25-10, relating to payment of interest on life insurance proceeds;

3870 (4) That reimbursement rates for pharmaceuticals shall not be less than the prevailing
 3871 rates therefor paid by consumers who are not enrollees;

3872 (5) That each participating pharmacy and enrollee will be notified in writing by the
 3873 administrator of the cancellation of any program at least 30 days prior to the effective
 3874 date of cancellation, except that where the administrator is not notified of such
 3875 cancellation at least 30 days prior to the effective date of cancellation, the written notice
 3876 shall be provided within 30 days after the administrator received his or her notification;

3877 (6) That program identification cards issued to an enrollee show an expiration date;

3878 (7) That the administrator shall make reasonable efforts to gain possession of all program
 3879 identification cards upon cancellation of a program for which the cards were issued;

3880 (8) That a valid claim by a participating pharmacy will not be denied upon the basis of
 3881 the fraudulent use of a program identification card;

3882 (9) That at least 30 days prior to the date a program becomes effective, the program
3883 contract therefor shall be offered to all pharmacies located within those counties wherein
3884 reside enrollees in that program, ~~which~~ and such pharmacies shall have at least 30 days
3885 from the time they receive the offer to accept that offer and become participating
3886 pharmacies;

3887 (10) That any audit by a program to verify claims by a participating pharmacy shall
3888 comply with generally accepted accounting principles and procedures but shall not
3889 extrapolate randomly sampled data as a basis for reimbursement from the pharmacy
3890 which is audited or from one participating pharmacy to be the corresponding data for
3891 another participating pharmacy. In the event a claim against a participating pharmacy for
3892 reimbursement is based upon a program audit, the administrator of the program shall
3893 submit details of the audit to that participating pharmacy, and any dispute relating thereto
3894 shall be resolved under the dispute resolution procedures required under paragraph (11)
3895 of this subsection, with the Commissioner to render a final binding decision in the dispute
3896 if either party is dissatisfied with the outcome under the dispute resolution procedure; and

3897 (11) A dispute resolution procedure for disputes between the program or administrator
3898 and participating pharmacies and between the program or administrator and enrollees.

3899 (b) A program which meets the requirements of subsection (a) of this Code section shall
3900 not be administered except in conformity with those requirements, and the administration
3901 of that program except in conformity with those requirements shall constitute a violation
3902 of this Code section by the administrator of that program.

3903 26-4-145.

3904 A participating pharmacy shall not submit claims for payment for pharmaceuticals under
3905 a program for charges in excess of those charged by that pharmacy to consumers, other
3906 than enrollees, for the same or similar pharmaceuticals.

3907 26-4-146.

3908 (a) On and after January 1, 1984, no person, corporation, or business entity shall serve as
3909 administrator of a program which has no administrator registered under this Code section
3910 unless that person, corporation, or business entity is registered as administrator of that
3911 program with the Commissioner.

3912 (b) No administrator may be registered unless the administrator gives bond to the
3913 Commissioner conditioned to pay all losses, damages, and expenses incurred as a result of
3914 any violation of this article by the administrator or the program being administered thereby.
3915 The bond shall be with a surety approved by the Commissioner in the amount of
3916 \$200,000.00 or the total annual payments made in the immediately preceding year by all

3917 programs administered by that administrator, whichever is greater; provided, however, if
3918 the administrator is an insurance company licensed to transact insurance in this state or if
3919 the administrator is a self-insurer and is approved by the Commissioner, then such
3920 administrator shall not be required to give bond to the Commissioner.

3921 (c) No program shall be required to have more than one administrator registered and
3922 bonded under this Code section.

3923 (d) An administrator may have his or her registration suspended or revoked by the
3924 Commissioner upon any violation of this article by the administrator or when any program
3925 administered by the administrator fails to conform to the requirements of this article. The
3926 refusal by the Commissioner to register an administrator and the suspension or revocation
3927 of an administrator's registration shall constitute a contested case for purposes of Chapter
3928 13 of Title 50, the 'Georgia Administrative Procedure Act.'

3929 (e) Records, information, and other identifying matter obtained through the submission of
3930 a claim for reimbursement by a participating pharmacy shall be used exclusively and solely
3931 for the purposes of verification and payment to the participating pharmacy and
3932 policyholder and for no other purposes.

3933 26-4-147.

3934 No enrollee may utilize a program identification card to obtain pharmaceuticals after the
3935 program has been canceled and after the enrollee has received notification of the
3936 cancellation, and if such card is so utilized, that enrollee shall be liable to the administrator
3937 of that program for the cost of those pharmaceuticals.

3938 26-4-148.

3939 (a) Any person, corporation, or business entity which violates subsection (a) of Code
3940 Section 26-4-146 shall be guilty of a misdemeanor.

3941 (b) Any person, corporation, or business entity which violates any provision of this article
3942 shall be subject to a civil penalty in the amount of \$1,000.00 for each act in violation of this
3943 article or, if the violation was knowing and willful, a civil penalty of \$5,000.00 for each act
3944 in violation of this article.

3945 (c) Any person injured as a result of a violation of this article may bring an action against
3946 that person, corporation, or business entity violating this article for the recovery of all
3947 actual damages occurring as a result thereof, plus attorneys' fees.

3948 (d) An action may be brought against any person, corporation, or business entity subject
3949 to civil penalties or an action for damages under this Code section in the county in this state
3950 in which the person resides or corporation or business entity maintains an office or, if

3951 neither residing nor maintaining an office in this state, in the Superior Court of Fulton
3952 County.

3953 (e) All penalties and remedies provided in this Code section are cumulative of each other
3954 and of any other penalties and remedies otherwise provided by law.

3955 ARTICLE 9

3956 26-4-160.

3957 No person shall furnish by retail sale any poison enumerated in this Code section without
3958 distinctly labeling the bottle, box, vessel, or paper in which the poison is contained, and
3959 also the outside wrapper or cover thereof, with the name of the article, the word 'Poison,'
3960 and the name and place of business of the person who furnishes the same; and no poison
3961 shall be furnished unless upon due inquiry it shall be found that the person to whom it is
3962 delivered is aware of its poisonous character and shall represent that it is to be used for a
3963 legitimate purpose:

3964 (1) Schedule 'A.' Arsenic and its preparations, corrosive sublimate, white precipitate, red
3965 precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and
3966 all other poisonous vegetable alkaloids and their salts; essential oil of bitter almonds,
3967 opium and its preparations, except paregoric and other preparations of opium containing
3968 less than two grains to the ounce; and

3969 (2) Schedule 'B.' Aconite, belladonna, colchicum, conium, nux vomica, henbane,
3970 creosote, digitalis, and their pharmaceutical preparations; croton oil, chloroform, chloral
3971 hydrate, sulfate of zinc, mineral acids, carbolic acid, and oxalic acid.

3972 26-4-161.

3973 No licensed pharmacist shall sell or deliver any of the poisons included in paragraph (1)
3974 of Code Section 26-4-160 without first making an entry in a book for that purpose, stating
3975 the date of the delivery, the name and address of the person receiving the poison, the name
3976 and quantity of the poison, the purpose for which it is represented by such person to be
3977 required, and the name of the dispenser. Such book shall always be open for inspection by
3978 the proper authorities and shall be preserved for reference for at least five years.

3979 26-4-162.

3980 This article shall not apply to the dispensing of poisons in not unusual quantities or doses,
3981 upon the prescriptions of practitioners of the healing arts.

3982 26-4-163.

3983 Any person violating this article shall be guilty of a misdemeanor.

3984 ARTICLE 10

3985 26-4-170.

3986 This article shall be known and may be cited as the 'Nuclear Pharmacy Law.'

3987 26-4-171.

3988 As used in this article, the term:

3989 (1) 'Authentication of product history' means, but is not limited to, identifying the
3990 purchasing source, the ultimate fate, and any intermediate handling of any component of
3991 a radiopharmaceutical.

3992 (2) 'Board' means the State Board of Pharmacy, a professional licensing board pursuant
3993 to Chapter 1 of Title 43 with the authority and responsibilities set forth in such chapter.

3994 (3) 'Compounding of radiopharmaceuticals' means the addition of a radioactive substance
3995 to nonradioactive substances or the use of a radioactive substance in preparation for
3996 single or multidose dispensation upon the prescription order of a physician who is
3997 licensed to use radioactive materials. Compounding of radiopharmaceuticals may
3998 include: loading and eluting of radionuclide generators; using manufactured reagent kits
3999 to prepare radiopharmaceuticals; preparing reagent kits; aliquoting reagents; formulation
4000 and quality assurance testing of radiochemicals for use as radiopharmaceuticals; and
4001 radiolabeling of compounds or products, including biological products, for use as
4002 radiopharmaceuticals.

4003 (4) 'Department' means the Department of Natural Resources.

4004 (4.1) 'Director' means the director of professional licensing.

4005 (5) 'Internal test assessment' means, but is not limited to, conducting those tests of quality
4006 assurance necessary to ensure the integrity of the test.

4007 (5.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
4008 Article 2 of Chapter 1 of Title 43.

4009 (6) 'Manufacturing of radiopharmaceuticals' means the preparation, derivation, or
4010 production of a product to which a radioactive substance is or will be added to provide
4011 a radiopharmaceutical for sale, resale, redistribution, or reconstitution.

4012 (7) 'Nuclear pharmacy' means a pharmacy providing radiopharmaceutical service.

4013 (8) 'Radiopharmaceutical' means radioactive drugs and chemical products used for
4014 diagnostic and therapeutic purposes and includes the terms radioactive pharmaceuticals,
4015 radioisotopes, and radioactive tracers.

4016 (9) 'Radiopharmaceutical quality assurance' means, but is not limited to, the performance
4017 of appropriate chemical, biological, and physical tests on radiopharmaceuticals and their
4018 component materials and the interpretation of the resulting data to determine their
4019 suitability for use in humans and animals, including internal test assessment,
4020 authentication of product history, and the keeping of proper records.

4021 (10) 'Radiopharmaceutical service' means, but is not limited to, the compounding,
4022 dispensing, labeling, and delivering of radiopharmaceuticals; the participation in
4023 radiopharmaceutical selection and radiopharmaceutical utilization review; the
4024 maintenance of radiopharmaceutical quality assurance; and the responsibility for
4025 advising, where necessary or where regulated, of therapeutic values, hazards, and use of
4026 radiopharmaceuticals; and the offering or performing of those acts, services, operations,
4027 or transactions necessary in the conduct, operation, management, and control of a nuclear
4028 pharmacy.

4029 26-4-172.

4030 (a) All persons, firms, pharmacies, or corporations which receive, possess, transfer, or
4031 manufacture for sale or resale radiopharmaceuticals shall be licensed in accordance with
4032 the provisions of this article. No person may receive, acquire, possess, compound, or
4033 dispense any radiopharmaceutical except in accordance with the provisions of this article
4034 and the conditions of rules and regulations promulgated by the Board of Natural Resources
4035 for radioactive materials and administered by the department. The requirements of this
4036 article are in addition to, and not in substitution of, other applicable statutes and regulations
4037 administered by the ~~State Board of Pharmacy~~ director or the department.

4038 (b) Nothing in this article shall be construed as requiring a licensed physician to obtain a
4039 separate license as a nuclear pharmacist, when his or her use of radiopharmaceuticals is
4040 limited to the diagnosis and treatment of his or her own patients.

4041 (c) Nothing in this article shall be construed so as to require a licensed clinical laboratory,
4042 which is licensed by the Department of Community Health to handle radioactive materials,
4043 to obtain the services of a nuclear pharmacist, or to have a nuclear pharmacy license, unless
4044 the laboratory is engaged in the commercial sale or resale of radiopharmaceuticals.

4045 (d) Nothing in this article shall be construed to require a department of nuclear medicine
4046 which is located in a hospital of 250 beds or less, which has a licensing board certified
4047 radiologist in the practice of nuclear medicine, and which is licensed by the department to
4048 handle radioactive materials to obtain the services of a nuclear pharmacist or to have a
4049 nuclear pharmacy license.

4050 26-4-173.

4051 (a) An applicant for a license as a nuclear pharmacist shall:

4052 (1) Be a currently licensed pharmacist in the State of Georgia;

4053 (2) Meet the minimum requirements and be licensed to possess and use radioactive
4054 materials for medical use, as authorized by the department; and

4055 (3) Have met all requirements for training and experience established by the licensing
4056 board in rules and regulations promulgated pursuant to this authority; provided, however,
4057 rules and regulations prescribing training and experience requirements for nuclear
4058 pharmacists shall have first been approved by the department.

4059 (b) A license as a nuclear pharmacist shall be issued to any pharmacist who makes
4060 application to the ~~board~~ director, together with a required fee, and meets the requirements
4061 of subsection (a) of this Code section.

4062 26-4-174.

4063 (a) A permit to operate a nuclear pharmacy shall only be issued in accordance with Article
4064 6 of this chapter with the added designation that the pharmacist in charge be a nuclear
4065 pharmacist. All personnel performing tasks in the preparation and distribution of
4066 radiopharmaceuticals shall be under the supervision of a licensed nuclear pharmacist. All
4067 acts of compounding and dispensing radiopharmaceuticals shall be performed by the
4068 nuclear pharmacist or by a pharmacist or pharmacy intern under the direct supervision and
4069 control of a nuclear pharmacist. A nuclear pharmacist shall be responsible for all
4070 operations of the nuclear pharmacy and shall be in personal attendance at all times when
4071 the acts of compounding and dispensing are performed and the pharmacy is open for
4072 business.

4073 (b) Nuclear pharmacies shall have adequate space, commensurate with the scope of
4074 services provided and, as required by rules and regulations promulgated by the licensing
4075 board pursuant to implementation of this article, shall meet minimal space requirements
4076 established for all pharmacies in the state. The nuclear pharmacy area shall be separate
4077 from the pharmacy areas for nonradiopharmaceuticals and shall be secured from
4078 unauthorized personnel.

4079 (c) Nuclear pharmacies shall only dispense radiopharmaceuticals which comply with
4080 acceptable professional standards of radiopharmaceutical quality assurance.

4081 (d) Nuclear pharmacies shall maintain records of acquisition and disposition of all
4082 radiopharmaceuticals in accordance with requirements of the licensing board and the
4083 department.

4084 (e) Nuclear pharmacies shall comply with all applicable laws and regulations of federal
4085 and state agencies, including those laws and regulations governing nonradioactive drugs
4086 and pharmaceuticals.

4087 (f) Radiopharmaceuticals are to be dispensed only upon prescription order by a physician
4088 who is authorized by the department to possess, use, and administer radioactive materials.

4089 (g) A nuclear pharmacist may transfer to authorized persons radioactive materials not
4090 intended for drug use, in accordance with department regulations for radioactive materials.
4091 A nuclear pharmacy may also furnish radioactive materials for use to physicians, for
4092 individual patient use in accordance with subsection (f) of this Code section.

4093 (h) In addition to any labeling requirements required by rules and regulations of the
4094 licensing board for nonradiopharmaceuticals, the immediate outer container of a
4095 radiopharmaceutical to be dispensed shall also be labeled as required in rules and
4096 regulations of the licensing board and of the department.

4097 (i) The amount of radioactivity dispensed in each individual preparation shall be
4098 determined by the nuclear pharmacist through radiometric methods immediately prior to
4099 dispensing.

4100 (j) Nuclear pharmacies may redistribute federal Food and Drug Administration approved
4101 radiopharmaceuticals if the pharmacy does not process the radiopharmaceuticals in any
4102 manner or violate the product packaging. Such redistribution may only be made to another
4103 nuclear pharmacy or other authorized person or institution.

4104 26-4-175.

4105 Nuclear pharmacies shall meet all requirements for items and articles of equipment as
4106 required through rules and regulations of the licensing board. Nuclear pharmacies shall
4107 also have equipment required for the safe handling and storage of radioactive materials, as
4108 established by rules of the department.

4109 26-4-176.

4110 The ~~board~~ director may limit, suspend, or revoke licenses issued under the provisions of
4111 this article, or impose any other reasonable sanctions upon holders of such licenses upon
4112 proof of any of the violations specified in Code Sections 26-4-60 and 26-4-113.

4113 26-4-177.

4114 The ~~board~~ director may refuse to grant a license to any person, firm, or corporation for any
4115 of the grounds set forth in Code Sections 26-4-60 and 26-4-113. In addition, the ~~board~~
4116 director may refuse to grant a license if any applicant shall make any false statement in the

4117 application or cheats in any manner upon any examination administered pursuant to this
4118 article.

4119 26-4-178.

4120 The licensing board is authorized to promulgate rules and regulations to implement the
4121 provisions of this article.

4122 26-4-179.

4123 Nothing in this article shall be construed to repeal the authority of the Department of
4124 Natural Resources to regulate the use of radioactive materials.

4125 **ARTICLE 11**

4126 26-4-190.

4127 This article shall be known and may be cited as the 'Utilization of Unused Prescription
4128 Drugs Act.'

4129 26-4-191.

4130 As used in this article, the term:

4131 (1) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules
4132 I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of
4133 21 C.F.R. Part 1308.

4134 (2) 'Health care facility' means an institution which is licensed as a nursing home,
4135 intermediate care home, assisted living community, personal care home, home health
4136 agency, or hospice pursuant to Chapter 7 of Title 31.

4137 (3) 'Medically indigent person' means:

4138 (A) A person who is Medicaid eligible under the laws of this state; or

4139 (B) A person:

4140 (i) Who is without health insurance; or

4141 (ii) Who has health insurance that does not cover the injury, illness, or condition for
4142 which treatment is sought; and

4143 whose family income does not exceed 200 percent of the federal poverty level as
4144 defined annually by the federal Office of Management and Budget.

4145 26-4-192.

4146 (a) The ~~Georgia State Board of Pharmacy~~ licensing board, the Department of Public
4147 Health, and the Department of Community Health shall jointly develop and implement a

4148 state-wide program consistent with public health and safety standards through which
4149 unused prescription drugs, other than prescription drugs defined as controlled substances,
4150 may be transferred from health care facilities to pharmacies designated or approved by the
4151 Department of Public Health for the purpose of distributing such drugs to residents of this
4152 state who are medically indigent persons.

4153 (b) The ~~Georgia State Board of Pharmacy~~ licensing board, the Department of Public
4154 Health, and the Department of Community Health shall be authorized to develop and
4155 implement a pilot program to determine the safest and most beneficial manner of
4156 implementing the program prior to the state-wide implementation of the program required
4157 in subsection (a) of this Code section.

4158 (c) The ~~Georgia State Board of Pharmacy~~ licensing board, in consultation with the
4159 Department of Public Health and the Department of Community Health, shall develop and
4160 promulgate rules and regulations to establish procedures necessary to implement the
4161 program and pilot program, if applicable, provided for in this Code section. The rules and
4162 regulations shall provide, at a minimum:

4163 (1) For an inclusionary formulary for the prescription drugs to be distributed pursuant
4164 to the program;

4165 (2) For the protection of the privacy of the individual for whom a prescription drug was
4166 originally prescribed;

4167 (3) For the integrity and safe storage and safe transfer of the prescription drugs, which
4168 may include, but shall not be limited to, limiting the drugs made available through the
4169 program to those that were originally dispensed by unit dose or an individually sealed
4170 dose and that remain in intact packaging; provided, however, that the rules and
4171 regulations shall authorize the use of any remaining prescription drugs;

4172 (4) For the tracking of and accountability for the prescription drugs; and

4173 (5) For other matters necessary for the implementation of the program.

4174 26-4-193.

4175 In accordance with the rules and regulations promulgated pursuant to Code Section
4176 26-4-192, the resident of a health care facility, or the representative or guardian of a
4177 resident, may donate unused prescription drugs, other than prescription drugs defined as
4178 controlled substances, for dispensation to medically indigent persons.

4179 26-4-194.

4180 (a) Physicians, pharmacists, other health care professionals when acting within the scope
4181 of practice of their respective licenses, and health care facilities shall not be subject to
4182 liability for transferring or receiving unused prescription drugs pursuant to this article and

4183 in good faith compliance with the rules and regulations promulgated pursuant to Code
4184 Section 26-4-192.

4185 (b) Pharmacists and pharmacies shall not be subject to liability for dispensing unused
4186 prescription drugs pursuant to this article when such services are provided without
4187 reimbursement and when performed within the scope of their practice and in good faith
4188 compliance with the rules and regulations promulgated pursuant to Code Section 26-4-192.
4189 For purposes of this subsection, a restocking fee paid to a pharmacy pursuant to Code
4190 Section 49-4-152.5 shall not be considered reimbursement.

4191 (c) Nothing in this Code section shall be construed as affecting, modifying, or eliminating
4192 the liability of a manufacturer of prescription drugs or its employees or agents under any
4193 legal claim, including but not limited to product liability claims. Drug manufacturers shall
4194 not be subject to liability for any acts or omissions of any physician, pharmacist, other
4195 health care professional, health care facility, or pharmacy providing services pursuant to
4196 this article.

4197 (d) Drug manufacturers shall not be subject to criminal prosecution or liability in tort or
4198 other civil action for injury, death, or loss to person or property for the donation,
4199 acceptance, or dispensing of a drug under the program or for the failure to transfer or
4200 communicate product or consumer information or the expiration date of a drug donated
4201 under the program.

4202 26-4-195.

4203 This article shall be construed in concert with Code Section 49-4-152.3.

4204 ARTICLE 12

4205 26-4-200.

4206 This article shall be known and may be cited as the 'Prescription Medication Integrity Act.'

4207 26-4-201.

4208 As used in this article, the term:

4209 (1) 'Authenticate' means to affirmatively verify before any wholesale distribution of a
4210 prescription drug occurs that each transaction listed on the pedigree has occurred.

4211 (2) 'Authorized distributor of record' means a distributor with whom a manufacturer has
4212 established an ongoing relationship to distribute the manufacturer's prescription drugs.

4213 (3) 'Board' means the State Board of Pharmacy, a professional licensing board pursuant
4214 to Chapter 1 of Title 43 with the authority and responsibilities set forth in such chapter.

4215 (4) 'Broker' has the same meaning as a third party logistics provider.

- 4216 (5) 'Chain pharmacy warehouse' means a physical location for prescription drugs that
4217 acts as a central warehouse and performs intracompany sales or transfers of such drugs
4218 to a group of chain pharmacies that have the same common ownership or control.
- 4219 (6) 'Co-licensed pharmaceutical products' means pharmaceutical products:
4220 (A) That have been approved by the federal Food and Drug Administration; and
4221 (B) Concerning which two or more parties have the right to engage in a business
4222 activity or occupation concerning the pharmaceutical products.
- 4223 (7) 'Co-licensee' means a party to a co-licensed pharmaceutical product.
- 4224 (7.1) 'Director' means the director of professional licensing.
- 4225 (8) 'Distribute' means to deliver a drug or device other than by administering or
4226 dispensing.
- 4227 (9) 'Drop shipment arrangement' means the physical shipment of a prescription from a
4228 manufacturer, that manufacturer's co-licensee, that manufacturer's third-party logistics
4229 provider, or that manufacturer's authorized distributor of record directly to a chain
4230 pharmacy warehouse, pharmacy buying cooperative warehouse, pharmacy, or other
4231 persons authorized under law to dispense or administer prescription drugs but wherein
4232 the sale and title for the prescription drug passes between a wholesale drug distributor and
4233 the party that directly receives the prescription drug. In order to be considered part of the
4234 normal distribution channel and participate in a drop shipment as described in this
4235 paragraph, the wholesale drug distributor must be an authorized distributor of record.
- 4236 (10) 'Facility' means a facility of a wholesale distributor where prescription drugs are
4237 stored, handled, repackaged, or offered for sale.
- 4238 (10.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created
4239 by Article 2 of Chapter 1 of Title 43.
- 4240 (11) 'Manufacturer' means a person licensed or approved by the federal Food and Drug
4241 Administration (~~FDA~~) to engage in the manufacture of drugs or devices, consistent with
4242 the ~~FDA~~ administration's definition of 'manufacturer' under the regulations and
4243 interpreted guidances implementing the Prescription Drug Marketing Act.
- 4244 (12) 'Manufacturer's exclusive distributor' means an entity that contracts with a
4245 manufacturer to provide or coordinate warehousing, distribution, or other services for a
4246 manufacturer and takes title to that manufacturer's prescription drug. To be considered
4247 part of the normal distribution channel, a manufacturer's exclusive distribution must be
4248 an authorized distributor of record.
- 4249 (13) 'Normal distribution channel' means a chain of custody for a prescription drug,
4250 excluding all devices and veterinary prescription drugs, that goes directly or by drop
4251 shipment from a manufacturer of the prescription drug, or from that manufacturer to that
4252 manufacturer's co-licensed partner, or from that manufacturer to that manufacturer's

- 4253 third-party logistics provider, or from that manufacturer to that manufacturer's exclusive
 4254 distributor, to:
- 4255 (A) Either a pharmacy or to other designated persons authorized by law to dispense or
 4256 administer such drug;
 - 4257 (B) An authorized distributor or record, and then to either a pharmacy, or to other
 4258 designated persons authorized by law to dispense or administer such drug;
 - 4259 (C) An authorized distributor of record to one other authorized distributor of record to
 4260 an office based health care practitioner authorized by law to dispense or administer such
 4261 drug to a patient;
 - 4262 (D) An authorized distributor of record to a pharmacy warehouse or other entity that
 4263 redistributes by intracompany sale to a pharmacy or other designated persons
 4264 authorized to dispense or administer the drug;
 - 4265 (E) A pharmacy warehouse or other entity that redistributes by intracompany sale to
 4266 a pharmacy or other designated persons authorized to dispense or administer the drug;
 4267 or
 - 4268 (F) Another entity as prescribed by the licensing board's regulations.
- 4269 (14) 'Ongoing relationship' means an association that exists when a wholesale drug
 4270 distributor, including any member of its affiliated group, as defined in Section 1504 of
 4271 the Internal Revenue Code, of which the wholesale drug distributor is a member:
- 4272 (A) Is listed on the manufacturer's list of authorized distributors of record, which is
 4273 updated by the manufacturer on no less than a monthly basis; or
 - 4274 (B) Has a written agreement currently in effect with the manufacturer evidencing such
 4275 ongoing relationship.
- 4276 (15) 'Pedigree' means a document or electronic file containing information that records
 4277 each distribution of any given prescription drug.
- 4278 (16) 'Pharmacy buying cooperative warehouse' means a permanent physical location that
 4279 acts as a central warehouse for drugs and from which sales of drugs are made to a group
 4280 of pharmacies that are member owners of the buying cooperative operating the
 4281 warehouse. Pharmacy buying cooperative warehouses must be licensed as wholesale
 4282 distributors.
- 4283 (17) 'Prescription drug' means any drug (including any biological product, except for
 4284 blood and blood components intended for transfusion or biological products that are also
 4285 medical devices) required by federal law (including federal regulation) to be dispensed
 4286 only by a prescription, including finished dosage forms and bulk drug substances subject
 4287 to ~~section~~ Section 503(b) of the ~~federal~~ Federal Food, Drug, and Cosmetic Act
 4288 (~~FFDCA~~).

4289 (18) 'Repackage' means repackaging or otherwise changing the container, wrapper, or
4290 labeling to further the distribution of a prescription drug; provided, however, that this
4291 shall not apply to pharmacists in the dispensing of prescription drugs to the patient.

4292 (19) 'Repackager' means a person who repackages.

4293 (20) 'Third-party logistics provider' means an entity that provides or coordinates
4294 warehousing, distribution, or other services on behalf of a manufacturer but does not take
4295 title to a drug or have general responsibility to direct the sale or other disposition of the
4296 drug. To be considered part of the normal distribution channel, a third party logistics
4297 provider must be an authorized distributor of record.

4298 (21) 'Wholesale distributor' means any person engaged in wholesale distribution of
4299 drugs, including but not limited to repackagers; own label distributors; private label
4300 distributors; jobbers; brokers; warehouses, including manufacturers' and distributors'
4301 warehouses and wholesale drug warehouses; independent wholesale drug traders; and
4302 retail and hospital pharmacies and chain pharmacy warehouses that conduct wholesale
4303 distributions. This term shall not include manufacturers.

4304 (22) 'Wholesale distribution' shall not include:

4305 (A) Intracompany sales of prescription drugs, meaning any transaction or transfer
4306 between any division, subsidiary, parent, or affiliated or related company under
4307 common ownership or control of a corporate entity, except that nothing contained
4308 herein shall be construed to prohibit the licensing board from requiring that other
4309 records of these transactions shall be kept in accordance with law and regulation not
4310 found in this article;

4311 (B) The sale, purchase, distribution, trade, or transfer of a prescription drug or offer to
4312 sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical
4313 reasons including transfers of a prescription drug from retail pharmacy to retail
4314 pharmacy, except that nothing contained herein shall be construed to prohibit the
4315 licensing board from requiring that other records of these transactions shall be kept in
4316 accordance with law and regulation not found in this article;

4317 (C) The distribution of prescription drug samples by manufacturers' representatives;

4318 (D) Prescription drug returns when conducted by a retail pharmacy or chain pharmacy
4319 warehouse, by a hospital, health care entity, or charitable institution in accordance with
4320 21 C.F.R. Section 203.23, or by any designated persons authorized by law to dispense
4321 or administer the prescription drug except in cases where a pedigree is already required
4322 under the provisions of this article, in which case any return of that prescription drug
4323 to a wholesaler or manufacturer shall be subject to the provisions of Code Section
4324 26-4-202;

4325 (E) The sale of minimal quantities of prescription drugs by retail pharmacies to
 4326 licensed practitioners for office use, except that nothing contained herein shall be
 4327 construed to prohibit the licensing board from requiring that other records of these
 4328 transactions shall be kept in accordance with law and regulation not found in this
 4329 article;

4330 (F) Retail pharmacies' delivery of prescription drugs to a patient or patient's agent
 4331 pursuant to the lawful order of a licensed practitioner;

4332 (G) The delivery of, or offer to deliver, a prescription drug by a common carrier solely
 4333 in the common carrier's usual course of business of transporting prescription drugs, and
 4334 such common carrier does not store, warehouse, or take legal ownership of the
 4335 prescription drug;

4336 (H) The sale or transfer from a retail pharmacy, pharmacy buying cooperative
 4337 warehouse, or chain pharmacy warehouse of expired, damaged, returned, or recalled
 4338 prescription drugs to the original manufacturer, originating wholesale distributor, or to
 4339 a third party returns processor, to the extent permitted by federal rule, regulation, or
 4340 law; or

4341 (I) The sale, transfer, merger, or consolidation of all or part of the business of a
 4342 pharmacy or pharmacies from or with another pharmacy or pharmacies, whether
 4343 accomplished as a purchase and sale of stock or business assets.

4344 26-4-202.

4345 (a)(1) Each person who is engaged in wholesale distribution of prescription drugs shall
 4346 establish and maintain inventories and records of all transactions regarding the receipt
 4347 and distribution or other disposition of the prescription drugs. These records shall include
 4348 pedigrees for all prescription drugs that leave or have ever left the normal distribution
 4349 channel in accordance with rules and regulations adopted by the licensing board.

4350 (2) A retail pharmacy or chain pharmacy warehouse shall comply with the requirements
 4351 of this Code section only if the retail pharmacy or chain pharmacy warehouse engages
 4352 in wholesale distribution of prescription drugs.

4353 (3) The ~~board~~ director shall conduct a study to be completed no later than July 1, ~~2009~~
 4354 2013, which shall include consultation with manufacturers, distributors, and pharmacies
 4355 responsible for the sale and distribution of prescription drug products in this state. Based
 4356 on the results of the study, the licensing board shall establish a mandated implementation
 4357 date for electronic pedigrees which shall be no sooner than December 31, ~~2011~~ 2015, and
 4358 may be extended by the licensing board in one year increments if it appears the
 4359 technology is not universally available across the entire prescription pharmaceutical
 4360 supply; provided, however, that no provision of this article shall be effective until such

4361 time as the General Assembly appropriates reasonable funds for administration of this
 4362 subsection. Effective at a date established by the licensing board, pedigrees may be
 4363 implemented through an approved and readily available system based on electronic track
 4364 and trace pedigree technology. This electronic tracking system will be deemed to be
 4365 readily available for use on a wide scale across the entire pharmaceutical supply chain
 4366 which includes manufacturers, wholesale distributors, and pharmacies. Consideration
 4367 must be given to the large-scale implementation of this technology across the supply
 4368 chain and the technology must be proven to have no negative impact on the safety and
 4369 efficacy of the pharmaceutical product.

4370 (b) Each person in possession of a pedigree for a prescription drug who is engaged in the
 4371 wholesale distribution of a prescription drug, including repackagers but excluding the
 4372 original manufacturer of the finished form of the prescription drug and any entity engaged
 4373 in the activities listed in paragraph (9) of Code Section 26-4-201, and who attempts to
 4374 further distribute that prescription drug shall affirmatively verify before any distribution
 4375 of a prescription drug occurs that each transaction listed on the pedigree has occurred.

4376 (c) The pedigree shall include all necessary identifying information concerning each sale
 4377 in the chain of distribution of the product from the manufacturer, to acquisition and sale by
 4378 any wholesale distributor or repackager, and to final sale to a pharmacy or other person
 4379 dispensing or administering the prescription drug. At a minimum, the pedigree shall
 4380 include:

- 4381 (1) The name, address, telephone number, and, if available, e-mail address of each owner
 4382 of the prescription drug and each wholesale distributor of the prescription drug;
- 4383 (2) The name and address of each location from which the prescription drug was
 4384 shipped, if different from the owner's;
- 4385 (3) Transaction dates;
- 4386 (4) Certification that each recipient, excluding retail or hospital pharmacies, has
 4387 authenticated the pedigree;
- 4388 (5) The name of the prescription drug;
- 4389 (6) Dosage form and strength of the prescription drug;
- 4390 (7) Size of the container;
- 4391 (8) Number of containers;
- 4392 (9) Lot number of the prescription drug; and
- 4393 (10) The name of the manufacturer of the finished dosage form.

4394 (d) Each pedigree shall be:

- 4395 (1) Maintained by the wholesale distributor at its licensed location, unless given written
 4396 authorization from the ~~board~~ director to do otherwise, for three years from the date of sale
 4397 or transfer; and

4398 (2) Available for inspection, copying, or use at the licensed location upon a verbal
4399 request by the ~~board or its designee~~ director.

4400 (e) The licensing board shall adopt rules and regulations, including a standard form,
4401 relating to the requirements of this article no later than 90 days after the effective date of
4402 this article.

4403 (f) Pharmacies licensed pursuant to this chapter shall not be required to possess or
4404 maintain any pedigree issued pursuant to this Code section.

4405 26-4-203.

4406 (a) If the ~~board~~ director finds that there is a reasonable probability that:

4407 (1) A wholesale distributor, other than a manufacturer, has:

4408 (A) Violated a provision of this article; or

4409 (B) Falsified a pedigree, provided a falsified pedigree, or sold, distributed, transferred,
4410 manufactured, repackaged, handled, or held a counterfeit prescription drug intended for
4411 human use;

4412 (2) The prescription drug at issue in subparagraph (B) of paragraph (1) of this subsection
4413 could cause serious, adverse health consequences or death; and

4414 (3) Other procedures would result in unreasonable delay,

4415 the ~~board~~ director shall issue an order requiring the appropriate person including the
4416 distributors or retailers of the prescription drug to immediately cease distribution of the
4417 prescription drug in or to this state.

4418 (b) An order under subsection (a) of this Code section shall provide the person subject to
4419 the order with ~~an opportunity for an informal hearing, to be held not later than ten calendar~~
4420 ~~days after the date of the issuance of the order, on the actions required by the order. If,~~
4421 ~~after such a hearing, the~~ notice and the opportunity for a hearing as provided in Code
4422 Section 43-1-3.1. If a hearing before the licensing board is requested and the licensing
4423 board determines that inadequate grounds exist to support the actions required by the order,
4424 the licensing board shall vacate the order.

4425 26-4-204.

4426 It shall be unlawful for a person to perform or cause the performance of or aid and abet any
4427 of the following acts in this state:

4428 (1) Selling, distributing, or transferring a prescription drug to a person that is not
4429 authorized to receive the prescription drug under the law of the jurisdiction in which the
4430 person receives the prescription drug;

4431 (2) Failing to maintain or provide pedigrees as required by the licensing board;

- 4432 (3) Failing to obtain, transfer, or authenticate a pedigree as required by the licensing
 4433 board;
- 4434 (4) Providing the licensing board or the director or any of its their representatives or any
 4435 federal official with false or fraudulent records, including, but not limited to falsified
 4436 pedigrees, or making false or fraudulent statements regarding any matter within the
 4437 provisions of this article;
- 4438 (5) Obtaining or attempting to obtain a prescription drug by fraud, deceit, or
 4439 misrepresentation or engaging in misrepresentation or fraud in the distribution of a
 4440 prescription drug; and
- 4441 (6) Except for the wholesale distribution by manufacturers of a prescription drug that has
 4442 been delivered into commerce pursuant to an application approved under federal law by
 4443 the Food and Drug Administration, the manufacturing, repackaging, selling, transferring,
 4444 delivering, holding, or offering for sale of any prescription drug that is adulterated,
 4445 misbranded, counterfeit, suspected of being counterfeit, or has otherwise been rendered
 4446 unfit for distribution.

4447 26-4-205.

- 4448 (a) Notwithstanding Code Section 26-4-115, any person who engages without knowledge
 4449 in the wholesale distribution of prescription drugs, including providing a falsified pedigree
 4450 or other records, in violation of this article may be fined not more than \$10,000.00.
- 4451 (b) If a person engages in wholesale distribution of prescription drugs in violation of this
 4452 article, including providing a falsified pedigree or other records, and acts in a grossly
 4453 negligent manner in violation of this article, the person may be punished by imprisonment
 4454 for not more than 15 years, fined not more than \$50,000.00, or both.
- 4455 (c) Notwithstanding Code Section 26-4-115, any person who knowingly engages in
 4456 wholesale distribution of prescription drugs in violation of this article, including providing
 4457 a falsified pedigree or other records, shall be guilty of a felony and, upon conviction
 4458 thereof, shall be punished by imprisonment for not more than 25 years, by fine not to
 4459 exceed \$500,000.00, or both.

4460 26-4-206.

4461 Pursuant to Ga. L. 2007, p. 463, Section 2, this article shall become effective only when
 4462 funds are specifically appropriated for purposes of this article in an Appropriations Act
 4463 making specific reference to this article.

4464

ARTICLE 13

4465 26-4-210.

4466 This article shall be known and may be cited as the 'Safe Medications Practice Act.'

4467 26-4-211.

4468 (a) The General Assembly finds and declares that:

4469 (1) Medications are essential for the effective treatment and prevention of illness and
4470 disease, and medications, particularly dangerous drugs, are recognized to be complex
4471 chemical compounds which may cause untoward side effects, adverse reactions, and
4472 other undesirable and potentially harmful effects;4473 (2) Hospital pharmacists are highly trained in the therapeutic use of medications and
4474 have expertise in the safe, appropriate, and cost-effective use of medications; and4475 (3) Therefore, it is essential that physicians, pharmacists, and other clinical health care
4476 practitioners in an institutional setting collaborate to promote safe and effective
4477 medication therapy for the institution's patients.4478 (b) The intent of the General Assembly in enacting this legislation is to maximize patient
4479 safety, to ensure safe and desirable medication therapy outcomes, and to achieve desired
4480 therapeutic goals.

4481 26-4-212.

4482 As used in this article, the term:

4483 (1) 'Collaborate' means to work jointly with others as approved by an order from a
4484 physician member of the institution's medical staff for care and treatment of the ordering
4485 physician's patients or pursuant to a protocol established in accordance with medical staff
4486 policy.4487 (2) 'Hospital pharmacist' means a pharmacist that is employed by, or under contract with,
4488 an institution and practicing in an institutional setting.4489 (3) 'Institution' means any licensed hospital, nursing home, assisted living community,
4490 personal care home, or hospice.

4491 26-4-213.

4492 Hospital pharmacists shall be authorized to collaborate with members of the medical staff
4493 in an institution on drug therapy management.

4494 26-4-214.

4495 (a) The ~~State Board of Pharmacy~~ licensing board shall establish rules and regulations
 4496 governing a hospital pharmacist acting pursuant to Code Section 26-4-213 in the provision
 4497 of drug therapy management in institutions in consultation or collaboration with
 4498 physicians. Such rules may include the utilization of a hospital pharmacist's skills
 4499 regarding dangerous drugs to promote medication safety. Such rules shall include the
 4500 ordering of clinical laboratory tests in the institutional setting and the interpretation of
 4501 results related to medication use when approved by a physician member of the institution's
 4502 medical staff for the care and treatment of the ordering physician's patients or pursuant to
 4503 a protocol established in accordance with medical staff policy.

4504 (b) The Georgia Composite Medical Board shall establish rules and regulations governing
 4505 a physician acting pursuant to this article."

4506 **SECTION 1-4.**

4507 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 4508 is amended by revising Chapter 1, relating to general provisions, as follows:

4509 "CHAPTER 1

4510 ARTICLE 1

4511 43-1-1.

4512 As used in this title, the term:

4513 (1) 'Division' means the professional licensing ~~boards~~ division created under Code
 4514 Section 43-1-2.

4515 (2) ~~'Division director'~~ 'Director of professional licensing' or 'director' means the
 4516 individual appointed by the Secretary of State as director of the professional licensing
 4517 ~~boards~~ division within the office of the Secretary of State.

4518 (3) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 4519 Article 2 of this chapter.

4520 ~~(3)(4)~~ (4) 'Professional licensing policy board' means any board, bureau, commission, or
 4521 other agency of the executive branch of state government which is created for the purpose
 4522 of ~~licensing or otherwise regulating or controlling any profession, business, or trade~~
 4523 carrying out the responsibilities set forth in subsection (b) of Code Section 43-1-3 and
 4524 which is placed by law under the jurisdiction of the director of the professional licensing
 4525 ~~boards division within the office of the Secretary of State.~~

4526 43-1-2.

4527 (a)(1) There is created within the office of the Secretary of State the professional
4528 licensing ~~boards~~ division as successor to the office of the joint-secretary of the state
4529 examining boards. The Secretary of State is authorized and directed to appoint a director
4530 of the professional licensing ~~boards~~ division.

4531 (2) Any action of the joint-secretary taken with regard to any state examining board prior
4532 to July 1, 2000, shall thereafter be deemed to be action taken by the director of the
4533 professional licensing ~~boards~~ division and that ~~division~~ director shall thereafter act in the
4534 stead of such joint-secretary and succeed to the powers and duties of the joint-secretary
4535 with regard to those state examining boards. The rights, privileges, entitlements, or
4536 duties of parties to contracts, leases, agreements, or other transactions entered into by the
4537 joint-secretary prior to July 1, 2000, shall continue to exist and shall not be impaired or
4538 diminished by reason of the succession of the ~~division~~ director to the powers and duties
4539 of the joint-secretary.

4540 (b) The salary of the ~~division~~ director of professional licensing shall be fixed by the
4541 Secretary of State, and he or she shall hold office at the pleasure of the Secretary of State.

4542 (c) The Secretary of State, notwithstanding any other provisions of law to the contrary,
4543 shall employ personnel as deemed necessary to carry out this chapter and to provide for all
4544 services required by each of the professional licensing policy boards and the licensing
4545 board and shall establish within the guidelines provided by the laws and rules and
4546 regulations of the State Personnel Administration the qualifications of such personnel.

4547 (d) The ~~division~~ director of professional licensing, with the approval of the Secretary of
4548 State, notwithstanding any other provisions of law to the contrary, shall enter into such
4549 contracts as are deemed necessary to carry out this chapter to provide for all services
4550 required by each of the professional licensing policy boards and the licensing board.

4551 (e) The Secretary of State, notwithstanding any other provisions of law to the contrary,
4552 shall have the power to employ and shall set the qualifications and salary for a deputy
4553 ~~division~~ director of professional licensing and shall appoint executive directors as required
4554 who shall act in the absence of the ~~division~~ director of professional licensing and who shall
4555 perform such other functions of the ~~division~~ director of professional licensing under this
4556 chapter as the ~~division~~ director of professional licensing may designate. The deputy
4557 ~~division~~ director of professional licensing and executive directors as appointed shall be in
4558 the unclassified service and shall be excluded from the classified service as defined in
4559 Article 1 of Chapter 20 of Title 45.

4560 (f) Notwithstanding any other provisions of law to the contrary, each member of the
4561 various professional licensing policy boards may receive the expense allowance as
4562 provided by subsection (b) of Code Section 45-7-21 and the same mileage allowance for

4563 the use of a personal car as that received by all other state officials and employees or a
 4564 travel allowance of actual transportation cost if traveling by public carrier within the state.
 4565 Any board member ~~shall~~ may also be reimbursed for any conference or meeting
 4566 registration fee incurred in the performance of his or her duties as a board member. For
 4567 each day's service outside of the state as a board member, such member ~~shall~~ may receive
 4568 actual expenses as an expense allowance as well as the same mileage allowance for the use
 4569 of a personal car as that received by other state officials and employees or a travel
 4570 allowance of actual transportation cost if traveling by public carrier or by rental motor
 4571 vehicle. Expense vouchers submitted by members of the various professional licensing
 4572 policy boards or the licensing board are subject to approval of the president or chairperson
 4573 of the respective board and the ~~division~~ director of professional licensing.

4574 (g) All meetings and hearings of the respective professional licensing policy boards and
 4575 the licensing board shall be held in the capitol, at the site of the office of the respective
 4576 board, or at such other site as may be requested by the chairperson or president of a
 4577 professional licensing policy board and approved by the ~~division~~ director of professional
 4578 licensing regardless of the location.

4579 (h) A majority of the appointed members of a professional licensing policy board and of
 4580 the licensing board shall constitute a quorum for the transaction of business by that board.

4581 (h.1) Members of a professional licensing policy board shall serve until the expiration of
 4582 the term for which they were appointed and until their successors have been appointed and
 4583 qualified unless otherwise specified under the provisions of this title.

4584 (i) A schedule of all meetings and hearings of the various professional licensing policy
 4585 boards shall be maintained either at the office of the ~~division~~ director of professional
 4586 licensing or online and be available for public review.

4587 (j) The ~~division director~~ licensing board may establish administrative standards for the
 4588 examination of applicants for licensure ~~by~~ for the various ~~professional licensing boards~~
 4589 professions governed by this title, notwithstanding any other provisions of law to the
 4590 contrary. These administrative standards may include the setting of the date, time, and
 4591 location of examinations, ~~subject to the approval of the respective professional licensing~~
 4592 ~~boards~~. Notwithstanding any other provisions of law to the contrary, examination criteria,
 4593 examination grading procedures, examination fees, examination passing score
 4594 requirements, and other matters pertaining to the examination of applicants for licensure
 4595 may be adopted by rules of the ~~respective professional licensing boards~~ licensing board as
 4596 necessary to implement such examination standards. Examination standards, including
 4597 examination criteria, grading procedures, and passing score requirements, developed in
 4598 agreement or in conjunction with a national association of state boards or other related
 4599 national association for the administration of a nationally recognized uniform examination

4600 may be adopted in lieu of state standards by the ~~respective professional licensing boards~~
 4601 licensing board.

4602 (k) The ~~division~~ director of professional licensing shall prepare and maintain a roster
 4603 containing the names and addresses of all current licensees for each of the various
 4604 professional licensing policy boards. A copy of this roster shall be available to any person
 4605 upon request at a fee prescribed by the ~~division~~ director of professional licensing sufficient
 4606 to cover the cost of printing and distribution. The following shall be treated as confidential
 4607 and need not be disclosed without the approval of the ~~professional licensing board to which~~
 4608 ~~application is made~~ director:

4609 (1) Applications and other personal information submitted by applicants, ~~except to the~~
 4610 ~~applicant, staff, and the board~~;

4611 (2) Information, favorable or unfavorable, submitted by a reference source concerning
 4612 an applicant, ~~except to the staff and the board~~;

4613 (3) Examination questions and other examination materials, ~~except to the staff and the~~
 4614 ~~board~~; and

4615 (4) The deliberations of the director of professional licensing and the licensing board
 4616 with respect to an application, an examination, a complaint, an investigation, or a
 4617 disciplinary proceeding, ~~except as may be contained in official board minutes~~.

4618 (l) Funding for the office of the ~~division~~ director of professional licensing, the licensing
 4619 board, and the various professional licensing policy boards served by such office shall be
 4620 contained in a common budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title
 4621 45, the 'Budget Act.'

4622 43-1-3.

4623 (a) It shall be the duty of the ~~division~~ director of professional licensing:

4624 (1) To implement and enforce rules and regulations adopted by the licensing board;

4625 (2) To issue, deny, or reinstate the licenses, certificates, or permits of duly qualified
 4626 applicants for licensure, certification, or permits;

4627 (3) To revoke, suspend, issue terms and conditions, place on probation, limit practice of,
 4628 fine, require additional training for, require community service of, or otherwise sanction
 4629 licensees, certificate holders, or permit holders;

4630 (4) To renew licenses, certificates, and permits and set renewal and expiration dates and
 4631 application and other deadlines;

4632 (5) Where necessary and appropriate, to establish a pool of licensed and qualified
 4633 professionals to act as peer reviewers and expert witnesses and to appoint or contract with
 4634 persons professionally qualified by education and training, professional associations, or
 4635 other professionally qualified organizations to serve as peer reviewers and expert

4636 witnesses; provided, however, that no licensing, investigative, or disciplinary duties or
4637 functions of the director shall be delegated to any professional association or related
4638 entity by contract or otherwise;
4639 (6) To keep a docket of public proceedings, actions, and filings;
4640 (7) To set office hours;
4641 (8) To initiate investigations for the purposes of discovering violations of this title;
4642 (9) To administer oaths, subpoena witnesses and documentary evidence, and take
4643 testimony in all matters relating to his or her duties;
4644 (10) To dispose of contested cases by stipulation, agreed settlement, consent order, or
4645 default pursuant to paragraph (4) of subsection (a) of Code Section 50-13-13;
4646 (11) To conduct investigative interviews;
4647 (12) To issue cease and desist orders to stop the unlicensed practice of any profession
4648 licensed, certified, or permitted under this title and impose penalties for such violations;
4649 (13) To request injunctive relief or refer cases for criminal prosecution to appropriate
4650 enforcement authorities;
4651 (14) To release investigative or applicant files to another enforcement agency or lawful
4652 licensing authority in another state;
4653 ~~(1)~~(15) To bring together and keep all records relating to the professional licensing
4654 policy boards and the licensing board;
4655 ~~(2)~~(16) To receive all applications for licenses;
4656 ~~(3)~~(17) To ~~With the consent of the board concerned,~~ to schedule the time and place for
4657 examinations;
4658 ~~(4)~~(18) To schedule the time and place for all hearings;
4659 ~~(5) To issue certificates upon authority of the professional licensing board concerned;~~
4660 and
4661 ~~(6)~~(19) Except as otherwise provided by law, to collect all fees required by law in
4662 connection with the licensing of trades and professions under such boards licensed by the
4663 director and to remit the same to the state treasurer for deposit into the general fund of
4664 the state. Notwithstanding any other provision of law, the ~~division~~ director of
4665 professional licensing is authorized to retain all funds received as collection fees for use
4666 in defraying the cost of collection of fees required under this ~~chapter~~ title from any person
4667 required to be licensed by the director; provided, however, that nothing in this Code
4668 section shall be construed so as to allow the ~~division~~ director of professional licensing to
4669 retain any funds required by the Constitution of Georgia to be paid into the state treasury;
4670 and provided, further, that the ~~division~~ director of professional licensing shall comply
4671 with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,'
4672 except Code Section 45-12-92, prior to expending any such funds; and

4673 (20) To be served with any notice or legal process necessary to be served upon the
 4674 licensing board.

4675 (b) It shall be the duty of the professional licensing policy boards:

4676 (1) When requested by the director of professional licensing or the licensing board, to
 4677 evaluate evidence based on experience, technical competence, and specialized knowledge
 4678 for the purpose of providing a recommendation to the director or licensing board, as
 4679 applicable;

4680 (2) To provide advice on proposed rules and regulations to the licensing board upon
 4681 request;

4682 (3) To propose rules for consideration by the licensing board;

4683 (4) Upon request by the licensing board, to act as peer reviewers and expert witnesses
 4684 for hearings before the licensing board; provided, however, that no licensing,
 4685 investigative, or disciplinary duties or functions of the director shall be delegated; and

4686 (5) Where necessary and appropriate, to establish a pool of licensed and qualified
 4687 professionals to act as peer reviewers and expert witnesses professionally qualified by
 4688 education and training, professional associations, or other professionally qualified
 4689 organizations to serve as peer reviewers and expert witnesses; provided, however, that
 4690 no licensing, investigative, or disciplinary duties or functions of the director or licensing
 4691 board shall be delegated to any professional association or related entity by contract or
 4692 otherwise. All orders and processes of the professional licensing boards shall be signed
 4693 and attested by the division director, or his or her designee, in the name of the particular
 4694 professional licensing board, with the seal of such board attached. Any notice or legal
 4695 process necessary to be served upon any of the professional licensing boards may be
 4696 served upon the division director.

4697 43-1-3.1.

4698 (a) A disciplinary or punitive action of the director of professional licensing, including,
 4699 without limitation, a compliance order, a cease and desist order, a suspension or
 4700 nonrenewal of a license, or a fine, taken pursuant to the provisions of this title or the rules
 4701 and regulations of the licensing board may be made without a hearing before the director;
 4702 provided, however, that any such action shall not become effective until 30 days following
 4703 the date of service upon the person against whom such action is taken. The director may,
 4704 however, enter into a consent order at any time prior to or after the time such notice has
 4705 been served.

4706 (b) Any action of the director of professional licensing pursuant to subsection (a) of this
 4707 Code section shall be taken in compliance with the provisions of this Code section;
 4708 provided, however, that the provisions of Code Sections 50-13-4 and 50-13-18 relating to

4709 emergency actions, as now or hereafter amended, are incorporated by reference in this
 4710 Code section. All persons against whom such action is taken shall be served with notice
 4711 stating the action taken, notifying the person served that he or she has the right to petition
 4712 for a hearing, and stating that the action or order shall become effective on the thirtieth day
 4713 following the date of service unless the person petitions the licensing board for an
 4714 administrative hearing.

4715 (c) If, within 30 days after having been served with notice of an action by the director, the
 4716 person against whom the action was taken appeals to the licensing board for a hearing, the
 4717 action shall be stayed pending a decision by the licensing board following such a hearing.
 4718 Such administrative hearing shall be conducted by the licensing board in accordance with
 4719 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

4720 (d) Hearings before the licensing board shall be scheduled as soon as practicable. If any
 4721 licensee or applicant after reasonable notice fails to appear at any hearing of the licensing
 4722 board for that licensee or applicant, the licensing board may proceed to hear the evidence
 4723 against such licensee or applicant and take action as if such licensee or applicant had been
 4724 present.

4725 (e) Judicial review of a final decision of the licensing board may be had solely in the
 4726 Superior Court of Bibb County.

4727 (f) Service of notice of an action taken or time for a hearing scheduled pursuant to this
 4728 Code section shall be served personally upon the licensee or applicant or served by
 4729 certified mail or statutory overnight delivery, return receipt requested, to the last known
 4730 address of record with the director or, if the recipient does not have an address on record
 4731 with the director, an address obtained from any reliable source. If such material is served
 4732 by certified mail or statutory overnight delivery and is returned marked 'unclaimed' or
 4733 'refused' or is otherwise undeliverable and if the licensee or applicant cannot, after diligent
 4734 effort, be located, the director, or his or her designee, shall be deemed to be the agent for
 4735 service for such licensee or applicant for purposes of this Code section, and service upon
 4736 the director, or the director's designee, shall be deemed to be service upon the licensee or
 4737 applicant.

4738 (g) In the event of a conflict between the provisions of this Code section and any other
 4739 provision of this title, the provisions of this Code section shall prevail unless otherwise
 4740 provided with an express reference to this Code section.

4741 43-1-4.

4742 (a) The ~~division~~ director of professional licensing shall determine the expiration, renewal,
 4743 and penalty dates for each license and certificate issued by the ~~professional licensing~~
 4744 ~~boards through the office of the division~~ director of professional licensing which is subject

4745 to renewal. ~~Before becoming effective, these expiration, renewal, and penalty dates must~~
 4746 ~~be approved by the respective professional licensing boards.~~

4747 (b) Each license and certificate issued by the ~~professional licensing boards through the~~
 4748 ~~office of the division director of professional licensing~~ which ~~are~~ is subject to renewal shall
 4749 be valid for up to two years and shall be renewable biennially on the renewal date
 4750 established by the ~~division director of professional licensing,~~ as approved by the respective
 4751 ~~professional licensing boards.~~

4752 (c) The ~~division~~ director is authorized to adopt the necessary rules and regulations to
 4753 implement the biennial renewal of licenses and certificates in such manner as to ensure that
 4754 the number of renewals is reasonably evenly distributed throughout each two-year period.

4755 43-1-5.

4756 Persons hired for the purpose of conducting investigations ~~for the professional licensing~~
 4757 ~~boards shall be designated as investigators~~ of any person, profession, or business required
 4758 to be licensed by the director shall be peace officers with the Secretary of State's
 4759 investigative section pursuant to subsection (b) of Code Section 35-8-10, and any person
 4760 so designated shall have all the powers of a peace officer of this state when engaged in the
 4761 enforcement of this title or of any of the laws creating or related to the office of the director
 4762 of professional licensing boards or the licensing board. Such investigators shall be
 4763 authorized, ~~upon the written approval of the division director,~~ notwithstanding Code
 4764 Sections 16-11-126 and 16-11-129, to carry firearms.

4765 43-1-6.

4766 The venue of any action involving the ~~members of any professional licensing board office~~
 4767 of the director of professional licensing shall be ~~governed by the laws of this state~~
 4768 ~~pertaining to venue. The division director shall not be considered a member of any such~~
 4769 ~~board in determining the venue of any such action; and no court shall have jurisdiction of~~
 4770 ~~any such action solely by virtue of the division director residing or maintaining a residence~~
 4771 within its jurisdiction solely in the Superior Court of Bibb County.

4772 43-1-7.

4773 ~~Each professional licensing board~~ The director of professional licensing is authorized to
 4774 charge an examination fee, license fee, license renewal fee, or similar fee, and ~~may~~ the
 4775 licensing board shall establish the amount of the fee to be charged. Each fee so established
 4776 shall be reasonable and shall be determined in such a manner that the total amount of fees
 4777 charged by the director of professional licensing board shall approximate the total of the
 4778 direct and indirect costs to the state of the operations of the ~~board~~ office of the director of

4779 professional licensing. Fees may be refunded for good cause, as determined by the ~~division~~
4780 director.

4781 43-1-8.

4782 Reserved.

4783 43-1-9.

4784 Any applicant taking an examination required by ~~any professional~~ any law relating to a
4785 profession licensed by the director or any rule of the licensing board, except for
4786 examinations relating to the State Board of Accountancy and the Georgia Board of
4787 Nursing, shall receive points in the following manner:

4788 (1) Any applicant who served on active duty in the armed forces of the United States or
4789 on active duty in a reserve component of the armed forces of the United States, including
4790 the National Guard, for a period of one year or more, of which at least 90 days were
4791 served during wartime or during any conflict when military personnel were committed
4792 by the President of the United States, shall be entitled to a credit of five points. Such
4793 points shall be added by the person grading the examination to the grade made by the
4794 applicant in answering the questions propounded in any such examination;

4795 (2) Any applicant who is a disabled veteran and who served on active duty in the armed
4796 forces of the United States or on active duty in a reserve component of the armed forces
4797 of the United States, including the National Guard, during wartime or during any conflict
4798 when military personnel were committed by the President of the United States shall be
4799 entitled to a credit of five points if the disability was for an injury or illness incurred in
4800 the line of duty and such disability is officially rated at less than 10 percent at the time
4801 of taking the examination. Such points shall be added by the person grading the
4802 examination to the grade made by the applicant in answering the questions propounded
4803 in any such examination; and

4804 (3) Any applicant who is a disabled veteran who served on active duty in the armed
4805 forces of the United States or on active duty in a reserve component of the armed forces
4806 of the United States, including the National Guard, during wartime or during any conflict
4807 when military personnel were committed by the President of the United States shall be
4808 entitled to a credit of ten points if the disability was for an injury or illness incurred in the
4809 line of duty and such disability is officially rated at 10 percent or above at the time of
4810 taking the examination. Such points shall be added by the person grading the
4811 examination to the grade made by the applicant in answering questions propounded in
4812 any such examination.

4813 43-1-10.

4814 If an examination given by a ~~the director of~~ professional licensing board is required in parts
4815 or by subjects and the applicant is required to make a minimum grade on each of the parts
4816 or subjects, the points to which the applicant is entitled shall be added to the grade made
4817 on each part or subject before the average of his or her grade on all of the parts or subjects
4818 is determined.

4819 43-1-11.

4820 A person grading an examination required by a ~~professional~~ any law relating to a
4821 profession licensed by the director or any rule of the licensing board shall first grade the
4822 examination without reference to veteran credit, determining thereafter from the proof
4823 submitted whether an applicant is a veteran and is entitled to such credit; if so, the credit
4824 shall be added; and if after such addition the applicant equals or exceeds the grade required
4825 to pass the examination, the applicant shall be entitled to be certified as having passed the
4826 examination.

4827 43-1-12.

4828 It shall be the duty of the ~~division~~ director of professional licensing to inform applicants
4829 taking the examination of the provisions of Code Sections 43-1-9 through 43-1-11 and
4830 Code Section 43-1-13. The ~~division~~ director of professional licensing shall make such rules
4831 and regulations as are necessary in order to carry out the terms of Code Sections 43-1-9
4832 through 43-1-11 and Code Section 43-1-13.

4833 43-1-13.

4834 The provisions of Code Sections 43-1-9 through 43-1-12 relating to points to be allowed
4835 to veterans shall apply to any applicant, male or female, who comes within the classes
4836 specified in those Code sections except that such provisions shall not apply in any instance
4837 to an applicant who has not been honorably discharged.

4838 43-1-14.

4839 The Governor is authorized to appoint any person who is otherwise qualified as provided
4840 by law to serve as a member of any professional licensing policy board for a regular term
4841 or for an unexpired term, notwithstanding the fact that the law creating such board requires
4842 the Governor to appoint members from a list of nominees submitted by a private
4843 organization or association.

4844 43-1-15.

4845 (a) All carnivals, road shows, and tent shows and all other itinerant entertainment not
4846 presented within any regularly licensed theater, auditorium, or other building permitted to
4847 be used for the offering of entertainment for value shall, before opening to the public or
4848 offering any amusement, entertainment, or other service to the public for value within this
4849 state:

4850 (1) Designate a resident of this state as agent and lawful attorney in fact upon whom may
4851 be served all summons or other lawful processes in any action or proceeding against such
4852 carnival, circus, road show, tent show, or other itinerant show or itinerant entertainment
4853 for any action arising as a result of its appearance in this state. The name and address of
4854 such resident agent shall be filed with the judge of the probate court of each county in
4855 which such carnival, circus, or show is to be held. If no resident agent has been
4856 designated, the Secretary of State shall become such agent with all the foregoing
4857 authority, and service of such process shall be made by serving a copy of the petition with
4858 process attached thereto on the Secretary of State or an employee in his or her office
4859 designated by the Secretary of State as an agent to receive service in his or her name, or
4860 his or her successor in office, along with a copy of the affidavit to be submitted to the
4861 court pursuant to this Code section, and such service shall be sufficient service upon any
4862 such carnival, circus, or show, provided that notice of such service and a copy of the
4863 petition and process are forthwith sent by registered or certified mail or statutory
4864 overnight delivery by the plaintiff or his or her agent to the defendant, if its address is
4865 known, and that the defendant's return receipt and the plaintiff's affidavit of compliance
4866 herewith are appended to the summons or other process and are filed with ~~said~~ such
4867 summons, petition, and other papers in the case in the court in which the action is
4868 pending. The Secretary of State shall charge and collect a fee as set out in Code Section
4869 45-13-26 for service of process on him or her under this Code section;

4870 (2) Secure an insurance policy or a bond, affording coverage to such carnival, circus, or
4871 show for the extent of its stay within this state, ~~which~~ and such insurance policy or bond
4872 shall be subject to any personal injury or death or property damages to the following
4873 limits:

4874 (A) An indemnity bond subject to a limit of \$100,000.00; or

4875 (B) An insurance policy or public liability bond subject to a limit of \$50,000.00 for
4876 personal injury or death or property damage sustained by any one person and subject
4877 to a limit of \$100,000.00 for personal injuries or death or property damages sustained
4878 by two or more persons as a result of any one accident or event; and

4879 (3) File a copy of such insurance policy or bond with the judge of the probate court in
4880 the county where the carnival, circus, or show is to be held or with both the judge of the

4881 probate court and the Secretary of State. The Secretary of State is authorized and directed
 4882 to issue, upon the request of any carnival, circus, or show filing a copy of such insurance
 4883 policy or bond in his or her office, a certificate of filing, stating the coverage afforded by
 4884 the policy or bond and the effective dates, ~~which~~ and the certificate may be filed with the
 4885 judge of the probate court of the county where the carnival, circus, or show is to be held
 4886 in lieu of a copy of the policy or bond. The Secretary of State is authorized to prescribe
 4887 and require such terms and conditions in such policies as he or she may deem necessary
 4888 or advisable to protect the interests of the public in carrying out the purposes of this Code
 4889 section, and he or she is further authorized to prescribe and require use of a standard form
 4890 of bond and policy for use under this Code section.

4891 (b) Any owner, manager, employee, or other person, excluding landowners on whose land
 4892 a carnival, circus, road show, or itinerant show is operated, who shall cause or grant
 4893 permission, either actual or constructive, to any carnival, circus, road show, tent show, or
 4894 other itinerant show or itinerant entertainment or any part thereof to operate in violation of
 4895 this Code section shall be guilty of a misdemeanor.

4896 43-1-16.

4897 Each person appointed by the Governor as a member of a professional licensing policy
 4898 board shall be confirmed by the Senate; and any such appointment made when the Senate
 4899 is not in session shall be effective until the appointment is acted upon by the Senate.

4900 43-1-17.

4901 The Governor, after notice and opportunity for hearing, may remove from office any
 4902 member of a professional licensing policy board or the licensing board for any of the
 4903 following:

- 4904 (1) Inability or neglect to perform the duties required of members;
- 4905 (2) Incompetence; or
- 4906 (3) Dishonest conduct.

4907 43-1-18.

4908 Without affecting the eligibility to vote of any other member of a professional licensing
 4909 policy board, each consumer member of a professional licensing policy board shall be
 4910 eligible to vote on all matters brought before that board.

4911 43-1-19.

4912 (a) ~~A~~ The director of professional licensing ~~board~~ shall have the authority to refuse to
 4913 grant a license to an applicant ~~therefor~~ or to revoke the license of a person licensed by ~~that~~

4914 ~~board~~ the director or to discipline a person licensed by ~~that board~~ the director, upon a
 4915 finding by ~~a majority of the entire board~~ the director of professional licensing that the
 4916 licensee or applicant has:

4917 (1) Failed to demonstrate the qualifications or standards for a license contained in this
 4918 Code section, or under the laws, rules, or regulations under which licensure is sought or
 4919 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the
 4920 ~~board~~ director of professional licensing that he or she meets all the requirements for the
 4921 issuance of a license, and, if the ~~board~~ director of professional licensing is not satisfied
 4922 as to the applicant's qualifications, ~~it he or she~~ may deny a license ~~without a prior hearing;~~
 4923 provided, however, that the applicant shall be ~~allowed to appear before the board if he or~~
 4924 ~~she so desires~~ entitled to notice and the opportunity for a hearing as provided in Code
 4925 Section 43-1-3.1;

4926 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
 4927 practice of a business or profession licensed ~~under this title~~ by the director or on any
 4928 document connected therewith; ~~or~~ practiced fraud or deceit or intentionally made any
 4929 false statement in obtaining a license to practice the licensed business or profession; or
 4930 made a false statement or deceptive registration with the ~~board~~ director of professional
 4931 licensing;

4932 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
 4933 of this state or any other state, territory, or country or in the courts of the United States;
 4934 as used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall
 4935 include any offense which, if committed in this state, would be deemed a felony, without
 4936 regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'
 4937 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
 4938 appeal of the conviction has been sought;

4939 (4) Been arrested, charged, and sentenced for the commission of any felony, or any crime
 4940 involving moral turpitude, where:

4941 (A) First offender treatment without adjudication of guilt pursuant to the charge was
 4942 granted; or

4943 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
 4944 charge, except with respect to a plea of nolo contendere.

4945 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
 4946 to probation of first offenders, or other first offender treatment shall be conclusive
 4947 evidence of arrest and sentencing for such crime;

4948 (5) Had his or her license to practice a business or profession licensed ~~under this title~~ by
 4949 the director revoked, suspended, or annulled by any lawful licensing authority other than
 4950 the ~~board~~ director; ~~or~~ had other disciplinary action taken against him or her by any such

4951 lawful licensing authority other than the ~~board~~ director; or was denied a license by any
 4952 such lawful licensing authority other than the ~~board~~ director, pursuant to disciplinary
 4953 proceedings; or was refused the renewal of a license by any such lawful licensing
 4954 authority other than the ~~board~~ director, pursuant to disciplinary proceedings;

4955 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
 4956 or practice harmful to the public; ~~which conduct or practice that~~ that materially affects the
 4957 fitness of the licensee or applicant to practice a business or profession licensed under this
 4958 title; or is of a nature likely to jeopardize the interest of the public; ~~which;~~ such conduct
 4959 or practice need not have resulted in actual injury to any person or be directly related to
 4960 the practice of the licensed business or profession but shows that the licensee or applicant
 4961 has committed any act or omission which is indicative of bad moral character or
 4962 untrustworthiness; ~~unprofessional.~~ Unprofessional conduct shall also include any
 4963 departure from, or the failure to conform to, the minimal reasonable standards of
 4964 acceptable and prevailing practice of the business or profession licensed ~~under this title~~
 4965 by the director;

4966 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
 4967 encourages any unlicensed person or any licensee whose license has been suspended or
 4968 revoked by ~~a professional~~ the director of professional licensing or the licensing board to
 4969 practice a business or profession licensed ~~under this title~~ by the director or to practice
 4970 outside the scope of any disciplinary limitation placed upon the licensee by the licensing
 4971 board or the director of professional licensing;

4972 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
 4973 ~~professional licensing board regulating the business or profession licensed under this title,~~
 4974 the director of professional licensing, the United States, or any other lawful authority
 4975 (without regard to whether the violation is criminally punishable); ~~which when such~~
 4976 statute, law, or rule or regulation relates to or in part regulates the practice of a business
 4977 or profession licensed ~~under this title;~~ by the director and when the licensee or applicant
 4978 knows or should know that such action ~~is violative of~~ violates such statute, law, or rule;
 4979 or violated a lawful order of the director or the licensing board previously entered ~~by the~~
 4980 board in a disciplinary ~~hearing action~~, consent decree, or license reinstatement;

4981 (9) Been adjudged mentally incompetent by a court of competent jurisdiction within or
 4982 outside this state; any such adjudication shall automatically suspend the license of any
 4983 such person and shall prevent the reissuance or renewal of any license so suspended for
 4984 ~~as~~ so long as the adjudication of incompetence is in effect;

4985 (10) Displayed an inability to practice a business or profession licensed ~~under this title~~
 4986 by the director with reasonable skill and safety to the public or has become unable to
 4987 practice the licensed business or profession with reasonable skill and safety to the public

4988 by reason of illness; or use of alcohol, drugs, narcotics, chemicals, or any other type of
4989 material;

4990 (11) Failed to comply with an order for child support as defined by Code Section
4991 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of
4992 release to the ~~board~~ director of professional licensing from the child support agency
4993 within the Department of Human Services indicating that the applicant or licensee has
4994 come into compliance with an order for child support so that a license may ~~issue~~ be
4995 issued or ~~be~~ granted if all other conditions for licensure are met; or

4996 (12) Failed to enter into satisfactory repayment status and is a borrower in default as
4997 defined by Code Section 20-3-295; it shall be incumbent upon the applicant or licensee
4998 to supply a notice of release to the ~~board~~ director of professional licensing from the
4999 Georgia Higher Education Assistance Corporation indicating that the applicant or
5000 licensee has entered into satisfactory repayment status so that a license may be issued or
5001 granted if all other conditions for licensure are met.

5002 (b) An order of the director of professional licensing for the revocation, suspension,
5003 annulment, or withdrawal of any license may be made without a hearing before the
5004 director; provided, however, that the licensee shall be entitled to notice and the opportunity
5005 for a hearing as provided in Code Section 43-1-3.1. ~~The provisions of Chapter 13 of Title~~
5006 ~~50, the 'Georgia Administrative Procedure Act,' with respect to emergency action by a~~
5007 ~~professional licensing board and summary suspension of a license are adopted and~~
5008 ~~incorporated by reference into this Code section.~~

5009 (c) For purposes of this Code section, a the director of professional licensing ~~board~~ may
5010 obtain, through subpoena ~~by the division director~~, upon reasonable grounds, any and all
5011 records relating to the mental or physical condition of a licensee or applicant, and such
5012 records shall be admissible in any hearing before the licensing board.

5013 (d) When a the director of professional licensing ~~board~~ finds that any person is unqualified
5014 to be granted a license or finds that any person should be disciplined pursuant to subsection
5015 (a) of this Code section or the laws, rules, or regulations relating to the business or
5016 profession licensed ~~by the board~~, the ~~board~~ director of professional licensing may take any
5017 one or more of the following actions:

- 5018 (1) Refuse to grant or renew a license to an applicant;
5019 (2) Administer a public or private reprimand, but a private reprimand shall not be
5020 disclosed to any person except the licensee;
5021 (3) Suspend any license for a definite period or for an indefinite period in connection
5022 with any condition which may be attached to the restoration of ~~said~~ such license;
5023 (4) Limit or restrict any license as the ~~board~~ director of professional licensing deems
5024 necessary for the protection of the public;

- 5025 (5) Revoke any license;
- 5026 (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's
5027 or licensee's submission to such care, counseling, or treatment as the ~~board~~ director of
5028 professional licensing may direct;
- 5029 (7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation
5030 relating to the licensed business or profession; or
- 5031 (8) Impose on a licensee or applicant fees or charges in an amount necessary to
5032 reimburse the office of the director of professional licensing board for the administrative
5033 and legal costs incurred ~~by the board~~ in conducting an investigative or disciplinary
5034 proceeding.
- 5035 (e) In addition to and in conjunction with the actions described in subsection (d) of this
5036 Code section, ~~a~~ the director of professional licensing board may make a finding adverse to
5037 the licensee or applicant but withhold imposition of judgment and penalty; or ~~it~~ he or she
5038 may impose the judgment and penalty but suspend enforcement thereof and place the
5039 licensee on probation, which ~~probation~~ may be vacated upon ~~noncompliance~~ compliance
5040 with such reasonable terms as the ~~board~~ director of professional licensing may impose.
- 5041 (f) An action of the director of professional licensing taken pursuant to this Code section
5042 or the laws, rules, or regulations relating to a business or profession licensed by the director
5043 of professional licensing shall be taken in compliance with the provisions of Code Section
5044 43-1-3.1. Initial judicial review of a final decision of a professional ~~the~~ licensing board
5045 ~~shall~~ may be had solely in the ~~superior court of the county of domicile of the board~~
5046 Superior Court of Bibb County. The court may assess reasonable and necessary attorney's
5047 fees and expenses of litigation in any such review if, upon the motion of any party or the
5048 court itself, it finds that an attorney or any party aggrieved by an action of the licensing
5049 board appealed such action of the licensing board or any part thereof when such appeal
5050 lacked substantial justification or when such appeal or any part thereof was interposed for
5051 delay or harassment or if it finds that an attorney or aggrieved party unnecessarily
5052 expanded the proceeding by other improper conduct. As used in this subsection, 'lacked
5053 substantial justification' means substantially frivolous, substantially groundless, or
5054 substantially vexatious.
- 5055 (g) ~~In its discretion, a~~ The director of professional licensing board in his or her discretion
5056 may reinstate a license which has been revoked or issue a license which has been denied
5057 or refused, following such procedures as the licensing board may prescribe by rule; and,
5058 as a condition thereof, ~~it~~ the director may impose any disciplinary or corrective method
5059 provided in this Code section or the laws relating to the licensed business or profession
5060 title.

5061 (h)(1) The ~~division~~ director of professional licensing is vested with the power and
 5062 authority to make, or cause to be made through employees or agents of ~~the division~~, such
 5063 investigations as he or she or ~~a respective~~ the licensing board may deem necessary or
 5064 proper for the enforcement of the provisions of this Code section and the laws relating
 5065 to businesses and professions licensed by ~~that board~~ the director. Any person properly
 5066 conducting an investigation on behalf of ~~a professional~~ the licensing board or the director
 5067 shall have access to and may examine any writing, document, or other material relating
 5068 to the fitness of any licensee or applicant. The ~~division~~ director or his or her appointed
 5069 representative may issue subpoenas to compel access to any writing, document, or other
 5070 material upon a determination that reasonable grounds exist for the belief that a violation
 5071 of this Code section or any other law relating to the practice of the licensed business or
 5072 profession subject to regulation or licensing by ~~such board~~ the director may have taken
 5073 place.

5074 (2) The results of all investigations initiated by the ~~board~~ director shall be reported solely
 5075 to the ~~board~~ director, and the records of such investigations shall be kept ~~for the board~~ by
 5076 the ~~division~~ director, with the licensing board retaining the right to have access at any
 5077 time to such records in the event a hearing before the licensing board is requested. No
 5078 part of any such records shall be released, ~~except to the board~~, for any purpose other than
 5079 a hearing before the licensing board or for the purpose of evaluating and issuing a
 5080 recommendation by the professional licensing policy board pursuant to subsection (b) of
 5081 Code Section 43-1-3, nor shall such records be subject to subpoena; provided, however,
 5082 that the ~~board~~ director of professional licensing shall be authorized to release such
 5083 records to another enforcement agency or lawful licensing authority.

5084 (3) If a licensee is the subject of ~~a board~~ an inquiry by the director of professional
 5085 licensing, all records relating to any person who receives services rendered by that
 5086 licensee in his or her capacity as licensee shall be admissible at any hearing held to
 5087 determine whether a violation of this chapter has taken place, regardless of any statutory
 5088 privilege; provided, however, that any documentary evidence relating to a person who
 5089 received those services shall be reviewed in camera and shall not be disclosed to the
 5090 public.

5091 (4) The licensing board shall have the authority to exclude all persons during its
 5092 deliberations on disciplinary proceedings and to discuss any disciplinary matter in private
 5093 with a licensee or applicant and the legal counsel of that licensee or applicant.

5094 (5) When a member of the public files a complaint with ~~a~~ the director of professional
 5095 licensing ~~board or the division director~~ against a licensee, within 30 days after the
 5096 conclusion of the investigation of such complaint, the director of professional licensing
 5097 ~~board or the division director~~ shall notify cause the complainant of the disposition to be

5098 notified of such complaint. Such notification shall include whether any action was taken
 5099 ~~by the board~~ with regard to such complaint and the nature of such action. In addition, the
 5100 ~~division director and the board shall~~ may, upon request by the complainant, advise the
 5101 complainant as to the status of the complaint during the period of time that such
 5102 complaint is pending.

5103 (i) A person, firm, corporation, association, authority, or other entity shall be immune from
 5104 civil and criminal liability for reporting or investigating the acts or omissions of a licensee
 5105 or applicant which violate the provisions of subsection (a) of this Code section or any other
 5106 provision of law relating to a licensee's or applicant's fitness to practice a business or
 5107 profession licensed under this title or for initiating or conducting proceedings against such
 5108 licensee or applicant, if such report is made or action is taken in good faith, without fraud
 5109 or malice. Any person who testifies or who makes a recommendation to a professional
 5110 licensing policy board in the nature of peer review, in good faith, without fraud or malice,
 5111 before the licensing board in any proceeding involving the provisions of subsection (a) of
 5112 this Code section or any other law relating to a licensee's or applicant's fitness to practice
 5113 the business or profession licensed by the ~~board~~ director of professional licensing shall be
 5114 immune from civil and criminal liability for so testifying.

5115 (j) Neither the issuance of a private reprimand nor the denial of a license by reciprocity nor
 5116 the denial of a request for reinstatement of a revoked license nor the refusal to issue a
 5117 previously denied license shall be considered to be a contested case within the meaning of
 5118 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; notice and hearing
 5119 within the meaning of said chapter shall not be required, but the applicant or licensee shall
 5120 be allowed to appear before the licensing board if he or she so requests. The director of
 5121 professional licensing ~~A board~~ may resolve a pending action by the issuance of a letter of
 5122 concern. Such letter shall not be considered a disciplinary action or a contested case under
 5123 Chapter 13 of Title 50 and shall not be disclosed to any person except the licensee or
 5124 applicant.

5125 (k) The director may refer any contested case involving a licensee or applicant to the
 5126 licensing board for a hearing, review, or other proceeding in accordance with Chapter 13
 5127 of Title 50, the 'Georgia Administrative Procedure Act.' If any licensee or applicant after
 5128 reasonable notice fails to appear at any hearing of the ~~professional~~ licensing board for that
 5129 licensee or applicant, the licensing board may proceed to hear the evidence against such
 5130 licensee or applicant and take action as if such licensee or applicant had been present. A
 5131 notice of hearing, initial or recommended decision, or final decision of the licensing board
 5132 in a disciplinary proceeding shall be served personally upon the licensee or applicant or
 5133 served by certified mail or statutory overnight delivery, return receipt requested, to the last
 5134 known address of record with the ~~board~~ director; provided, however, that notice may be

5135 waived by instrument in writing executed before or after the meeting; and provided,
 5136 further, that attendance at a meeting of the licensing board shall constitute a waiver of
 5137 notice. If such material is served by certified mail or statutory overnight delivery and is
 5138 returned marked 'unclaimed' or 'refused' or is otherwise undeliverable and if the licensee
 5139 or applicant cannot, after diligent effort, be located, the ~~division~~ director of professional
 5140 licensing, or his or her designee, shall be deemed to be the agent for service for such
 5141 licensee or applicant for purposes of this Code section, and service upon that director, or
 5142 that director's designee, shall be deemed to be service upon the licensee or applicant.

5143 (l) The voluntary surrender of a license or the failure to renew a license by the end of an
 5144 established penalty period shall have the same effect as a revocation of ~~said~~ such license,
 5145 subject to reinstatement in the discretion of ~~a board~~ the director of professional licensing.
 5146 ~~A board~~ The director of professional licensing may restore and reissue a license to practice
 5147 under the relevant law ~~relating to that board~~ and, as a condition thereof, may impose any
 5148 disciplinary sanction provided by this Code section or the relevant law ~~relating to that~~
 5149 ~~board~~.

5150 (m) This Code section shall apply equally to all licensees or applicants whether
 5151 individuals, partners, or members of any other incorporated or unincorporated associations,
 5152 corporations, limited liability companies, or other associations of any kind whatsoever.

5153 (n) Regulation by ~~a professional~~ the director and the licensing board of a business or
 5154 profession licensed under this title shall not exempt that business or profession from
 5155 regulation pursuant to any other applicable law, including but not limited to Part 2 of
 5156 Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.'

5157 (o) Subsections (a), (d), and (e) of this Code section shall be supplemental to and shall not
 5158 operate to prohibit ~~any~~ the director of professional licensing ~~board~~ from acting pursuant to
 5159 those provisions of law which may now or hereafter authorize other disciplinary grounds
 5160 and actions ~~for that particular board~~. In cases where those other provisions of law so
 5161 authorize other disciplinary grounds and actions but subsection (a), (d), or (e) of this Code
 5162 section ~~limit~~ limits such grounds or actions, those other provisions shall apply.

5163 43-1-19.1.

5164 (a) For the purposes of applicable provisions of Code Section 43-1-19, it shall be
 5165 considered a deceptive or misleading practice for any person duly licensed and authorized
 5166 to provide any type of health care services to advertise, as an inducement to attract patients,
 5167 the waiver of a deductible or copayment required to be made to such person under the
 5168 patient's health insurance policy or plan.

5169 (b) This Code section shall not apply to nonprofit community health centers which
 5170 primarily serve indigent patients.

5171 (c) Notwithstanding the provisions of any other law of this Code to the contrary, it shall
 5172 not be considered a misleading, fraudulent, or deceptive act for a provider to waive
 5173 occasionally such a deductible or copayment required to be made under the patient's health
 5174 insurance contract, policy, or plan if the waiver is authorized by the insurer or if the waiver
 5175 is based on an evaluation of the individual patient and is not a regular business practice of
 5176 the person providing the health care services.

5177 43-1-19.2.

5178 Each application for a license to practice a profession or business to be issued by a the
 5179 director of professional licensing board or any agency of the state shall include a question
 5180 as to whether the applicant for such license:

5181 (1) Has had revoked or suspended or otherwise sanctioned any license issued to the
 5182 applicant by any board or agency in Georgia or any other state; or

5183 (2) Was denied issuance of or, pursuant to disciplinary proceedings, refused renewal of
 5184 a license by any board or agency in Georgia or any other state.

5185 The question shall be answered under oath and the answer shall include the name of the
 5186 ~~board or agency~~ entity which revoked, suspended, denied, refused renewal of, or otherwise
 5187 sanctioned the license.

5188 43-1-20.

5189 ~~The director of A professional licensing board, the division director,~~ or the appropriate
 5190 prosecuting attorney may bring an action to enjoin the unlicensed practice by any person
 5191 of a profession or business required to be licensed by ~~a professional licensing board~~ the
 5192 director. The action to restrain and enjoin such unlicensed practice shall be brought in the
 5193 superior court of the county where the unlicensed person resides. It shall not be necessary
 5194 to allege or prove that there is no adequate remedy at law to obtain an injunction under this
 5195 Code section.

5196 43-1-20.1.

5197 (a) Notwithstanding any other provisions of the law to the contrary, ~~after notice and~~
 5198 ~~hearing, a professional licensing board~~ the director, subject to Code Section 43-1-3.1, may
 5199 issue a cease and desist order prohibiting any person from violating ~~the provisions of this~~
 5200 ~~title~~ any law or rule relating to the practice of the licensed business or profession subject
 5201 to regulation or licensing by the director or the licensing board by engaging in the practice
 5202 of a business or profession without a license and impose a fine not to exceed \$500.00 for
 5203 each such violation.

5204 (b) The violation of any cease and desist order of a ~~professional licensing board~~ issued
 5205 under subsection (a) of this Code section shall after notice and opportunity for a hearing
 5206 subject the person violating the order to further proceedings before the licensing board, and
 5207 the ~~board~~ director of professional licensing shall be authorized to impose a fine not to
 5208 exceed \$500.00 for each transaction constituting a violation thereof. Each day that a person
 5209 practices in violation of this title shall constitute a separate violation.

5210 (c) Initial judicial review of the decision of the licensing board entered pursuant to this
 5211 Code section shall be available solely in the ~~superior court of the county of domicile of the~~
 5212 ~~board~~ Superior Court of Bibb County.

5213 (d) Nothing in this Code section shall be construed to prohibit a the director of
 5214 professional licensing board from seeking remedies otherwise available by statute without
 5215 first seeking a cease and desist order in accordance with the provisions of this Code
 5216 section.

5217 43-1-21.

5218 The ~~division~~ director of professional licensing is authorized to provide to any lawful
 5219 licensing authority of this or any other state, upon inquiry by such authority, information
 5220 regarding a past or pending investigation of or disciplinary sanction against any applicant
 5221 for licensure ~~by that board~~ or licensee ~~of that board~~ notwithstanding the provisions of
 5222 subsection (h) of Code Section 43-1-19 or any other law to the contrary regarding the
 5223 confidentiality of that information. Nothing in this Code section or chapter shall be
 5224 construed to prohibit or limit the authority of that director to disclose to any person or
 5225 entity information concerning the existence of any investigation for unlicensed practice
 5226 being conducted against any person who is neither licensed nor an applicant for licensure
 5227 ~~by a professional licensing board~~.

5228 43-1-22.

5229 The ~~division~~ director of professional licensing may provide for inactive status licenses for
 5230 ~~the various professional licensing boards~~.

5231 43-1-23.

5232 No licensee of a ~~professional licensing board~~ shall be required to file or record his or her
 5233 license with the clerk of the superior court, and no clerk shall be required to report the
 5234 filing or recordation of any such license.

5235 43-1-24.

5236 Any person licensed by a the director of professional licensing board and who practices a
 5237 'profession,' as defined in Chapter 7 of Title 14, the 'Georgia Professional Corporation Act,'
 5238 or who renders 'professional services,' as defined in Chapter 10 of Title 14, 'The Georgia
 5239 Professional Association Act,' whether such person is practicing or rendering services as
 5240 a proprietorship, partnership, professional corporation, professional association, other
 5241 corporation, limited liability company, or any other business entity, shall remain subject
 5242 to regulation by ~~that professional licensing board~~ the director, and such practice or
 5243 rendering of services in that business entity shall not change the law or existing standards
 5244 applicable to the relationship between that person rendering a professional service and the
 5245 person receiving such service, including but not limited to the rules of privileged
 5246 communication and the contract, tort, and other legal liabilities and professional
 5247 relationships between such persons.

5248 43-1-25.

5249 Except as provided in subsection (o) of Code Section 43-1-19, Code Sections 43-1-16
 5250 through 43-1-24 shall apply to ~~all the director of professional licensing boards~~ and licenses
 5251 thereunder, except the Georgia Real Estate Commission and its licensees, notwithstanding
 5252 any other law to the contrary, and ~~each such professional~~ the licensing board may
 5253 promulgate rules and regulations to implement the authority provided by the applicability
 5254 of said provisions ~~to said boards~~.

5255 43-1-26.

5256 Reserved.

5257 43-1-27.

5258 Any licensed individual who is convicted under the laws of this state, the United States, or
 5259 any other state, territory, or country of a felony as defined in paragraph (3) of subsection
 5260 (a) of Code Section 43-1-19 shall be required to notify the ~~appropriate~~ director of
 5261 professional licensing authority of the conviction within ten days of the conviction. The
 5262 failure of a licensed individual to notify the ~~appropriate~~ director of professional licensing
 5263 authority of a conviction shall be considered grounds for revocation of his or her license,
 5264 permit, registration, certification, or other authorization to conduct a licensed profession.

5265 43-1-28.

5266 (a) This Code section shall be known and may be cited as the 'Georgia Volunteers in
 5267 Health Care Specialties Act.'

5268 (b) As used in this Code section, the term:

5269 (1) ~~'Health care board' means that professional licensing board which licenses a health~~
 5270 ~~care practitioner under this title.~~

5271 (2)(1) 'Health care practitioner' means a chiropractor, registered professional nurse,
 5272 podiatrist, optometrist, professional counselor, social worker, marriage and family
 5273 therapist, occupational therapist, physical therapist, physician assistant, licensed practical
 5274 nurse, certified nurse midwife, pharmacist, speech-language pathologist, audiologist,
 5275 psychologist, or dietitian.

5276 (3)(2) 'Health care specialty' means the practice of chiropractic, nursing, podiatry,
 5277 optometry, professional counseling, social work, marriage and family therapy,
 5278 occupational therapy, physical therapy, physician assistance, midwifery, pharmacy,
 5279 speech-language pathology, audiology, psychology, or dietetics.

5280 (4)(3) 'Unrestricted' means that no restrictions have been placed on a health care
 5281 practitioner's license by ~~a health care~~ the director or the licensing board, no sanctions or
 5282 disciplinary actions have been imposed by ~~a health care~~ the director or the licensing
 5283 board on a health care practitioner, and a health care practitioner is not under probation
 5284 or suspension by ~~a health care~~ the director or the licensing board.

5285 (c) Notwithstanding any other provision of law, ~~each health care board~~ the director shall
 5286 issue a special license to qualifying health care practitioners whose health care specialty
 5287 is licensed by ~~that board~~ the director under the terms and conditions set forth in this Code
 5288 section. The special license shall only be issued to a person who:

5289 (1) Is currently licensed to practice the applicable health care specialty in any health care
 5290 specialty licensing jurisdiction in the United States and whose license is unrestricted and
 5291 in good standing; or

5292 (2) Is retired from the practice of the health care specialty or, in the case of a physician
 5293 assistant, has an inactive license and is not currently engaged in such practice either full
 5294 time or part time and has, prior to retirement or attaining inactive status, maintained full
 5295 licensure unrestricted in good standing in the applicable health care specialty licensing
 5296 jurisdiction in the United States.

5297 (d) The special licensee shall be permitted to practice the health care specialty only in the
 5298 noncompensated employ of public agencies or institutions, not for profit agencies, not for
 5299 profit institutions, nonprofit corporations, or not for profit associations which provide
 5300 health care specialty services only to indigent patients in areas which are underserved by
 5301 that specialty or critical need population areas of the state, as determined by the licensing
 5302 board ~~which licenses that specialty~~, or pursuant to Article 8 of Chapter 8 of Title 31.

5303 (e) The person applying for the special license under this Code section shall submit to the
 5304 ~~appropriate health care board~~ director a copy of his or her health care specialty degree, a

5305 copy of his or her health care specialty license in his or her current or previous licensing
 5306 and regulating jurisdiction, and a notarized statement from the employing agency,
 5307 institution, corporation, association, or health care program on a form prescribed by ~~that~~
 5308 the licensing board and provided by the director, whereby he or she agrees unequivocally
 5309 not to receive compensation for any health care specialty services he or she may render
 5310 while in possession of the special license.

5311 (f) Examinations by the ~~health care board~~ director, any application fees, and all licensure
 5312 and renewal fees may be waived for the holder of the special license under this Code
 5313 section.

5314 (g) If, at the time application is made for the special license, the health care practitioner
 5315 is not in compliance with the continuing education requirements established by ~~the health~~
 5316 ~~care board~~ this title for the applicable health care specialty, the health care practitioner shall
 5317 be issued a nonrenewable temporary license to practice for six months provided the
 5318 applicant is otherwise qualified for such license.

5319 (h)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons
 5320 practicing a health care specialty under and in compliance with a special license issued
 5321 under this Code section and the liability of their employers for such practice shall be
 5322 governed by Code Section 51-1-29.1, except that a podiatrist engaged in such practice
 5323 and an employer thereof shall have the same immunity from liability as provided other
 5324 health care practitioners under Code Section 51-1-29.1.

5325 (2) The liability of persons practicing a health care specialty pursuant to Article 8 of
 5326 Chapter 8 of Title 31 under and in compliance with a special license issued under this
 5327 Code section and the liability of their employers for such practice shall be governed by
 5328 the provisions of such article.

5329 (i) This Code section, being in derogation of the common law, shall be strictly construed.

5330 43-1-29.

5331 The director of A professional licensing ~~board~~ shall suspend the license of a person
 5332 ~~licensed by that board~~ who has been certified by a federal agency and reported to the ~~board~~
 5333 director for nonpayment or default or breach of a repayment or service obligation under
 5334 any federal educational loan, loan repayment, or service conditional scholarship program.
 5335 Prior to the suspension, the licensee shall be entitled to notice of the ~~board's~~ director's
 5336 intended action and opportunity to appear before the licensing board according to
 5337 procedures set forth by the ~~division director~~ licensing board in rules and regulations. A
 5338 suspension of a license under this Code section is not a contested case under Chapter 13
 5339 of Title 50, the 'Georgia Administrative Procedure ~~Act.~~ Act,' but shall be subject to Code
 5340 Section 43-1-3.1. A license suspended under this Code section shall not be reinstated or

5341 reissued until the person provides the ~~licensing board~~ director written release issued by the
 5342 reporting agency stating that the person is making payments on the loan or satisfying the
 5343 service requirements in accordance with an agreement approved by the reporting agency.
 5344 If the person has continued to meet all other requirements for licensure during the period
 5345 of suspension, reinstatement of the license shall be automatic upon receipt of the notice and
 5346 payment of any reinstatement fee which the licensing board may impose.

5347 43-1-30.

5348 Reserved.

5349 43-1-31.

5350 (a) As used in this Code section, the term 'service member' means an active duty member
 5351 of the regular or reserve component of the United States armed forces, the United States
 5352 Coast Guard, the Georgia National Guard, or the Georgia Air National Guard on ordered
 5353 federal duty for a period of 90 days or longer.

5354 (b) Any service member whose license to practice a profession issued pursuant to any
 5355 provision of this title expired while such service member was serving on active duty
 5356 outside ~~the~~ this state shall be permitted to practice such profession in accordance with such
 5357 expired license and shall not be charged with a violation of this title related to practicing
 5358 a profession with an expired license for a period of six months from the date of his or her
 5359 discharge from active duty or reassignment to a location within ~~the~~ this state. Any such
 5360 service member shall be entitled to renew such expired license without penalty within six
 5361 months after the date of his or her discharge from active duty or reassignment to a location
 5362 within ~~the~~ this state. The service member must present to the ~~applicable professional~~
 5363 ~~licensing board~~ director either a copy of the official military orders or a written verification
 5364 signed by the service member's commanding officer to waive any charges.

5365 ARTICLE 2

5366 43-1-50.

5367 As used in this article, the term 'licensing board' means the Georgia Board of Licensing and
 5368 Regulation created by this article.

5369 43-1-51.

5370 (a) There is created the Georgia Board of Licensing and Regulation to be composed of
 5371 seven members appointed by the Governor. Four of the initial members shall serve for
 5372 terms of four years, and three of the initial members shall serve initial terms of two years.

5373 Successors to the initial members shall be appointed by the Governor to serve terms of four
 5374 years and until successors are appointed. Members may succeed themselves. In the event
 5375 of a vacancy, the Governor shall appoint a person to fill such vacancy and the person so
 5376 appointed shall serve for the remainder of the unexpired term.

5377 (b) Members of the licensing board shall be residents of Georgia. No person who is
 5378 licensed as a professional by the director, and no spouse of such person, shall serve as a
 5379 member of the licensing board.

5380 (c) The members of the licensing board shall annually elect a chairperson, who shall serve
 5381 a term of one year and may succeed himself or herself.

5382 43-1-52.

5383 (a) The licensing board shall meet at least once each calendar quarter, or as often as is
 5384 necessary, and remain in session so long as the chairperson shall deem it necessary to give
 5385 full consideration to the business before the licensing board.

5386 (b) Meetings and hearings of the licensing board shall be held at the site of the office of
 5387 the licensing board or at such other site as may be requested by the chairperson and
 5388 approved by the director. A majority of the members of the licensing board shall constitute
 5389 a quorum for the transaction of business of the licensing board.

5390 (c) Each member of the licensing board shall receive a per diem in an amount equal to the
 5391 per diem received by members of the General Assembly for each day or portion thereof
 5392 spent in serving as members of the licensing board. Each member of the board shall be
 5393 paid his or her mileage expenses while engaged in the business of the licensing board.

5394 43-1-53.

5395 The licensing board shall be under the jurisdiction of the Secretary of State. Funding for
 5396 the licensing board shall be contained in a common budget unit as defined in Part 1 of
 5397 Article 4 of Chapter 12 of Title 45, the 'Budget Act.'

5398 43-1-54.

5399 On and after July 1, 2012, the licensing board shall have the following powers and duties:

5400 (1) To adopt, amend, and repeal such rules and regulations in accordance with this title
 5401 necessary for the proper administration and enforcement of this title;

5402 (2) To review upon receipt of a petition actions of the director of professional licensing
 5403 in any matter involving any person of a profession or business required to be licensed by
 5404 the director including, without limitation, the denial of a license or permit, the revocation
 5405 of a license or permit, and any fine or sanctions imposed by the director of professional
 5406 licensing upon a person licensed or permitted under this title;

- 5407 (3) To keep a docket of public proceedings, actions, and filings;
 5408 (4) To adopt necessary rules concerning proceedings before the licensing board not
 5409 inconsistent with the provisions of Chapter 13 of Title 50, the 'Georgia Administrative
 5410 Procedure Act';
 5411 (5) To set examination standards, approve examinations, and set passing score
 5412 requirements;
 5413 (6) To establish reasonable fees collected by the director of professional licensing;
 5414 (7) To conduct hearings, reviews, and other proceedings in accordance with Chapter 13
 5415 of Title 50, the 'Georgia Administrative Procedure Act,' in accordance with this article;
 5416 and
 5417 (8) To set approved educational and training requirements for licensure and continuing
 5418 education, and to approve educational and training institutions.

5419 43-1-55.

5420 All rules, regulations, and procedures adopted or implemented by a professional licensing
 5421 policy board prior to July 1, 2012, shall remain in full force and effect as rules, regulations,
 5422 and procedures of the licensing board until such time as they are amended, modified, or
 5423 repealed by the licensing board; provided, however, that the director of professional
 5424 licensing shall be substituted for the professional licensing policy board as the party
 5425 entitled to and required to implement and carry out such rules, regulations, and procedures.

5426 43-1-56.

5427 The venue of any action involving members of the licensing board shall be the Superior
 5428 Court of Bibb County. Initial judicial review of a final decision of the licensing board shall
 5429 be had solely in the Superior Court of Bibb County."

5430 **SECTION 1-5.**

5431 Said title is further amended by revising Chapter 3, relating to accountants, as follows:

5432 "CHAPTER 3

5433 43-3-1.

5434 This chapter shall be known and may be cited as the 'Public Accountancy Act of 1977.'

5435 43-3-2.

5436 As used in this chapter, the term:

5437 (1) 'Attest' means providing the following financial statement services:

- 5438 (A) Any audit or other engagement to be performed in accordance with the Statements
 5439 on Auditing Standards (SAS);
- 5440 (B) Any review of a financial statement to be performed in accordance with the
 5441 Statements on Standards for Accounting and Review Services (SSARS); provided,
 5442 however, that nothing in this definition shall alter the rights of unlicensed accountants
 5443 contained in Code Section 43-3-36;
- 5444 (C) Any examination of prospective financial information to be performed in
 5445 accordance with the Statements on Standards for Attestation Engagements (SSAE); and
- 5446 (D) Any engagement to be performed in accordance with the auditing standards of the
 5447 Public Company Accounting Oversight Board.

5448 The standards specified in this paragraph shall be adopted by reference by the licensing
 5449 board pursuant to rule making and shall be those developed for general application by
 5450 recognized national accountancy organizations, such as the American Institute for
 5451 Certified Public Accountants and the Public Company Accounting Oversight Board.

5452 (2) 'Board' means the State Board of Accountancy, a professional licensing policy board
 5453 pursuant to Chapter 1 of this title with the authority and responsibilities set forth in such
 5454 chapter.

5455 (3) 'Compilation' means providing a service to be performed in accordance with the
 5456 Statements on Standards for Accounting and Review Services that presents information
 5457 in the form of financial statements that are the representation of management or owners
 5458 without undertaking to express any assurance as to the statements.

5459 (4) 'CPA' means certified public accountant.

5460 (4.1) 'Director' means the director of professional licensing.

5461 (5) 'Firm' means any person, proprietorship, partnership, corporation, association, or any
 5462 other legal entity which practices public accountancy.

5463 (6) 'Home office' means the location identified by the client as the address to which a
 5464 service described in paragraph (4) of subsection (b) of Code Section 43-3-24 is directed.

5465 (6.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 5466 Article 2 of Chapter 1 of this title.

5467 (7) 'Live permit' means a permit issued under Code Section 43-3-24 which is in full force
 5468 and effect.

5469 (8) 'Practice of public accountancy' or 'practicing public accountancy' means offering to
 5470 perform or performing for a client one or more types of services involving the use of
 5471 accounting or auditing skills, one or more types of management advisory or consulting
 5472 services, or the preparation of tax returns or the furnishing of advice on tax matters while
 5473 holding oneself out in such manner as to state or imply that one is a licensee.

5474 (9) 'Principal place of business' means the office location designated by the licensee for
5475 purposes of substantial equivalency and reciprocity.

5476 (10) 'State' means the District of Columbia and any state other than this state and any
5477 territory or insular possession of the United States.

5478 43-3-3.

5479 (a) There is created the State Board of Accountancy as a professional licensing policy
5480 board.

5481 (b) The board shall consist of seven members, to be appointed by the Governor with the
5482 approval of the Senate. Each member of the board shall be a resident of this state. Six
5483 members of the board shall be certified public accountants, all of whom shall hold a permit
5484 to practice public accounting issued under Code Section 43-3-24. One member shall be
5485 appointed from the public at large and shall be a person to whom neither this state nor any
5486 other state has ever issued a certificate, registration, license, or permit to engage in the
5487 practice of public accounting. The person serving on the board on June 30, 2005, as a
5488 registered public accountant member of the board shall serve the remainder of the term to
5489 which such person was appointed as one of the certified public accountant members of the
5490 board.

5491 (c) Each member of the board in office on July 1, 1982, shall remain in office until the
5492 expiration of his term and the appointment and approval of his successor.

5493 (d) Any appointment or reappointment of board members shall be for a period of four
5494 years. The remaining portion of any unexpired term shall be filled by appointment by the
5495 Governor with the approval of the Senate. Upon the expiration of his or her term of office,
5496 a member shall continue to serve until his or her successor shall have been appointed and
5497 ~~shall have~~ qualified.

5498 (e) No member of the board shall serve as such for more than two terms, consecutive or
5499 otherwise; and, for purposes of calculating the number of terms served, the filling of an
5500 unexpired term or terms for a total of more than 30 calendar months shall be treated as the
5501 serving of a full term.

5502 (f) Any member of the board may be removed by the Governor for misconduct,
5503 incompetence, or neglect of duty. The membership on the board of any member whose
5504 permit to practice has expired and has not been renewed, has become void, or has been
5505 revoked or suspended shall be automatically terminated simultaneously with any such
5506 expiration, voiding, revocation, or suspension.

5507 (g) Each member of the board shall be reimbursed as provided for in subsection (f) of
5508 Code Section 43-1-2.

5509 43-3-4.

5510 (a) The board shall elect annually a ~~chairman~~ chairperson from its members.

5511 (b) The ~~division~~ director shall serve as secretary of the board and perform for the board
5512 the duties required of him or her as provided in Chapter 1 of this title.

5513 (c) Three days' notice of any meeting shall be given by the ~~chairman~~ chairperson or
5514 ~~division~~ director, provided that notice may be waived by instrument in writing executed
5515 before or after the meeting; provided, further, that attendance at a meeting of the board
5516 shall constitute a waiver of notice thereof. Board meetings may be conducted by
5517 conference telephone calls, and participation in such a conference call shall constitute
5518 attendance at the meeting so conducted. Any action that might have been taken at a
5519 meeting of the board may be taken by the unanimous written consent of all members of the
5520 board.

5521 (d) The board shall ~~have a seal which shall be judicially noticed~~ perform such duties as are
5522 set forth in subsection (b) of Code Section 43-1-3.

5523 (e) The ~~board~~ director shall preserve all applications and keep records of all of its the
5524 board's proceedings for six years. ~~In any proceeding in court, civil or criminal, arising out~~
5525 ~~of or founded upon this chapter, copies of the records of the board's proceedings signed by~~
5526 ~~a member of the board and certified as correct under the seal of the board by the division~~
5527 ~~director shall be admissible in evidence in any court of this state without further proof.~~

5528 (f) ~~The board may appoint such committees or persons, who need not be members of the~~
5529 ~~board, to advise or assist it in administration, investigation, and enforcement of the~~
5530 ~~provisions of this chapter as the board deems necessary and shall be authorized to~~
5531 ~~compensate any such persons or members of committees who are not members of the board~~
5532 ~~in such amounts as it shall determine to be reasonable.~~

5533 43-3-5.

5534 (a) ~~The board may promulgate and amend, from time to time, such rules and regulations,~~
5535 ~~consistent with this chapter and Chapter 13 of Title 50, the 'Georgia Administrative~~
5536 ~~Procedure Act,' as it deems consistent with or required for the public welfare, for the~~
5537 ~~administration of any provision of this chapter, or for the orderly conduct of the board's~~
5538 ~~affairs. Such rules and regulations may include, without limiting the generality of the~~
5539 ~~foregoing:~~

5540 (1) ~~Rules of procedure for governing the conduct of matters before the board;~~

5541 (2) ~~Rules of professional conduct for establishing and maintaining high standards of~~
5542 ~~competence and integrity in the practice of public accountancy;~~

5543 (3) ~~Regulations governing educational requirements for certification as a certified public~~
5544 ~~accountant and registration as a public accountant and prescribing further educational~~

5545 requirements (requirements of continuing professional education) to be met from time to
 5546 time by persons so certified or registered, in order to maintain their professional
 5547 knowledge and competence, as a condition to continuing in the practice of public
 5548 accountancy;

5549 (4) Regulations governing individuals or firms engaged in this state in the practice of
 5550 public accountancy;

5551 (5) Regulations governing the registration of offices established or maintained for the
 5552 practice of public accountancy in this state and the conditions upon which such
 5553 registration shall be granted, including any requirements that the board may deem
 5554 necessary to monitor the practice of such office to determine whether acceptable
 5555 standards of competence and integrity in the practice of public accountancy are being
 5556 maintained; and

5557 (6) Any and all other rules and regulations which the board deems necessary or
 5558 appropriate in exercising its functions under this chapter.

5559 (b) Prior to the adoption, amendment, or repeal of any rule other than interpretive rules or
 5560 general statements of policy, the board shall give notice of its intended action in accordance
 5561 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' provided that such
 5562 comments shall be advisory only. In connection with any rule-making proceeding, formal
 5563 or informal, the board shall have the power to conduct hearings as provided in, and in
 5564 accordance with, Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
 5565 Reserved.

5566 43-3-6.

5567 (a) The certificate of 'certified public accountant' shall be granted by the board director to
 5568 any person:

5569 (1) Who has attained the age of 18;

5570 (2) Who is, in the opinion of the board director, of good moral character;

5571 (3) Who meets the following requirements of education and experience:

5572 (A)(i) Presentation to the board director of such evidence as it he or she may require
 5573 that the applicant has received a baccalaureate degree or completed the requirements
 5574 therefor, conferred by a college or university accredited by a national or regional
 5575 accrediting organization recognized by the licensing board, with a concentration in
 5576 accounting or what the board director determines to be the substantial equivalent of
 5577 an accounting concentration, or with a nonaccounting concentration supplemented by
 5578 what the board director determines to be the substantial equivalent of an accounting
 5579 concentration, including related courses in other areas of business administration.

5580 (ii) After January 1, 1998, any person who has not previously sat for the uniform
5581 written examination for the certificate of certified public accountant must have
5582 completed a total of 150 semester hours or 225 quarter hours of college education,
5583 including a baccalaureate degree awarded by a college or university accredited by
5584 either a national or regional accrediting organization recognized by the licensing
5585 board. The total educational program shall include an undergraduate accounting
5586 concentration as defined by the licensing board or what the ~~board~~ director determines
5587 to be the substantial equivalent of an undergraduate accounting concentration; and
5588 (B) One year of continuous experience in public accountancy immediately preceding
5589 the date of application for the certificate or within a reasonable time prior to the date
5590 of such application as provided by the licensing board by rule, provided that the
5591 licensing board may promulgate rules stating certain circumstances which shall
5592 constitute acceptable breaks in the continuity of said experience; and provided, further,
5593 that the ~~board~~ director may accept, in lieu of such year of experience in public
5594 accounting, evidence satisfactory to it the director of one year of continuous
5595 employment in the accounting field in industry, business, government, or college
5596 teaching; any combination of the above; or any combination of the above and practice
5597 of public accountancy immediately preceding the date of application for the certificate
5598 or what the ~~board~~ director determines to be the equivalent thereof; and provided,
5599 further, that any person certified as a certified public accountant under the laws of this
5600 state on July 1, 1977, shall be deemed to have the experience in the practice of public
5601 accountancy required by this subparagraph; and

5602 (4) Who shall have passed an examination approved by the licensing board in such
5603 related subjects as the licensing board deems appropriate.

5604 (b) For the purposes of this Code section, 'good moral character' means fiscal integrity and
5605 a lack of any history of acts involving dishonesty or moral turpitude. For failure to satisfy
5606 this requirement, the ~~board~~ director may refuse to certify an applicant where ~~it~~ the director
5607 finds that there is a substantial connection between the lack of good moral character of the
5608 applicant and the professional responsibilities of a licensee and the finding by the ~~board~~
5609 director of a lack of good moral character is supported by clear and convincing evidence.
5610 When an applicant is found to be unqualified for a certificate because of lack of good moral
5611 character, the ~~board~~ director shall furnish the applicant a statement containing the findings
5612 of the ~~board~~ director and a complete listing of the evidence upon which the determination
5613 was based, and the applicant may request a hearing before the licensing board on that
5614 determination.

5615 (c) Any person who holds a certificate as a 'certified public accountant' and who is
5616 engaged in the sale of insurance or financial products for which such person receives

5617 commissions must disclose in writing to the client the fact that the person shall receive
5618 commissions from the sale to the client of any such insurance or financial products;
5619 provided, however, that the person shall not be required to disclose the actual amount of
5620 such commissions. A person who violates this subsection shall be guilty of a
5621 misdemeanor.

5622 43-3-7.

5623 (a) The licensing board may provide, by regulation, for the general scope of the
5624 examination described in paragraph (4) of subsection (a) of Code Section 43-3-6. The
5625 licensing board may approve the examination and obtain advice and assistance in providing
5626 for and grading such examination and the ~~division~~ director, ~~with approval of the board,~~
5627 may contract with third parties to perform administrative services with respect to the
5628 examination as he or she deems appropriate.

5629 (b) As a prerequisite to sit for the examination, candidates shall meet the education
5630 requirements provided in division (a)(3)(A)(i) of Code Section 43-3-6.

5631 (c) An applicant for the certificate of certified public accountant who has successfully
5632 completed the examination provided for in paragraph (4) of subsection (a) of Code Section
5633 43-3-6 shall have no status as a certified public accountant until he or she has the requisite
5634 education and experience and has received his or her certificate as a certified public
5635 accountant.

5636 (d) The licensing board, by regulation, may provide for granting a credit to any applicant
5637 for satisfactory completion of an examination in any one or more of the subjects provided
5638 for in paragraph (4) of subsection (a) of Code Section 43-3-6 given by the licensing
5639 authority in another jurisdiction. Such regulations shall include such requirements as the
5640 licensing board deems appropriate to ensure that any examination approved as a basis for
5641 any such credit, in the judgment of the licensing board, shall be at least as thorough as the
5642 examination approved by the licensing board at the time of the granting of such credit.

5643 (e) The licensing board, by regulation, may prescribe the time and conditions under which
5644 an applicant may retain credit for a portion or portions of the examination provided for in
5645 paragraph (4) of subsection (a) of Code Section 43-3-6.

5646 (f) Application for certification by persons who are not residents of this state shall
5647 constitute the appointment of the Secretary of State as the agent for service of process in
5648 any action or proceeding against such applicant arising out of any transaction, activity, or
5649 operation connected with or incidental to the practice of public accounting in this state by
5650 nonresident holders of certified public accountant certificates.

5651 43-3-8.

5652 Reserved.

5653 43-3-9.

5654 Any person who has received a certificate as a certified public accountant from the ~~board~~
5655 director and who holds a live permit may be styled and known as a 'certified public
5656 accountant.' The ~~division~~ director shall maintain a list of certified public accountants; and,
5657 for this purpose, the licensing board may provide by regulation a procedure whereby all
5658 certified public accountants are required to register with the ~~board~~ director periodically.
5659 Any certified public accountant may also be known as a 'public accountant.'

5660 43-3-10.

5661 Reserved.

5662 43-3-11.

5663 The ~~board~~ director, in ~~its~~ his or her discretion, may waive the examination provided for in
5664 paragraph (4) of subsection (a) of Code Section 43-3-6 and may issue a certificate as a
5665 certified public accountant to any person who possesses the qualifications specified in
5666 paragraphs (1) and (2) of subsection (a) of Code Section 43-3-6 and what the ~~board~~ director
5667 determines to be the substantial equivalent of the qualifications under paragraph (3) of
5668 subsection (a) of Code Section 43-3-6 and who is a holder of a certificate as a certified
5669 public accountant, then in full force and effect, issued under the laws of another state,
5670 provided that the certificate held by such person was issued after an examination which,
5671 in the judgment of the ~~board~~ director, is the equivalent of the standard established by the
5672 licensing board for examinations administered pursuant to paragraph (4) of subsection (a)
5673 of Code Section 43-3-6; and provided, further, that such privileges are extended to citizens
5674 of this state by the state originally granting the certificate. Notwithstanding the foregoing,
5675 the examination provided for in paragraph (4) of subsection (a) of Code Section 43-3-6
5676 shall be waived by the ~~board~~ director in the case of an applicant who has been engaged in
5677 public practice for a period of ten years in another state pursuant to authority issued by
5678 such state.

5679 43-3-12.

5680 Persons who hold certified public accountant certificates issued prior to July 1, 1977, under
5681 the laws of this state shall not be required to undergo recertification under this chapter but
5682 shall otherwise be subject to all applicable provisions of this chapter. Such certificates

5683 issued prior to July 1, 1977, shall be considered certificates issued under and subject to this
5684 chapter for all purposes.

5685 43-3-13.

5686 Notwithstanding any other provision of this chapter, on and after July 1, 2005, each
5687 registered public accountant who holds a live permit and who is in good standing shall be
5688 certificated as a certified public accountant. On and after July 1, 2005, the ~~board~~ director
5689 shall not consider any application for a certificate of registered public accountant.

5690 43-3-14.

5691 Reserved.

5692 43-3-15.

5693 Reserved.

5694 43-3-16.

5695 Reserved.

5696 43-3-17.

5697 Reserved.

5698 43-3-18.

5699 Reserved.

5700 43-3-19.

5701 Reserved.

5702 43-3-20.

5703 Any person who was registered with the board on or before July 1, 1989, as a foreign
5704 accountant based on being a holder in good standing of a certificate, license, or degree in
5705 a foreign country constituting a recognized qualification for the practice of public
5706 accountancy in such country shall be eligible to renew his or her live permit under such
5707 terms and conditions as provided by law and the rules and regulations of the licensing
5708 board. Such registered foreign accountant shall be subject to the laws and rules and
5709 regulations of the licensing board and actions of the director, including, but not limited to,
5710 those concerning continuing professional education requirements and disciplinary actions.
5711 Should such registered foreign accountant fail to renew his or her live permit or have such

5712 permit revoked or suspended, the board director may reinstate such registered foreign
5713 accountant under terms and conditions as determined by the licensing board.

5714 43-3-21.

5715 (a) The board director shall grant or renew the registration of a firm practicing public
5716 accountancy to firms that meet the following requirements:

5717 (1) Partners, members, or shareholders owning at least a simple majority of the financial
5718 interest and voting rights of the firm shall be certified public accountants of some state
5719 in good standing, except that such partners, members, or shareholders who are certified
5720 public accountants and whose principal place of business is in this state and who perform
5721 accounting services in this state must hold a live permit from this state. An individual
5722 who has practice privileges under subsection (b) of Code Section 43-3-24 who performs
5723 services for which a firm registration is required under paragraph (4) of subsection (b) of
5724 Code Section 43-3-24 shall not be required to obtain a certificate or live permit under this
5725 chapter;

5726 (2) The firm shall be in compliance with all requirements and provisions of state law
5727 governing the organizational form of the firm in the state of the firm's principal place of
5728 business;

5729 (3) The firm shall comply with all regulations pertaining to firms registered with the
5730 board director;

5731 (4) The resident manager of each office of the firm within this state in the practice of
5732 public accountancy shall be a certified public accountant of this state in good standing;

5733 (5) Any firms that include nonlicensee owners shall comply with the following rules:

5734 (A) The firm shall designate the holder of a live permit, or in the case of a firm which
5735 must register pursuant to subparagraph (b)(1)(C) of this Code section, a licensee of
5736 another state who meets the requirements set forth in subsection (b) of Code Section
5737 43-3-24, who shall be responsible for the proper registration of the firm and shall
5738 identify that individual to the board director;

5739 (B) All nonlicensee owners shall be active individual participants in the firm or
5740 affiliated entities; and

5741 (C) The firm shall comply with such other requirements as the licensing board may
5742 impose by rule or regulation;

5743 (6) Any holder of a live permit and any individual who qualifies for practice privileges
5744 under subsection (b) of Code Section 43-3-24 who is responsible for supervising attest
5745 or compilation services and signs or authorizes someone to sign the accountant's report
5746 on the financial statements on behalf of the firm shall meet the competency requirements
5747 set out in the professional standards for such services; and

5748 (7) Any holder of a live permit and any individual who qualifies for practice privileges
 5749 under subsection (b) of Code Section 43-3-24 who signs or authorizes someone to sign
 5750 the accountants' report on the financial statements on behalf of the firm shall meet the
 5751 competency requirements of ~~subparagraph~~ paragraph (6) of this subsection.

5752 (b)(1) The following firms must register under this Code section:

5753 (A) Any firm with an office in this state practicing public accountancy;

5754 (B) Any firm with an office in this state that uses the title 'CPA' or 'CPA firm'; and

5755 (C) Any firm that does not have an office in this state but performs any service
 5756 described in subparagraph (A), (C), or (D) of paragraph (1) of Code Section 43-3-2 for
 5757 a client having its home office in this state.

5758 (2) A firm that does not have an office in this state may perform services described in
 5759 subparagraph (B) of paragraph (1) or paragraph (3) of Code Section 43-3-2 for a client
 5760 having its home office in this state, may practice public accountancy as authorized under
 5761 this Code section, and may use the title 'CPA' or 'CPA firm' without registering as
 5762 provided in this Code section only if:

5763 (A) It meets the qualifications described in paragraph (1) of subsection (a) of this Code
 5764 section and it complies with the licensing board's rules and regulations regarding peer
 5765 review; and

5766 (B) It performs such services through an individual with practice privileges under
 5767 subsection (b) of Code Section 43-3-24.

5768 (3) A firm that does not have an office in this state and that is not subject to the
 5769 requirements of subparagraph (C) of paragraph (1) of this subsection or paragraph (2) of
 5770 this subsection may perform other professional services included in the practice of public
 5771 accountancy while using the title 'CPA' or 'CPA firm' in this state without registering
 5772 under this Code section only if:

5773 (A) It performs such services through an individual with practice privileges under
 5774 subsection (b) of Code Section 43-3-24; and

5775 (B) It can lawfully perform such services in the state where ~~said~~ such individuals with
 5776 practice privileges have their principal place of business.

5777 (c) Each firm required to register under paragraph (1) of subsection (b) of this Code
 5778 section shall be registered biennially under this chapter with the ~~board~~ director, provided
 5779 that any firm for which such requirement becomes effective between biennial reporting
 5780 periods shall register with the ~~board~~ director within 60 days. Such a firm must show that
 5781 all attest and compilation services rendered in this state are under the supervision of a
 5782 person holding a live permit issued by this state or a person with practice privileges under
 5783 subsection (b) of Code Section 43-3-24. The licensing board, by regulation, shall prescribe

5784 the procedure to be followed in effecting such registration and the information which must
5785 be provided regarding the firm and its practice.

5786 (d) A registered firm shall file written notice to the ~~board~~ director, within 60 days after the
5787 occurrence of the opening of a new office or the closing or change of address of any of its
5788 offices in this state. Each such office shall be under the supervision of a resident manager
5789 who may be a partner, principal, shareholder, member, or a staff employee holding a live
5790 permit.

5791 (e) Neither the denial of a firm registration under this Code section nor the denial of the
5792 renewal of a firm registration under Code Section 43-3-23 shall be considered to be a
5793 contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative
5794 Procedure Act.' Notice and hearing within the meaning of said Chapter 13 of Title 50 shall
5795 not be required, but the applicant shall be ~~allowed to appear before the board if he or she~~
5796 requests entitled to notice and the opportunity for a hearing as provided in Code Section
5797 43-1-3.1.

5798 43-3-22.

5799 Reserved.

5800 43-3-23.

5801 (a) In each renewal year, each firm registered in ~~the~~ this state pursuant to Code Section
5802 43-3-21 which has issued an audit, review, or compilation report within the 24 months
5803 preceding the date of expiration of the firm's registration must submit, with the application
5804 for renewal, evidence of satisfactory completion of a ~~board-approved~~ peer review program
5805 approved by the licensing board within the 36 months preceding the date of such firm's
5806 registration expiration. Satisfactory completion shall mean that the firm has undergone the
5807 entire peer review process and that the report of the peer review indicates that the firm
5808 maintains acceptable standards of competence and integrity in the practice of public
5809 accountancy. Firms which have not issued an audit, review, or compilation report within
5810 the 24 months preceding the date of the firm's registration expiration must submit written
5811 confirmation of such fact with the application for the firm's registration renewal. The ~~board~~
5812 director may waive or modify the requirements of this subsection in cases of hardship or
5813 other such circumstances which the ~~board~~ director deems appropriate. The provisions of
5814 this subsection shall not apply to the practice of an enrolled agent before the federal
5815 Internal Revenue Service or the Department of Revenue if the enrolled agent is not
5816 otherwise engaged in the practice of public accounting in this state.

5817 (b) No firm shall be registered in ~~the~~ this state which shall have failed to comply with the
 5818 provisions of this Code section and all applicable requirements of law and rules
 5819 promulgated by the licensing board.

5820 (c) This Code section shall be construed to apply only to firms required to be registered
 5821 under this chapter. Nothing contained in this Code section shall prohibit any person from
 5822 operating under the provisions of subsection (b) of Code Section 43-3-36.

5823 43-3-24.

5824 (a) A permit to engage in the practice of public accountancy in this state shall be issued
 5825 by the ~~division~~ director, ~~at the direction of the board,~~ in his or her discretion to each person
 5826 who is certificated as a certified public accountant under Code Sections 43-3-6 through
 5827 43-3-12 or registered as a foreign accountant under Code Section 43-3-20 who shall have
 5828 furnished evidence, satisfactory to the ~~board~~ director, of compliance with the requirements
 5829 of Code Section 43-3-25, and to individuals and firms registered under Code Section
 5830 43-3-21, provided that such entities are maintained and registered as required under Code
 5831 Sections 43-3-21 and 43-3-23. There shall be a biennial permit fee in an amount to be
 5832 determined by the licensing board.

5833 (b) Individuals may practice based on a substantial equivalency practice privilege as
 5834 follows:

5835 (1) An individual whose principal place of business is outside this state shall be
 5836 presumed to have qualifications substantially equivalent to this state's requirements, shall
 5837 have all the privileges of live permit holders of this state, and may practice public
 5838 accountancy in this state without the requirement to obtain a live permit, certificate, or
 5839 registration under this chapter or to otherwise notify or register with the ~~board~~ director
 5840 or pay any fee if the individual:

5841 (A) Holds a valid license as a certified public accountant from any state which
 5842 requires, as a condition of licensure, that an individual:

5843 (i) Has at least 150 semester hours of college education including a baccalaureate or
 5844 higher degree conferred by a college or university;

5845 (ii) Achieves a passing grade on the Uniform Certified Public Accountant
 5846 Examination; and

5847 (iii) Possesses at least one year of experience, including providing any type of service
 5848 or advice involving the use of accounting, attest, compilation, management advisory,
 5849 financial advisory, tax, or consulting skills, which may be obtained through
 5850 government, industry, academic, or public practice all of which was verified by a
 5851 licensee; or

5852 (B) Holds a valid license as a certified public accountant from any state which does not
5853 meet the requirements of subparagraph (A) of this paragraph but such individual's
5854 certified public accountant qualifications are substantially equivalent to those
5855 requirements. Any individual who passed the Uniform Certified Public Accountant
5856 Examination and holds a valid license issued by any other state prior to January 1,
5857 2012, may be exempt from the education requirement in division (1)(A)(i) of this
5858 subsection for purposes of this subparagraph;

5859 (2) Notwithstanding any other provision of law, an individual who offers or renders
5860 professional services, whether in person or by mail, telephone, or electronic means, under
5861 this Code section shall be granted practice privileges in this state and no notice, fee, or
5862 other submission shall be provided by any such individual. Such an individual shall be
5863 subject to the requirements of paragraph (3) of this subsection;

5864 (3) An individual licensee of another state exercising the privilege afforded under this
5865 subsection, and the firm that employs that individual, shall simultaneously consent, as a
5866 condition of exercising this privilege:

5867 (A) To the personal and subject matter jurisdiction and disciplinary authority of the
5868 ~~board~~ director;

5869 (B) To comply with the provisions of this chapter and the licensing board's rules and
5870 regulations;

5871 (C) That in the event the license from the state of the individual's principal place of
5872 business is no longer valid, the individual shall cease offering or rendering professional
5873 services in this state individually and on behalf of a firm; and

5874 (D) To the appointment of the state board that issued the individual's license as the
5875 individual's agent upon whom process may be served in any action or proceeding by
5876 ~~this state's~~ the licensing board or the director against the individual;

5877 (4) An individual who qualifies for the practice privilege under this Code section who,
5878 for any entity with its home office in this state, performs any service under subparagraph
5879 (A), (C), or (D) of paragraph (1) of Code Section 43-3-2 may do so only through a firm
5880 that has registered with the ~~board~~ director under Code Section 43-3-21; and

5881 (5) An individual qualifying for the practice privilege under paragraph (1) of this
5882 subsection may provide expert witness services in this state and shall be deemed to be in
5883 compliance with paragraph (1) of subsection (c) of Code Section 24-9-67.1 for purposes
5884 of such services.

5885 (c) Subsection (b) of this Code section shall not be applied or construed to permit an
5886 individual to engage in the practice of public accountancy in this state based on a
5887 substantial equivalency privilege unless such individual holds a valid license as a certified
5888 public accountant in a state which grants similar reciprocity to license holders in this state.

5889 43-3-25.

5890 (a) Every application for renewal of a live permit by any individual who is and has been
 5891 certificated as a certified public accountant or registered as a foreign accountant by this
 5892 state for one year or more shall be accompanied or supported by such evidence as the
 5893 licensing board shall prescribe of satisfactory completion of continuing professional
 5894 education as provided in this Code section, provided that the ~~board~~ director may relax or
 5895 suspend requirements of continuing professional education in instances where an
 5896 applicant's health requires it or in instances of individual hardship.

5897 (b) The licensing board shall be authorized to promulgate rules and regulations providing
 5898 for the number of hours of acceptable continuing professional education, which shall not
 5899 be less than 60 hours, required to renew a live permit, for the assignment of credit for hours
 5900 in excess of the minimum requirement, and for the proration of required hours. The
 5901 licensing board may establish criteria for continuing professional education programs,
 5902 provide for accreditation of such programs, enter into agreements with sponsors of such
 5903 programs, and provide for the assignment of credits for participation in such programs.

5904 (c) All provisions of this chapter relating to continuing professional education shall be
 5905 administered by the ~~board~~ director; and, in addition to the other powers conferred on the
 5906 ~~board~~ director by this chapter, the ~~board~~ director shall have the authority to appoint a
 5907 committee or committees composed of certified public accountants, as ~~it~~ he or she deems
 5908 appropriate, to administer, implement, and otherwise carry out the provisions of this
 5909 chapter relating to continuing professional education.

5910 43-3-26.

5911 Reserved.

5912 43-3-27.

5913 Reserved.

5914 43-3-28.

5915 (a) ~~Subject to the provisions of Code Section 43-1-3.1, the director~~ ~~After notice and~~
 5916 ~~hearing as provided in Code Section 43-3-30, the board~~ may revoke or suspend any
 5917 certification issued under Code Sections 43-3-6 through 43-3-12 or a registration issued
 5918 under Code Section 43-3-20 or may revoke, suspend, or refuse to renew any live permit or
 5919 may censure the holder of any such permit, or may forbid an individual from exercising the
 5920 substantial equivalency practice privilege, for any cause which the ~~board~~ director may
 5921 deem sufficient, including, without limiting the generality of the foregoing, any one or any
 5922 combination of the following causes:

- 5923 (1) Violation of any rule, regulation, or order promulgated by the licensing board in
5924 accordance with this chapter;
- 5925 (2) Fraud or deceit in obtaining certification as a certified public accountant or
5926 registration as a public accountant, in obtaining registration under this chapter, or in
5927 obtaining a live permit;
- 5928 (3) Violation of any of the provisions of Code Section 43-3-35 or any other Code section
5929 of this chapter;
- 5930 (4) Dishonesty, fraud, or gross negligence in the practice of public accountancy;
- 5931 (5) Commission of a felony under the laws of any state or of the United States;
- 5932 (6) Commission of any crime, an element of which is dishonesty or fraud, under the laws
5933 of any state or of the United States;
- 5934 (7) Cancellation, revocation, suspension, or refusal to renew authority to practice as a
5935 certified public accountant or as a public accountant by any other state for any cause
5936 other than voluntary withdrawal or failure to pay an annual registration fee in such other
5937 state;
- 5938 (8) Suspension or revocation of the right to practice before any state or federal agency;
- 5939 (9) Failure to furnish evidence of satisfaction of requirements of continuing professional
5940 education as required by the licensing board pursuant to Code Section 43-3-25 or to meet
5941 any conditions with respect to continuing professional education which the licensing
5942 board may have ordered under that Code section;
- 5943 (10) Conduct which discredits the accounting profession; or
- 5944 (11) Failure of such holder's firm to register or renew its registration under Code
5945 Sections 43-3-21 and 43-3-23 or the failure of such firm to comply with any of the
5946 provisions of Code Section 43-3-23.
- 5947 (b) A person, firm, corporation, association, authority, or other entity shall be immune
5948 from civil and criminal liability for reporting or investigating the acts or omissions of a
5949 licensee or applicant which violate the provisions of subsection (a) of this Code section or
5950 any other provision of law relating to a licensee's or applicant's fitness to practice public
5951 accounting or for initiating or conducting proceedings against such licensee or applicant,
5952 if such report is made or action is taken in good faith, without fraud or malice. Any person
5953 who testifies or who makes a recommendation to the ~~board~~ director in the nature of peer
5954 review, in good faith, without fraud, or malice, before the ~~board~~ director in any proceeding
5955 involving the provisions of subsection (a) of this Code section or any other law relating to
5956 a licensee's or applicant's fitness to practice public accounting shall be immune from civil
5957 and criminal liability for so testifying.

5958 43-3-29.

5959 (a) ~~Subject to the provisions of Code Section 43-1-3.1, the director~~ ~~After notice and~~
 5960 ~~hearing, as provided in Code Section 43-3-30, the board, in its~~ his or her discretion, may
 5961 revoke the registration and permit to practice of a firm if at any time it does not have all the
 5962 qualifications prescribed by the Code section under which it qualified for registration.

5963 (b) ~~Subject to the provisions of Code Section 43-1-3.1, the director~~ ~~After notice and~~
 5964 ~~hearing as provided in Code Section 43-3-30, the board~~ may revoke or suspend the
 5965 registration of a firm or may revoke, suspend, or refuse to renew its valid permit or may
 5966 censure the holder of any such permit for any of the following causes in addition to those
 5967 enumerated in Code Section 43-3-28:

5968 (1) The revocation or suspension of the certificate or registration or the revocation or
 5969 suspension or refusal to renew the permit to practice of any partner, member, or
 5970 shareholder required by law to have such certificate, registration, or permit as a condition
 5971 ~~to~~ of the firm's registration or permit;

5972 (2) The cancellation, revocation, suspension, or refusal to renew the authority of the firm,
 5973 or any partner, member, or shareholder thereof, to practice public accountancy in any
 5974 other state for any cause other than voluntary withdrawal or failure to pay registration
 5975 fees in such other state; or

5976 (3) The failure of such firm to register or renew its registration under Code Section
 5977 43-3-21 or the failure of such firm to comply with any of the provisions of Code Section
 5978 43-3-23.

5979 43-3-29.1.

5980 ~~Subject to the provisions of Code Section 43-1-3.1, the director~~ ~~After notice and hearing~~
 5981 ~~as provided in Code Section 43-3-30, the board~~ may impose any one or more of the
 5982 following sanctions in addition to the actions described in Code Sections 43-3-28 and
 5983 43-3-29 for any of the causes described in Code Sections 43-3-28 and 43-3-29:

5984 (1) Require the licensee or licensees to complete successfully the specific courses or
 5985 types of continuing education as specified by the licensing board or pass special
 5986 examinations as specified by the licensing board, all at the cost and expense of the
 5987 licensee or licensees;

5988 (2) Require the licensee or firm holding a live permit to submit to a preissuance review
 5989 prior to the issuance of any future reports, in a manner and for a duration as set by the
 5990 ~~board~~ director by a reviewer selected by the ~~board~~ director at the licensee's or holder's
 5991 cost and expense; or

5992 (3) Require a licensee or firm holding a valid permit to submit to a peer review of its
 5993 accounting and auditing practices upon such terms and conditions as shall be determined
 5994 by the ~~board~~ director at the cost and expense of such licensee or holder of a valid permit.

5995 43-3-30.

5996 (a) ~~Subject to the provisions of Code Section 43-1-3.1, the director~~ ~~The board~~ may initiate
 5997 proceedings under this chapter either on ~~its~~ his or her own motion or on the complaint of
 5998 any person.

5999 (b) Notice, rules of procedure, right to review, and any other matters arising with respect
 6000 to all adjudicative hearings conducted by the licensing board shall be determined in
 6001 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

6002 (c) ~~Before the board shall revoke or suspend a permit, certificate, registration, or practice~~
 6003 ~~privilege, it shall provide for a hearing for the holder of such permit, certificate,~~
 6004 ~~registration, or practice privilege in accordance with Chapter 13 of Title 50, the 'Georgia~~
 6005 ~~Administrative Procedure Act.'~~ Any person who has exhausted all administrative remedies
 6006 available within this chapter and who is aggrieved by a final decision in a contested case
 6007 of the licensing board is entitled to judicial review in accordance with Chapter 13 of Title
 6008 50.

6009 43-3-31.

6010 Upon written application after a hearing pursuant to Chapter 13 of Title 50, the 'Georgia
 6011 Administrative Procedure Act,' the ~~board~~ director may recertificate a certified public
 6012 accountant or reregister a foreign accountant whose certification or registration has been
 6013 revoked or may reissue or modify the suspension of a live permit or practice privilege
 6014 which has been revoked or suspended.

6015 43-3-32.

6016 (a) All statements, records, schedules, working papers, computer printouts, computer
 6017 tapes, and memoranda made by a certified public accountant or public accountant incident
 6018 to, or in the course of, professional service to clients by such certified public accountant
 6019 or public accountant, except reports submitted by a certified public accountant or public
 6020 accountant to a client, shall be and remain the property of such certified public accountant
 6021 or public accountant and his or her partners, fellow shareholders, or fellow members of the
 6022 firm, in the absence of an express agreement between such certified public accountant or
 6023 public accountant and the client to the contrary. No such statement, record, schedule,
 6024 working paper, or memorandum shall be sold, transferred, or bequeathed, without the
 6025 consent of the client or his or her personal representative or his assignee, to anyone other

6026 than one or more surviving partners, fellow shareholders, or fellow members of the firm
6027 of such certified public accountant or public accountant.

6028 (b) All communications between a certified public accountant or public accountant or
6029 employee of such certified public accountant or public accountant acting in the scope of
6030 such employment and the person for whom such certified public accountant, public
6031 accountant, or employee shall have made any audit or other investigation in a professional
6032 capacity and all information obtained by a certified public accountant, public accountant,
6033 or such an employee in his or her professional capacity concerning the business and affairs
6034 of clients shall be deemed privileged communications in all courts or in any other
6035 proceedings whatsoever; and no such certified public accountant, public accountant, or
6036 employee shall be permitted to testify with respect to any of such matters, except with the
6037 written consent of such person or client or such person's or client's legal representative,
6038 provided that nothing in this subsection shall be construed as prohibiting a certified public
6039 accountant, public accountant, or such an employee from:

6040 (1) Disclosing any data required to be disclosed by the standards of the accounting
6041 profession in rendering an opinion on the presentation of financial statements or in
6042 making disclosure where the practices or diligence of the accountant in preparing, or in
6043 expressing an opinion upon, such financial statements are contested;

6044 (2) Disclosing any data where the professional services of the accountant are being
6045 contested by or against the client for whom such services were performed or any
6046 representative or assignee of such client;

6047 (3) Disclosing any data to other certified public accountants, public accountants, or
6048 employees thereof in connection with practice reviews and ethics reviews sponsored by
6049 professional groups, the purpose of which ~~reviews~~ is to survey such accountant's business
6050 practices, audits, and work papers or to review ethical considerations concerning such
6051 accountant; or

6052 (4) Disclosing any data pertaining to an application, investigation by the ~~board~~ director,
6053 or hearing ~~on its behalf before the licensing board~~, so long as such data shall be received
6054 by the licensing board in camera and shall not be disclosed to the public; and provided,
6055 further, that no disclosure provided for in this paragraph shall constitute a waiver of the
6056 privilege established in this subsection.

6057 43-3-33.

6058 (a) Whenever, in the judgment of the ~~board~~ director, any person has engaged or is about
6059 to engage in any acts or practices which constitute or will constitute a violation of Code
6060 Section 43-3-35 or any other Code section of this chapter, the ~~board~~ director may make
6061 application to the superior court of the county in which such acts or practices have occurred

6062 or may be reasonably expected to occur for an order enjoining such acts or practices; and
6063 upon a showing by the board director that such person has engaged or is about to engage
6064 in any such acts or practices, an injunction, restraining order, or such other order as may
6065 be appropriate shall be granted by such court.

6066 (b) The Attorney General shall assist in the enforcement of this chapter. The board
6067 director is authorized to retain such attorneys as it he or she deems necessary, with the
6068 approval of the Attorney General, to assist the board director in bringing any action
6069 authorized by law.

6070 43-3-34.

6071 The display or uttering by a person of a card, sign, advertisement, or other printed,
6072 engraved, or written instrument or device bearing a person's name in conjunction with the
6073 words 'certified public accountant' or any abbreviation thereof, or 'public accountant' or any
6074 abbreviation thereof shall be prima-facie evidence in any action brought under Code
6075 Section 43-3-33 or 43-3-38 that the person whose name is so displayed caused or procured
6076 the display or uttering of such card, sign, advertisement, or other printed, engraved, or
6077 written instrument or device and that such person is holding himself or herself out to be a
6078 certified public accountant or a public accountant holding a live permit or otherwise claims
6079 to be qualified to use such title by virtue of the substantial equivalency practice privilege
6080 under subsection (b) of Code Section 43-3-24 or of the firm practice provisions of
6081 subsection (b) of Code Section 43-3-21. In any such action, evidence of the commission
6082 of a single act prohibited by this chapter shall be sufficient to justify an injunction or a
6083 conviction without evidence of a general course of conduct.

6084 43-3-35.

6085 (a) No individual shall assume or use the title or designation 'certified public accountant'
6086 or the abbreviation 'C.P.A.' or any other title, designation, words, letters, abbreviation, sign,
6087 card, or device tending to indicate that such individual is a certified public accountant
6088 unless such individual has received a certificate as a certified public accountant under this
6089 chapter, holds a live permit, and all of such individual's offices in this state for the practice
6090 of public accountancy are maintained and registered as required under Code Sections
6091 43-3-21 and 43-3-23, provided that a foreign accountant who has registered under Code
6092 Section 43-3-20 and who holds a live permit may use the title under which he or she is
6093 generally known in his or her country, followed by the name of the country from which he
6094 or she received his or her certificate, license, or degree.

6095 (b) No firm or any other person or entity shall assume or use the title or designation
6096 'certified public accountant' or the abbreviation 'C.P.A.' or any other title, designation,

6097 words, letters, abbreviation, sign, card, or device tending to indicate that such firm, person,
6098 or entity is composed of certified public accountants unless such firm, person, or entity is
6099 registered as a firm of certified public accountants under Code Section 43-3-21, holds a live
6100 permit, and all offices of such firm in this state for the practice of public accountancy are
6101 maintained and registered as required under Code Sections 43-3-21 and 43-3-23.

6102 (c) No individual, firm, or any other person or entity shall assume or use: (1) any title or
6103 designation likely to be confused with 'certified public accountant,' including, without
6104 limiting the generality of the foregoing, 'certified accountant,' 'enrolled accountant,'
6105 'licensed accountant,' 'licensed public accountant,' or 'registered accountant'; or (2) any
6106 abbreviation likely to be confused with 'C.P.A.,' including, without limiting the generality
6107 of the foregoing, 'C.A.,' 'E.A.,' 'R.A.,' 'L.A.,' or 'L.P.A.,' provided that a foreign accountant
6108 registered under Code Section 43-3-20 who holds a live permit and all of whose offices in
6109 this state for the practice of public accountancy are maintained and registered as required
6110 under Code Sections 43-3-21 and 43-3-23 may use the title under which he or she is
6111 generally known in his or her country, followed by the name of the country from which he
6112 or she received his or her certificate, license, or degree.

6113 (d) No individual shall sign or affix his or her name or any trade assumed name used by
6114 him or her in his or her profession or business to any opinion or certificate attesting in any
6115 way to the reliability of any representation or estimate in regard to any person or
6116 organization embracing (1) financial information, or (2) facts respecting compliance with
6117 conditions established by law or contract, including but not limited to statutes, ordinances,
6118 regulations, grants, loans, and appropriations, together with any wording accompanying,
6119 contained in, or affixed on such opinion or certificate, which indicates that he or she has
6120 expert knowledge in accounting or auditing unless he or she holds a live permit and all of
6121 his or her offices in this state for the practice of public accountancy are maintained and
6122 registered under Code Sections 43-3-21 and 43-3-23, provided that this subsection shall not
6123 prohibit any officer, employee, partner, member, or principal of any organization from
6124 affixing his or her signature to any statement or report in reference to the affairs of such
6125 organization with any wording designating the position, title, or office which he or she
6126 holds in such organization, nor shall this subsection prohibit any act of a public official or
6127 public employee in the performance of his or her duties as such.

6128 (e) No person shall sign or affix, or cause to be signed or affixed, a firm name to any
6129 opinion or certificate attesting in any way to the reliability of any representation or estimate
6130 in regard to any person or organization embracing (1) financial information, or (2) facts
6131 respecting compliance with conditions established by law or contract, including but not
6132 limited to statutes, ordinances, regulations, grants, loans, and appropriations, together with
6133 any wording accompanying or contained in such opinion or certificate, which indicates that

6134 such firm is composed of or employs persons having expert knowledge in accounting or
6135 auditing unless the firm holds a live permit and all of its offices in this state for the practice
6136 of public accountancy are maintained and registered as required under Code Sections
6137 43-3-21 and 43-3-23.

6138 (f) A licensee shall not use or participate in the use of any form of public communication
6139 having reference to his or her professional services which contains a false, fraudulent,
6140 misleading, deceptive, or unfair statement or claim. A false, fraudulent, misleading,
6141 deceptive, or unfair statement or claim includes but is not limited to a statement or claim
6142 which:

6143 (1) Contains a misrepresentation of fact;

6144 (2) Is likely to mislead or deceive because it fails to make full disclosure of relevant
6145 facts;

6146 (3) Contains any testimonial, laudatory, or other statement or implication that the
6147 licensee's professional services are of exceptional quality, if not supported by verifiable
6148 facts;

6149 (4) Is intended or likely to create false or unjustified expectations of favorable results;

6150 (5) Implies educational or professional attainments or licensing recognition not
6151 supported in fact;

6152 (6) States or implies that the licensee has received formal recognition as a specialist in
6153 any aspect of the practice of public accounting, except in accordance with rules adopted
6154 by the licensing board;

6155 (7) Represents that professional services can or will be completely performed for a stated
6156 fee when this is not the case or makes representations with respect to fees for professional
6157 services that do not disclose all variables that may reasonably be expected to affect the
6158 fees that will in fact be charged; or

6159 (8) Contains other representations or implications that in reasonable probability will
6160 cause an ordinarily prudent person to misunderstand or be deceived.

6161 (g) The licensing board may by rule or regulation prohibit a licensee from soliciting by any
6162 direct personal communication an engagement to perform professional services.

6163 (h) It shall not be a violation of this Code section or chapter for an individual who does not
6164 hold a live permit under this chapter but who qualifies for the substantial equivalency
6165 practice privilege under subsection (b) of Code Section 43-3-24 to use the title or
6166 designation 'certified public accountant' or 'C.P.A.' or other titles to indicate that the person
6167 is a certified public accountant, and such individual may provide professional services in
6168 this state with the same privileges as a live permit holder so long as the individual complies
6169 with paragraph (4) of subsection (b) of Code Section 43-3-24.

6170 (i) It shall not be a violation of this Code section or chapter for a firm that has not
 6171 registered with the ~~board~~ director or obtained a live permit under this chapter and that does
 6172 not have an office in this state to use the title or designation 'certified public accountant' or
 6173 'C.P.A.' or other titles to indicate that the firm is composed of certified public accountants,
 6174 and such firm may provide professional services in this state with the same privileges as
 6175 a registered firm with a live permit so long as it complies with subsection (b) of Code
 6176 Section 43-3-21.

6177 43-3-36.

6178 (a) Nothing contained in this chapter shall prohibit any person who is not a certified public
 6179 accountant or public accountant from serving as an employee of or an assistant to a
 6180 certified public accountant or public accountant or firm of certified public accountants or
 6181 public accountants holding a live permit or a foreign accountant registered under Code
 6182 Section 43-3-20 and holding a live permit, provided that such employee or assistant shall
 6183 not issue or attest to any accounting or financial statement over his or her name.

6184 (b) Nothing contained in this chapter shall prohibit any person from offering to perform
 6185 or performing for the public, for compensation, any of the following services:

- 6186 (1) The recording of financial transactions in books of record;
- 6187 (2) The making of adjustments of such transactions in books of record;
- 6188 (3) The making of trial balances from books of record;
- 6189 (4) Internal verification and analysis of books or accounts of original entry;
- 6190 (5) The preparation of unaudited financial statements, schedules, or reports;
- 6191 (6) The devising and installing of systems or methods of bookkeeping, internal controls
 6192 of financial data, or the recording of financial data; or
- 6193 (7) The preparation of tax returns and related forms.

6194 43-3-36.1.

6195 Notwithstanding any other provisions of this chapter, any licensee who has attained 70
 6196 years of age shall be exempt from any continuing professional education requirements of
 6197 Code Section 43-3-25 or 43-3-29.1.

6198 43-3-37.

6199 The proceedings of and data ~~obtained by~~ disclosed to the director, a peer review committee,
 6200 or the licensing board pursuant to paragraph (3) of subsection (b) of Code Section 43-3-32
 6201 shall not be subject to discovery or introduction into evidence in any civil action, except
 6202 in a hearing before the licensing board, against a certified public accountant or public
 6203 accountant for matters which are the subject of evaluation and review ~~by such committee~~

6204 ~~or the board; and no person who was in attendance at a meeting of such committee or~~
 6205 ~~board. No person who was made privy to such information~~ shall be permitted or required
 6206 to testify in any such civil action, except in a hearing before the licensing board, as to any
 6207 evidence or the matters produced or presented ~~during the proceedings of such committee~~
 6208 ~~or board~~ or as to any findings, recommendations, evaluations, opinions, or actions of such
 6209 ~~committee or board or any members thereof; provided, however, that any information,~~
 6210 ~~documents, or records~~ made or taken in reliance upon such data. Such data otherwise
 6211 available from original sources shall not be construed as immune from discovery or use in
 6212 any such civil action merely because they were ~~presented during proceedings of such~~
 6213 ~~committee or board; and provided, further, that no person who testifies before such~~
 6214 ~~committee or board or who is a member of such committee or board shall~~ so disclosed, nor
 6215 shall any person made privy to such data be prevented from testifying as to matters within
 6216 his or her knowledge, provided that such witness may not be questioned regarding ~~such~~
 6217 ~~witness's~~ his or her testimony before the director, such peer review committee, or the
 6218 licensing board or opinions formed by the witness as a result of such hearings ~~of the~~
 6219 ~~committee or board.~~

6220 43-3-38.

6221 Any person who violates this chapter shall be guilty of a misdemeanor."

6222 **SECTION 1-6.**

6223 Said title is further amended by revising Chapter 4, relating to architects, as follows:

6224 "CHAPTER 4

6225 ARTICLE 1

6226 43-4-1.

6227 As used in this chapter, the term:

6228 (1) 'Architect' means an individual technically and legally qualified to engage in the
 6229 practice of architecture.

6230 (2) 'Architectural construction contract administration services' shall include at a
 6231 minimum the following services:

6232 (A) Visiting the construction site on a regular basis to determine that the work is
 6233 proceeding in accordance with the technical submissions submitted to the building
 6234 official at the time the building permit was issued; and

6235 (B) Processing shop drawings, samples, and other submissions required of the
 6236 contractor by the terms of construction contract documents.

- 6237 (3) 'Board' means the Georgia State Board of Architects and Interior Designers, a
 6238 professional licensing policy board pursuant to Chapter 1 of this title with the authority
 6239 and responsibilities set forth in such chapter.
- 6240 (4) 'Building' means any structure consisting of foundation, floors, walls, columns,
 6241 girders, beams, and roof or a combination of any of these parts, with or without other
 6242 parts or appurtenances.
- 6243 (5) 'Building official' means the person appointed by the county, municipality, or other
 6244 political subdivision of the state having responsibility for the issuance of building permits
 6245 and the administration and enforcement of the Georgia State Minimum Construction
 6246 Codes, or a state fire marshal where there is not such local official.
- 6247 (6) 'Building shell' means a building framework, perimeter and exterior walls, the
 6248 building core and columns, and other structural, mechanical, and load-bearing elements
 6249 of the building.
- 6250 (7) 'Building shell system' means a mechanical, plumbing, fire protection, electrical,
 6251 structural, or motorized vertical transportation system designed for or located within a
 6252 building shell.
- 6253 (7.1) 'Director' means the director of professional licensing.
- 6254 (8) 'Interior construction document' means detailed drawings and specifications sealed
 6255 and signed by a registered interior designer certifying compliance with applicable current
 6256 building codes, ordinances, laws, and regulations that define the work to be constructed
 6257 in such form as is required for approval of a construction permit by a building official or
 6258 fire marshal. Such document may be combined with documents prepared under the
 6259 responsible control, seal, and signature of other registered or licensed professionals.
- 6260 (9)(A) 'Interior design' means the rendering of or the offering to render designs,
 6261 consultations, studies, planning, drawings, specifications, contract documents, or other
 6262 technical submissions and the administration of interior construction and contracts
 6263 relating to nonstructural interior construction of a building by a registered interior
 6264 designer. Such term includes:
- 6265 (i) Space planning, finishes, furnishings, and the design for fabrication of
 6266 nonstructural interior construction within interior spaces of buildings;
 - 6267 (ii) Responsibility for life safety design of proposed or modification of existing
 6268 nonstructural and nonengineered elements of construction such as partitions, doors,
 6269 stairways, and paths of egress connecting to exits or exit ways; and
 - 6270 (iii) Modification of existing building construction so as to alter the number of
 6271 persons for which the egress systems of the building are designed.

6272 (B) Registered interior designers shall collaborate and coordinate their work with
 6273 registered architects or engineers for work that is excluded by this definition, including
 6274 without limitation:

6275 (i) The design of or responsibility for the building shell or any building shell systems;
 6276 or

6277 (ii) Construction which materially affects building life safety systems pertaining to
 6278 fire safety protection such as fire-rated vertical shafts in multistory structures and
 6279 fire-rated protection of structural elements with the exception of incidental restoration
 6280 of fire protection to elements impacted by nonstructural elements of construction,
 6281 smoke evacuation, emergency sprinkler systems, and emergency alarm systems.

6282 (9.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 6283 Article 2 of Chapter 1 of this title.

6284 (10) 'Nonstructural interior construction' means the construction of elements which do
 6285 not include a load-bearing wall, a load-bearing column, or other load-bearing elements
 6286 of a building essential to the structural integrity of the building.

6287 (11) 'Practice of architecture' means the rendering of or offer to render the following
 6288 services in connection with the design, construction, enlargement, or alteration of a
 6289 building or group of buildings and the space within and surrounding such buildings,
 6290 which may have human occupancy or habitation: planning; providing preliminary studies,
 6291 designs, drawings, specifications, and other technical submissions; the architectural
 6292 administering of construction contracts; and coordinating elements of technical
 6293 submissions prepared by others including, as appropriate and without limitation,
 6294 consulting engineers, registered interior designers, and landscape architects. As part of
 6295 the practice of architecture, a registered architect may perform such engineering work as
 6296 is incidental to his or her work. Nothing in this paragraph shall be construed to prohibit
 6297 a licensed engineer from coordinating technical submittals related to the practice of
 6298 engineering. Nothing in this paragraph shall be construed to prohibit a registered interior
 6299 designer from coordinating submittals related to the practice of interior design.

6300 (12) 'Registered architect' means a person who is technically and legally qualified and
 6301 currently registered with the ~~board~~ director to practice architecture in the State of
 6302 Georgia.

6303 (13) 'Registered interior designer' means a person who is registered under Article 2 of
 6304 this chapter as being qualified by education, experience, and examination to use the title
 6305 'registered interior designer' in the State of Georgia and as further defined in Code
 6306 Section 43-4-30. Nothing in this paragraph or in this article shall be construed as
 6307 prohibiting or restricting the practice or activities of an interior decorator or individual
 6308 offering interior decorating services, including, but not limited to, selection of surface

6309 materials, window treatments, wall coverings, paints, floor coverings, and lighting
6310 fixtures.

6311 (14) 'Registration' means the certificate of registration issued by the ~~board~~ director.

6312 (15) 'Responsible control' means the amount of control over and detailed knowledge of
6313 the content of technical submissions during their preparation as is ordinarily exercised by
6314 registered or licensed professionals applying the required professional standard of care,
6315 as defined by rules and regulations adopted by the ~~respective boards governing such~~
6316 professionals licensing board.

6317 (16) 'Technical submissions' means designs, drawings, specifications, studies, and other
6318 technical reports prepared or reviewed in the course of professional practice.

6319 43-4-2.

6320 There is created the Georgia State Board of Architects and Interior Designers as a
6321 professional licensing policy board, which shall be composed of nine appointed members.
6322 Six of the members shall be registered architects who hold a current license in this state and
6323 who shall be residents of this state. Two members shall be registered interior designers
6324 who are residents of this state and who have been interior designers for at least ten years
6325 immediately preceding the appointment and who shall have passed an examination
6326 approved by the licensing board. One member shall be a resident of this state and shall
6327 have no connection whatsoever with the practice or profession of architecture or interior
6328 design. ~~The members of the predecessor State Board of Architects including the interior~~
6329 ~~designer members who were formerly only full voting members for purposes of Article 2~~
6330 ~~of this chapter in office on June 30, 2000, shall be members of the Georgia State Board of~~
6331 ~~Architects and Interior Designers and shall serve out the remainder of their respective terms~~
6332 ~~and until their successors are appointed and qualified. The citizen member who is not a~~
6333 ~~practicing architect or interior designer may vote only on matters relating to administration~~
6334 ~~and policy which do not directly relate to practical and scientific examination of architects~~
6335 ~~or interior designers in this state.~~ The Governor shall appoint successors to the present
6336 members of the board, as their respective terms of office expire, for a term of office of five
6337 years each. The successor members so appointed shall possess the qualifications specified
6338 in this Code section and shall be confirmed by the Senate as provided in Code Section
6339 43-1-16. In case a successor is not appointed at the expiration of the term of any member,
6340 such member shall hold office until his or her successor has been duly appointed and
6341 qualified. Any vacancy occurring in the membership of the board shall be filled by the
6342 Governor for the unexpired term, and such member shall be confirmed by the Senate as
6343 provided in Code Section 43-1-16.

6344 43-4-3.

6345 The members of the board, before entering upon the discharge of their duties, shall
6346 subscribe to and file with the Secretary of State the constitutional oath of officers.

6347 43-4-4.

6348 The board shall elect from its membership a president and a vice president.

6349 43-4-5.

6350 The ~~division~~ director shall keep a true record of all proceedings of the board.

6351 43-4-6.

6352 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
6353 Section 43-1-2.

6354 43-4-7.

6355 The board, or any member designated by the board, may confer with similar boards of
6356 other states or attend meetings or conferences for the purpose of obtaining information for
6357 the advancement of the profession and standards thereof.

6358 43-4-8.

6359 The ~~board~~ director shall be charged with the duty of enforcing this chapter ~~and may incur~~
6360 ~~such expenses as shall be necessary, all of which expenses shall be paid as provided in~~
6361 ~~Chapter 1 of this title.~~

6362 43-4-9.

6363 (a) The ~~board~~ director shall adopt all necessary rules, regulations, and standards of
6364 conduct, not inconsistent with this chapter and the Constitution and laws of this state and
6365 of the United States, to carry out this chapter and to safeguard life, health, and property.

6366 (b) The ~~board~~ director shall post all current laws, rules, regulations, and standards of
6367 conduct relating to the practice of architecture in this state on the ~~board's~~ director's official
6368 website. The ~~board~~ director shall also provide on the website notification of recent changes
6369 in such laws, rules, regulations, or standards and information pertaining to disciplinary
6370 actions taken by the ~~board~~ director.

6371 43-4-10.

6372 (a) Except as otherwise provided in this article, no person shall practice architecture in this
6373 state or use the title 'architect' or 'registered architect' or any word, letter, figure, or any

6374 other device indicating or intending to imply that he or she is an architect unless he or she
6375 holds a current registration as an architect in this state.

6376 (b) No firm, sole proprietorship, partnership, limited liability company, corporation, or
6377 other similar organization shall be registered as architects. Firms, sole proprietorships,
6378 partnerships, limited liability companies, and corporations may practice architecture, as
6379 defined by this article, and perform the services heretofore enumerated common to the
6380 practice of architecture, provided that all such work and services are performed under the
6381 responsible control of an architect registered in this state who is a director, in the case of
6382 a corporation, ~~or;~~ who is a partner, in the case of a partnership, ~~or;~~ who is a member, in the
6383 case of a limited liability company; ~~;~~ or who is an employee with an ownership interest who
6384 has been designated in writing as holding a position of authority within the firm which
6385 authorizes him or her to direct the architectural services offered by that firm; and provided,
6386 further, that the administration of construction contracts shall be under the responsible
6387 control of such registered architect and that such plans, drawings, and specifications shall
6388 be prepared under the responsible control of such registered architect and bear the
6389 architect's individual signature and seal.

6390 43-4-11.

6391 (a) Any person may apply to the ~~board~~ director for such examinations as are required for
6392 certification under this article if qualified as set forth in subsection (b) of this Code section,
6393 or any person who has been registered as an architect by another jurisdiction may apply for
6394 a certificate of registration if qualified as set forth in subsection (c) of this Code section.
6395 No person shall be eligible for registration as an architect who has been found by the ~~board~~
6396 director to have committed any of the acts set forth in this article for which an architect's
6397 certificate might be revoked or suspended unless that individual establishes to the
6398 satisfaction of the ~~board~~ director that he or she has fully reformed.

6399 (b) The examinations shall be the examinations prepared by the licensing board and
6400 administered and graded by the ~~National Council of Architectural Registration Boards~~
6401 ~~(NCARB)~~ director. The candidate for examination shall submit to the ~~board~~ director
6402 satisfactory evidence of ~~one of the following qualifications:~~

6403 ~~(1) A~~ a professional degree in architecture from a school or college approved by the
6404 ~~National Architectural Accrediting Board~~ licensing board and practical experience as the
6405 licensing board, by rules and regulations uniformly applied, shall deem appropriate. The
6406 licensing board may adopt as its rules and regulations those guidelines published from
6407 time to time by the National Council of Architectural Registration Boards;

6408 ~~(2) A minimum of ten years' practical experience, including academic training, following~~
6409 ~~completion of high school or the equivalent thereof, as the board, by rules and regulations~~

6410 ~~uniformly applied, shall deem appropriate. An individual who intends to qualify as a~~
 6411 ~~candidate for examination under the provisions of this paragraph shall notify the board~~
 6412 ~~of such intent in writing prior to July 1, 1985. After July 1, 1985, all candidates for~~
 6413 ~~examination shall meet the requirements of paragraph (1) of this subsection; provided,~~
 6414 ~~however, that those candidates and only those candidates who have met the requirements~~
 6415 ~~of this paragraph shall be admitted as a candidate for examination; or~~
 6416 ~~(3) A bachelor's degree in architectural engineering technology from a school or college~~
 6417 ~~in this state approved by the Accrediting Board for Engineering and Technology, or any~~
 6418 ~~other bachelor's degree with a substantial concentration in architecture approved by the~~
 6419 ~~board from a board approved school or college in this state, and at least six years of~~
 6420 ~~practical experience as the board, by regulations uniformly applied, shall deem~~
 6421 ~~appropriate. An individual who intends to qualify as a candidate for examination under~~
 6422 ~~the provisions of this paragraph shall notify the board of such intent in writing prior to~~
 6423 ~~July 1, 2004. After July 1, 2004, all candidates for examination shall meet the~~
 6424 ~~requirements of paragraph (1) of this subsection.~~

6425 (c) The applicant for a certificate of registration who has been registered as an architect
 6426 by another jurisdiction shall hold a National Council of Architectural Registration Boards'
 6427 certificate and a certificate of registration in such other jurisdiction, both of which shall be
 6428 current and in good standing in order to meet the requirements of this subsection.

6429 (d) The board director may require applicants under subsection (c) of this Code section to
 6430 provide such other evidence as the licensing board may require to demonstrate knowledge
 6431 of professional practice.

6432 43-4-12.

6433 A certificate of registration as a registered architect shall be valid for two years and shall
 6434 be renewed biennially as provided by rule of the licensing board. It is unlawful to identify
 6435 oneself as being able to practice architecture in this state without a current and valid
 6436 registration in this state. An applicant for a renewal of a certificate of registration shall
 6437 meet such professional development requirements as the licensing board may require by
 6438 rule or regulation. Such rule or regulation shall describe professional development
 6439 activities acceptable to the licensing board and the form of documentation of such activities
 6440 required by the licensing board. The board director shall be authorized to waive the
 6441 professional development requirement in cases of hardship, disability, age, illness, or under
 6442 such other circumstances as the licensing board deems appropriate. Failure to meet the
 6443 minimum qualifications for renewal of a license shall be grounds for denial of a renewal
 6444 application.

6445 43-4-13.

6446 (a) In addition to the authority provided in Code Section 43-1-19, and subject to Code
 6447 Section 43-1-3.1, the board director shall have the power to suspend or revoke the
 6448 certificate of registration or reprimand any registrant who is found by the board director to
 6449 have:

6450 (1) Committed any fraud, deceit, or misrepresentation in obtaining a certificate of
 6451 registration;

6452 (2) Committed any gross negligence, incompetence, unprofessional conduct, or
 6453 recklessness in his or her professional practice;

6454 (3) Permitted the use of his or her seal by any firm, partnership, limited liability
 6455 company, or corporation without complying with the provisions of Code Section 43-4-10
 6456 as to his or her personal direction and supervision of architectural services performed by
 6457 such firm, sole proprietorship, partnership, limited liability company, or corporation or
 6458 the provisions of Code Section 43-4-16;

6459 (4) Been convicted by any court of record of the United States of any act which would
 6460 constitute a felony or a crime involving moral turpitude in this state or a plea of nolo
 6461 contendere or the affording of first offender treatment to any such charge; or

6462 (5) Violated this article or any rule, regulation, or standard of conduct promulgated by
 6463 the licensing board pursuant to the powers conferred upon it by this article.

6464 ~~(b) Prior to revoking or suspending a registrant's certificate, the board shall provide for a~~
 6465 ~~hearing into the charges against the registrant. The board shall issue a notice of hearing to~~
 6466 ~~the registrant in compliance with Chapter 13 of Title 50, the 'Georgia Administrative~~
 6467 ~~Procedure Act,' at least ten days prior to the hearing. The hearing will be conducted in~~
 6468 ~~accordance with the procedures set forth in Chapter 13 of Title 50 and this article.~~

6469 (c) The board director may reinstate a registration to any person whose registration has
 6470 been revoked who has met the qualifications for reinstatement. Application for the
 6471 reissuance of ~~said~~ registration shall be made in such a manner as the licensing board may
 6472 direct and shall be accompanied by a fee established by the licensing board. Neither the
 6473 denial of a request for reinstatement of a revoked registration nor the refusal to issue a
 6474 previously denied registration shall be considered to be a contested case within the meaning
 6475 of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

6476 43-4-14.

6477 (a) In order to safeguard health, safety, and welfare, no person shall be allowed to practice
 6478 architecture unless he or she has the qualifications and competency required by this article.
 6479 Any person who is practicing architecture as defined in ~~paragraph (11)~~ of Code Section

6480 43-4-1 shall be required to register under this article and to secure all renewals of such
6481 registration before beginning or continuing to practice architecture.

6482 (b) Construction documents for the following structures do not require the seal of a
6483 registered architect:

6484 (1) One and two-family residences and domestic outbuildings regardless of cost;

6485 (2) Any building classified as an agricultural occupancy upon any farm for the use of any
6486 farmer; any state owned ~~farmer's~~ farmers' market;

6487 (3) Any building which is a single story building, not exceeding more than 5,000 square
6488 feet in area, except new or existing assembly occupancies, educational occupancies,
6489 health care occupancies, correctional or detention facilities, hotels, dormitories or lodging
6490 facilities, multifamily housing or apartment complexes, and care facilities;

6491 (4) Preengineered buildings that are one story in height, except new or existing assembly
6492 occupancies, educational occupancies, health care occupancies, correctional or detention
6493 facilities, hotels, dormitories or lodging facilities, multifamily housing or apartment
6494 complexes, care facilities, and facilities classified as high hazard; provided, however, that
6495 the services of a duly registered architect shall be required for the design of any business
6496 or mercantile occupancies that exceed 5,000 square feet in area that are incidental to the
6497 operation in such building; and

6498 (5) Nonstructural interior construction within existing or planned structures which were
6499 designed by a registered architect, where drawings and specifications are prepared by a
6500 registered interior designer who by sealing and signing such interior construction
6501 documents submits to the responsible building official certification that the plans and
6502 specifications as submitted are in compliance with the applicable current building codes
6503 and regulations in effect.

6504 (c) The following persons are exempt from registration as an architect in this state:

6505 (1) A nonresident who holds a license to practice architecture in the state or country in
6506 which he or she resides and holds ~~an NCARB~~ a certificate from the National Council of
6507 Architectural Registration Boards, but who is not registered in this state, may offer
6508 architectural services in a response to a request for qualifications, an interview, or a
6509 design competition only. Any offering or practice beyond this exception shall require
6510 registration as an architect in Georgia;

6511 (2) An employee of a registered architect or firm under subsection (b) of Code Section
6512 43-4-10 who is not in charge of design or supervision and who works under the
6513 supervision of a registered architect;

6514 (3) An employee of the United States government while working in the scope of his or
6515 her employment for the United States government; and

6516 (4) A registered professional engineer or his or her employee or subordinate under his
6517 or her responsible supervising control may perform architectural services which are
6518 incidental to such engineering practice; provided, however, that no professional engineer
6519 shall practice architecture or use the designation 'architect' or any term derived therefrom
6520 unless registered under this article.

6521 (d) Nothing in this article shall be construed to prohibit interior designers from performing
6522 services authorized by Article 2 of this chapter.

6523 (e) Nothing in this article shall be construed to prohibit a general contractor for
6524 construction from offering to perform a design-build contract; provided, however, that such
6525 offer shall clearly indicate at the time of such offer that all design services shall be
6526 performed by a duly licensed and registered architect or engineer in compliance with all
6527 other provisions of this chapter.

6528 (f) Nothing in this article shall be construed to mean that predesign services, as defined in
6529 Code Section 50-22-7, are required to be performed exclusively by architects.

6530 (g) Nothing in this article shall be construed to mean that construction contract
6531 administration services are required to be performed exclusively by architects.

6532 43-4-15.

6533 Except as provided in Code Section 25-2-14, it shall be the duty of all public officials
6534 charged with the responsibility of enforcing codes related to the construction of buildings
6535 to require compliance with Code Section 43-4-14 before architectural plans, drawings, and
6536 specifications are approved for construction. Except as provided in Code Section 25-2-14,
6537 no building subject to Code Section 43-4-14 and requiring the services of an architect shall
6538 be built without such approval prior to construction.

6539 43-4-16.

6540 (a) Every architect registered under this chapter shall have a seal in the design authorized
6541 by the licensing board, bearing the registrant's name, certificate number, and the legends
6542 'Registered Architect' and 'State of Georgia.'

6543 (b) Plans, specifications, drawings, reports, or other architectural documents issued for the
6544 purpose of obtaining a building permit or for other requirements set forth by law shall be
6545 sealed by the architect and across the face of the seal shall be affixed the signature of the
6546 owner of the seal. The location of the seal on such documents, the identification of the
6547 pages which must be sealed, and the form of any title blocks may be established by the
6548 licensing board in its rules and regulations.

6549 (c) No plans, specifications, drawings, reports, or other documents shall be sealed and
6550 signed by an architect unless:

- 6551 (1) The architect has a current registration to practice in this state and is competent in the
6552 subject matter of the documents by virtue of education or experience or both;
- 6553 (2) The architect personally prepared the plans, specifications, drawings, reports, or other
6554 documents, or the plans, specifications, drawings, reports, or other documents were
6555 prepared under the architect's responsible control as provided in subsection (b) of Code
6556 Section 43-4-10; and
- 6557 (3) The architect has been given full authority in writing by the original architect to make
6558 document revisions and has made a substantive review and inspection of the documents
6559 with regard to the laws and regulations of this state, and the documents are prototypical
6560 drawings. For purposes of this paragraph, prototypical drawings are drawings that may
6561 be prepared by an architect licensed in any country or United States jurisdiction, that have
6562 been prepared in connection with the design of a commercial chain establishment, and
6563 that have been successfully constructed in other states or countries.
- 6564 (d) The registered architect who signs and seals the plans, specifications, drawings,
6565 reports, or other documents shall be considered the architect of record.
- 6566 (e) No registered architect shall affix his or her seal to any plan, specification, drawing,
6567 report, or other document unless he or she has assumed the responsibility for the accuracy
6568 and adequacy of the work involved.
- 6569 (f) If the registered architect who sealed the technical submissions submitted to the
6570 building official at the time the building permit is issued has not been employed to furnish
6571 construction administration services, he or she shall so note on such technical submissions
6572 in such manner as defined by licensing board rules. If the architect's responsibility for
6573 construction contract administration is terminated following the issuance of a building
6574 permit, the building official shall be notified by the architect in writing accordingly.
- 6575 (g) Any violation of this Code section shall be grounds for the suspension or revocation
6576 of the registration of the architect.
- 6577 (h) Nothing in this Code section shall be construed to prohibit a registered architect from
6578 sealing drawings or documents prepared by a registered interior designer when such
6579 registered architect has reviewed or supervised the preparation of the drawings or
6580 documents as provided in Code Section 43-4-33.
- 6581 (i) Nothing in this Code section shall be construed to prohibit a licensed engineer from
6582 sealing engineering drawings and documents as provided in Code Section 43-4-14.
- 6583 43-4-17.
- 6584 (a) Any person who uses the title 'architect' or 'registered architect' or uses any word,
6585 letters, or figures indicating or intending to imply that the person using the same is an
6586 architect or registered architect without compliance with this article, or who makes any

6587 willfully false oath or affirmation in any matter or proceeding where an oath or affirmation
 6588 is required by this article, or who practices architecture without compliance with this article
 6589 shall be guilty of a misdemeanor.

6590 (b) It shall be the duty of all duly constituted officers of the law of this state, or any
 6591 political subdivision thereof, to enforce this article and to prosecute any persons violating
 6592 this article. Upon application of any officer or citizen of this state complaining that this
 6593 article has been violated by any person and upon proof of such violation, the superior
 6594 courts of this state are authorized to and shall enjoin further violations of this article.

6595 43-4-18.

6596 (a) Notwithstanding any other provisions of the law to the contrary, upon the ~~board~~
 6597 director determining that a person is violating the provisions of Code Section 43-4-14,
 6598 43-4-16, or 43-4-17, the ~~board~~ director may issue a cease and desist order prohibiting the
 6599 person from committing further violations and may impose a fine not to exceed \$10,000.00
 6600 for each violation. In determining the fine amount to be imposed, the ~~board~~ director shall
 6601 consider the severity of the violation.

6602 (b) For purposes of this Code section, each day a person is in violation of the provisions
 6603 of Code Section 43-4-14, 43-4-16, or 43-4-17 shall constitute a separate violation.

6604 (c) A determination by the ~~board~~ director pursuant to subsection (a) of this Code section
 6605 shall be made ~~only after notice to such person is given and a hearing is held~~ subject to the
 6606 provisions of Code Section 43-1-3.1.

6607 (d) Initial judicial review of any decision of the licensing board made pursuant to this
 6608 Code section or any action for enforcement thereof shall be available solely in the ~~superior~~
 6609 ~~court of the county of domicile of the board~~ Superior Court of Bibb County.

6610 (e) Nothing in this Code section shall be construed to prohibit the ~~board~~ director from
 6611 seeking remedies otherwise available by statute without first seeking a cease and desist
 6612 order in accordance with the provisions of this Code section.

6613 43-4-19.

6614 As cumulative of any other remedy or criminal prosecution, whenever it appears to the
 6615 ~~board~~ director that any person, firm, sole proprietorship, partnership, limited liability
 6616 company, or corporation is or has been violating any of the provisions of this article, or the
 6617 lawful rules, regulations, or orders of the licensing board, or any of the laws of this state
 6618 relating to the practice of architecture, the ~~board~~ director, on ~~its~~ his or her own motion, may
 6619 bring an action in ~~it's~~ the director's own name in the superior courts of this state alleging
 6620 the facts and praying for a temporary restraining order and an injunction against such
 6621 person, firm, sole proprietorship, partnership, limited liability company, or corporation,

6622 restraining him, her, or it from violating such law, order, rule, or regulation. Upon proof
 6623 of such facts, the court shall issue a restraining order or injunction, or both, without
 6624 requiring allegation or proof that the petitioner therefor has no adequate remedy at law.

6625 ARTICLE 2

6626 43-4-30.

6627 As used in this article, the term 'registered interior designer' means a person registered
 6628 under this article as being qualified by education, experience, and examination to use the
 6629 title 'registered interior designer.' In general, an interior designer performs services
 6630 including preparation of documents relative to nonstructural interior construction,
 6631 furnishings, finishes, fixtures, and equipment.

6632 43-4-31.

6633 ~~The Georgia State Board of Architects and Interior Designers~~ director shall grant
 6634 certificates and administer the provisions of this article; and ~~the board shall~~ keep a registry
 6635 of registered interior designers.

6636 43-4-32.

6637 (a) Any person wishing to use the title 'registered interior designer' shall apply to the ~~board~~
 6638 director for a certificate of registration as a registered interior designer.

6639 (b) Each applicant for certification as a registered interior designer shall meet the
 6640 following requirements:

6641 (1) Is at least 21 years of age;

6642 (2) Has submitted a completed application as required by the licensing board;

6643 (3) Has submitted the fees required by the licensing board;

6644 (4) Provides proof of having passed the examination promulgated by the National
 6645 Council for Interior Design Qualification or an examination approved by the licensing
 6646 board; and

6647 (5) Except as otherwise provided in subsection (c) of this Code section, provides proof
 6648 that the applicant has acquired a minimum four-year degree or first professional degree
 6649 conferred by a college or university whose program is accredited by the National
 6650 Architectural Accrediting Board or by another national or regional accrediting
 6651 organization recognized by the licensing board in a program of study in architecture or
 6652 in a program of study in interior design approved by the Council for Interior Design
 6653 Accreditation or in a substantially equivalent program of study approved by the licensing
 6654 board.

6655 ~~(c) The examination requirement and education requirement specified in paragraph (4) of~~
 6656 ~~subsection (b) of this Code section shall be waived by the board until June 30, 1996, for~~
 6657 ~~any applicant who provides proof satisfactory to the board that the applicant has been an~~
 6658 ~~interior designer for at least ten years immediately prior to the date of the application and~~
 6659 ~~who:~~

6660 ~~(1) Provides proof of having passed the entire examination promulgated by the National~~
 6661 ~~Council for Interior Design Qualification or an examination approved by the board, or~~

6662 ~~(2) Has a four-year degree conferred by a college or university and who passes an~~
 6663 ~~examination approved by the board on life safety and accessibility codes, which~~
 6664 ~~examination is passed after January 1, 1990, and prior to the application for a certificate~~
 6665 ~~of registration.~~

6666 ~~(d)~~ A certificate of registration as a registered interior designer shall be valid for two years
 6667 and shall be renewed biennially. An applicant for renewal of a certificate of registration
 6668 shall pay a renewal fee and shall meet such continuing education requirements as the
 6669 licensing board may require by rule or regulation. The continuing education requirements
 6670 shall not exceed 40 hours biennially.

6671 43-4-33.

6672 (a) The licensing board shall prescribe the form of a certificate of registration as a
 6673 registered interior designer issued pursuant to the provisions of this article.

6674 (b) A registered interior designer shall be authorized to have a seal separate from the seal
 6675 of registered architects. The seal of a registered interior designer shall be applied to
 6676 drawings or other documents prepared by or under the responsible control of the registered
 6677 interior designer, provided that the foregoing shall not prohibit any registered architect who
 6678 has reviewed or supervised the preparation of drawings or other documents prepared by a
 6679 registered interior designer from applying his or her seal to such drawings or other
 6680 documents.

6681 43-4-34.

6682 (a) Nothing in this article shall be construed as amending or in any manner affecting the
 6683 definition of or practice of architecture as provided in Code Sections 43-4-1 and 43-4-14.

6684 (b) Nothing in this article shall be construed as prohibiting an architect from practicing
 6685 interior design, provided that an architect shall not use the title 'registered interior designer'
 6686 unless the architect has been granted a certificate of registration under this article.

6687 (c) Nothing in this article shall be construed as prohibiting or restricting the practice or
 6688 activities of an interior decorator or individual offering interior decorating services,

6689 including, but not limited to, selection of surface materials, window treatments, wall
6690 coverings, paint, floor coverings, and lighting fixtures.

6691 43-4-35.

6692 For the purposes of this article, all the powers and duties provided in Chapter 1 of this title
6693 apply, including but not limited to the authority to sanction or deny registration as provided
6694 for applicants and licensees in Code Section 43-1-19.

6695 43-4-36.

6696 Any person who has been certified or registered as an interior designer in another state or
6697 foreign country may be issued a certificate of registration by the ~~board~~ director to use the
6698 title 'registered interior designer,' provided that such person demonstrates to the satisfaction
6699 of the ~~board~~ director that he or she meets the requirements for registration in this state.

6700 43-4-37.

6701 (a) It shall be unlawful for any person to use the title 'registered interior designer' unless
6702 that person has been issued a certificate of registration as a registered interior designer as
6703 provided in this article.

6704 (b) Any person violating the provisions of subsection (a) of this Code section shall be
6705 guilty of a misdemeanor."

6706 **SECTION 1-7.**

6707 Said title is further amended by revising Chapter 4B, relating to the Georgia Athletic and
6708 Entertainment Commission, as follows:

6709 "CHAPTER 4B

6710 ARTICLE 1

6711 43-4B-1.

6712 As used in this chapter, the term:

6713 (1) 'Amateur,' when applied to a person engaged in boxing, wrestling, or a martial art,
6714 means a person who receives no compensation and engages in a match, contest, or
6715 exhibition of boxing, wrestling, or a martial art that is governed or authorized by:

6716 (A) U.S.A. Boxing;

6717 (B) The Georgia High School Athletic Association;

6718 (C) The National Collegiate Athletic Association;

6719 (D) Amateur Athletic Union;

- 6720 (E) Golden Gloves;
- 6721 (F) Team Georgia Amateur Wrestling;
- 6722 (G) USA Wrestling;
- 6723 (H) National High School Coaches Association;
- 6724 (I) North American Sport Karate Association;
- 6725 (J) International Sport Kick Boxing/Karate Association;
- 6726 (K) World Kick Boxing Association;
- 6727 (L) United States Kick Boxing Association;
- 6728 (M) International Sport Combat Federation;
- 6729 (N) Professional Karate Commission;
- 6730 (O) International Kick Boxing Federation; or
- 6731 (P) The local affiliate of any organization listed in this paragraph.
- 6732 (2) 'Boxing match' means a contest between two individuals in which contestants score
6733 points in rounds of two or three minutes by striking with padded fists the head and upper
6734 torso of the opponent or by knocking the opponent down and rendering the opponent
6735 unconscious or incapable of continuing the contest by such blows, ~~which~~ and such contest
6736 is held in a square ring supervised by a referee and scored by three judges.
- 6737 (3) 'Boxing registry' means a registry created or designated pursuant to subsection (j) of
6738 Code Section 43-4B-4.
- 6739 (3.1) 'Charitable organization' means an entity described by:
- 6740 (A) Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));
- 6741 or
- 6742 (B) Section 170(c), Internal Revenue Code of 1986 (26 U.S.C. Section 170(c)).
- 6743 (4) 'Commission' means the Georgia Athletic and Entertainment Commission, a
6744 professional licensing policy board pursuant to Chapter 1 of this title with the authority
6745 and responsibilities set forth in such chapter.
- 6746 (4.1) 'Director' means the director of professional licensing.
- 6747 (5) 'Exhibition' means a contest where the participants engage in the use of boxing,
6748 wrestling, or martial arts skills and techniques and where the objective is to display such
6749 skills and techniques without striving to win.
- 6750 (6) 'Face value' means the dollar value of a ticket or order, ~~which value shall reflect that~~
6751 reflects the dollar amount that the customer is required to pay or, for complimentary
6752 tickets, would have been required to pay to purchase a ticket with equivalent seating
6753 priority in order to view the match, contest, exhibition, or entertainment event. A
6754 complimentary ticket shall not have a face value of \$0.00. A complimentary ticket shall
6755 not have a face value of less than that of the least expensive ticket available for sale to the
6756 general public. Face value shall include any charges or fees, such as dinner, gratuity,

6757 parking, surcharges, or any other charges or fees which are charged to and must be paid
 6758 by the customer in order to view the match, contest, exhibition, or entertainment event.
 6759 It shall exclude any portion paid by the customer for federal, state, or local taxes.

6760 (7) 'Gross proceeds' means the total revenue received solely from the sale of tickets used
 6761 or intended to be used by the audience physically attending any event required to be
 6762 licensed under this chapter.

6763 (8) 'Gross receipts' means:

6764 (A) The gross price charged for the sale or lease of broadcasting, television, pay per
 6765 view, closed circuit, or motion picture rights without any deductions for commissions,
 6766 brokerage fees, distribution fees, production fees, advertising, or other expenses or
 6767 charges;

6768 (B) The face value of all tickets sold and complimentary tickets issued, provided, or
 6769 given; and

6770 (C) The face value of any seats issued, provided, or given in exchange for advertising,
 6771 sponsorships, or anything of value to the promotion of an event.

6772 (8.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 6773 Article 2 of Chapter 1 of this title.

6774 (9) 'Local tax' means any occupation tax or other tax owed to a county or municipality
 6775 in order to hold a match, contest, or exhibition or to carry on a business as a ticket broker
 6776 within such county or municipality.

6777 (9.1) 'Kickboxing' means unarmed combat involving the use of striking techniques
 6778 delivered with the upper and lower body and in which the competitors remain standing
 6779 while striking.

6780 (10) 'Manager' means a person who under contract, agreement, or other arrangement with
 6781 a boxer, undertakes to control or administer, directly or indirectly, a matter related to
 6782 boxing on behalf of a boxer. Such term includes, but is not limited to, a person who
 6783 functions as a booking agent, adviser, or consultant.

6784 (10.1) 'Martial art' means any form of unarmed combative sport or unarmed combative
 6785 entertainment that allows contact striking, except boxing or wrestling.

6786 (10.2) 'Matchmaker' means a person who is employed by or associated with a promoter
 6787 in the capacity of booking and arranging professional matches, contests, or exhibitions
 6788 between opponents or who proposes professional matches, contests, or exhibitions and
 6789 selects and arranges for the participants in such events and for whose activities in this
 6790 regard the promoter is legally responsible.

6791 (11) 'Mixed martial arts' means unarmed combat involving the use of a combination of
 6792 techniques from different disciplines of the martial arts, including but not limited to
 6793 grappling, submission holds, and strikes with the upper and lower body.

6794 (11.1) 'Original purchaser for personal use' means a person who buys one or more tickets
6795 with the intention of using the ticket or tickets solely for the use of the purchaser or the
6796 purchaser's invitees, employees, and agents. An original purchaser who resells more than
6797 six tickets to the same athletic contest or entertainment event and who resells tickets to
6798 an athletic contest or entertainment event for more than 105 percent of their face value
6799 shall be rebuttably presumed to be engaging in the business of a ticket broker in any
6800 criminal prosecution or civil action, order, or penalty by the ~~commission~~ director.

6801 (11.2) 'Patron boxing,' 'patron wrestling,' or 'patron martial arts' means boxing, wrestling,
6802 or martial arts that is not:

6803 (A) Governed or authorized by any organization listed in paragraph (1) of this Code
6804 section;

6805 (B) Governed or authorized by an organization licensed by the ~~commission~~ director in
6806 accordance with this chapter;

6807 (C) Governed or authorized by an organization exempted from licensure by the
6808 ~~commission~~ director in accordance with this chapter; and

6809 (D) Licensed by the ~~commission~~ director in accordance with Article 2 of this chapter.

6810 (11.3) 'Pay per view' means a telecast for which a fee is required in addition to any other
6811 fee paid by the viewer for any other services of the telecaster.

6812 (12) 'Person' means any individual, partnership, firm, association, corporation, or
6813 combination of individuals of whatever form or character.

6814 (13) 'Physician' means a doctor of medicine or other medical professional legally
6815 authorized by any state to practice medicine.

6816 (14) 'Professional' means a person who is participating or has participated in a match,
6817 contest, or exhibition which is not governed or authorized by one or more of the
6818 organizations listed in paragraph (1) of this Code section and:

6819 (A) Has received or competed for or is receiving or competing for any cash as a salary,
6820 purse, or prize for participating in any match, contest, or exhibition;

6821 (B) Is participating or has participated in any match, contest, or exhibition to which
6822 admission is granted upon payment of any ticket for admission or other evidence of the
6823 right of entry;

6824 (C) Is participating or has participated in any match, contest, or exhibition which is or
6825 was filmed, broadcast, or transmitted for viewing; or

6826 (D) Is participating or has participated in any match, contest, or exhibition which
6827 provides a commercial advantage by attracting persons to a particular place or
6828 promoting a commercial product or enterprise.

6829 (15) 'Professional match, contest, or exhibition' means a match, contest, or exhibition
6830 which is not governed or authorized by one or more of the organizations listed in
6831 paragraph (1) of this Code section and:

6832 (A) Rewards a participant with cash as a salary, purse, or prize for such participation;

6833 (B) Requires for admission payment of a ticket for admission or other evidence of the
6834 right of entry;

6835 (C) Is filmed, broadcast, or transmitted for viewing; or

6836 (D) Provides a commercial advantage by attracting persons to a particular place or
6837 promoting a commercial product or enterprise.

6838 (16) 'Promoter' means the person primarily responsible for organizing, promoting, and
6839 producing a professional match, contest, or exhibition and who is legally responsible for
6840 the lawful conduct of such professional match, contest, or exhibition.

6841 (16.1) 'Promotion of unarmed combat' means the organization, promotion, production,
6842 publicizing, or arranging of, or provision of a venue for, a competition of unarmed
6843 combat by a person who receives some compensation or commercial benefit from such
6844 competition.

6845 (17) 'Purse' or 'ring earnings' means the financial guarantee or any other remuneration,
6846 or part thereof, for which professional boxers or wrestlers are participating in a match,
6847 contest, or exhibition and includes the boxer's or wrestler's share of any payment received
6848 for radio broadcasting, television, or motion picture rights.

6849 (17.1) 'Shidokan' means unarmed combat involving three separate, segregated rounds in
6850 which karate rules and techniques are exclusively used in one round, kickboxing rules
6851 and techniques are exclusively used in one round, and grappling rules and techniques are
6852 exclusively used in one round.

6853 (18) 'State' means any of the 50 states, Puerto Rico, the District of Columbia, and any
6854 territory or possession of the United States.

6855 (19) 'Ticket broker' means:

6856 (A) Any person who is involved in the business of reselling tickets of admission to
6857 athletic contests, concerts, theater performances, amusements, exhibitions, or other
6858 entertainment events held in this state to which the general public is admitted and who
6859 charges a premium in excess of the price of the ticket; or

6860 (B) Any person who has a permanent office or place of business in this state who is
6861 involved in the business of reselling tickets of admission to athletic contests, concerts,
6862 theater performances, amusements, exhibitions, or other entertainment events held
6863 inside or outside this state to which the general public is admitted and who charges a
6864 premium in excess of the price of the ticket.

6865 The term ticket broker shall not include the owner, operator, lessee, or tenant of the
 6866 property in which an athletic contest or entertainment event is being held or the sponsor
 6867 of such a contest or event or the authorized ticket agent of such persons.

6868 (20)(A) 'Unarmed combat' means any form of competition between human beings or
 6869 one or more human beings and one or more animals in which:

6870 (i) One or more blows are struck which may reasonably be expected to inflict injury
 6871 on a human being; and

6872 (ii) There is some compensation or commercial benefit arising from such
 6873 competition, whether in the form of cash or noncash payment to the competitors or
 6874 the person arranging the competition; the sale of the right to film, broadcast, transmit,
 6875 or view the competition; or the use of the competition to attract persons to a particular
 6876 location for some commercial advantage or to promote a commercial product or
 6877 commercial enterprise.

6878 Such term also means any amateur kickboxing match in which the competitors are not
 6879 wearing protective gear.

6880 (B) Unarmed combat shall include but shall not be limited to: tough man fights, bad
 6881 man fights, nude boxing, nude wrestling, patron boxing, patron martial arts, and patron
 6882 wrestling.

6883 (C) Unarmed combat shall not include:

6884 (i) Professional boxing licensed in accordance with this chapter;

6885 (ii) Professional wrestling governed or authorized by an organization licensed or
 6886 exempted from licensure in accordance with this chapter;

6887 (iii) Amateur boxing governed or authorized by an organization listed in paragraph
 6888 (1) of this Code section;

6889 (iv) Amateur wrestling governed or authorized by an organization listed in paragraph
 6890 (1) of this Code section;

6891 (v) Any competition displaying the skills of a single form of an Oriental system of
 6892 unarmed combative sports or unarmed combative entertainment, including, but not
 6893 limited to, kickboxing, karate, or full-contact karate, that is held pursuant to the rules
 6894 of that form and governed or authorized by an organization licensed by the
 6895 ~~commission~~ director in accordance with Article 4 of this chapter;

6896 (vi) Shidokan when the competition is governed or authorized by an organization
 6897 licensed by the ~~commission~~ director in accordance with Article 4 of this chapter;

6898 (vii) Mixed martial arts fighting when the competition is governed or authorized by
 6899 an organization licensed by the ~~commission~~ director in accordance with Article 4 of
 6900 this chapter; or

6901 (viii) Other martial arts competitions, when governed or authorized by an
 6902 organization licensed by the ~~commission~~ director in accordance with Article 4 of this
 6903 chapter.

6904 (21) 'Wrestling' means:

- 6905 (A) A staged performance of fighting and gymnastic skills and techniques by two or
 6906 more human beings who are not required to use their best efforts in order to win and for
 6907 which the winner may have been selected before the performance commences; or
 6908 (B) A performance of fighting and gymnastic skills and techniques by two or more
 6909 human beings.

6910 43-4B-2.

6911 (a) The provisions of this chapter shall not be construed to apply to any match, contest, or
 6912 exhibition:

- 6913 (1) In which the contestants are all amateurs; and
 6914 (2) Which is governed or authorized by:
 6915 (A) U.S.A. Boxing;
 6916 (B) The Georgia High School Athletic Association;
 6917 (C) The National Collegiate Athletic Association;
 6918 (D) Amateur Athletic Union;
 6919 (E) Golden Gloves;
 6920 (F) Team Georgia Amateur Wrestling;
 6921 (G) USA Wrestling;
 6922 (H) National High School Coaches Association;
 6923 (I) North American Sport Karate Association;
 6924 (J) International Sport Kick Boxing/Karate Association;
 6925 (K) World Kick Boxing Association;
 6926 (L) United States Kick Boxing Association;
 6927 (M) International Sport Combat Federation;
 6928 (N) Professional Karate Commission;
 6929 (O) International Kick Boxing Federation; or
 6930 (P) The local affiliate of any organization listed in this paragraph.

6931 (b) The provisions of this chapter shall not apply to any matches, contests, or exhibitions
 6932 of professional wrestling or to a promoter or organization that promotes, organizes, or
 6933 governs such matches, contests, or exhibitions where such promoter or organization is a
 6934 corporation that, at the time of such matches, contests, or exhibitions:

- 6935 (1) Is registered under the federal Securities Exchange Act of 1934; and
 6936 (2) Has total assets of not less than \$25 million.

6937 43-4B-3.

6938 (a) The State Boxing Commission in existence immediately prior to July 1, 2001, is
 6939 continued in existence subject to the provisions of this chapter. On and after July 1, 2001,
 6940 the name of such commission shall be the Georgia Athletic and Entertainment
 6941 Commission. The membership of the commission shall continue unchanged except as
 6942 otherwise expressly provided by this chapter.

6943 (b) The commission shall be composed of five members appointed by the Governor. Each
 6944 member of the commission shall be appointed for a term of four years and until his or her
 6945 successor is appointed. Vacancies shall be filled for the unexpired terms under the same
 6946 procedures and requirements as appointments for full terms.

6947 (c) The commission shall elect a chairperson from among its membership for a term of one
 6948 year. The commission may elect a vice chairperson from its membership for a term of one
 6949 year. Any member serving as chairperson shall be eligible for successive election to such
 6950 office by the commission.

6951 (d) The commission's medical advisory panel, appointed by the Governor, shall consist of
 6952 four persons licensed to practice medicine in Georgia pursuant to the provisions of Chapter
 6953 34 of this title. They shall represent the specialties of neurology, ophthalmology, sports
 6954 medicine, and general medicine. The medical advisory panel shall advise and assist the
 6955 ~~commission and its staff~~ licensing board regarding issues and questions concerning the
 6956 medical safety of applicants or licensees, including, but not limited to, matters relating to
 6957 medical suspensions. The medical advisory panel may ~~meet separately from the~~
 6958 ~~commission to discuss and~~ formulate recommendations for the ~~commission~~ licensing board
 6959 in connection with medical safety. Members of the medical advisory panel shall not be
 6960 counted in determining a quorum of the commission and shall not vote as commission
 6961 members.

6962 (e) Each member of the commission and the medical advisory panel shall be reimbursed
 6963 for expenses and travel as provided for members of various professional licensing boards
 6964 in subsection (f) of Code Section 43-1-2.

6965 43-4B-4.

6966 (a) The ~~commission~~ licensing board is the sole regulator of professional boxing in Georgia
 6967 and shall have authority to protect the physical safety and welfare of professional boxers
 6968 and serve the public interest by closely supervising all professional boxing in Georgia.

6969 (b) The ~~commission~~ licensing board shall have the sole jurisdiction to license the
 6970 promotion or holding of each professional match, contest, or exhibition of boxing promoted
 6971 or held within this state.

- 6972 (c) The ~~commission~~ director shall have the sole authority to license participants in any
6973 professional match, contest, or exhibition of boxing held in this state.
- 6974 (d) The ~~commission~~ licensing board has the authority to direct, manage, control, and
6975 supervise all professional matches, contests, or exhibitions of boxing. ~~It may adopt bylaws~~
6976 ~~for its own management and promulgate and enforce rules and regulations consistent with~~
6977 ~~this chapter.~~
- 6978 (e) The ~~commission~~ director may appoint one or more inspectors as duly authorized
6979 representatives of the ~~commission~~ director to ensure that the rules are strictly observed.
6980 Such inspectors shall be present at all professional matches, contests, or exhibitions of
6981 boxing.
- 6982 (f) The ~~commission~~ director may designate physicians as duly authorized representatives
6983 of the ~~commission~~ director to conduct physical examinations of boxers licensed under this
6984 chapter and shall designate a roster of physicians authorized to conduct prefight physicals
6985 and serve as ringside physicians in all professional boxing matches held in this state.
- 6986 (g) The ~~commission~~ director or any agent duly designated by the ~~commission~~ director may
6987 make investigations. The ~~commission~~ director may ~~hold hearings~~; issue subpoenas to
6988 compel the attendance of witnesses and the production of books, papers, and records; and
6989 administer oaths to and examine any witnesses for the purpose of determining any question
6990 coming before it the director under this chapter or under the rules and regulations adopted
6991 pursuant to this chapter. During an investigation of any allegation which, if proven, would
6992 result in criminal or civil sanctions as provided in this chapter, the ~~commission~~ director
6993 may withhold all or a portion of the gross receipts to which the person under investigation
6994 is entitled until such time as the matter has been resolved.
- 6995 (h) The ~~commission~~ director shall be authorized to engage in activities which promote
6996 amateur boxing in this state and to contract with any nonprofit organization which is
6997 exempted from the taxation of income pursuant to Code Section 48-7-25 for the provision
6998 of services related to the promotion of amateur boxing in this state. To support amateur
6999 boxing in this state, the ~~commission~~ director may promote voluntary contributions through
7000 the application process or through any fund raising or other promotional technique deemed
7001 appropriate by the ~~commission~~ director.
- 7002 (i) Pursuant to 15 U.S.C.A. Section 6301, et seq., the ~~commission~~ director is authorized
7003 to issue to each boxer who is a resident of this state an identification card bearing the
7004 boxer's photograph and in such form and containing such information as the ~~commission~~
7005 licensing board deems necessary and appropriate. The ~~commission~~ director is expressly
7006 authorized to ensure that the form and manner of issuance of such identification cards
7007 comply with any applicable federal law or regulation. The ~~commission~~ director is

7008 authorized to charge an amount set by the licensing board not to exceed \$100.00 per card
7009 for the issuance or replacement of each identification card.

7010 (j) The ~~commission~~ director is authorized to create a boxing registry or to designate a
7011 nationally recognized boxing registry and to register each boxer who is a resident of this
7012 state or who is a resident of another state which has no boxing registry.

7013 (k) The ~~commission~~ director is authorized to inquire into the financial backing of any
7014 professional match, contest, or exhibition of boxing and obtain answers to written or oral
7015 questions propounded to all persons associated with such professional event.

7016 (l) The ~~commission~~ director is authorized to receive tax payments in accordance with Code
7017 Section 43-4B-20, and to remit such tax payments to the general treasury.

7018 43-4B-5.

7019 The ~~Secretary of State shall designate the secretary of the commission, who~~ director shall
7020 issue licenses and identification cards and perform such other duties as the ~~commission~~
7021 licensing board may direct to carry out the provisions of this chapter.

7022 43-4B-6.

7023 (a) The commission shall meet upon the call of the chairperson or upon the call of any two
7024 members. The business of the commission shall be conducted by a majority vote of the
7025 members present. A majority of the commission members shall constitute a quorum.

7026 ~~(b) The chairperson, if necessary, may within ten days of receiving an application and~~
7027 ~~license fee call a meeting of the commission for the purpose of approving or rejecting an~~
7028 ~~application for a license or match permit which has been submitted to the commission. The~~
7029 ~~meeting shall be held within 20 days of the chairperson's call at a place designated by the~~
7030 ~~chairperson.~~

7031 43-4B-7.

7032 The ~~commission~~ licensing board shall adopt rules and regulations governing professional
7033 boxing to establish the following:

7034 (1) Procedures to evaluate the professional records and physicians' certifications of each
7035 boxer participating in a professional match, contest, or exhibition of boxing and to deny
7036 authorization for a professional boxer to fight where appropriate;

7037 (2) Procedures to ensure that, except as otherwise provided in subsection (c) of Code
7038 Section 43-4B-13, no professional boxer is permitted to box while under suspension from
7039 any state boxing commission because of:

7040 (A) A recent knockout, technical knockout, or series of consecutive losses;

- 7041 (B) An injury, requirement for a medical procedure, or physician's denial of
 7042 certification;
- 7043 (C) Failure of a drug test; or
- 7044 (D) The use of false aliases or falsifying official identification cards or documents; and
- 7045 (3) Procedures to report to the boxing registry the results of all professional matches,
 7046 contests, or exhibitions of boxing held in this state or being supervised by the ~~commission~~
 7047 director and any related suspensions.

7048 43-4B-8.

7049 ~~No member or employee of the commission and no~~ A member of the licensing board, the
 7050 director, an employee of the licensing board or the director, and a person who administers
 7051 or enforces the provisions of this chapter or rules promulgated in accordance with this
 7052 chapter may not belong to, contract with, or receive any compensation from any person or
 7053 organization who authorizes, arranges, or promotes professional matches, contests, or
 7054 exhibitions of boxing, martial arts, or wrestling or who otherwise has a financial interest
 7055 in any activity or licensee regulated by ~~this commission~~ the licensing board. The term
 7056 'compensation' does not include funds held in escrow for payment to another person in
 7057 connection with a professional match, contest, or exhibition of boxing, martial arts, or
 7058 wrestling.

7059 ARTICLE 2

7060 43-4B-10.

7061 (a) No person shall promote or hold a professional match, contest, or exhibition of boxing
 7062 within this state without first applying for and obtaining a promoter's license from the
 7063 ~~commission~~ director. Licenses shall be issued annually and shall expire on December 31
 7064 of each calendar year.

7065 (b) Promoters shall apply to the ~~commission~~ director for a license required by subsection
 7066 (a) of this Code section on a form provided by the ~~commission~~ licensing board. The
 7067 application shall be accompanied by a nonrefundable fee not to exceed \$250.00 in the form
 7068 of a cashier's check made out to the ~~commission~~ director. The application shall also be
 7069 accompanied by a performance bond in an amount and under such conditions as the
 7070 ~~commission~~ licensing board may require.

7071 (c) No person shall promote or hold a professional match, contest, or exhibition of boxing
 7072 within this state without first applying for and obtaining a match permit from the
 7073 ~~commission~~ director for such professional match, contest, or exhibition of boxing in
 7074 addition to the license required by subsection (a) of this Code section. Each application for

7075 a match permit shall be on a form provided by the ~~commission~~ licensing board and shall
 7076 be accompanied by a nonrefundable application fee not to exceed \$250.00 in the form of
 7077 a cashier's check made out to the ~~commission~~ director. The ~~commission~~ director may
 7078 charge an additional match fee in accordance with rules and regulations promulgated by
 7079 the ~~commission~~ licensing board to implement the provisions of this article.

7080 (d) The ~~commission~~ director may, prior to issuing any match permit, require a
 7081 performance bond in addition to that required in subsection (b) of this Code section.

7082 (e) The ~~commission~~ director may refund any portion of the match permit fee in excess of
 7083 \$250.00 to any person who paid such excess fee in the event the professional match,
 7084 contest, or exhibition of boxing for which such fees were paid is not held.

7085 43-4B-11.

7086 (a) Prior to participating in a professional match, contest, or exhibition of boxing
 7087 supervised by the ~~commission~~ licensing board, referees, judges, timekeepers, matchmakers,
 7088 boxers, managers, trainers, and each person who assists a boxer immediately before and
 7089 after a match, contest, or exhibition of boxing and between rounds during a match, contest,
 7090 or exhibition of boxing shall apply for and be issued licenses. Licenses shall be issued
 7091 annually and shall expire on December 31 of each calendar year. Each applicant shall
 7092 make application on a form provided by the ~~commission~~ licensing board and pay an annual
 7093 license fee not to exceed \$250.00. Any boxer who has been licensed by the ~~commission~~
 7094 director during a previous year shall be deemed to be an applicant for a license in any year
 7095 for which such boxer has entered into a written contract to participate in a professional
 7096 match, contest, or exhibition of boxing in this state upon the date of entering into such a
 7097 contract. Any party to such a contract may notify the ~~commission~~ director that such a
 7098 contract has been signed.

7099 (b) The ~~commission~~ director shall issue a license under this Code section only if:

7100 (1) The ~~commission~~ director has determined to the best of ~~its~~ his or her ability that the
 7101 applicant has the training or skills necessary to perform in a manner appropriate to the
 7102 license;

7103 (2) The applicant has complied with all applicable requirements of this chapter and any
 7104 rules and regulations promulgated pursuant to this chapter; and

7105 (3) The ~~commission~~ director or ~~its~~ his or her designated representative has determined
 7106 from information provided by the applicant and from any medical evaluation required by
 7107 the ~~commission~~ licensing board or ~~the~~ director that the health, welfare, and physical
 7108 safety of the applicant will not be unduly jeopardized by the issuance of the license.

7109 43-4B-12.

7110 In addition to the license required in Code Section 43-4B-11, each professional boxer who
 7111 is a resident of this state or another state which has no state boxing commission is required
 7112 to register with a boxing registry created or designated by the ~~commission~~ director and
 7113 renew his or her registration as prescribed by rules of the ~~commission~~ licensing board. At
 7114 the time of registration and renewal, the boxer shall provide the boxing registry with a
 7115 recent photograph of the boxer and the social security number of the boxer or, in the case
 7116 of a foreign boxer, any similar citizen identification number or boxer number from the
 7117 country of residence of the boxer, along with any other information the ~~commission~~
 7118 licensing board requires. The boxing registry shall issue a personal identification number
 7119 to each boxer and such number shall appear on the identification card issued to the boxer
 7120 as a result of registration. Each boxer is required to present to the ~~boxing commission~~
 7121 director an identification card issued by the state in which he or she resides not later than
 7122 the time of the weigh-in for a professional match, contest, or exhibition. The ~~commission~~
 7123 director may charge a registration fee in an amount calculated to cover the administrative
 7124 expense of such registration as established by the licensing board.

7125 43-4B-13.

7126 (a) The ~~commission~~ director shall have the authority to refuse to grant a license to an
 7127 applicant upon a finding by ~~a majority of the entire commission~~ the director that the
 7128 applicant has failed to demonstrate the qualifications or standards for a license contained
 7129 in this Code section or under the laws, rules, and regulations under which licensure is
 7130 sought. It shall be incumbent upon the applicant to demonstrate to the satisfaction of the
 7131 ~~commission~~ director that he or she meets all the requirements for the issuance of a license,
 7132 and, if the ~~commission~~ director is not satisfied as to the applicant's qualifications, ~~it~~ the
 7133 director may deny a license without a prior hearing; provided, however, that the applicant
 7134 shall be allowed to appear before the ~~commission~~ licensing board if he or she so desires.

7135 (b) The ~~commission~~ director may, ~~by majority vote~~, after prior notice to the holder of any
 7136 state license and after affording such a holder an opportunity to be heard, fine the license
 7137 holder, revoke or suspend a state license, or take other disciplinary action against the
 7138 licensee, and:

7139 (1) The ~~commission~~ director shall, upon the recommendation of any officially designated
 7140 representative for reasons involving the medical or physical safety of any professional
 7141 boxer licensed by the ~~commission~~ director, summarily suspend any license previously
 7142 issued by the ~~commission~~ director or take other disciplinary action against any licensee;
 7143 provided, however, that such licensee shall, after such summary suspension, be afforded
 7144 an opportunity to be heard, in accordance with the rules of the ~~commission~~ licensing

7145 ~~board and Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~ Code
 7146 Section 43-1-3.1. Any such summary suspension imposed against such a licensee may
 7147 include, but shall not be limited to:

7148 (A) Prohibiting any boxer from competing, appearing in, or participating in any
 7149 professional match, contest, or exhibition within 60 days of having suffered a knockout;
 7150 or

7151 (B) Prohibiting any boxer from competing, appearing in, or participating in any
 7152 professional match, contest, or exhibition within 30 days of having suffered a technical
 7153 knockout where evidence of head trauma has been determined by the attending ringside
 7154 physician.

7155 The length of any summary suspension invoked pursuant to subparagraph (A) or (B) of
 7156 this paragraph, upon recommendation of the ringside physician, may be extended to any
 7157 number of days. Terms and conditions of the suspension or revocation may require that
 7158 the boxer submit to further medical evaluation as determined by the ringside physician;
 7159 and

7160 (2) ~~The commission, its secretary, or its~~ director or his or her duly authorized
 7161 representative may, at any time prior to the completion of a permitted professional match,
 7162 contest, or exhibition of boxing, summarily suspend or revoke the match permit or the
 7163 license of any specific boxer should it be determined by such person that the continuation
 7164 of said professional match, contest, or exhibition of boxing may jeopardize the health,
 7165 welfare, morals, or safety of the citizens of this state or may jeopardize the health or
 7166 personal safety of any participant of such professional match, contest, or exhibition of
 7167 boxing; provided, however, that such licensee shall, after such summary suspension, be
 7168 afforded an opportunity to be heard, in accordance with the rules of the ~~commission~~
 7169 licensing board and Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
 7170 Code Section 43-1-3.1.

7171 (c) ~~The commission~~ director may revoke a suspension of a boxer if:

7172 (1) The boxer was suspended pursuant to rules and regulations adopted pursuant to
 7173 subparagraph (A) or (B) of paragraph (2) of Code Section 43-4B-7 and has furnished
 7174 proof of a sufficiently improved medical or physical condition; or

7175 (2) The boxer furnishes proof that a suspension pursuant to subparagraph (D) of
 7176 paragraph (2) of Code Section 43-4B-7 was not or is no longer merited by the facts.

7177 43-4B-14.

7178 No person may arrange, promote, organize, produce, or participate in a professional match,
 7179 contest, or exhibition of boxing without meeting the following requirements:

- 7180 (1) Each boxer must be examined by a physician who must then certify that the boxer
7181 is physically fit to compete safely. Copies of each such certificate shall be provided to
7182 the ~~commission~~ director prior to the professional match, contest, or exhibition of boxing.
7183 The ~~commission~~ director is authorized at any time to require a boxer to undergo a
7184 physical examination, including neurological or neuropsychological tests and procedures;
- 7185 (2) A physician approved by the ~~commission~~ licensing board must be continuously
7186 present at ringside during every professional match, contest, or exhibition of boxing. The
7187 physician shall observe the physical condition of the boxers and advise the referee with
7188 regards thereto;
- 7189 (3) One or more inspectors appointed by the ~~commission~~ director as duly authorized
7190 representatives of the ~~commission~~ director shall be present at each professional match,
7191 contest, or exhibition of boxing to ensure that the rules are strictly observed. An
7192 inspector or other duly authorized representative of the ~~commission~~ director must be
7193 present at the weigh-in and at the ring during the conduct of the professional match,
7194 contest, or exhibition of boxing. Inspectors and other duly authorized representatives of
7195 the ~~commission~~ director shall have free access to the dressing rooms of the boxers;
- 7196 (4) Each boxer shall be covered by health insurance which will cover injuries sustained
7197 during the professional match, contest, or exhibition of boxing; and
- 7198 (5) An ambulance and medical personnel with appropriate resuscitation equipment must
7199 be continuously present at the site during any professional match, contest, or exhibition
7200 of boxing.

7201 43-4B-15.

7202 It shall be unlawful for any boxer to participate or attempt to participate in a professional
7203 match, contest, or exhibition of boxing while under the influence of alcohol or any drug.
7204 A boxer shall be deemed under the influence of alcohol or a drug for the purposes of this
7205 Code section if a physical examination made during a period of time beginning not more
7206 than six hours prior to the beginning of the professional match, contest, or exhibition of
7207 boxing and ending not more than one hour after the completion of the professional match,
7208 contest, or exhibition of boxing reveals that the boxer's mental or physical ability is
7209 impaired in any way as a direct result of the use of alcohol or a drug.

7210 43-4B-16.

7211 All buildings or structures used or intended to be used for holding or giving professional
7212 matches, contests, or exhibitions of boxing shall be safe and shall in all manner conform
7213 to the laws, ordinances, and regulations pertaining to buildings in the city or unincorporated
7214 area of the county where the building or structure is situated.

7215 43-4B-17.

7216 (a) No person under the age of 18 years shall participate as a contestant in any professional
7217 match, contest, or exhibition of boxing.

7218 (b) A primary duty of the ~~commission~~ licensing board is ensuring that any person whose
7219 health does not permit safely engaging in boxing as a contestant is not licensed as a
7220 professional boxer. The General Assembly finds that adequate protection of the health of
7221 persons who are 50 years of age or older requires additional precautions by the ~~commission~~
7222 licensing board. A person who is 50 years of age or older shall be licensed as a
7223 professional boxer and permitted to participate in a professional match, contest, or
7224 exhibition of boxing only if such person:

7225 (1) Has participated as a contestant in at least ten professional matches or contests of
7226 boxing in the immediately preceding ten years, including at least four professional
7227 matches or contests of boxing in the immediately preceding four years; and

7228 (2) Is declared medically and physically able to participate as a contestant in a
7229 professional match, contest, or exhibition of boxing by a physician who has conducted
7230 a more rigorous examination than examinations performed in accordance with this
7231 chapter for persons who are younger than 50 years of age.

7232 (c) The ~~commission~~ licensing board shall promulgate and adopt rules and regulations for
7233 the more rigorous examination required by this Code section for persons who are 50 years
7234 of age or older.

7235 43-4B-18.

7236 The ~~commission~~ licensing board shall have jurisdiction over any professional match,
7237 contest, or exhibition of boxing which occurs or is held within this state, is filmed in this
7238 state, or is broadcast or transmitted from this state.

7239 43-4B-19.

7240 (a) Whenever it may appear to the ~~commission~~ director that any person is violating or has
7241 violated any provision of this article or Article 1 of this chapter and that proceedings would
7242 be in the public interest:

7243 (1) Subject to notice and opportunity for hearing in accordance with ~~Chapter 13 of Title~~
7244 ~~50, the 'Georgia Administrative Procedure Act,' Code Section 43-1-3.1,~~ unless the right
7245 to notice is waived by the person against whom the sanction is imposed, the ~~commission~~
7246 director may:

7247 (A) Issue a cease and desist order prohibiting any violation of this article or Article 1
7248 of this chapter;

- 7249 (B) Issue an order against a person who violates this article or Article 1 of this chapter,
 7250 imposing a civil penalty up to a maximum of \$1,000.00 per violation; or
- 7251 (C) Issue an order suspending or revoking the license of the person violating this article
 7252 or Article 1 of this chapter; or
- 7253 (2) Upon a showing by the ~~commission~~ director in any superior court of competent
 7254 jurisdiction that a person has violated or is about to violate this article or Article 1 of this
 7255 chapter, a rule promulgated under this article or Article 1 of this chapter, or an order of
 7256 the ~~commission~~ director, the court may enter or grant any or all of the following relief:
- 7257 (A) A temporary restraining order or a temporary or permanent injunction;
- 7258 (B) A civil penalty up to a maximum of \$2,000.00 per violation of this article or
 7259 Article 1 of this chapter;
- 7260 (C) A declaratory judgment;
- 7261 (D) Restitution to any person or persons adversely affected by a defendant's action in
 7262 violation of this article or Article 1 of this chapter; or
- 7263 (E) Other relief as the court deems just or reasonable.
- 7264 (b) Unless the ~~commission~~ director determines that a person subject to this article intends
 7265 to depart quickly from this state or to remove his or her property from this state or to
 7266 conceal his or her person or property in this state or that there is immediate danger of harm
 7267 to citizens of this state or another state, the ~~commission~~ director shall give notice in writing
 7268 that such proceedings are contemplated and allow such person a reasonable opportunity to
 7269 appear before the ~~commission~~ licensing board in accordance with Code Section 43-1-3.1
 7270 and execute an assurance of voluntary compliance. The determination of the ~~commission~~
 7271 licensing board under this subsection shall be final and not subject to review.
- 7272 (c) Procedures relating to hearings, notice, counsel, subpoenas, records, enforcement
 7273 powers, intervention, rules of evidence, decisions, exceptions, review of initial decisions,
 7274 final decisions, and judicial review of decisions shall be governed by Chapter 13 of Title
 7275 50, the 'Georgia Administrative Procedure Act,' unless the provisions of such chapter are
 7276 contrary to the express provisions of this article or Article 1 of this chapter.
- 7277 43-4B-20.
- 7278 (a) A promoter holding a match, contest, or exhibition of boxing shall, within three
 7279 business days after the match, file with the ~~commission~~ director a written report which
 7280 includes the number of tickets sold, the amount of gross receipts, the amount of gross
 7281 proceeds, and any other facts the ~~commission~~ licensing board may require. Within ten days
 7282 following the match, contest, or exhibition of boxing, the promoter shall remit to the
 7283 ~~commission~~ director a tax payment in the amount of 5 percent of the gross proceeds
 7284 exclusive of any federal taxes.

7285 (b) A promoter who sells, transfers, or extends to another the rights to telecast by pay per
 7286 view for viewing in this state, whether the telecast originates inside or outside this state,
 7287 a match, contest, or exhibition of boxing that would be subject to regulation by the
 7288 ~~commission~~ licensing board in accordance with this chapter if the match, contest, or
 7289 exhibition were held in this state, shall, within three business days after the sale, transfer,
 7290 or extension of such rights in whole or in part, file with the ~~commission~~ director a written
 7291 report that includes the gross price charged for the rights to telecast by pay per view, the
 7292 number of tickets sold, the amount of gross receipts, and any other facts the ~~commission~~
 7293 licensing board may require.

7294 (c) Any written report required to be filed with the ~~commission~~ director under this Code
 7295 section shall be postmarked within three business days after the conclusion of the match
 7296 or telecast, if the telecast is later than the match, and an additional five days shall be
 7297 allowed for mailing.

7298 (d) Each promoter subject to subsection (b) of this Code Section shall remit to the
 7299 ~~commission~~ director within ten days following a match, contest, or exhibition a tax
 7300 payment in the amount of 5 percent of total gross receipts, as defined in subparagraph (A)
 7301 of paragraph (8) of Code Section 43-4B-1, exclusive of any federal taxes, except that the
 7302 tax payment derived from the gross price charged for the sale or lease of pay per view
 7303 telecasting and motion picture rights shall not exceed \$40,000.00 for any single event.

7304 (e)(1) Any promoter who willfully makes a false and fraudulent report under this Code
 7305 section is guilty of perjury and, upon conviction, is subject to punishment as provided by
 7306 law. Such penalty shall be in addition to any other penalties imposed by this chapter.

7307 (2) Any promoter who willfully fails, neglects, or refuses to make a report or to pay the
 7308 taxes as prescribed or who refuses to allow the ~~commission~~ director to examine the
 7309 books, papers, and records of any promotion is guilty of a misdemeanor.

7310 (f) The ~~commission~~ director shall remit all tax payments to the general treasury of the
 7311 state.

7312 43-4B-21.

7313 (a) Whenever the Attorney General has reasonable cause to believe that a person is
 7314 engaged in a violation of this article, the Attorney General may bring a civil action
 7315 requesting such relief, including a permanent or temporary injunction, restraining order,
 7316 or other order against such person as the Attorney General determines to be necessary to
 7317 restrain the person from continuing to engage in, sanction, promote, or otherwise
 7318 participate in a professional match, contest, or exhibition of boxing in violation of this
 7319 article.

7320 (b)(1) Any manager, promoter, matchmaker, or licensee who knowingly violates or
 7321 coerces or causes any other person to violate any provision of this article shall, upon
 7322 conviction, be imprisoned for not more than one year or fined not more than \$20,000.00,
 7323 or both.

7324 (2) Any member of the licensing board, the director, or any employee of the ~~commission~~
 7325 licensing board or of the director, or any person who administers or enforces this chapter
 7326 or rules and regulations promulgated pursuant to this chapter who knowingly violates
 7327 Code Section 43-4B-14 or Code Section 43-4B-15 shall, upon conviction, be imprisoned
 7328 for not more than one year or fined not more than \$20,000.00, or both.

7329 (3) Any professional boxer who knowingly violates any provision of this article except
 7330 Code Section 43-4B-15 shall, upon conviction, be fined not more than \$1,000.00 for each
 7331 violation.

7332 (4) Any professional boxer who violates the provisions of Code Section 43-4B-15 may
 7333 be punished by a fine not to exceed \$25,000.00 together with a percentage of the purse
 7334 not to exceed 15 percent for each violation.

7335 (c) Unarmed combat, as defined in Code Section 43-4B-1, is a misdemeanor of a high and
 7336 aggravated nature.

7337 (d) Promotion of unarmed combat, as defined in Code Section 43-4B-1, is a misdemeanor
 7338 for the first offense; a high and aggravated misdemeanor for the second offense; and a
 7339 felony for the third and subsequent offenses, punishable upon conviction by a fine not to
 7340 exceed \$10,000.00 or imprisonment not to exceed two years, or both such fine and
 7341 imprisonment.

7342 ARTICLE 3

7343 43-4B-25.

7344 (a) Except as otherwise provided in Code Section 43-4B-29, it shall be unlawful for any
 7345 person other than a ticket broker to resell or offer for resale any ticket of admission or other
 7346 evidence of the right of entry to any athletic contest, concert, theater performance,
 7347 amusement, exhibition, or other entertainment event to which the general public is admitted
 7348 for a price in excess of the face value of the ticket. Notwithstanding any other provision
 7349 of this article to the contrary, a service charge not to exceed \$3.00 may be charged when
 7350 tickets or other evidences of the right of entry are sold by an authorized ticket agent
 7351 through places of established business licensed to do business by the municipality or
 7352 county, where applicable, in which such places of business are located. Notwithstanding
 7353 any other provision of this article to the contrary, the owner, operator, lessee, or tenant of
 7354 the property on which such athletic contest or entertainment event is to be held or is being

7355 held or the sponsor of such contest or event may charge or may authorize, in writing, any
 7356 person to charge a service charge for the sale of such ticket, privilege, or license of
 7357 admission in addition to the face value of the ticket. Such writing granting authority to
 7358 another shall specify the amount of the service charge to be charged for the sale of each
 7359 ticket, privilege, or license of admission.

7360 (b) Notwithstanding any other provision of this article to the contrary, in the case of any
 7361 athletic contest or entertainment event that is described in Code Section 43-4B-30, a
 7362 sponsor of such a contest or event may contractually restrict the resale of a ticket to such
 7363 contest or event by giving notice of such restriction on the back of the ticket.
 7364 Notwithstanding any other provision of this article to the contrary, in the case of any
 7365 athletic contest or entertainment event, an owner, operator, lessee, or tenant of the property
 7366 on which such contest or event is to be held or is being held may contractually restrict the
 7367 resale of the right of occupancy of any specific suite, seat, or seating area by giving notice
 7368 in writing of such restriction.

7369 43-4B-26.

7370 In order to engage in the practice or business of a ticket broker a person shall be required
 7371 to:

- 7372 (1) Maintain a permanent office or place of business in this state, excluding a post office
 7373 box, for the purpose of engaging in the business of a ticket broker;
- 7374 (2) Apply to the ~~commission~~ director for a ticket broker's license on a form designated
 7375 by the ~~commission~~ licensing board, pay an annual license fee of \$500.00, and renew the
 7376 license annually;
- 7377 (3) Pay any local tax required by a local government; and
- 7378 (4) Register for sales and use tax purposes pursuant to Article 1 of Chapter 8 of Title 48.

7379 43-4B-27.

7380 No person shall engage in the practice or business of a ticket broker, or be employed as
 7381 general manager for a person engaged in the practice or business of a ticket broker, who
 7382 has been convicted of a felony and who has not been pardoned or had his or her civil rights
 7383 restored.

7384 43-4B-28.

7385 (a) The ticket broker shall be required to:

- 7386 (1) Post at its established place of business the terms of the purchaser's right to cancel
 7387 the purchase of a ticket from a ticket broker;

- 7388 (2) Disclose to the purchaser the refund policy of the ticket broker should an athletic
7389 contest or entertainment event be canceled;
- 7390 (3) Disclose to the purchaser in writing the difference between the face value of the
7391 ticket and the amount which the ticket broker is charging for such ticket; and
- 7392 (4) Sell tickets only at its permanent office, place of business, or through the Internet;
7393 provided, however, that delivery of one or more tickets after the transaction is completed
7394 to a place other than the ticket broker's office or place of business shall not violate this
7395 paragraph.
- 7396 (b)(1) A ticket broker shall be prohibited from employing any agent or employee for the
7397 purpose of making future purchases of tickets from the owner, operator, lessee, or tenant
7398 of the property on which an athletic contest or entertainment event is to be held.
- 7399 (2) Each ticket broker, including any affiliated group of ticket brokers, shall be
7400 prohibited from acquiring and reselling in excess of 1 percent of the total tickets allocated
7401 for any contest or event.
- 7402 (3) Unless otherwise provided in a written agreement between a ticket broker and the
7403 purchaser, a ticket broker shall be required to refund any payment received for the
7404 purchase of a ticket under this article if the purchaser returns the ticket and requests a
7405 cancellation of the sale thereof within 36 hours from the time of purchase of the ticket
7406 and if such return is made more than 72 hours preceding the athletic contest or
7407 entertainment event.
- 7408 (4) A ticket broker shall be required to refund any payment received for the purchase of
7409 a ticket under this article if the athletic contest or entertainment event is canceled and not
7410 rescheduled.
- 7411 (5) If a ticket broker guarantees in writing delivery of a ticket or tickets to an athletic
7412 contest or entertainment event as provided under this article to a purchaser and fails to
7413 complete such delivery, the ticket broker shall be required to provide within 15 days a full
7414 refund of any amount paid by the purchaser and, in addition, shall pay the purchaser a
7415 refund fee of three times the amount paid by the purchaser for each such ticket.
- 7416 (c)(1) For all venues which seat or admit less than 15,000 persons, a ticket broker and
7417 its employees, agents, and assigns are criminally prohibited from reselling or offering for
7418 resale any ticket within 1,500 feet from the venue where an event or contest is to be held
7419 or is being held.
- 7420 (2) For all venues which seat or admit 15,000 or more persons, a ticket broker and its
7421 employees, agents, and assigns are criminally prohibited from reselling or offering for
7422 resale any ticket within 2,700 feet from the venue where an event or contest is to be held
7423 or is being held.

7424 (d) Any ticket broker offering to resell tickets to an athletic contest or entertainment event
7425 through any printed, broadcast, or Internet advertising shall include in such advertising the
7426 license number of such ticket broker offering such tickets for resale.

7427 43-4B-29.

7428 (a) No provision of this article or any other provision of law shall criminally prohibit any
7429 person who is the original purchaser for personal use of one or more tickets to an athletic
7430 contest or entertainment event covered under this article from reselling or offering for
7431 resale any of such tickets for any price, provided that such person does not sell or offer to
7432 sell such tickets within 2,700 feet of a venue which seats or admits 15,000 or more persons
7433 for such a contest or event or a public entrance to such a contest or event.

7434 (b) Charitable organizations and their employees and volunteers shall not be subject to the
7435 provisions of this article when offering for sale any tickets of admission in a raffle, auction,
7436 or similar fundraising activity for the benefit of the organization's charitable purposes.

7437 43-4B-29.1.

7438 (a) Notwithstanding subsection (c) of Code Section 43-4B-28 and subsection (b) of Code
7439 Section 43-4B-30, no provision of this article or any other provision of law shall provide
7440 a criminal penalty for or prohibit the resale or offering for resale of a ticket or tickets to an
7441 athletic contest or entertainment event covered under this article by a ticket broker or a
7442 ticket broker's employees, agents, and assigns in a zone or zones within the area where such
7443 resale or offering for resale is prohibited by such subsections, if such activity is authorized
7444 by the organizer of the contest or event and the owner or operator of the venue where such
7445 contest or event is being held or to be held.

7446 (b) Notwithstanding subsection (a) of Code Section 43-4B-29 and subsection (b) of Code
7447 Section 43-4B-30, no provision of this article or any other provision of law shall provide
7448 a criminal penalty for or prohibit the resale or offering for resale of a ticket or tickets
7449 purchased by any person who is the original purchaser for personal use of such ticket or
7450 tickets to an athletic contest or entertainment event covered under this article in a zone or
7451 zones within the area where such resale or offering for resale is prohibited by such
7452 subsections, if such activity is authorized by the organizer of the contest or event and the
7453 owner or operator of the venue where such contest or event is being held or to be held.

7454 43-4B-30.

7455 (a) With regard to any single athletic contest or entertainment event which occurs no more
7456 often than once annually and with regard to any series of athletic contests which occur no
7457 more often than once annually and which occur within a time period not exceeding ten

7458 days, the municipal corporation in which such contest, event, or series of contests is to be
 7459 held, or if the contest, event, or series of contests is to be held in an unincorporated area,
 7460 the county of such unincorporated area, is authorized to enact by ordinance regulations
 7461 governing ticket brokers for such contest, event, or series of contests which are more
 7462 restrictive than the provisions of this article.

7463 (b) The municipal corporation in which an athletic contest or entertainment event is to be
 7464 held, or if the contest or entertainment event is to be held in an unincorporated area, the
 7465 county of such unincorporated area, is authorized to enact an ordinance prohibiting the
 7466 resale or offering for resale of one or more tickets by a ticket broker or by a person who is
 7467 the original purchaser for personal use of one or more tickets within 2,700 feet of a venue
 7468 which seats or admits 15,000 or more persons.

7469 43-4B-31.

7470 Any person who violates this article is guilty of a misdemeanor of a high and aggravated
 7471 nature.

7472 43-4B-32.

7473 (a) In addition to the powers and duties set out in Code Section 43-4B-3, the ~~commission~~
 7474 licensing board is authorized to promulgate rules and regulations to accomplish the
 7475 purposes of this article in accordance with Chapter 13 of Title 50, the 'Georgia
 7476 Administrative Procedure Act.' The ~~commission~~ director shall enforce the provisions of
 7477 this article. The enforcement powers of the ~~commission~~ director set out in this Code
 7478 section shall be in addition to the criminal penalty provided by Code Section 43-4B-31.

7479 (b) Whenever it may appear to the ~~commission~~ director that any person is violating or has
 7480 violated any provision of this article and that proceedings would be in the public interest:

7481 (1) Subject to notice and opportunity for hearing in accordance with ~~Chapter 13 of Title~~
 7482 ~~50, the 'Georgia Administrative Procedure Act,'~~ Code Section 43-1-3.1, unless the right
 7483 to notice is waived by the person against whom the sanction is imposed, the ~~commission~~
 7484 director may:

7485 (A) Issue a cease and desist order prohibiting any violation of this article;

7486 (B) Issue an order against a person who violates this article, imposing a civil penalty
 7487 up to a maximum of \$1,000.00 per violation; or

7488 (C) Issue an order suspending or revoking the ticket broker's license; or

7489 (2) Upon a showing by the ~~commission~~ director in any superior court of competent
 7490 jurisdiction that a person has violated or is about to violate this article, a rule promulgated
 7491 under this article, or an order of the ~~commission~~ director, the court may enter or grant any
 7492 or all of the following relief:

- 7493 (A) A temporary restraining order or a temporary or permanent injunction;
 7494 (B) A civil penalty up to a maximum of \$2,000.00 per violation of this article;
 7495 (C) A declaratory judgment;
 7496 (D) Restitution to any person or persons adversely affected by a defendant's action in
 7497 violation of this article; or
 7498 (E) Other relief as the court deems just or reasonable.
- 7499 (c) Unless the ~~commission~~ director determines that a person subject to this article intends
 7500 to depart quickly from this state or to remove his or her property from this state or to
 7501 conceal his or her person or property in this state or that there is immediate danger of harm
 7502 to citizens of this state or another state, the ~~commission~~ director shall give notice as
 7503 provided in Code Section 43-1-3.1 and allow such person a reasonable opportunity to
 7504 appear before the ~~commission~~ director and execute an assurance of voluntary compliance.
 7505 The determination of the ~~commission~~ licensing board or director under this subsection shall
 7506 be final and not subject to review.
- 7507 (d) Procedures relating to hearings, notice, counsel, subpoenas, records, enforcement
 7508 powers, intervention, rules of evidence, decisions, exceptions, review of initial decisions,
 7509 final decisions, and judicial review of decisions shall be governed by Chapter 13 of Title
 7510 50, the 'Georgia Administrative Procedure Act,' unless the provisions of such chapter are
 7511 contrary to the express provisions of this article.

7512 ARTICLE 4

7513 43-4B-50.

- 7514 (a) The ~~commission~~ director shall have the sole authority to license organizations that
 7515 govern and authorize matches, contests, and exhibitions of martial arts and wrestling and
 7516 to exempt organizations from licensure in accordance with this article. The ~~commission~~
 7517 director shall have the sole authority to permit and regulate matches, contests, and
 7518 exhibitions of martial arts and wrestling. The ~~commission~~ director shall have the sole
 7519 authority to license promoters of matches, contests, and exhibitions of martial arts. The
 7520 ~~commission~~ licensing board shall have the duty to safeguard the public health, to protect
 7521 competitors, and to provide for competitive matches by requiring licensed organizations
 7522 to abide by rules promulgated by the ~~commission~~ licensing board for basic minimum
 7523 medical and safety requirements based on the nature of the activity and the anticipated
 7524 level of physical conditioning and training of competitors. The ~~commission~~ director shall
 7525 have the authority to inquire as to a licensed organization's plans or arrangements for
 7526 compliance with such rules. The ~~commission~~ licensing board shall have the authority to
 7527 require annual fees for licensure and a fee for each such match, contest, or exhibition or for

7528 each show and to penalize licensed organizations, licensed promoters, and the holders of
7529 match permits that violate the provisions of this article or rules of the ~~commission~~ licensing
7530 board promulgated in accordance with this article.

7531 (b) If requested by a licensed organization, the ~~commission~~ director shall have the
7532 authority to provide direct oversight services, including but not limited to on-site
7533 inspectors, to a licensed organization for a fee negotiated between the ~~commission~~
7534 licensing board and the licensed organization.

7535 43-4B-51.

7536 (a) Except as otherwise provided in subsection (c) of this Code section, the annual fee for
7537 licensure of organizations subject to this article is \$1,000.00.

7538 (b) As used in this subsection, the term 'show' includes all matches, contests, or exhibitions
7539 held at the same venue on the same date and included in the same admission fee if an
7540 admission fee is charged. Except as otherwise provided in subsection (c) of this Code
7541 section, the maximum permit fee for each show authorized or governed by an organization
7542 licensed in accordance with this article is \$250.00. The maximum permit fee for each
7543 match, contest, or exhibition that is not a component of a show and is authorized by an
7544 organization licensed in accordance with this article is \$250.00, except as otherwise
7545 provided in subsection (c) of this Code section. Such fee shall be paid to the ~~commission~~
7546 director on or before the date of the match, contest, or exhibition. The ~~commission~~ director
7547 may provide by rule for a refund of a portion of the fee if the match, contest, or exhibition
7548 is not held.

7549 (c) For organizations authorizing or governing matches, contests, or exhibitions of
7550 wrestling as defined in subparagraph (A) of paragraph (21) of Code Section 43-4B-1, the
7551 annual fee for licensure is \$100.00. There shall be no permit fee for matches, contests, or
7552 exhibitions of wrestling as defined in such subparagraph. Organizations subject to this
7553 subsection shall make reports to the ~~commission~~ director in accordance with rules and
7554 regulations promulgated by the ~~commission~~ licensing board.

7555 (d) The annual fee for a promoter's license for promoters of martial arts matches, contests,
7556 or exhibitions shall be \$500.00.

7557 43-4B-52.

7558 (a) A licensed organization shall provide written notice to the ~~commission~~ director of a
7559 match, contest, or exhibition authorized and governed by the organization no later than 15
7560 days before the date of the match, contest, or exhibition. The licensed organization
7561 governing the match, contest, or exhibition shall provide information required by the

7562 ~~commission~~ licensing board relating to the contestants, venue, rules for the competition,
7563 and anticipated level of physical conditioning and training of the contestants.

7564 (b) A licensed organization shall, after a match, contest, or exhibition authorized and
7565 governed by the organization, file with the ~~commission~~ director an affidavit that includes
7566 the number of tickets sold, the amount of gross receipts, the amount of sales tax to be paid
7567 to the Department of Revenue, and any other facts the ~~commission~~ licensing board may
7568 require. Such affidavit shall be postmarked within three business days after the conclusion
7569 of the match, contest, or exhibition.

7570 43-4B-53.

7571 (a) Notwithstanding any other provision of this chapter or any other law to the contrary,
7572 no person or entity shall directly or indirectly engage in the practice of being a promoter
7573 of kickboxing, muay thai, Thai boxing, full-contact karate, mixed martial arts, shidokan,
7574 or martial arts matches, contests, exhibitions of any type, or be employed or otherwise
7575 serve as a manager, matchmaker, or organizer for any person or entity engaged in the
7576 practice of being a promoter of kickboxing, muay thai, Thai boxing, full-contact karate,
7577 mixed martial arts, or martial arts matches, contests, or exhibitions of any type, who has
7578 been convicted of, has pleaded guilty to, has entered a plea of nolo contendere to, or has
7579 been found guilty of a felony or crime of moral turpitude under the laws of this state or any
7580 offense that, had it occurred within this state, would constitute a felony or crime of moral
7581 turpitude under the laws of this state for a period of ten years from the date of such
7582 conviction or plea. For purposes of this Code section, a conviction shall include but not
7583 be limited to disposition under Article 3 of Chapter 8 of Title 42.

7584 (b) Notwithstanding any other provision of this chapter or any other law to the contrary,
7585 no person or entity shall be retained, employed, or otherwise serve as a sanctioning,
7586 governing, licensing, authorizing, or ranking body or organization or act as an employee
7587 or representative thereof for any kickboxing, muay thai, full-contact karate, mixed martial
7588 arts, shidokan, or martial arts matches, contests, or exhibitions of any type promoted,
7589 managed, or organized in violation of subsection (a) of this Code section.

7590 (c) Notwithstanding any other provision of this chapter or any other law to the contrary,
7591 no sanctioning, governing, licensing, authorizing, or ranking body or organization for any
7592 kickboxing, muay thai, Thai boxing, full-contact karate, mixed martial arts, shidokan, or
7593 martial arts matches, contests, or exhibitions of any type shall employ, designate, or
7594 otherwise assign or utilize any person as a representative or official who has pleaded guilty
7595 to, has entered a plea of nolo contendere to, or has been found guilty of a felony or crime
7596 of moral turpitude under the laws of this state or any offense that, had it occurred within
7597 this state, would constitute a felony or crime of moral turpitude under the laws of this state

7598 for a period of ten years from the date of such conviction or plea. For purposes of this
 7599 Code section, a conviction shall include but not be limited to disposition under Article 3
 7600 of Chapter 8 of Title 42.

7601 (d) The first violation of this Code section by any individual or entity shall constitute a
 7602 misdemeanor of a high and aggravated nature. Any second and subsequent conviction
 7603 under this Code section shall constitute a felony and shall be punished by imprisonment for
 7604 not less than one nor more than five years.

7605 43-4B-54.

7606 (a) The ~~commission~~ director is authorized to suspend, revoke, or deny a license or renewal
 7607 of a license of an organization or a promoter for violation of this article or rules of the
 7608 ~~commission~~ licensing board promulgated in accordance with this article. The ~~commission~~
 7609 director is authorized to fine a licensed organization or promoter for violation of this article
 7610 or rules of the ~~commission~~ licensing board promulgated in accordance with this article.

7611 (b) The ~~commission~~ director is authorized to suspend, revoke, or deny issuance of a permit
 7612 for a show, match, contest, or exhibition issued in accordance with this article in the
 7613 interest of the safety or health of the competitors or public, or for violation of this article
 7614 or rules of the ~~commission~~ licensing board promulgated in accordance with this article.

7615 43-4B-55.

7616 (a) Subject to the restriction set forth in Code Section 43-4B-53, the ~~commission~~ director
 7617 is authorized to exempt organizations from the requirements of licensure and permitting
 7618 when the ~~commission~~ director, in ~~its~~ his or her discretion, deems the matches, contests, and
 7619 exhibitions authorized or governed by the organization present little or no danger to the
 7620 health and safety of the competitors and the public.

7621 (b) In determining whether to exempt an organization from licensure and permitting
 7622 requirements, the ~~commission~~ director shall consider the following factors:

7623 (1) Whether the organization requesting exemption has allowed any person who has ever
 7624 pleaded guilty to, has entered a plea of nolo contendere to, or has been found guilty of a
 7625 felony or crime of moral turpitude under the laws of this state or any offense that, had it
 7626 occurred within this state, would constitute a felony or crime of moral turpitude under the
 7627 laws of this state, within ten years of such conviction or plea, to act as a promoter for any
 7628 match, contest, or exhibition that it has sanctioned, governed, licensed, or authorized or
 7629 whether it has authorized, retained, employed, or otherwise allowed such a person to act
 7630 or serve as its employee or representative in connection with any match that it has
 7631 sanctioned, governed, licensed, or authorized. For purposes of this Code section, a
 7632 conviction shall include but not be limited to adjudication under Article 3 of Chapter 8

7633 of Title 42. Should the ~~commission~~ director determine that a sanctioning organization
 7634 has allowed, retained, employed, or otherwise authorized such a person to act in any of
 7635 the aforementioned capacities, the organization shall not be exempted from the
 7636 requirements of licensure;

7637 (2) Whether the matches, contests, and exhibitions are conducted in the course of
 7638 teaching wrestling or a martial art and are closely supervised by well-trained teachers;

7639 (3) Whether an admission fee is charged for viewing the matches, contests, or
 7640 exhibitions;

7641 (4) Whether the matches, contests, or exhibitions offer a commercial advantage to the
 7642 organization;

7643 (5) Whether the matches, contests, or exhibitions are conducted in a manner to minimize
 7644 the danger of injury;

7645 (6) Whether the ~~commission's~~ director's information about previous matches, contests,
 7646 or exhibitions conducted by the organization indicates that the matches, contests, or
 7647 exhibitions are likely to result in injury; and

7648 (7) Other factors deemed by the ~~commission~~ director as indicia of danger to health or
 7649 safety and set out in rules promulgated by the ~~commission~~ licensing board."

7650 **SECTION 1-8.**

7651 Said title is further amended by revising Chapter 5, relating to athletic trainers, as follows:

7652 **"CHAPTER 5**

7653 43-5-1.

7654 As used in this chapter, the term:

7655 (1) 'Athletic injury' means any injury sustained by a person as a result of such person's
 7656 participation in exercises, sports, games, or recreational activities, or any activities
 7657 requiring physical strength, agility, flexibility, range of motion, speed, or stamina without
 7658 respect to where or how the injury occurs. Nothing in this paragraph shall be construed
 7659 to expand the scope of practice of an athletic trainer beyond the determination of the
 7660 advising and consenting physician as provided for in paragraph (2) of this Code section.

7661 (2) 'Athletic trainer' means a person with specific qualifications, as set forth in Code
 7662 Sections 43-5-7 and 43-5-8 who, upon the advice and consent of a physician, carries out
 7663 the practice of prevention, recognition, evaluation, management, disposition, treatment,
 7664 or rehabilitation of athletic injuries; and, in carrying out these functions, the athletic
 7665 trainer is authorized to use physical modalities, such as heat, light, sound, cold,
 7666 electricity, or mechanical devices related to prevention, recognition, evaluation,

7667 management, disposition, rehabilitation, and treatment. Nothing in this Code section
 7668 shall be construed to require licensure of elementary or secondary school teachers,
 7669 coaches, or authorized volunteers who do not hold themselves out to the public as athletic
 7670 trainers.

7671 (3) 'Board' means the Georgia Board of Athletic Trainers, a professional licensing policy
 7672 board pursuant to Chapter 1 of this title with the authority and responsibilities set forth
 7673 in such chapter.

7674 (4) 'Director' means the director of professional licensing.

7675 (5) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 7676 Article 2 of Chapter 1 of this title.

7677 43-5-2.

7678 (a) The Georgia Board of Athletic Trainers, composed of four members who shall be
 7679 appointed by the Governor and confirmed by the Senate, is created as a professional
 7680 licensing policy board pursuant to Chapter 1 of this title and shall perform such duties as
 7681 are set forth in subsection (b) of Code Section 43-1-3. To qualify as a member, a person
 7682 ~~must~~ shall be a citizen of the United States and a resident of this state. Two members ~~must~~
 7683 shall be athletic trainers, one member ~~must~~ shall be a physician licensed by the state, and
 7684 one member shall be appointed from the public at large and shall have no connection
 7685 whatsoever with the practice or profession of athletic training.

7686 (b) Members shall serve for a term of office of six years. All terms shall expire on January
 7687 31 of even-numbered years. In making the initial appointments, the Governor shall appoint
 7688 one member for a term expiring in 1978, one member in 1980, and one member for a term
 7689 expiring in 1982. The initial appointment for the member appointed from the public at
 7690 large shall expire January 31, 1986.

7691 (c) Each appointee to the board shall qualify by taking an oath of office within 15 days
 7692 from the date of his or her appointment. On presentation of the oath, the Secretary of State
 7693 shall issue commissions to appointees as evidence of their authority to act as members of
 7694 the board.

7695 (d) In the event of death, resignation, or removal of any member, the vacancy of the
 7696 unexpired term shall be filled by the Governor in the same manner as other appointments.

7697 43-5-3.

7698 (a) The board shall elect a ~~chairman~~ chairperson and a ~~vice-chairman~~ vice chairperson
 7699 from its members for a term of one year and may appoint such committees as it considers
 7700 necessary to carry out its duties.

7701 (b) The board shall meet at least twice each year. Additional meetings may be held on the
7702 call of the ~~chairman~~ chairperson or at the written request of any two members of the board.

7703 43-5-4.

7704 The ~~division~~ director shall keep a record of the board's proceedings in a book maintained
7705 for that purpose.

7706 43-5-5.

7707 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
7708 Section 43-1-2.

7709 43-5-6.

7710 (a) The licensing board is authorized to promulgate and adopt rules and regulations
7711 consistent with this chapter ~~which are necessary for the performance of its duties.~~

7712 (b) The licensing board shall prescribe application forms for license applications.

7713 (c) The licensing board shall establish guidelines for athletic trainers in ~~the~~ this state and
7714 prepare and conduct an examination for applicants for a license.

7715 (d) The ~~board~~ director shall ~~adopt an official seal and the form of a license certificate of~~
7716 ~~suitable design~~ perform such duties as are set forth in subsection (b) of Code Section
7717 43-1-3.

7718 43-5-7.

7719 No person shall hold himself or herself out as an athletic trainer or perform the services of
7720 an athletic trainer, as defined in this chapter, without first obtaining a license under this
7721 chapter; provided, however, that nothing in this chapter shall be construed to prevent any
7722 person from serving as a ~~student-trainer, assistant-trainer~~ student trainer, assistant trainer,
7723 or any similar position if such service is not primarily for compensation and is carried out
7724 under the supervision of a physician or a licensed athletic trainer.

7725 43-5-8.

7726 (a) An applicant for an athletic trainer's license must have met the athletic training
7727 curriculum requirements of a college or university approved by the licensing board and
7728 give proof of graduation.

7729 (b) The ~~board~~ director shall be authorized to grant a license, without examination, to any
7730 qualified athletic trainer holding a license in another state if such other state recognizes
7731 licensees of this state in the same manner.

7732 (c) The ~~board~~ director may grant a license without examination to any qualified applicant
 7733 who holds a certification from the National Athletic Trainers Board of Certification.
 7734 (d) Any person who was issued a license prior to July 1, 2004, shall remain qualified for
 7735 licensure, notwithstanding the requirement for proof of graduation in subsection (a) of this
 7736 Code section, so long as the license remains current.

7737 43-5-9.

7738 (a) An applicant for an athletic trainer's license ~~must~~ shall submit an application to the
 7739 ~~board~~ director on forms prescribed by the licensing board and submit the examination fee
 7740 ~~required by this chapter~~ set by the licensing board.

7741 (b) The applicant is entitled to an athletic trainer's license if he or she possesses the
 7742 qualifications enumerated in Code Section 43-5-8, satisfactorily completes an examination
 7743 approved by the licensing board, pays the required license fee, and has not committed an
 7744 act which constitutes grounds for denial of a license under Code Section 43-5-10.

7745 (c) Licenses issued by the ~~board~~ director shall expire biennially. As a condition of license
 7746 renewal, the licensing board shall be authorized to require licensees to complete continuing
 7747 education courses approved by the licensing board.

7748 43-5-10.

7749 The ~~board~~ director may refuse to issue a license to an applicant or may suspend or revoke
 7750 the license of any licensee if he or she has:

- 7751 (1) Been convicted of a felony or misdemeanor involving moral turpitude, the record of
 7752 conviction being conclusive evidence of conviction;
 7753 (2) Secured the license by fraud or deceit; or
 7754 (3) Violated or conspired to violate this chapter or rules and regulations issued pursuant
 7755 to this chapter.

7756 43-5-11.

7757 (a) The denial of an application for a license shall be considered to be a contested case
 7758 within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
 7759 Any person whose application for a license is denied is entitled to a hearing before the
 7760 licensing board if he or she submits a written request to the licensing board.

7761 (b) The director may revoke, suspend, or refuse to renew a license issued under this
 7762 chapter. Proceedings for revocation or suspension of a license shall be commenced by
 7763 filing charges with the board in writing and under oath. The charges may be made by any
 7764 person or persons.

7765 (c) The ~~division~~ director shall fix a time and place for a hearing and shall cause a written
 7766 copy of the charges or reason for denial of a license, together with a notice of the time and
 7767 place fixed for hearing, to be served on the applicant requesting the hearing or licensee
 7768 against whom the charges have been filed at least 20 days prior to the date set for the
 7769 hearing. Service of charges and notice of hearing ~~may be given by certified mail or~~
 7770 ~~statutory overnight delivery to the last known address of the licensee or applicant shall be~~
 7771 made as provided in Code Section 43-1-3.1; provided, however, that notice may be waived
 7772 by instrument in writing executed before or after the meeting; and provided, further, that
 7773 attendance at a meeting of the licensing board shall constitute a waiver of notice thereof.

7774 (d) At the hearing, the applicant or licensee has the right to appear either personally or by
 7775 counsel, or both, to produce witnesses, to have subpoenas issued by the licensing board,
 7776 and to cross-examine the opposing or adverse witnesses.

7777 (e) The licensing board is not bound by strict rules of procedure or by the laws of evidence
 7778 in the conduct of the proceedings, but the determination shall be founded upon sufficient
 7779 legal evidence to sustain it.

7780 (f) The licensing board shall determine the charges on their merits and enter an order in
 7781 a permanent record setting forth the findings of fact and law and the action taken. A copy
 7782 of the order of the licensing board shall be mailed to the applicant or licensee at his or her
 7783 last known address by certified mail or statutory overnight delivery.

7784 (g) On application, the ~~board~~ director may reissue a license to a person whose license has
 7785 been canceled or revoked, but the application may not be made prior to the expiration of
 7786 a period of six months after the order of cancellation or revocation has become final; and
 7787 the application shall be made in the manner and form as the licensing board may require.

7788 43-5-12.

7789 (a) A person whose application for a license has been refused or whose license has been
 7790 canceled, revoked, or suspended by the ~~board~~ director may ~~take an appeal, within 30 days~~
 7791 ~~after the order is entered, to any court of competent jurisdiction~~ petition for a hearing
 7792 before the licensing board as provided in Code Section 43-1-3.1.

7793 (b) ~~A case reviewed under this Code section shall proceed in the superior court by trial de~~
 7794 ~~novo. Appeal from the judgment of the superior court lies as in other civil cases.~~

7795 43-5-13.

7796 (a) Nothing in this chapter shall be construed to authorize the practice of medicine by any
 7797 person not licensed by the Georgia Composite Medical Board.

7798 (b) This chapter does not apply to physicians licensed by the Georgia Composite Medical
 7799 Board; to dentists, duly qualified and registered under the laws of this state who confine

7800 their practice strictly to dentistry; ~~nor to~~ licensed optometrists who confine their practice
 7801 strictly to optometry as defined by law; ~~nor to~~ occupational therapists; ~~nor to~~ nurses who
 7802 practice nursing only; ~~nor to~~ duly licensed chiropodists or podiatrists who confine their
 7803 practice strictly to chiropody or podiatry as defined by law; ~~nor to~~ or physical therapists
 7804 who confine their practice to physical therapy; nor shall any provisions of this chapter be
 7805 construed so as to limit or prevent any person duly licensed under the laws of this state to
 7806 practice the profession for which he or she ~~was~~ is licensed.

7807 43-5-14.

7808 Any person who violates Code Section 43-5-7 shall be guilty of a misdemeanor of a high
 7809 and aggravated nature."

7810 **SECTION 1-9.**

7811 Said title is further amended by revising Chapter 6, relating to auctioneers, as follows:

7812 "CHAPTER 6

7813 43-6-1.

7814 As used in this chapter, the term:

7815 (1) 'Absolute auction' ~~shall mean~~ means that ownership and title of real or personal
 7816 property offered at auction must be conveyed to the high bidder without reservation and
 7817 without any competing bids of any type by the owner or an agent of the owner of the
 7818 property.

7819 (2) 'Apprentice auctioneer' means any person who for compensation or valuable
 7820 consideration, or otherwise, is employed, directly or indirectly, by an auctioneer to deal
 7821 or engage in any auctioning activity and who is duly licensed under this chapter or any
 7822 person who is not employed by an auctioneer and who conducts the business of
 7823 auctioning in cases where gross sales do not exceed \$2,000.00 per auction and who is
 7824 duly licensed under this chapter.

7825 (3) 'Auction business' or 'business of auctioning' means the performing of any of the acts
 7826 of an auctioneer or apprentice auctioneer, including bid calling for a fee, commission, or
 7827 any other valuable consideration or with the intention or expectation of receiving the
 7828 same by means of or by process of an auction or sale at auction or offering, negotiating,
 7829 or attempting to negotiate a listing contract for the sale, purchase, or exchange of goods,
 7830 chattels, merchandise, real or personal property, or any other commodity which lawfully
 7831 may be kept or offered for sale.

- 7832 (4) 'Auction with reserve' shall mean that the seller reserves the right to refuse any and
7833 all bids.
- 7834 (5) 'Auctioneer' means any person who, for a fee, commission, or any other valuable
7835 consideration or with the intention or expectation of receiving the same by means of or
7836 by process of an auction or sale at auction, offers, negotiates, or attempts to negotiate a
7837 listing contract, sale, purchase, or exchange of goods, chattels, merchandise, real or
7838 personal property, or any other commodity which lawfully may be kept or offered for sale
7839 and has been duly licensed, as provided in this chapter.
- 7840 (6) 'Commission' means the Georgia Auctioneers Commission, a professional licensing
7841 policy board pursuant to Chapter 1 of this title with the authority and responsibilities set
7842 forth in such chapter.
- 7843 (7) 'Company' means an association, partnership, limited liability company, corporation,
7844 or sole proprietorship and shall also include the officers, directors, members, and
7845 employees of such entities.
- 7846 (7.1) 'Director' means the director of professional licensing.
- 7847 (8) 'Goods' means any chattel, goods, merchandise, real or personal property, or
7848 commodities of any form or type which lawfully may be kept or offered for sale.
- 7849 (8.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
7850 Article 2 of Chapter 1 of this title.
- 7851 (9) 'Person or persons' means an individual.
- 7852 (10) 'Ringperson' means any person employed directly by an auctioneer or auction
7853 company responsible for a sale who assists the auctioneer in the conduct of an auction,
7854 provided that such person shall not be permitted to call or chant a bid or negotiate a
7855 listing contract.
- 7856 43-6-2.
- 7857 (a) The Georgia Auctioneers Commission is created under the Secretary of State and the
7858 ~~division~~ director as a professional licensing policy board.
- 7859 (b) The commission shall be composed of six members, each of whom shall be appointed
7860 by the Governor, with the approval of the Secretary of State, and confirmed by the Senate.
7861 Appointments shall be for a term of five years, to end on the anniversary date of original
7862 appointments, except appointments to fill a vacancy which shall be for the unexpired term
7863 only.
- 7864 (c) Five members of the commission shall be licensed auctioneers who shall have been
7865 residents of this state and actively engaged in the auctioneering business for at least five
7866 years. One member shall be a consumer advocate and a resident of this state and shall have
7867 no connection whatsoever with the practice or profession of auctioneering.

7868 43-6-3.

7869 (a) The commission shall organize by selecting from its members a ~~chairman and may do~~
7870 ~~all things necessary and convenient to carry this chapter into effect and, from time to time,~~
7871 ~~may promulgate necessary rules and regulations to carry out this chapter~~ chairperson.

7872 (b) The commission shall meet as necessary and shall remain in session as so long as the
7873 ~~chairman~~ chairperson deems it necessary to give full consideration to the business before
7874 the commission.

7875 43-6-4.

7876 Each member of the commission shall be reimbursed as provided for in subsection (f) of
7877 Code Section 43-1-2.

7878 43-6-5.

7879 Reserved.

7880 43-6-6.

7881 ~~The commission shall adopt a seal, which may be either an engraved or ink stamp seal,~~
7882 ~~with the words 'State Auctioneers Commission, State of Georgia' and such other devices~~
7883 ~~as the commission may desire included thereon, by which it shall authenticate the acts of~~
7884 ~~the commission. Copies of all records and papers in the office of the commission certified~~
7885 ~~by the signature of the commission chairman and the seal of the commission shall be~~
7886 ~~received in evidence in all cases equally and with like effect as the originals.~~ Reserved.

7887 43-6-7.

7888 The ~~commission~~ licensing board is authorized to adopt rules and regulations relating to the
7889 professional conduct of licensees, a code of ethics, and the administration of this chapter.
7890 Such rules and regulations shall not apply to and shall not set schedules of fees or
7891 commissions for the services of the licensees.

7892 43-6-8.

7893 ~~Except as provided in Code Section 43-1-4, the commission~~ The director shall have the
7894 power to regulate the issuance of licenses, to revoke or suspend licenses issued under this
7895 chapter, and to censure licensees for any violation of this chapter.

7896 43-6-9.

7897 (a) It shall be unlawful for any person, directly or indirectly, to engage in, conduct,
7898 advertise, hold himself or herself out as engaging in or conducting the business of, or act

7899 in the capacity of, an auctioneer or apprentice auctioneer within this state without first
 7900 obtaining a license as an auctioneer or apprentice auctioneer, as provided in this chapter,
 7901 unless he or she is exempted from obtaining a license under Code Section 43-6-24.

7902 (b) It shall be unlawful for any licensed auctioneer or apprentice auctioneer to act in such
 7903 capacity in the sale of real property unless such auctioneer or apprentice auctioneer shall
 7904 also be licensed as a real estate broker, associate broker, or salesperson under Chapter 40
 7905 of this title; provided, however, that any auctioneer or apprentice auctioneer who was
 7906 licensed as such by this state prior to July 1, 1978, and who, prior to December 31, 1984,
 7907 submits proof to the ~~commission~~ director that he or she has been auctioning real property
 7908 for five years or more immediately prior to the date of application shall not be required to
 7909 meet the provisions of this subsection but such person shall not thereby be construed to be
 7910 a real estate broker, associate broker, or salesperson under Chapter 40 of this title.

7911 (c) It shall be unlawful for any company, directly or indirectly, to engage in, conduct,
 7912 advertise, hold itself out as engaging in or conducting the business of auctioning without
 7913 first being registered by the ~~commission~~ director, unless such company is exempted from
 7914 obtaining a license pursuant to Code Section 43-6-24.

7915 43-6-10.

7916 Any person desiring to act as an auctioneer or apprentice auctioneer must file an
 7917 application for a license with the ~~commission~~ director. The application shall be in such
 7918 form and detail as the ~~commission~~ licensing board shall prescribe, setting forth the
 7919 following:

7920 (1) The name and address of the applicant or the name under which he or she intends to
 7921 conduct business; if the applicant is a partnership or limited liability company, the name
 7922 and residence address of each member thereof and the name under which the partnership
 7923 or limited liability company business is to be conducted; and, if the applicant is a
 7924 corporation, the name and address of each of its principal officers;

7925 (2) The place or places, including the municipality, with the street and street number, if
 7926 any, where the business is to be conducted; and

7927 (3) Such other information as the ~~commission~~ licensing board shall require.

7928 43-6-11.

7929 (a) No auctioneer's or apprentice auctioneer's license shall be issued to any person who has
 7930 not attained the age of 18 years, nor to any person who is not a resident of this state unless
 7931 he or she has fully complied with Code Section 43-6-12, nor to any person who is not a
 7932 citizen or has not filed his or her intent to become a citizen of the United States.

7933 (b) Each applicant for an auctioneer's or apprentice auctioneer's license shall be required
7934 to pass an examination in a form prescribed by the ~~commission~~ licensing board.

7935 (c) Each applicant for licensure as an auctioneer or apprentice auctioneer must prove to
7936 the ~~commission~~ director that he or she is reputable, trustworthy, honest, and competent to
7937 transact the business of an auctioneer or of an apprentice auctioneer in such a manner as
7938 to safeguard the interest of the public.

7939 (d) Each applicant for licensure as an auctioneer shall have successfully graduated from
7940 an accredited high school or obtained a ~~GED~~ general educational development (GED)
7941 diploma and have graduated from an auctioneers school approved by the ~~commission~~
7942 licensing board prior to making an application for an auctioneer's license.

7943 (e) On and after December 31, 1995, no apprentice auctioneer's license shall be issued or
7944 renewed.

7945 43-6-11.1.

7946 (a) No company shall be registered to engage in the business of auctioning unless such
7947 company furnishes to the ~~commission~~ director:

7948 (1) A completed application form as prescribed by the ~~commission~~ licensing board;

7949 (2) Satisfactory evidence approved by the ~~commission~~ licensing board that the company
7950 employs or shall employ an auctioneer licensed under the provisions of this chapter to
7951 conduct any auctions in this state; and

7952 (3) If such company is a foreign corporation, satisfactory evidence approved by the
7953 ~~commission~~ licensing board that such company is authorized to do business in this state
7954 and is registered in accordance with Chapter 3 of Title 14.

7955 (b) A company owned by or employing one or more full-time auctioneers licensed by the
7956 ~~commission~~ director may be exempt from subsection (a) of this Code section, provided that
7957 such company is directly supervised by a licensed auctioneer.

7958 (c) A company licensed under Chapter 47 and Chapter 48 of this title which engages in the
7959 business of auctioning on behalf of insurance companies and financial institutions shall not
7960 be subject to the requirements of paragraph (3) of Code Section 43-6-18.

7961 (d) An auction company must maintain at all times an active trust account and register
7962 such account with the ~~Georgia Auctioneers Commission~~ director.

7963 43-6-11.2.

7964 (a) Licenses for auctioneers shall expire biennially as provided in Code Section 43-1-4.
7965 The ~~commission~~ director shall be authorized to require persons seeking renewal of an
7966 auctioneer's license under this chapter to complete ~~commission-approved~~ continuing
7967 education of not more than eight hours biennially as approved by the licensing board.

7968 (b) The ~~commission~~ director shall be authorized to waive the continuing education
 7969 requirement in cases of hardship, disability, or illness or under such other circumstances
 7970 as the ~~commission~~ licensing board deems appropriate.

7971 (c) The ~~commission~~ licensing board shall be authorized to promulgate rules and
 7972 regulations to implement and ensure compliance with the requirements of this Code
 7973 section.

7974 (d) This Code section shall apply to each biennial renewal cycle which begins after the
 7975 1990-1991 renewal.

7976 43-6-12.

7977 (a) Any resident of another state who holds a current license as an auctioneer or an
 7978 apprentice auctioneer under the laws of any other state having requirements similar to those
 7979 in this chapter may, at the discretion of the ~~commission~~ director, be issued a license to
 7980 practice as an auctioneer or an apprentice auctioneer in this state without written
 7981 examination upon the payment of the fees as required by the ~~commission~~ licensing board.

7982 (b) Any resident of another state which does not have a law regulating the licensing of
 7983 auctioneers but who holds a current and valid license in a state which has a reciprocal
 7984 licensing agreement with Georgia may, at the discretion of the ~~commission~~ director, be
 7985 issued a license to practice as an auctioneer in this state without examination upon the
 7986 payment of a fee as required by the ~~commission~~ licensing board.

7987 (c) Prior to the issuance of a license to a nonresident auctioneer or apprentice auctioneer,
 7988 such nonresident shall file with the ~~commission~~ director a designation in writing that
 7989 appoints the ~~commission~~ director or a deputy to be designated by it to act as the licensee's
 7990 agent upon whom all judicial and other process or legal notices directed to such licensee
 7991 may be served. Service upon the agent so designated shall be equivalent to personal
 7992 service upon the licensee. Copies of such appointment, certified by the ~~commission~~
 7993 ~~chairman~~ director, shall be deemed sufficient evidence thereof and shall be admitted in
 7994 evidence with the same force and effect as the original thereof might be admitted. In such
 7995 written designation, the licensee shall agree that any lawful process against the licensee
 7996 which is served upon such agent shall be of the same legal force and validity as if served
 7997 upon the licensee and that the authority shall continue in force so long as any liability
 7998 remains outstanding in this state. Upon the receipt of all such process or notices, the
 7999 ~~commission or the deputy as designated by it~~ director shall immediately mail a copy of the
 8000 same by certified mail or statutory overnight delivery to the last known business address
 8001 of the licensee.

8002 43-6-12.1.

8003 In order for an applicant to obtain an auctioneer's license, such applicant must show proof
8004 of a residence.

8005 43-6-13.

8006 (a) The ~~division~~ director, at the time an application for licensure is submitted, shall collect
8007 from an applicant a fee in an amount established by the ~~commission~~ licensing board. The
8008 ~~commission~~ licensing board may establish separate schedules of fees for such licenses
8009 depending on whether the applicant begins to do business prior to or after the issuance of
8010 any such license.

8011 (b) After the issuance of the first license to an applicant, such license shall cover the
8012 remaining period of the biennium.

8013 (c) The auctioneer's biennial license fee shall be an amount established by the ~~commission~~
8014 licensing board and the apprentice auctioneer's biennial license fee shall be an amount
8015 established by the ~~commission~~ licensing board. This Code section shall not obviate any
8016 other fees or conditions required to maintain such license in accordance with this chapter.

8017 (d) Any check presented to the ~~division~~ director as a fee for either an original or renewal
8018 license which is returned unpaid shall be cause for revocation or denial of a license.

8019 (e) Notwithstanding any other fee prescribed in this chapter, a company shall be required
8020 to pay registration and renewal fees in an amount established by the ~~commission~~ licensing
8021 board.

8022 43-6-14.

8023 Each license shall ~~have placed thereon the seal of the commission~~ be issued in a form
8024 approved by the licensing board. The license of each auctioneer or apprentice auctioneer
8025 shall be delivered or mailed to his or her place of business and shall be displayed
8026 conspicuously at all times in the office of the licensee. The ~~commission~~ director shall
8027 prepare and deliver a pocket card certifying that the person whose name appears thereon
8028 is a licensed auctioneer or apprentice auctioneer, as the case may be, stating the period of
8029 time for which fees have been paid and including, on apprentice auctioneers' cards only,
8030 the name and address of the auctioneer for whom such apprentice auctioneer is acting. If
8031 an auctioneer maintains more than one place of business within the state, a branch office
8032 license shall be issued to such auctioneer for each branch office so maintained by him or
8033 her upon the payment of a biennial fee in an amount established by the ~~commission~~
8034 licensing board; and the branch office license shall be conspicuously displayed in each
8035 branch office.

8036 43-6-14.1.

8037 All licensees must carry on their person, when participating in the auctioneering business
8038 in any capacity, their Georgia auctioneer's license identification card and must present such
8039 card upon demand by any official of the State of Georgia.

8040 43-6-15.

8041 Reserved.

8042 43-6-16.

8043 (a) Licenses shall be granted only to persons who bear a good reputation for honesty,
8044 trustworthiness, integrity, and competence to transact the business of auctioneer or
8045 apprentice auctioneer in such manner as to safeguard the interest of the public and only
8046 after satisfactory proof of such qualifications has been presented to the ~~commission~~
8047 director. The ~~commission~~ director shall grant a license to a corporation, limited liability
8048 company, or partnership only if the stockholder, member, or partner having a controlling
8049 interest therein bears a good reputation for honesty, trustworthiness, and integrity.

8050 (b) Where an applicant has been convicted of forgery, embezzlement, obtaining money
8051 under false pretenses, larceny, extortion, conspiracy to defraud, or other like offense or
8052 offenses or has been convicted of any other crime in a court of competent jurisdiction of
8053 this or any other state, district, or territory of the United States or of a foreign country, such
8054 untrustworthiness of the applicant and the conviction, in itself, may be a sufficient ground
8055 for refusal of a license.

8056 (c) Where an applicant has made a false statement of material fact on his or her
8057 application, such false statement, in itself, may be sufficient ground for refusal of a license.

8058 (d) Grounds for suspension or revocation of a license, as provided for by this chapter, shall
8059 also be grounds for refusal to grant a license.

8060 43-6-17.

8061 If the ~~commission~~ director, after an application in proper form has been filed and
8062 accompanied by the proper fee, ~~shall refuse~~ refuses to accept the application, the
8063 ~~commission~~ licensing board shall provide for a hearing for such applicant in accordance
8064 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any person who
8065 has exhausted all administrative remedies available within this chapter and who is
8066 aggrieved by a final decision in a contested case is entitled to judicial review in accordance
8067 with Chapter 13 of Title 50.

8068 43-6-18.

8069 The ~~commission~~ director may, upon it's the director's own motion, and shall, upon the
8070 signed complaint in writing of any person, investigate the actions of any auctioneer or
8071 apprentice auctioneer and shall have power to censure such licensee or to revoke or
8072 suspend any license issued under this chapter whenever such license has been obtained by
8073 false or fraudulent representation or the licensee has been found guilty of any unfair trade
8074 practices, including, but not limited to, the following:

8075 (1) Making any substantial misrepresentation while describing any property, real or
8076 personal; using any false, deceptive, misleading, or untruthful advertising; or making any
8077 statements, either in person or through any form of advertising, which may create false
8078 or unjustified expectations of the services to be performed;

8079 (2) Pursuing a continued and flagrant course of misrepresentation or making false
8080 promises through agents or advertising an auction to be an absolute auction, but
8081 conducting it as an auction with reserve or otherwise;

8082 (3) Failing to account for or remit, within 30 days unless otherwise provided by contract,
8083 any money belonging to others that comes into his or her possession, commingling funds
8084 of others with his or her own, or failing to keep such funds of others in an escrow or
8085 trustee account; provided, however, that the requirement of an escrow or trust account
8086 shall not apply to an apprentice auctioneer who conducts the business of auctioning
8087 where gross sales do not exceed \$2,000.00 per auction;

8088 (4) Being convicted in a court of competent jurisdiction of this or any other state of a
8089 criminal offense involving moral turpitude or a felony;

8090 (5) Violation of any rule or regulation or code of ethics promulgated by the ~~commission~~
8091 licensing board;

8092 (6) Any conduct of any auctioneer which demonstrates bad faith, dishonesty,
8093 incompetency, or untruthfulness;

8094 (7) Any conduct of an auctioneer which demonstrates improper, fraudulent, or dishonest
8095 dealings;

8096 (8) Having had any license to practice a business or profession revoked, suspended,
8097 annulled, or sanctioned, or otherwise having had any disciplinary action taken by any
8098 other licensing authority in this or any other state; or

8099 (9) Knowingly making any misleading, false, or deceptive statement on any application
8100 for a license under this chapter.

8101 43-6-18.1.

8102 The ~~commission~~ director shall have an inspector with full inspection rights and privileges
8103 for all auctions conducted in this state. This inspector shall have the right to inspect any

8104 activity or lack thereof which may be a violation of this chapter or any documents or
 8105 records pertaining to auction activities and to report any and all such violations or any
 8106 improper or unlicensed practice, including but not limited to trust account violations.

8107 43-6-18.2.

8108 After notice and opportunity for hearing as provided in Code Section 43-6-19, the
 8109 ~~commission~~ director, in its his or her discretion, may sanction, as provided in Code Section
 8110 43-1-19 and Code Section or 43-6-18, a company registered or required to be registered in
 8111 accordance with this chapter.

8112 43-6-19.

8113 Any action of the director censuring ~~Before the commission shall censure~~ a licensee or
 8114 ~~before~~ revoking or suspending a license, ~~it shall provide for a hearing for such holder of~~
 8115 ~~a license in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure~~
 8116 ~~Act.'~~ shall be taken in compliance with Code Section 43-1-3.1. Any person who has
 8117 exhausted all administrative remedies available within this chapter and who is aggrieved
 8118 by a final decision in a contested case is entitled to judicial review in accordance with
 8119 Chapter 13 of Title 50.

8120 43-6-20.

8121 The revocation of an auctioneer's license shall automatically suspend every apprentice
 8122 auctioneer's license granted to any person by virtue of his or her employment by the
 8123 auctioneer whose license has been revoked. The apprentice auctioneer may retain his or
 8124 her license by transferring to the employment of another licensed auctioneer within 90
 8125 days.

8126 43-6-21.

8127 (a) Should the auctioneer change his or her place of business, he or she shall notify the
 8128 ~~commission~~ director in writing within ten days of such change, and thereupon a new pocket
 8129 card shall be granted to the auctioneer and to his or her apprentice auctioneers.

8130 (b) When an apprentice auctioneer is discharged or terminates his or her employment with
 8131 the auctioneer for any reason, it shall be the immediate duty of the auctioneer to deliver or
 8132 mail by registered or certified mail or statutory overnight delivery to the ~~commission~~
 8133 director the license of the apprentice auctioneer. It shall be unlawful for any apprentice
 8134 auctioneer to perform any of the acts contemplated by this chapter, either directly or
 8135 indirectly under authority of his or her license, until the apprentice auctioneer receives a

8136 new license bearing the name and address of his or her new employer. No more than one
8137 license shall be issued to any apprentice auctioneer for the same period of time.

8138 43-6-22.

8139 (a) No person shall bring or maintain any action in the courts of this state for the collection
8140 of compensation for the performance of any of the acts mentioned in this chapter without
8141 alleging and proving that he or she was a duly licensed auctioneer or apprentice auctioneer
8142 at the time the alleged cause of action arose.

8143 (b) The ~~commission~~ director may bring an action for any violation of this chapter.

8144 43-6-22.1.

8145 (a) The ~~commission~~ director is authorized and directed to establish and maintain an
8146 auctioneers education, research, and recovery fund.

8147 (b) The ~~commission~~ director shall maintain a minimum balance of \$100,000.00 in the
8148 auctioneers education, research, and recovery fund from which any person, except bonding
8149 companies when they are not principals in an auction transaction, aggrieved by an act,
8150 representation, transaction, or conduct of a licensee which is in violation of this chapter or
8151 of the rules and regulations of the ~~commission~~ licensing board promulgated pursuant to this
8152 chapter, may recover, by order of any court having competent jurisdiction, actual or
8153 compensatory damages, not including interests and costs sustained by the act,
8154 representation, transaction, or conduct, provided that nothing shall be construed to obligate
8155 the fund for more than \$10,000.00 per transaction regardless of the number of persons
8156 aggrieved or parcels of real estate or lots of personal property involved in such transaction.

8157 In addition:

8158 (1) The liability of the fund for the acts of a licensee, when acting as such, is terminated
8159 upon the issuance of court orders authorizing payments from the fund for judgments, or
8160 any unsatisfied portion of judgments, in an aggregate amount of \$20,000.00 on behalf of
8161 such licensee;

8162 (2) A licensee acting as a principal or agent in an auction transaction has no claim
8163 against the fund; and

8164 (3) No person who establishes a proper claim or claims under this Code section shall
8165 ever obtain more than \$10,000.00 from the fund.

8166 (c) When any person ~~makes application for~~ is granted by the director an original license
8167 to practice as a licensee, that person shall pay, in addition to the original license fee, a fee
8168 in an amount established by the ~~commission~~ licensing board for deposit in the auctioneers
8169 education, research, and recovery fund.

8170 (d)(1) No action for a judgment which subsequently results in an order for collection
8171 from the auctioneers education, research, and recovery fund shall be started later than two
8172 years from the accrual of the cause of action thereon. When any aggrieved person
8173 commences action for a judgment which may result in collection from the auctioneers
8174 education, research, and recovery fund, the aggrieved person shall notify the ~~commission~~
8175 director in writing, by certified mail or statutory overnight delivery, return receipt
8176 requested, to this effect at the time of the commencement of such action. The
8177 ~~commission~~ director shall have the right to intervene in and defend any such action.

8178 (2) When any aggrieved person recovers a valid judgment in any court of competent
8179 jurisdiction against any licensee under this chapter for any act, representation, transaction,
8180 or conduct which is in violation of this chapter or of the regulations promulgated pursuant
8181 to this chapter, or which is in violation of Chapter 47 of this title or of the regulations
8182 promulgated pursuant to Chapter 47 of this title, ~~which~~ and such act occurred on or after
8183 January 1, 1992, the aggrieved person may, upon termination of all proceedings,
8184 including reviews and appeals in connection with the judgment, file a verified claim in
8185 the court in which the judgment was entered and, upon ten days' written notice to the
8186 ~~commission~~ director, may apply to the court for an order directing payment out of the
8187 auctioneers education, research, and recovery fund of the amount unpaid upon the
8188 judgment, subject to the limitations stated in this Code section.

8189 (3) The court shall proceed upon such application in a summary manner and, upon the
8190 hearing thereof, the aggrieved person shall be required to show:

8191 (A) That he or she is not a spouse of the judgment debtor or the personal representative
8192 of such spouse;

8193 (B) That he or she has complied with all the requirements of this Code section;

8194 (C) That he or she has obtained a judgment, as set out in paragraph (2) of this
8195 subsection, stating the amount thereof and the amount owing thereon at the date of the
8196 application; and that, in such action, he or she had joined any and all bonding
8197 companies which issued corporate surety bonds to the judgment debtors as principals
8198 and all other necessary parties;

8199 (D) That he or she has caused to be issued a writ of execution upon such judgment and
8200 the officer executing the same has made a return showing that no personal or real
8201 property of the judgment debtor liable to be levied upon in satisfaction of the judgment
8202 could be found or that the amount realized on the sale of them or of such of them as
8203 were found, under such execution, was insufficient to satisfy the judgment, stating the
8204 amount so realized and the balance remaining due to the judgment after application
8205 thereon of the amount realized;

8206 (E) That he or she has caused the judgment debtor to make discovery under oath
8207 concerning his or her property, in accordance with Chapter 11 of Title 9, the 'Georgia
8208 Civil Practice Act';

8209 (F) That he or she has made all reasonable searches and inquiries to ascertain whether
8210 the judgment debtor is possessed of real or personal property or other assets liable to
8211 be sold or applied in satisfaction of the judgment;

8212 (G) That by such search he or she has discovered no personal or real property or other
8213 assets liable to be sold or applied or that he or she has discovered certain of them,
8214 describing them, owned by the judgment debtor and liable to be so applied and that he
8215 or she has taken all necessary action and proceedings for the realization thereof and that
8216 the amount thereby realized was insufficient to satisfy the judgment, stating the amount
8217 so realized and the balance remaining due on the judgment after application of the
8218 amount realized; and

8219 (H) That the following items, if any, as recovered by him or her have been applied to
8220 the actual or compensatory damages awarded by the court:

8221 (i) Any amount recovered from the judgment debtor or debtors;

8222 (ii) Any amount recovered from the bonding company or companies; or

8223 (iii) Any amount recovered in out-of-court settlements as to particular defendants.

8224 (4) Whenever the aggrieved person satisfies the court that it is not practical to comply
8225 with one or more of the requirements enumerated in subparagraphs (D), (E), (F), (G), and
8226 (H) of paragraph (3) of this subsection and that the aggrieved person has taken all
8227 reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and
8228 has been unable to collect the same, the court may, in its discretion, dispense with the
8229 necessity for complying with such requirements.

8230 (5) The court shall make an order directed to the ~~commission~~ director requiring payment
8231 from the auctioneers education, research, and recovery fund of whatever sum it shall find
8232 to be payable upon the claim, pursuant to the provisions of and in accordance with the
8233 limitations contained in this Code section, if the court is satisfied, upon the hearing, of
8234 the truth of all matters required to be shown by the aggrieved person by paragraph (3) of
8235 this subsection and is satisfied that the aggrieved person has fully pursued and exhausted
8236 all remedies available to him or her for recovering the amount awarded by the judgment
8237 of the court.

8238 (6) Should the ~~commission~~ director pay from the auctioneers education, research, and
8239 recovery fund any amount in settlement of a claim or toward satisfaction of a judgment
8240 against a licensee, the license of such licensee shall be automatically revoked upon the
8241 issuance of a court order authorizing payment from the auctioneers education, research,
8242 and recovery fund. If such license is that of a corporation, limited liability company, or

8243 partnership, the license of the supervising auctioneer of the corporation, limited liability
 8244 company, or partnership shall automatically be revoked upon the issuance of a court order
 8245 authorizing payment from the auctioneers education, research, and recovery fund. No
 8246 such licensee shall be eligible to receive a new license until such licensee has repaid in
 8247 full, plus interest at the rate of 6 percent per annum, the amount paid from the auctioneers
 8248 education, research, and recovery fund on such licensee's account. A discharge in
 8249 bankruptcy shall not relieve a person from the penalties and disabilities provided in this
 8250 subsection.

8251 (7) If, at any time, the money deposited in the auctioneers education, research, and
 8252 recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the
 8253 ~~commission~~ director shall, when sufficient money has been deposited in the auctioneers
 8254 education, research, and recovery fund, satisfy such unpaid claims or portions thereof in
 8255 the order that such claims or portions thereof were originally filed, plus accumulated
 8256 interest at the rate of 4 percent per annum.

8257 (e) The sums received by the ~~commission~~ director pursuant to any provisions of this Code
 8258 section shall be deposited into the state treasury and held in a special fund to be known as
 8259 the 'auctioneers education, research, and recovery fund' and shall be held by the
 8260 ~~commission~~ director in trust for carrying out the purposes of this Code section. These
 8261 funds may be invested in any investments which are legal for domestic insurance
 8262 companies under Articles 1 and 3 of Chapter 11 of Title 33, and the interest from these
 8263 investments shall be deposited to the credit of the auctioneers education, research, and
 8264 recovery fund and shall be available for the same purposes as all other money deposited
 8265 in the auctioneers education, research, and recovery fund.

8266 (f) It shall be unlawful for any person or his or her agent to file with the ~~commission~~
 8267 director any notice, statement, or other document required under this Code section which
 8268 is false, untrue, or contains any material misstatement of fact and any such filing shall
 8269 constitute a misdemeanor.

8270 (g) When the ~~commission~~ director receives notice, as provided in subsection (d) of this
 8271 Code section, the ~~commission~~ director may enter an appearance, file an answer, appear at
 8272 the court hearing, defend the action, or take whatever other action ~~it~~ the director may deem
 8273 appropriate on behalf of and in the name of the defendant and take recourse through any
 8274 appropriate method of review on behalf of and in the name of the defendant.

8275 (h) When, upon the order of the court, the ~~commission~~ director has paid from the
 8276 auctioneers education, research, and recovery fund any sum to the judgment creditor, the
 8277 ~~commission~~ director shall be subrogated to all of the rights of the judgment creditor. The
 8278 judgment creditor shall assign all his or her right, title, and interest in the judgment to the
 8279 ~~commission~~ director before any payment is made from the fund, and any amount and

8280 interest so recovered by the ~~commission~~ director on the judgment shall be deposited in the
8281 fund. If the total amount collected on the judgment by the ~~commission~~ director exceeds
8282 the amount paid from the fund to the original judgment creditor plus interest and the cost
8283 of collection, the ~~commission~~ director may elect to pay any overage collected to the
8284 original judgment creditor or reassign the remaining interest in the judgment to the original
8285 judgment creditor. The payment or reassignment to the original judgment creditor shall not
8286 subject the fund to further liability for payment to the original judgment creditor based on
8287 that transaction or judgment. Any costs incurred by the ~~commission's~~ director's attempting
8288 to collect assigned judgments shall be paid from the fund.

8289 (i) The failure of an aggrieved person to comply with all of the provisions of this Code
8290 section shall constitute a waiver of any rights under this Code section.

8291 (j) The ~~commission~~ director, in its his or her discretion, may use any and all funds, in
8292 excess of the amount of \$100,000.00 required by subsection (b) of this Code section,
8293 regardless of whether such funds are from the auctioneers education, research, and
8294 recovery fund or from accrued interest thereon for the purpose of helping to underwrite the
8295 cost of education and research programs for the benefit of licensees and the public as the
8296 ~~commission~~ director may approve in accordance with the provisions of this chapter and its
8297 rules and regulations; provided, however, that the ~~commission~~ director shall not expend or
8298 commit sums for educational or research purposes in such amounts as would cause the
8299 auctioneers education, research, and recovery fund to be reduced to an amount less than
8300 \$100,000.00.

8301 (k) In addition to the license fees provided for in this chapter, the ~~commission~~ director, in
8302 its his or her discretion and based upon the need to ensure that a minimum balance of
8303 \$100,000.00 is maintained in the auctioneers education, research, and recovery fund, may
8304 assess each licensee, only upon renewal of his or her license, an amount not to exceed
8305 \$150.00 per year.

8306 43-6-23.

8307 Whenever, in the judgment of the ~~commission~~ director, any person has engaged in any acts
8308 or practices which constitute or will constitute a violation of this chapter, the Attorney
8309 General may bring an action in the name of the state in the superior court of the county in
8310 which venue is proper, to abate and temporarily and permanently to enjoin such acts and
8311 practices and to enforce compliance with this chapter. The plaintiff shall not be required
8312 to give any bond.

8313 43-6-24.

8314 Except as otherwise provided in this chapter, this chapter shall not apply to any person
8315 acting as a receiver, trustee in bankruptcy, administrator, executor, or any such person
8316 acting under order of any court. This chapter shall not apply to any nonprofit organization
8317 conducting an auction where the funds are to be used in a way as to benefit persons with
8318 physical or mental disabilities or disorders or for research related to cures or prevention of
8319 such disabilities or disorders, nor shall this chapter apply to any auction conducted by a
8320 nonprofit organization where the funds are to be used for the preservation of wildlife or its
8321 habitats whether conducted by a licensed auctioneer or nonlicensed auctioneer so long as
8322 the nonprofit organization obtains a letter of exemption from the ~~commission~~ director.
8323 This chapter shall not apply to any person acting as an auctioneer in the auction of
8324 livestock, forest products, or farm products in an auction facility which is licensed and
8325 bonded under the provisions of Article 3 of Chapter 6 of Title 4 or in an auction facility
8326 which is licensed under Code Section 10-4-101 or to any youth livestock auction;
8327 sponsored by a 4-H Club or the Future Farmers of America; provided, however, that such
8328 organization or agency must first obtain from the ~~commission~~ director a letter of
8329 exemption. This chapter shall not apply to students of approved auctioneering schools
8330 during the term of their course of study. This chapter shall not apply to any person
8331 conducting a public sale of personal property pursuant to the provisions of Code Section
8332 10-4-213. This chapter shall not apply to ringpersons as defined in Code Section 43-6-1.

8333 43-6-24.1.

8334 Nothing in this chapter shall relieve an auctioneer licensed in this state of all his or her
8335 liabilities under this chapter.

8336 43-6-25.

8337 Any person or corporation acting as an auctioneer or apprentice auctioneer within the
8338 meaning of this chapter without a license and any person who violates this chapter shall be
8339 guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to
8340 exceed \$1,000.00, by imprisonment for a term not to exceed 90 days, or both.

8341 43-6-25.1.

8342 Nothing in this chapter shall prohibit any lawful regulation or licensing of auctioneers by
8343 any municipality, county, or other political subdivision of this state; provided, however,
8344 that no such political subdivision shall license any auctioneer required to be licensed by
8345 this chapter unless such auctioneer has been approved for licensure by the ~~commission~~
8346 director as required in this chapter."

8347 **SECTION 1-10.**

8348 Said title is further amended by revising Chapter 7, relating to barbers, as follows:

8349 "CHAPTER 7

8350 43-7-1.

8351 This chapter shall be known and may be cited as the 'Georgia Barber Act.'

8352 43-7-2.

8353 This chapter is enacted for the purpose of safeguarding the public health, safety, and
8354 welfare by providing for state administrative control, supervision, and regulation of the
8355 practice of barbering, teaching of barbering, barbers, barber teachers, barber apprentices,
8356 barbershops, and barber schools. Barbering is declared to affect the public interest, and this
8357 chapter shall be liberally construed so as to accomplish the foregoing purpose.

8358 43-7-3.

8359 As used in this chapter, the term:

8360 (1) 'Barber' means any person who practices barbering.

8361 (2) 'Barber apprentice' means any person who practices barbering under the constant and
8362 direct supervision of a licensed barber.

8363 (3) 'Barbering' means the occupation of shaving or trimming the beard, cutting or
8364 dressing the hair, giving facial or scalp massages, giving facial or scalp treatment with
8365 oils or cream or other preparations made for this purpose, either by hand or by means of
8366 mechanical appliances, singeing and shampooing the hair, dyeing the hair, or
8367 permanently waving or straightening the hair of any living person for compensation.

8368 (4) 'Barber school' means any premises, not operated as part of the public school system
8369 of this state, where barbering is taught for a fee or other compensation. Technical
8370 institutes whose programs have been approved by the Technical College System of
8371 Georgia are not 'barber schools' within the meaning of this chapter.

8372 (5) 'Barbershop' means the immediate premises upon or within which the practice of
8373 barbering is carried on.

8374 (6) 'Barber teacher' means any person who, for a fee or other compensation, teaches
8375 barbering to any other person.

8376 (7) 'Board' means the State Board of Barbers, a professional licensing policy board
8377 pursuant to Chapter 1 of this title with the authority and responsibilities set forth in such
8378 chapter.

8379 (7.1) 'Director' means the director of professional licensing.

8380 (8) 'License' means a valid and current certificate of registration issued by the ~~division~~
 8381 director ~~on behalf of the board~~ which shall give the named person to whom it is issued
 8382 authority to engage in the activity prescribed thereon.

8383 (9) 'Licensee' means any person holding a license.

8384 (9.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 8385 Article 2 of Chapter 1 of this title.

8386 (10) 'Person' means a natural person, not a legal entity.

8387 (11) 'Student' means any person enrolled and pursuing a course of study in a licensed
 8388 barber school.

8389 43-7-4.

8390 (a) There is created a State Board of Barbers as a professional licensing policy board as
 8391 set forth in subsection (b) of Code Section 43-1-3 and this chapter. The board shall consist
 8392 of six members, each of whom shall be appointed by the Governor, approved by the
 8393 Secretary of State, and confirmed by the Senate. Five of the members shall be barbers.
 8394 The sixth member shall be appointed from the public at large and shall have no connection
 8395 whatsoever with the profession of barbering. All terms shall be for three years. Upon the
 8396 expiration of the term of office, a member shall continue to serve until a successor is
 8397 appointed and qualified.

8398 (b) ~~With the exception of hearings in contested cases, the~~ The board may conduct business
 8399 by conference telephone.

8400 (c) The Governor may remove any member of the board for failure to attend meetings,
 8401 neglect of duty, incompetence, revocation or suspension of his or her license, or other
 8402 dishonorable conduct. After such removal or vacancy due to death or resignation, the
 8403 Governor shall appoint a successor as provided in this Code section to serve the unexpired
 8404 term.

8405 43-7-5.

8406 To be eligible for appointment as a member of the board, a person ~~must~~ shall:

8407 (1) Be at least 25 years of age;

8408 (2) Be a citizen of the United States and a resident of this state;

8409 (3) Hold a barber or barber teacher license;

8410 (4) Have had at least five years of practical experience in the practice of barbering
 8411 immediately preceding ~~his~~ appointment;

8412 (5) Not, while serving on the board, be a member of or affiliated with any barber school
 8413 or any business which sells, rents, or distributes supplies to barbershops or barber
 8414 schools; and

8415 (6) Not, while serving on the board, be a member of the State Board of Cosmetology.

8416 43-7-6.

8417 Appointees to the board shall, immediately after their appointment, take and subscribe to
8418 a written oath or affirmation required by law for all public officers.

8419 43-7-7.

8420 The board shall meet at least six days a year but shall not meet more than 36 days in one
8421 year. All meetings shall be open to the public ~~except that the board may hold restricted~~
8422 ~~attendance sessions to prepare, give, and grade examinations and to deliberate in~~
8423 ~~connection with the decision in a contested case.~~ The ~~division~~ director shall be secretary
8424 of the board and, in addition to his or her duties as prescribed by Code Section 43-1-3, shall
8425 perform such other administrative duties as may be prescribed by the licensing board. All
8426 legal process and all documents required by law to be served upon or filed with the board
8427 shall be served upon or filed with the ~~division~~ director at his or her office. All official
8428 records of the board, or affidavits by the ~~division~~ director as to the content of such records,
8429 shall be prima-facie evidence of all matters required to be kept therein.

8430 43-7-8.

8431 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
8432 Section 43-1-2.

8433 43-7-9.

8434 (a) The ~~board~~ director shall:

8435 ~~(1) Prepare and approve all examinations of applicants for licenses;~~

8436 ~~(2)~~(1) Determine the qualifications of and license barbers, barber teachers, barber
8437 apprentices, and persons operating barbershops and barber schools to engage in these
8438 respective activities;

8439 ~~(3)~~(2) Regulate the practice of barbering, teaching of barbering, barbers, barber teachers,
8440 barber apprentices, and persons operating barbershops and barber schools;

8441 ~~(4)~~(3) Investigate alleged violations of this chapter and any other law of this state
8442 pertaining to barbering and any rules and regulations adopted by the licensing board; and,
8443 in order to facilitate this duty, any ~~board member~~ or inspector shall have the power and
8444 right to enter into and make reasonable inspection of any barbershop or barber school
8445 during regular business hours;

8446 ~~(5) Conduct hearings in accordance with Chapter 13 of Title 50, the 'Georgia~~
8447 ~~Administrative Procedure Act', and, in order to facilitate this duty, the board and the~~

8448 ~~division director shall have the power to subpoena throughout the state witnesses,~~
 8449 ~~designated documents, papers, books, accounts, letters, photographs, objects, or other~~
 8450 ~~tangible things;~~

8451 ~~(6)(4) Reprimand any person, or suspend, revoke, or cancel the license of, or refuse to~~
 8452 ~~grant, renew, or restore a license to any person upon any ground specified in this chapter;~~
 8453 ~~and~~

8454 ~~(7) Adopt a seal, the imprint of which, together with the authorized signature of either~~
 8455 ~~the division director or any other member authorized by the board, shall be effective to~~
 8456 ~~evidence its official acts;~~

8457 (5) Maintain in the office of the ~~division~~ director a register of all persons holding a
 8458 license and maintain a record of all inspections made for a period of two years; ~~and.~~

8459 (b) The licensing board shall:

8460 ~~(9)(1)~~ (1) Adopt such rules and regulations as shall be reasonably necessary for the
 8461 enforcement and implementation of the provisions and purposes of this chapter and other
 8462 laws of this state insofar as they relate to barbering, including, but not limited to, rules
 8463 and regulations prescribing requirements for sanitation in barbershops and barber schools
 8464 when these rules have been approved by the Board of Public Health; and

8465 (2) Provide for examinations of applicants for licenses.

8466 43-7-10.

8467 No person shall practice or teach barbering, be a student or an apprentice of barbering, or
 8468 operate a barbershop or barber school unless he or she holds a proper license and continues
 8469 to comply with this chapter and all rules and regulations adopted by the licensing board;
 8470 provided, however, that this chapter shall not apply to professional and trade activities
 8471 which are properly conducted under authority of other licensing laws of this state.

8472 43-7-11.

8473 (a) A license to practice barbering shall be issued to any person who:

8474 (1) Is at least 16 years of age;

8475 (2) Has completed the seventh grade of school instruction or its equivalent;

8476 (3) Has completed a prescribed course of study of at least 1,500 hours in a licensed or
 8477 approved barber school or in a program approved by the Technical College System of
 8478 Georgia or has served as an apprentice in a barbershop for 3,000 hours under the
 8479 supervision of a master barber; and

8480 (4) Satisfactorily passes a written and practical examination prepared or approved by the
 8481 licensing board.

8482 (b) The director may issue an ~~An~~ approved applicant for examination under this Code
 8483 section ~~may be issued~~ a work permit authorizing ~~said~~ such applicant to practice such
 8484 occupation until the results of the examination for which the applicant is scheduled are
 8485 released. If the applicant fails to appear for the examination, the work permit shall be
 8486 revoked unless the applicant provides just cause to the ~~board~~ director why he or she was
 8487 unable to appear for the examination.

8488 43-7-11.1.

8489 Notwithstanding any other provisions of this chapter, any person who has actively engaged
 8490 in the practice of barbering on a military installation in Georgia for three years prior to July
 8491 1, 1985, shall be eligible to receive a license to practice barbering upon proper proof of
 8492 experience, application, and appropriate fee being submitted to the board on or before
 8493 September 1, 1985.

8494 43-7-11.2.

8495 A person licensed as a master cosmetologist under Chapter 10 of this title shall be eligible
 8496 to take the examination provided for in Code Section 43-7-11 if that person completes a
 8497 licensing board approved 300 hour prescribed course in a barbering school, submits a
 8498 complete application, and pays the proper fees established by the licensing board.

8499 43-7-12.

8500 The director shall issue, renew, or restore a ~~A~~ license to operate a barbershop ~~shall be~~
 8501 ~~issued, renewed, or restored~~ to any person who can show that such barbershop:

- 8502 (1) Provides and maintains such physical and sanitary facilities and equipment as may
 8503 be required by the rules and regulations of the licensing board;
- 8504 (2) Trains and utilizes apprentices in a manner and number as required by the licensing
 8505 board; and
- 8506 (3) Does business only at the location shown on the application for licensure.

8507 43-7-12.1.

8508 A barbershop licensed pursuant to this chapter shall be authorized to employ a
 8509 cosmetologist, manicurist, esthetician, or shampooer licensed under Chapter 10 of this title
 8510 without that barbershop being required to be licensed as a beauty shop or salon under
 8511 Chapter 10 of this title.

8512 43-7-13.

8513 The director shall issue a ~~A~~ license to teach barbering ~~shall be issued~~ to any person who:

- 8514 (1) Is a high school graduate or its equivalent;
- 8515 ~~(2) Reserved;~~
- 8516 ~~(3)~~(2) Has completed a teacher's training course as prescribed by the licensing board
- 8517 which requires 750 hours from a ~~board approved~~ school approved by the licensing board
- 8518 or from a program approved by the Technical College System of Georgia; and
- 8519 ~~(4)~~(3) Satisfactorily passes a written and practical examination prepared or approved by
- 8520 the licensing board.

8521 43-7-13.1.

8522 A person certified by the Department of Education to teach barbering in the public schools

8523 may obtain a license to teach barbering without meeting the requirements of Code Section

8524 43-7-13 if that person:

- 8525 (1) Holds a current barber license at the master level;
- 8526 (2) Holds a diploma or certificate indicating completion of 1,500 credit hours from a
- 8527 ~~board approved~~ school approved by the licensing board;
- 8528 (3) Has completed the three-year teacher training program required by the Department
- 8529 of Education; and
- 8530 (4) Has satisfactorily passed an examination prepared or approved by the licensing
- 8531 board.

8532 43-7-14.

8533 The director shall issue, renew, or restore a license to operate a barber school ~~shall be~~

8534 ~~issued, renewed, or restored~~ to any person who can show that such school:

- 8535 (1) Provides a course of study as prescribed by the licensing board for basic barbering
- 8536 practice;
- 8537 (2) Provides a course of study as prescribed by the licensing board for the training of
- 8538 barber teachers;
- 8539 (3) Possesses the equipment necessary for the teaching of all courses in the curriculum
- 8540 prescribed by the licensing board;
- 8541 (4) Is at all times under the constant and direct supervision of a licensed barber teacher;
- 8542 (5) Employs only those barber teachers who are licensed by the ~~board~~ director;
- 8543 (6) Provides at least one barber teacher for each 20 students enrolled;
- 8544 (7) Keeps a current and accurate record of each student's progress, establishes grades,
- 8545 and holds examinations before issuing diplomas;
- 8546 (8) Keeps permanently and conspicuously displayed a sign which informs the public that
- 8547 a barber school is being operated on the premises, ~~which sign shall display~~ and displays
- 8548 the words 'Service by Students Only';

8549 (9) Requires all teachers while on the school premises to confine their work to
 8550 instruction and research in the field of barbering. In no event shall a teacher or other
 8551 person be allowed to practice barbering while on the school premises except for the
 8552 purpose of demonstration to students;

8553 (10) Allows no student to render barbering services to a patron of the school until he or
 8554 she has completed a prescribed minimum number of hours in theory and practical work
 8555 and in no instance allows its students to collect a fee or other compensation for such
 8556 services; and

8557 (11) Has at least ten student applications for enrollment in the basic course of barbering,
 8558 provided that such students shall not have been enrolled in a licensed barber school
 8559 within nine months immediately preceding application for a license to operate a barber
 8560 school.

8561 43-7-15.

8562 Reserved.

8563 43-7-16.

8564 (a) The director shall issue a ~~A~~ license to practice barbering as an apprentice ~~shall be~~
 8565 ~~issued~~ to any applicant who shall furnish the ~~board~~ director evidence that such applicant:

8566 (1) Will practice under the supervision of a licensed barber with at least 18 months'
 8567 experience in the practice of barbering; and

8568 (2) Is 16 years of age or older.

8569 (b) A license to practice barbering as an apprentice shall not be renewed more than one
 8570 time.

8571 43-7-17.

8572 The ~~board~~ director may issue a license to practice under this chapter by endorsement,
 8573 without examination, to persons having licenses under similar laws of another state if, in
 8574 the opinion of the ~~board~~ director, the standards and qualifications for licensure in that state
 8575 are comparable to those in this state for the particular license applied for.

8576 43-7-18.

8577 All licenses shall expire biennially. All applications for renewal of a license shall be filed
 8578 with the ~~division~~ director prior to the expiration date, accompanied by the biennial renewal
 8579 fee prescribed by the licensing board.

8580 43-7-19.

8581 A license which has expired for failure to renew may be restored after application and
8582 payment of the prescribed restoration fee.

8583 43-7-20.

8584 A suspended license is subject to expiration and must be renewed or restored as provided
8585 in this chapter during the term of suspension.

8586 43-7-21.

8587 Every person holding a license issued by the ~~board~~ director shall display it in a conspicuous
8588 place in his or her school, place of business, or employment.

8589 43-7-22.

8590 Reserved.

8591 43-7-23.

8592 (a) The ~~board~~ director, acting upon its his or her own knowledge or upon written and
8593 verified complaint filed by any person, shall have the power to reprimand, or to suspend,
8594 revoke, or cancel the license of, or to refuse to grant, renew, or restore a license to any
8595 licensee upon proof of any one of the following grounds:

8596 (1) The commission of any false, fraudulent, or deceitful act or the use of any forged,
8597 false, or fraudulent document in connection with the license requirements of this chapter
8598 or the rules and regulations of the licensing board;

8599 (2) Failure at any time to comply with the requirements for a license under this chapter;

8600 (3) The practice of barbering under a false or assumed name;

8601 (4) Habitual intemperance in the use of alcoholic spirits, narcotics, or stimulants to such
8602 an extent as to render the licensee unsafe or unfit to practice or teach barbering;

8603 (5) Any physical disease or mental disability which renders the licensee unfit to practice
8604 or teach barbering;

8605 (6) Any dishonorable or unethical conduct likely to deceive, defraud, or harm the public;

8606 (7) Knowing performance of any act which in any way assists an unlicensed person to
8607 practice or teach barbering; or

8608 (8) Violating, either directly or indirectly, or assisting in or abetting the violation of, any
8609 provision of this chapter or any rule or regulation of the licensing board.

8610 (b) The ~~board~~ director may impose a fine not to exceed \$500.00 for each violation of any
8611 provision of subsection (a) of this Code section. Such fines shall be listed in a schedule
8612 contained in the rules and regulations of the licensing board. The licensee shall pay the

8613 fine within 30 days after receiving written notification from ~~either the board or a~~
 8614 ~~representative of the board~~ the director unless the licensee requests in writing a hearing
 8615 before the licensing board as provided in Code Section 43-1-3.1. ~~Such request for a~~
 8616 ~~hearing must be received by the board within 30 days after receipt of the written~~
 8617 ~~notification from the board.~~ Failure to either pay the fine or request a hearing shall result
 8618 in immediate suspension of the license ~~pending a hearing to determine whether revocation~~
 8619 or other disciplinary action ~~should be imposed on the licensee~~ in accordance with the
 8620 provisions of Code Section 43-1-3.1.

8621 (c) The ~~board~~ director for good cause shown and under such conditions as ~~it~~ the director
 8622 may prescribe may restore a license to any person whose license has been suspended or
 8623 revoked.

8624 (d) ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' shall apply to any~~
 8625 ~~proceeding under this Code section.~~ Any action of the director taken pursuant to this Code
 8626 section shall be made in compliance with Code Section 43-1-3.1.

8627 43-7-24.

8628 The practice or teaching of barbering and the operation of barber schools and barbershops
 8629 are declared to be activities affecting the public interest and involving the health, safety,
 8630 and welfare of the public. Such activities when engaged in by a person who is not licensed
 8631 are declared to be a public nuisance, harmful to the public health, safety, and welfare. The
 8632 ~~board~~ director or the appropriate prosecuting attorney may bring an action, in the superior
 8633 court of the county where such unlicensed person resides, to restrain and enjoin such
 8634 unlicensed practice. It shall not be necessary in order to obtain the equitable relief
 8635 provided for in this Code section to allege or prove that there is no adequate remedy at law.

8636 43-7-24.1.

8637 Notwithstanding any other provision of this chapter, premises made available for a
 8638 barbershop within a facility licensed as a nursing home pursuant to Article 1 of Chapter 7
 8639 of Title 31 shall not be required to be licensed as a barbershop under this chapter, or
 8640 otherwise be subject to any provisions of this chapter except for inspections, investigations,
 8641 or both, for alleged violations of this chapter by any person licensed under this chapter, if
 8642 barbering services in such premises are rendered only to residents of the nursing home.

8643 43-7-25.

8644 ~~All rules and regulations that were adopted by the Georgia State Board of Barbers as it~~
 8645 ~~existed prior to July 1, 1973, shall continue in full force and effect until modified or~~
 8646 ~~repealed.~~ Reserved.

8647 43-7-26.

8648 Any person who violates this chapter shall be guilty of a misdemeanor."

8649 **SECTION 1-11.**

8650 Said title is further amended by revising Chapter 8B, relating to the State Board of
8651 Cemeterians, as follows:

8652 "CHAPTER 8B

8653 43-8B-1.

8654 This chapter shall be known and may be cited as the 'Georgia Cemeterians Board Act.'

8655 43-8B-2.

8656 As used in this chapter, the term:

8657 (1) 'Board' means the State Board of Cemeterians established by this chapter, a
8658 professional licensing policy board pursuant to Chapter 1 of this title with the authority
8659 and responsibilities set forth in such chapter.

8660 (2) 'Cemeterian' means a person registered as a cemetery owner pursuant to Chapter 14
8661 of Title 10 or a cemetery manager.

8662 (3) 'Cemetery' means a cemetery as defined in Chapter 14 of Title 10.

8663 (4) 'Director' means the director of professional licensing.

8664 (5) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
8665 Article 2 of Chapter 1 of this title.

8666 43-8B-3.

8667 The practice of the profession of a cemeterian, as defined in this chapter, is declared to be
8668 a business or profession affecting the public interest and involving the health and safety of
8669 the public.

8670 43-8B-4.

8671 There shall be established in the Office of the Secretary of State the State Board of
8672 Cemeterians as a professional licensing policy board pursuant to Chapter 1 of this title to
8673 be constituted as provided in this chapter with the powers, duties, and authority vested in
8674 such board by this chapter and Chapter 1 of this title.

8675 43-8B-5.

8676 (a) The board shall consist of six members who shall be practicing cemeterians with a
8677 minimum of five years of experience and one member who shall have no connection
8678 whatsoever with the cemetery profession but who shall have a recognized interest in
8679 consumer affairs and in consumer protection concerns.

8680 (b) The members of the board shall be appointed by the Governor for terms of office of
8681 six years and all vacancies occurring on the board shall be filled by the Governor. When
8682 an appointment is made to fill a vacancy caused by death or resignation of a member, such
8683 appointment shall be for the remainder of the unexpired term of the member whose death
8684 or resignation caused the vacancy so filled.

8685 (c) A majority of the members of the board may remove any member who misses three or
8686 more consecutive regular meetings of the board without a medical reason and may declare
8687 that position on the board to be vacant. A member so removed shall not be eligible for
8688 reappointment until the expiration of the term of office for which such person was serving.
8689 The Governor shall have the power to remove from office any member of the board for
8690 willful neglect of duty or for conviction of a crime involving moral turpitude.

8691 43-8B-6.

8692 (a) The board shall each year elect from its members a president whose term shall be one
8693 year and who shall serve during the period for which elected and until a successor shall be
8694 elected.

8695 (b) The board shall meet at least yearly and more often as the proper and efficient
8696 discharge of its duties may require.

8697 (c) Each member of the board shall be reimbursed as provided for in subsection (f) of
8698 Code Section 43-1-2.

8699 (d) No inspector shall own, operate, or be employed by any cemetery or perform any
8700 services on behalf thereof.

8701 43-8B-7.

8702 For the purpose of better protection of life and health, the licensing board is authorized:

8703 (1) To fix and prescribe minimum standards of general appearance of cemeteries; and

8704 ~~(2) To undertake such other duties and to exercise such other powers as may from time~~
8705 ~~to time be prescribed by law;~~

8706 ~~(3) To adopt a common seal; and~~

8707 ~~(4) To make and promulgate rules and regulations not inconsistent with the laws of this~~
8708 state for the regulation of ~~such~~ the licensing board and pursuant to the provisions of
8709 Chapter 14 of Title 10. All rules and regulations of the Secretary of State promulgated

8710 pursuant to the authority of Chapter 14 of Title 10 and existing immediately prior to July
 8711 1, ~~2006~~ 2012, which are not inconsistent with this chapter shall continue in effect until
 8712 repealed, amended, or otherwise changed by the licensing board."

8713 **SECTION 1-12.**

8714 Said title is further amended by revising Chapter 9, relating to chiropractors, as follows:

8715 "CHAPTER 9

8716 43-9-1.

8717 As used in this chapter, the term:

8718 (1) 'Board' means the Georgia Board of Chiropractic Examiners, a professional licensing
 8719 policy board pursuant to Chapter 1 of this title with the authority and responsibilities set
 8720 forth in such chapter.

8721 (2) 'Chiropractic' means the adjustment of the articulations of the human body, including
 8722 ilium, sacrum, and coccyx, and the use of X-ray, provided that the X-ray shall not be used
 8723 for therapeutical purposes. The term shall also mean that separate and distinct branch of
 8724 the healing arts whose science and art utilize the inherent recuperative powers of the body
 8725 and the relationship between the musculoskeletal structures and functions of the body,
 8726 particularly of the spinal column and the nervous system, in the restoration and
 8727 maintenance of health. Chiropractic is a learned profession which teaches that the
 8728 relationship between structure and function in the human body is a significant health
 8729 factor and that such relationships between the spinal column and the nervous system are
 8730 most significant, since the normal transmission and expression of nerve energy are
 8731 essential to the restoration and maintenance of health. However, the term shall not
 8732 include the use of drugs or surgery. The adjustment referred to in this paragraph and
 8733 subsection (b) of Code Section 43-9-16 may only be administered by a doctor of
 8734 chiropractic authorized to do so by the provisions of this chapter; provided, however, that
 8735 the provisions of this Code section shall not prevent any other health care provider from
 8736 administering techniques authorized within their scope of practice.

8737 (2.1) 'Director' means the director of professional licensing.

8738 (2.2) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 8739 Article 2 of Chapter 1 of this title.

8740 (3) 'Practice of chiropractic' shall also include peer review which is defined as the
 8741 procedure by which chiropractors licensed in this state evaluate the quality and efficiency
 8742 of services ordered or performed by other chiropractors, including but not limited to

8743 practice analysis, audit, claims review, underwriting assistance, utilization review, and
8744 compliance with applicable laws, rules, and regulations.

8745 (4) 'Subluxation' means a complex of functional or pathological articular changes that
8746 compromise neural integrity and general health. A subluxation is evaluated, diagnosed,
8747 and managed through the use of chiropractic procedures based on the best available
8748 rational and empirical evidence.

8749 43-9-2.

8750 (a) There is created and established a board to be known as the Georgia Board of
8751 Chiropractic Examiners, a professional licensing policy board pursuant to Chapter 1 of this
8752 title with all powers set forth in such chapter. The board shall be composed of five
8753 practicing chiropractors who shall be appointed by the Governor with the approval of the
8754 Secretary of State and confirmation by the Senate. Such members shall be of good moral
8755 character, residents of ~~the~~ this state, and graduates of chartered chiropractic schools or
8756 colleges requiring actual attendance in same and shall have practiced chiropractic
8757 continuously and resided in ~~the~~ this state for a period of at least five years.

8758 (b) The board shall, in addition to the five members provided for in subsection (a) of this
8759 Code section, consist of a sixth member who shall be appointed by the Governor from the
8760 public at large and who shall not be in any way connected to practicing chiropractic. The
8761 initial term for such member shall expire June 30, 1983; successors appointed on or after
8762 July 1, 1995, shall be appointed for a term of five years.

8763 (c) On or after July 1, 1995, not more than one member of the board shall be appointed
8764 who resides in any one congressional district, with the exception of the member appointed
8765 from the public at large. Board members appointed on or after July 1, 1995, shall be
8766 appointed for terms of five years and may be appointed to serve for no more than two
8767 consecutive five-year terms in addition to any unexpired term of office that member may
8768 have filled.

8769 43-9-3.

8770 (a) The members of the board provided for in subsection (a) of Code Section 43-9-2 shall
8771 be so classified by the Governor that the terms of office of two shall expire in one year, two
8772 in two years, and one in three years from the date of appointment. Annually the Governor
8773 shall appoint, to fill vacancies in the five professional positions on the board, licensed
8774 practitioners who possess the qualifications specified in subsection (a) of Code Section
8775 43-9-2 to serve for a period of five years.

8776 (b) The Governor shall fill vacancies in the board caused by death or otherwise as soon as
8777 practicable. Such appointees shall serve for the unexpired term of the member whose

8778 vacancy is being filled. Before appointing the members of the board, the Governor shall
 8779 ~~satisfy himself~~ be satisfied that the appointees are of high character and standing and
 8780 possess the other qualifications prescribed in this chapter.

8781 43-9-4.

8782 The board shall meet at such times as the board determines necessary for the performance
 8783 of its duties. Called meetings shall be authorized at the discretion of the president. ~~The~~
 8784 ~~board shall adopt a seal, which shall be affixed to all licenses issued and shall from time~~
 8785 ~~to time adopt such rules and regulations as it deems proper and necessary for the~~
 8786 ~~performance of its duties.~~ The board shall elect annually a president and a vice president.
 8787 Immediately before entering upon the duties of office, the members of the board shall take
 8788 the constitutional oath of office and shall file the same in the office of the Governor, who,
 8789 upon receiving the oath of office, shall issue a certificate of appointment to each member.

8790 43-9-5.

8791 ~~The division director shall keep a true and accurate account of all funds received and all~~
 8792 ~~vouchers issued.~~ The members of the board shall be reimbursed as provided for in
 8793 subsection (f) of Code Section 43-1-2.

8794 43-9-6.

8795 Upon sufficient proof to the Governor of the incompetency, inability, unprofessional
 8796 conduct, misconduct, or such conduct as in the discretion of the Governor is unbecoming
 8797 a member of the board, such member shall be dismissed by the Governor.

8798 43-9-6.1.

8799 (a) The licensing board is authorized to:

- 8800 (1) Adopt, amend, and repeal such rules and regulations not inconsistent with this
 8801 chapter necessary for the proper administration and enforcement of ~~said~~ this chapter; and
 8802 (2) Conduct hearings upon the timely filing of a petition by a person against whom the
 8803 director has taken disciplinary action.

8804 (b) The director is authorized to:

- 8805 ~~(2)~~(1) Examine, issue, renew, and reinstate the licenses of duly qualified applicants for
 8806 licensure to practice chiropractic in this state;
 8807 ~~(3)~~(2) Deny, suspend, revoke, or otherwise sanction licenses to practice chiropractic in
 8808 this state;
 8809 ~~(4)~~(3) Initiate investigations for the purpose of discovering violations of this chapter;

8810 ~~(5)(4) Conduct hearings upon charges calling~~ Issue administration orders or take
 8811 administrative action for the discipline of a licensee or on violations of this chapter;
 8812 ~~(6)(5) Issue to chiropractors; licensed under this chapter; certificates under the seal of the~~
 8813 ~~board~~ evidencing such licensure and signed, either by hand or facsimile signature, by the
 8814 ~~president of the board and the division~~ director; and
 8815 ~~(7)(6) Expunge or delete from the disciplinary record of any licensee advertising~~
 8816 violations not defined in the rules of the licensing board as immoral and unprofessional
 8817 conduct or relating to reasonable care and skill in the treatment of a patient.

8818 43-9-7.

8819 (a) Any person wishing to practice chiropractic in this state shall make application to the
 8820 ~~board through the division~~ director in such form as may be adopted and directed by the
 8821 licensing board.

8822 (b) The application shall recite the history of the applicant's educational qualifications,
 8823 how long he or she has studied chiropractic, what collateral branches, if any, he or she has
 8824 studied, and the length of time he or she has engaged in clinical practice, with proof thereof
 8825 in the form of diplomas, certificates, and other information, and shall accompany the
 8826 application with satisfactory evidence of good character and reputation.

8827 (c) Each applicant shall provide with his or her application an application fee in an amount
 8828 established by the licensing board.

8829 (d) Each applicant shall be of good moral character and shall be a graduate of a
 8830 chiropractic school or college accredited by the Council on Chiropractic Education or a
 8831 licensing board approved successor or a chiropractic school or college which is actively
 8832 seeking accreditation from the Council on Chiropractic Education or a licensing board
 8833 approved successor, which requires a four-year standard college course and is approved by
 8834 the licensing board.

8835 (e) In addition ~~to the requirements heretofore provided in this Code section~~, each applicant
 8836 for examination shall have successfully concluded two years' general college training in
 8837 schools or colleges approved by the Southern Association of Accredited Colleges and
 8838 Universities or schools or colleges approved by virtue of reciprocity through such
 8839 association. The licensing board is authorized to promulgate rules and regulations
 8840 regarding such requirements ~~with respect to~~ for schools or colleges in foreign countries not
 8841 approved by the Southern Association of Accredited Colleges and Universities.

8842 (f) A student enrolled in the last academic year of a chiropractic school or college meeting
 8843 the requirements of this chapter as set forth in subsection (d) of this Code section may, at
 8844 the discretion of the ~~board~~ director, take the examination as required in Code Section
 8845 43-9-8; provided, however, that such student has successfully completed all other

8846 requirements for application for licensure as established either by this chapter or by
8847 licensing board rule. Such a student who successfully passes the examination shall not be
8848 eligible for licensure until all of the requirements of application for licensure established
8849 by this chapter or licensing board rule are met.

8850 43-9-7.1.

8851 The ~~board~~ director may, at its his or her discretion, issue a temporary license without
8852 examination to an applicant who is a holder of a valid license in good standing in another
8853 state which was obtained by examination. Such a temporary license shall be issued under
8854 the following provisions:

8855 (1) The temporary license shall be valid for a maximum of 12 months from the date of
8856 issuance but shall automatically expire within the 12 month period when the temporary
8857 license holder:

8858 (A) Is granted a regular license; or

8859 (B) Does not take and pass the next available examination following the grant of such
8860 temporary license, in which event the license expires upon the notification of the results
8861 of that examination; and

8862 (2) The practice of chiropractic pursuant to the temporary license shall only be
8863 performed under the supervision and direction of a ~~board-approved~~ licensed doctor of
8864 chiropractic approved by the director. The holder of a temporary license shall be subject
8865 to all of the laws and rules of this state pertaining to the practice of chiropractic. The
8866 granting of a temporary license shall not be prima-facie evidence that the holder meets
8867 minimum basic requirements for examination by the licensing board or for the issuance
8868 of a regular license.

8869 43-9-7.2.

8870 Nothing in this chapter shall be construed as preventing or prohibiting the practice,
8871 services, or activities of:

8872 (1) Any person pursuing a course of study leading to a doctor of chiropractic degree,
8873 postgraduate training, or training as a chiropractic assistant, which is approved by the
8874 licensing board as provided for in this chapter, if such person is designated by a title
8875 indicating student status, is fulfilling clinical training requirements for the attainment of
8876 a degree or certificate, and is under the supervision of a chiropractor licensed under this
8877 chapter and approved by the ~~board~~ director;

8878 (2) Any person licensed to practice chiropractic in this or another state who is employed
8879 as a professor or instructor by a chiropractic school or college located in this state or who
8880 is enrolled in or teaching a course of study designed to develop chiropractic clinical skills

8881 when chiropractic activities are required as part of an educational program sponsored by
 8882 a chiropractic school or college, as provided for in Code Section 43-9-7, or other
 8883 educational program as may be approved by the ~~board~~ director. Such practice shall be
 8884 conducted under the supervision of a licensed chiropractor approved by the ~~board~~
 8885 director. No such person shall be authorized to provide chiropractic services outside of
 8886 the scope of the educational program and setting, nor shall such a person perform, or
 8887 supervise the performance of, any chiropractic service provided on a fee-for-service basis
 8888 without having first obtained a license in accordance with this chapter. The licensing
 8889 board shall have the authority to promulgate rules relative to such practice;

8890 (3) A chiropractor licensed in good standing in any other state, territory, or other
 8891 jurisdiction of the United States or of any other nation or foreign jurisdiction if that
 8892 person is employed or designated in their professional capacity by a sports or performing
 8893 arts entity visiting the state for a specific sports or performing arts event subject to the
 8894 following restrictions:

8895 (A) A chiropractor's practice under this paragraph is limited to the members, coaches,
 8896 and staff of the team or event for which that chiropractor is employed or designated,
 8897 and such practice shall only occur at the designated venue of the event; and

8898 (B) Any chiropractor practicing under the authority of this paragraph may utilize only
 8899 those practices and procedures authorized by this chapter and approved by licensing
 8900 board rule; and

8901 (4) Nothing in this chapter shall prohibit any person from assisting a duly licensed
 8902 chiropractor in the practices and procedures so authorized by this chapter, excluding the
 8903 adjustment of the articulations of the human body, provided such person is under the
 8904 direct order and supervision of a duly licensed doctor of chiropractic who is physically
 8905 present in the facility or office.

8906 43-9-8.

8907 All applicants for licenses shall take an examination approved by the licensing board.

8908 43-9-9.

8909 Persons licensed to practice chiropractic under the laws of any other state having
 8910 requirements equal to those of this chapter may, in the discretion of the ~~board~~ director, be
 8911 issued a license to practice chiropractic in this state without written examination upon the
 8912 payment of a fee in an amount established by the licensing board.

8913 43-9-10.

8914 Reserved.

8915 43-9-10.1.

8916 Every person licensed under this chapter shall:

8917 (1) Display such license in a conspicuous place in such person's principal place of
8918 business; and

8919 (2) Notify the ~~board~~ director of any change of business or residence address.

8920 43-9-11.

8921 Every person who receives or has received a license to practice chiropractic from the ~~board~~
8922 director shall pay the ~~board~~ director on or before the renewal date a fee in an amount
8923 established by the licensing board, payment of which shall renew his or her license to
8924 practice chiropractic for the ensuing two years, provided that the ~~board~~ director has
8925 satisfactory evidence that the applicant for renewal has completed a minimum of 20 hours
8926 of continuing education per year as approved by the licensing board. All chiropractic
8927 colleges teaching an approved course of instruction shall be classified as approved.

8928 43-9-12.

8929 (a) The ~~board~~ director shall have the authority to refuse to grant a license to an applicant
8930 therefor or to revoke the license of ~~a person licensed by that board or to~~ or discipline a
8931 person licensed by ~~that board,~~ the director upon a finding by ~~a majority of the entire board~~
8932 the director that the licensee or applicant has:

8933 (1) Failed to demonstrate the qualifications or standards for a license contained in this
8934 chapter or the rules or regulations promulgated under this chapter; it shall be incumbent
8935 upon the applicant to demonstrate to the satisfaction of the ~~board~~ director that ~~he~~ the
8936 applicant meets all the requirements for the issuance of a license, and, if the ~~board~~
8937 director is not satisfied as to the applicant's qualifications, ~~it~~ the director may deny a
8938 license without a prior hearing; provided, however, that the applicant shall be allowed to
8939 appear before the licensing board if he or she so desires;

8940 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
8941 practice of chiropractic or on any document connected therewith; ~~or~~ practiced fraud or
8942 deceit or intentionally made any false statement in obtaining a license to practice the
8943 licensed business or profession; or made a false statement or deceptive registration with
8944 the ~~board~~ director;

8945 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
8946 of this state or any other state, territory, or country or in the courts of the United States;
8947 as used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall
8948 include any offense which, if committed in this state, would be deemed a felony, without
8949 regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'

8950 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
8951 appeal of the conviction has been sought;

8952 (4) Been arrested, charged, and sentenced for the commission of any felony, or any crime
8953 involving moral turpitude, where:

8954 (A) A plea of nolo contendere was entered to the charge;

8955 (B) First offender treatment without adjudication of guilt pursuant to the charge was
8956 granted; or

8957 (C) An adjudication or sentence was otherwise withheld or not entered on the charge.

8958 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
8959 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
8960 treatment shall be conclusive evidence of arrest and sentencing for such crime;

8961 (5) Had his or her license to practice chiropractic revoked, suspended, or annulled by any
8962 lawful licensing authority other than the ~~board~~ director; ~~or~~ had other disciplinary action
8963 taken against him or her by any such lawful licensing authority other than the ~~board~~
8964 director; or was denied a license by any such lawful licensing authority other than the
8965 ~~board~~ director, pursuant to disciplinary proceedings, or was refused the renewal of a
8966 license by any such lawful licensing authority other than the ~~board~~ director, pursuant to
8967 disciplinary proceedings;

8968 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
8969 or practice harmful to the public, ~~which conduct or practice~~ that materially affects the
8970 fitness of the licensee or applicant to practice chiropractic; or is of a nature likely to
8971 jeopardize the interest of the public, ~~which~~; such conduct or practice need not have
8972 resulted in actual injury to any person or be directly related to the practice of chiropractic
8973 but shows that the licensee or applicant has committed any act or omission which is
8974 indicative of bad moral character or untrustworthiness; ~~unprofessional.~~ Unprofessional
8975 conduct shall also include any departure from, or the failure to conform to, the minimal
8976 standards of acceptable and prevailing practice of chiropractic;

8977 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
8978 encourages any unlicensed person or any licensee whose license has been suspended or
8979 revoked by the licensing board or the director to practice chiropractic or to practice
8980 outside the scope of any disciplinary limitation placed upon the licensee by the licensing
8981 board or the director;

8982 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
8983 licensing board, the United States, or any other lawful authority without regard to
8984 whether the violation is criminally punishable, ~~which~~ when such statute, law, or rule or
8985 regulation relates to or in part regulates the practice of chiropractic when the licensee or
8986 applicant knows or should know that such action ~~is violative of~~ violates such statute, law,

8987 or rule; or violated a lawful order of the licensing board or the director previously entered
8988 by the licensing board or the director in a disciplinary hearing, consent decree, or license
8989 reinstatement;

8990 (9) Been adjudged mentally incompetent by a court of competent jurisdiction inside or
8991 outside this state; any such adjudication shall automatically suspend the license of any
8992 such person and shall prevent the reissuance or renewal of any license so suspended for
8993 as long as the adjudication of incompetence is in effect;

8994 (10) Displayed an inability to practice chiropractic with reasonable skill and safety to the
8995 public ~~or has become unable to practice chiropractic with reasonable skill and safety to~~
8996 ~~the public by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other~~
8997 ~~type of material~~; or

8998 (11)(A) Become unable to practice chiropractic with reasonable skill and safety to
8999 patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other
9000 type of material, or as a result of any mental or physical condition.

9001 (B) In enforcing this paragraph, the ~~board~~ director may, upon reasonable grounds,
9002 require a licensee or applicant to submit to a mental or physical examination by
9003 licensed health care providers designated by the ~~board~~ director. The results of such
9004 examination shall be admissible in any hearing before the licensing board,
9005 notwithstanding any claim of privilege under a contrary rule of law or statute,
9006 including, but not limited to, Code Section 24-9-21. Every person who shall accept the
9007 privilege of practicing chiropractic in this state or who shall file an application for a
9008 license to practice chiropractic in this state shall be deemed to have given his or her
9009 consent to submit to such mental or physical examination and to have waived all
9010 objections to the admissibility of the results in any hearing before the licensing board,
9011 upon the grounds that the same constitutes a privileged communication. If a licensee
9012 or applicant fails to submit to such an examination when properly directed to do so by
9013 the ~~board~~ director, unless such failure was due to circumstances beyond his or her
9014 control, the ~~board~~ director may enter a final order ~~upon proper notice, hearing, and~~
9015 ~~proof of such refusal~~. Any licensee or applicant who is prohibited from practicing
9016 chiropractic under this paragraph shall at reasonable intervals be afforded an
9017 opportunity to demonstrate to the licensing board that he or she can resume or begin the
9018 practice of chiropractic with reasonable skill and safety to patients.

9019 (C) For the purposes of this paragraph, the ~~board~~ director may, upon reasonable
9020 grounds, obtain any and all records relating to the mental or physical condition of a
9021 licensee or applicant, including psychiatric records; and such records shall be
9022 admissible in any hearing before the licensing board, notwithstanding any privilege
9023 under a contrary rule of law or statute, including, but not limited to, Code Section

9024 24-9-21. Every person who shall accept the privilege of practicing chiropractic in this
 9025 state or who shall file an application to practice chiropractic in this state shall be
 9026 deemed to have given his or her consent to the ~~board's~~ director obtaining any such
 9027 records and to have waived all objections to the admissibility of such records in any
 9028 hearing before the licensing board, upon the grounds that the same constitutes a
 9029 privileged communication.

9030 (D) If any licensee or applicant could, in the absence of this paragraph, invoke a
 9031 privilege to prevent the disclosure of the results of the examination provided for in
 9032 subparagraph (B) of this paragraph or the records relating to the mental or physical
 9033 condition of such licensee or applicant obtained pursuant to subparagraph (C) of this
 9034 paragraph, all such information shall be received by the ~~board~~ director in camera and
 9035 shall not be disclosed to the public, nor shall any part of the record containing such
 9036 information be used against any licensee or applicant ~~in any other type of~~ except in a
 9037 proceeding before the licensing board.

9038 (b) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
 9039 with respect to emergency action and summary suspension of a license are adopted and
 9040 incorporated by reference into this Code section; provided, however, that any such
 9041 proceeding shall be before the licensing board.

9042 (c) For purposes of this Code section, the ~~board~~ director may obtain, through subpoena by
 9043 the ~~division~~ director, upon reasonable grounds, any and all records relating to the mental
 9044 or physical condition of a licensee or applicant, and such records shall be admissible in any
 9045 hearing before the licensing board.

9046 (d) When the ~~board~~ director finds that any person is unqualified to be granted a license or
 9047 finds that any person should be disciplined pursuant to subsection (a) of this Code section
 9048 or pursuant to any other provision of this chapter, the ~~board~~ director may take any one or
 9049 more of the following actions:

- 9050 (1) Refuse to grant or renew a license to an applicant;
- 9051 (2) Administer a public or private reprimand, but a private reprimand shall not be
 9052 disclosed to any person except the licensee;
- 9053 (3) Suspend any license for a definite period or for an indefinite period in connection
 9054 with any condition which may be attached to the restoration of said license;
- 9055 (4) Limit or restrict any license as the ~~board~~ director deems necessary for the protection
 9056 of the public;
- 9057 (5) Revoke any license;
- 9058 (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's
 9059 or licensee's submission to such care, counseling, or treatment as the ~~board~~ director may
 9060 direct; or

- 9061 (7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation
 9062 relating to the practice of chiropractic.
- 9063 (e) In addition to and in conjunction with the actions described in subsection (d) of this
 9064 Code section, the ~~board~~ director may make a finding adverse to the licensee or applicant
 9065 but withhold imposition of judgment and penalty; or ~~it~~ the director may impose the
 9066 judgment and penalty but suspend enforcement thereof and place the licensee on probation,
 9067 which ~~probation~~ may be vacated upon ~~noncompliance~~ compliance with such reasonable
 9068 terms as the ~~board~~ director may impose.
- 9069 (f) An action of the director taken pursuant to this chapter shall be made in compliance
 9070 with Code Section 43-1-3.1. Initial judicial review of a final decision of the licensing
 9071 ~~board shall be had solely in the superior court of the county of domicile of the board~~
 9072 Superior Court of Bibb County.
- 9073 (g) ~~In its discretion, the board~~ The director may in his or her discretion reinstate a license
 9074 which has been revoked or issue a license which has been denied or refused, following
 9075 such procedures as the licensing board may prescribe by rule; and, as a condition thereof,
 9076 ~~it~~ may impose any disciplinary or corrective method provided in this Code section or the
 9077 laws relating to chiropractic.
- 9078 (h) Neither the issuance of a private reprimand nor the denial of a license by reciprocity
 9079 nor the denial of a request for reinstatement of a revoked license nor the refusal to issue a
 9080 previously denied license shall be considered to be a contested case within the meaning of
 9081 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; notice and hearing
 9082 within the meaning of said chapter shall not be required, but the applicant or licensee shall
 9083 be allowed to appear before the licensing board as provided in Code Section 43-1-3.1 if he
 9084 or she so requests.
- 9085 (i) The voluntary surrender of a license or the failure to renew a license by the end of an
 9086 established penalty period shall have the same effect as a revocation of said license, subject
 9087 to reinstatement in the discretion of the ~~board~~ director. The ~~board~~ director may restore and
 9088 reissue a license to practice chiropractic and, as a condition thereof, may impose any
 9089 disciplinary sanction provided by this chapter.
- 9090 (j) The ~~board, the division~~ director, the licensing board, or the appropriate prosecuting
 9091 attorney may bring an action to enjoin the unlicensed practice of chiropractic by any
 9092 person. The action to restrain and enjoin such unlicensed practice shall be brought in the
 9093 superior court of the county where the unlicensed person resides. It shall not be necessary
 9094 to allege or prove that there is no adequate remedy at law to obtain an injunction under this
 9095 Code section.
- 9096 (k) Notwithstanding the provisions of paragraph (2) of subsection (h) of Code Section
 9097 43-1-19, if a chiropractor is the subject of a ~~board~~ an investigation by the director initiated

9098 as the result of a complaint or report to the board director, a copy of a summary of the
 9099 complaint or report shall be furnished to the chiropractor as soon as practicable after the
 9100 investigation is initiated but in any event prior to or at the same time as the delivery of a
 9101 subpoena for the production of documents. If a chiropractor is the subject of an
 9102 investigation initiated by the board director on its his or her own initiative, a written
 9103 statement of the acts or omissions being investigated shall be furnished to the chiropractor
 9104 as soon as practicable after the investigation is initiated but in any event prior to or at the
 9105 same time as the delivery of a subpoena for the production of documents. The board
 9106 director may delay providing the chiropractor with a copy of the summary or statement if
 9107 the board director determines that the nature of the investigation requires that its existence
 9108 not be disclosed to the chiropractor but in no event shall such summary or statement be
 9109 provided later than the delivery of a subpoena for the production of documents to the
 9110 chiropractor. Nothing in this Code section shall be construed to limit the authority of the
 9111 board director to pursue violations of the licensing board's laws and rules and regulations
 9112 discovered during the course of an investigation.

9113 43-9-12.1.

9114 The doctor of chiropractic must bring to the exercise of that person's profession a
 9115 reasonable degree of care and skill, which shall include the determination of the need for
 9116 chiropractic care, as defined in paragraph (2) of Code Section 43-9-1, and shall render
 9117 treatment, referral to the appropriate health care provider, or both treatment and referral
 9118 commensurate with that chiropractor's findings. Any failure to refer to the appropriate
 9119 health care provider may subject the doctor of chiropractic to the provisions of Code
 9120 Section 43-9-12. Nothing in this Code section shall be deemed to expand or limit the
 9121 chiropractic scope of practice.

9122 43-9-13.

9123 Upon written presentation to the board director of any of the grounds enumerated in Code
 9124 Section 43-9-12 for revoking or refusing a license, the ~~board shall conduct a hearing in~~
 9125 ~~conformance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~
 9126 director may revoke or refuse a license as provided in Code Section 43-1-3.1.

9127 43-9-14.

9128 Reserved.

9129 43-9-15.

9130 The ~~board~~ director may, within such period as is established by the ~~division~~ director
9131 following the refusal or revocation or cancellation of registration under this chapter, ~~by a~~
9132 ~~majority vote~~, issue a new license or grant a license to the person affected, restoring him
9133 or her to or conferring upon him or her all the rights and privileges of and pertaining to the
9134 practice of chiropractic, as defined and regulated by this chapter, upon the applicant or
9135 licensee showing good moral character and possessing the qualifications required under the
9136 terms of this chapter. Any person to whom such registration may have been restored shall
9137 pay to the ~~division~~ director an amount established by the licensing board upon the issuance
9138 of a new license.

9139 43-9-16.

9140 (a) Chiropractors who have complied with this chapter shall have the right to practice
9141 chiropractic as defined in paragraph (2) of Code Section 43-9-1 and to evaluate, diagnose,
9142 and adjust patients according to specific chiropractic methods in order to correct spinal
9143 subluxations or to adjust the articulations of the human body. Chiropractors shall observe
9144 all applicable public health regulations.

9145 (b) The chiropractic adjustment of the spine or articulations of the human body may
9146 include manual adjustments and adjustments by means of electrical and mechanical devices
9147 which produce traction or vibration. Chiropractors who have complied with this chapter
9148 may also use modalities. Modalities include any physical agent applied to produce
9149 therapeutic change to biologic tissues including thermal, acoustic, noninvasive light,
9150 mechanical, or electric energy, hot or cold packs, ultrasound, galvanism, microwave,
9151 diathermy, and electrical stimulation. Chiropractors who have complied with this chapter
9152 may utilize and recommend therapeutic procedures effecting change through the
9153 application of clinical skills and services that attempt to improve function, including
9154 therapeutic exercise, therapeutic activities, manual therapy techniques, massage, and
9155 structural supports as they relate to the articulations of the human body; provided, however,
9156 that the same shall not be construed to allow chiropractors to treat patients outside the
9157 scope of practice of chiropractic as set forth in this chapter.

9158 (c) Chiropractors who have complied with this chapter may utilize those modalities and
9159 procedures described in subsection (b) of this Code section, provided the chiropractor shall
9160 have completed a course of study containing a minimum of 120 hours of instruction in the
9161 proper utilization of those procedures in accordance with the guidelines set forth by the
9162 Council on Chiropractic Education or its successor and is qualified and so certified in that
9163 proper utilization.

9164 (d) Chiropractors who have complied with this chapter shall have the right to sign health
9165 certificates, reporting to the proper health officers the same as other practitioners.

9166 (e) Chiropractors shall not prescribe or administer medicine to patients, perform surgery,
9167 or practice obstetrics or osteopathy.

9168 (f) Chiropractors shall not use venipuncture, capillary puncture, acupuncture, or any other
9169 technique which is invasive of the human body either by penetrating the skin or through
9170 any of the orifices of the body or through the use of colonics. Nothing in this subsection
9171 shall be construed to prohibit a chiropractor who is licensed to perform acupuncture under
9172 Article 3 of Chapter 34 of this title from engaging in the practice of acupuncture.

9173 (g) A person professing to practice chiropractic for compensation must bring to the
9174 exercise of that person's profession a reasonable degree of care and skill. Any injury
9175 resulting from a want of such care and skill shall be a tort for which a recovery may be had.
9176 If a chiropractor performs upon a patient any act authorized to be so performed under this
9177 chapter but ~~which~~ the act also constitutes a standard procedure of the practice of medicine,
9178 including but not limited to the use of modalities such as those described in subsection (b)
9179 of this Code section and X-rays, under similar circumstances the chiropractor shall be held
9180 to the same standard of care as would licensed doctors of medicine who are qualified to and
9181 who actually perform those acts under similar conditions and like circumstances.

9182 (h) A licensed practitioner of chiropractic may use only the title 'chiropractor,' or 'doctor
9183 of chiropractic,' or 'D.C.'

9184 (i) Chiropractors who have complied with this chapter may recommend the use of
9185 nutritional and dietary supplements. Any such recommendation of nutritional and dietary
9186 supplements shall not be construed to allow chiropractors to treat patients outside the scope
9187 of the practice of chiropractic as set forth in this chapter nor shall this subsection be
9188 construed to allow chiropractors to sell at a profit any such nutritional and dietary
9189 supplements without providing their generic name. Nothing in this subsection shall
9190 preclude compliance with Chapter 8 of Title 48, relating to the collection of sales and use
9191 taxes.

9192 43-9-17.

9193 Nothing in this chapter shall be construed to prohibit the performance of any chiropractic
9194 task by a student enrolled in an approved chiropractic college when such student has
9195 successfully completed at least one academic year of schooling therein and when such task
9196 is performed under the supervision and direction of an authorized instructor duly licensed
9197 to practice chiropractic in this state.

9198 43-9-18.

9199 (a) No person other than a doctor of chiropractic may render chiropractic services or
9200 chiropractic adjustments.

9201 (b) Notwithstanding subsection (a) of this Code section, nothing in this chapter shall be
9202 construed to:

9203 (1) Prohibit any other licensed health care professional from practicing within the scope
9204 of that person's license; or

9205 (2) Permit any person not licensed or authorized under this chapter to engage in the
9206 practice of chiropractic.

9207 43-9-19.

9208 It shall be unlawful for any person to practice chiropractic unless that person shall have
9209 first obtained a license as provided in this chapter and possesses all the qualifications
9210 prescribed by the terms of this chapter. Any person who practices or attempts to practice
9211 chiropractic without a license, or who buys or fraudulently obtains a license to practice
9212 chiropractic, or who violates any of the terms of this chapter, or who uses the title 'doctor
9213 of chiropractic,' 'chiropractor,' 'chiropractic,' 'D.C.,' or any word or title to induce the belief
9214 that such a person is engaged in the practice of chiropractic, without first complying with
9215 this chapter, shall be guilty of a felony and, upon conviction thereof, shall be punished by
9216 a fine of not less than \$500.00 nor more than \$5,000.00, or by imprisonment for not less
9217 than two nor more than five years, or both, at the discretion of the court. All subsequent
9218 offenses shall be separate and distinct offenses, and punishable in like manner."

9219 **SECTION 1-13.**

9220 Said title is further amended by revising Chapter 10, relating to cosmetologists, as follows:

9221 "CHAPTER 10

9222 43-10-1.

9223 As used in this chapter, the term:

9224 (1) 'Beautician' means 'cosmetologist' as such term is defined in this Code section.

9225 (2) 'Beauty shop' or 'beauty salon' means any premises where one or more persons
9226 engage in the occupation of cosmetology.

9227 (3) 'Board' means the State Board of Cosmetology, a professional licensing policy board
9228 pursuant to Chapter 1 of this title with the authority and responsibility set forth in such
9229 chapter.

9230 (4) 'Cosmetologist' means any person who performs any one or more of the following
 9231 services for compensation:

9232 (A) Cuts or dresses the hair;

9233 (B) Gives facial or scalp massage or facial and scalp treatment with oils or creams and
 9234 other preparations made for this purpose, either by hand or mechanical appliance;

9235 (C) Singes and shampoos the hair, dyes the hair, or does permanent waving of the hair;

9236 (D) Performs nail care, pedicure, or manicuring services as defined in paragraph (9)
 9237 of this Code section; or

9238 (E) Performs the services of an esthetician as defined in paragraph (5) of this Code
 9239 section.

9240 Such person shall be considered as practicing the occupation of a cosmetologist within
 9241 the meaning of this Code section; provided, however, that such term shall not mean a
 9242 person who only braids the hair by hairweaving; interlocking; twisting; plaiting;
 9243 wrapping by hand, chemical, or mechanical devices; or using any natural or synthetic
 9244 fiber for extensions to the hair, and no such person shall be subject to the provisions of
 9245 this chapter. Such term shall not apply to a person whose activities are limited to the
 9246 application of cosmetics which are marketed to individuals and are readily commercially
 9247 available to consumers.

9248 (4.1) 'Director' means the director of professional licensing.

9249 (5) 'Esthetician' or 'esthetics operator' means a person who, for compensation, engages
 9250 in any one or a combination of the following practices, esthetics, or cosmetic skin care:

9251 (A) Massaging the face or neck of a person;

9252 (B) Trimming eyebrows;

9253 (C) Dyeing eyelashes or eyebrows; or

9254 (D) Waxing, stimulating, cleansing, or beautifying the face, neck, arms, or legs of a
 9255 person by any method with the aid of the hands or any mechanical or electrical
 9256 apparatus or by the use of a cosmetic preparation.

9257 Such practices of esthetics shall not include the diagnosis, treatment, or therapy of any
 9258 dermatological condition. Such term shall not apply to a person whose activities are
 9259 limited to the application of cosmetics which are marketed to individuals and are readily
 9260 commercially available to consumers.

9261 (6) Reserved.

9262 (7) 'Hair designer' means any person who performs any one or more of the following
 9263 services for compensation:

9264 (A) Cuts or dresses the hair; or

9265 (B) Singes and shampoos the hair or dyes the hair.

- 9266 (7.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
9267 Article 2 of Chapter 1 of this title.
- 9268 (8) 'Master cosmetologist' means a cosmetologist who is possessed of the requisite skill
9269 and knowledge to perform properly all the services mentioned in paragraph (4) of this
9270 Code section for compensation.
- 9271 (9) 'Nail technician' means a person who, for compensation, trims, files, shapes,
9272 decorates, applies sculptured or otherwise artificial nails, or in any way cares for the nails
9273 of another person.
- 9274 (10) 'School of cosmetology' means any establishment that receives compensation for
9275 training more than one person in the occupation of cosmetology as defined in paragraph
9276 (4) of this Code section. Technical colleges whose programs have been approved by the
9277 Technical College System of Georgia or the Department of Education are not 'schools of
9278 cosmetology' within the meaning of this chapter; provided, however, that all such
9279 colleges and their programs shall be considered to be ~~'board-approved.'~~ approved by the
9280 licensing board.
- 9281 (11) 'School of esthetics' means any establishment that receives compensation for
9282 training more than one person in the occupation of esthetics as defined in paragraph (5)
9283 of this Code section. Technical colleges whose programs have been approved by the
9284 Technical College System of Georgia or the Department of Education are not 'schools of
9285 esthetics' within the meaning of this chapter; provided, however, that all such colleges
9286 and their programs shall be considered to be ~~'board-approved.'~~ approved by the licensing
9287 board.
- 9288 (12) Reserved.
- 9289 (13) 'School of hair design' means any establishment that receives compensation for
9290 training more than one person in the occupation of hair design as defined in paragraph
9291 (7) of this Code section. Technical colleges whose programs have been approved by the
9292 Technical College System of Georgia or the Department of Education are not schools of
9293 hair design within the meaning of this chapter; provided, however, that all such colleges
9294 and their programs shall be considered to be ~~'board-approved.'~~ approved by the licensing
9295 board.
- 9296 (14) 'School of nail care' means any establishment that receives compensation for
9297 training more than one person in the occupation of nail care or manicuring as defined in
9298 paragraph (9) of this Code section. Technical colleges whose programs have been
9299 approved by the Technical College System of Georgia or the Department of Education
9300 are not 'schools of nail care' within the meaning of this chapter; provided, however, that
9301 all such colleges and their programs shall be considered to be ~~'board-approved.'~~ approved
9302 by the licensing board.

9303 43-10-2.

9304 (a) There is created the State Board of Cosmetology as a professional licensing policy
 9305 board created pursuant to Chapter 1 of this title. The board shall consist of nine members
 9306 who shall be residents of this state. ~~The board shall have the duty of carrying out and~~
 9307 ~~enforcing this chapter.~~

9308 (b) Members of the board shall be at least 25 years of age and have obtained a high school
 9309 diploma, a general educational development (GED) diploma, or a postsecondary education
 9310 or college degree; and five of such members must have had at least five years of practical
 9311 experience in the practice of cosmetology at the master level, a portion of which must have
 9312 been as a beauty salon owner or manager. One member of the board must have had at least
 9313 five years of practical experience in the practice of cosmetology at the esthetician level.
 9314 One member of the board must have had at least five years of practical experience as a
 9315 manicurist.

9316 (c) The board shall meet as necessary each year ~~for the purpose of adopting rules and~~
 9317 ~~regulations and handling other matters pertaining to duties of the board~~. Board members
 9318 may attend and observe all written and practical examinations held for certificates of
 9319 registration pursuant to this chapter.

9320 (d) No member of the board shall be affiliated with any school of cosmetology. Two
 9321 members shall not have any connection with the practice or business of cosmetology
 9322 whatsoever but shall have a recognized interest in consumer affairs and in consumer
 9323 protection concerns. No member of the board shall be affiliated or connected in any
 9324 manner with any manufacturer or wholesale or jobbing house dealing with supplies sold
 9325 to practitioners of cosmetology while in office.

9326 (e) Board members shall be appointed by the Governor for a term of three years and until
 9327 their successors are appointed and qualified. Vacancies shall be filled by the Governor for
 9328 the unexpired portion of the term. ~~The board may do all things necessary for carrying this~~
 9329 ~~chapter into effect and may, from time to time, promulgate necessary rules and regulations~~
 9330 ~~compatible with this chapter~~. The Governor may remove any board member for cause as
 9331 provided in Code Section 43-1-17.

9332 (f) Each year the members shall elect a ~~chairman~~ chairperson from among themselves. In
 9333 the event the members cannot agree as to who shall be ~~chairman~~ chairperson, the Governor
 9334 shall appoint one of such members as ~~chairman~~ chairperson. The ~~chairman~~ chairperson so
 9335 elected or appointed shall be eligible to succeed himself or herself. The members of the
 9336 board shall be considered public officers and shall take the oath required thereof.

9337 ~~(g) The board shall adopt a seal to be used to authenticate all its official papers and acts~~
 9338 ~~and shall have power to subpoena witnesses, administer oaths, and hear and take testimony~~
 9339 ~~in any matter over which it may have jurisdiction.~~

9340 43-10-3.

9341 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
9342 Section 43-1-2.

9343 43-10-4.

9344 Reserved.

9345 43-10-5.

9346 ~~The division director shall keep a record of all proceedings of the board. Such records shall~~
9347 ~~be prima-facie evidence of all matters required to be kept therein, and certified copies of~~
9348 ~~the same or parts thereof shall be primary evidence of their contents. All such copies, other~~
9349 ~~documents, or certificates lawfully issued upon the authority of the board shall, when~~
9350 ~~authenticated under the seal of the board, be admitted in any investigation in any court or~~
9351 ~~elsewhere without further proof. Reserved.~~

9352 43-10-6.

9353 (a) The licensing board is authorized to adopt reasonable rules and regulations prescribing
9354 the sanitary requirements of beauty shops, beauty salons, schools of cosmetology, schools
9355 of esthetics, schools of hair design, and schools of nail care, subject to the approval of the
9356 Department of Public Health, and to cause the rules and regulations or any subsequent
9357 revisions to be in suitable form. The licensing board shall make the rules and regulations
9358 available to the proprietor of each beauty shop, beauty salon, school of cosmetology,
9359 school of esthetics, school of hair design, or school of nail care. It shall be the duty of
9360 every proprietor or person operating a beauty shop, salon, school of cosmetology, school
9361 of esthetics, school of hair design, and school of nail care in this state to keep a copy of
9362 such rules and regulations posted in a conspicuous place in his or her business, so as to be
9363 easily read by his or her customers.

9364 (b) The licensing board is authorized to adopt reasonable rules and regulations requiring
9365 that persons licensed under this chapter undergo instruction on Human Immunodeficiency
9366 Virus and Acquired Immune Deficiency Syndrome.

9367 (c) Any inspector employed by the Secretary of State shall have the power to enter and
9368 make reasonable examination of any beauty shop, salon, or school in the state during
9369 business hours for the purpose of enforcing the rules and regulations of the licensing board
9370 and for the purpose of ascertaining the sanitary conditions thereof.

9371 (d) Any beauty shop, salon, or school in which tools, appliances, and furnishings used
9372 therein are kept in an unclean and unsanitary condition so as to endanger health is declared
9373 to be a public nuisance.

9374 43-10-7.

9375 It shall be the duty of the ~~board~~ director to issue ~~through the division director~~ those
9376 certificates of registration for which provision is made in this chapter.

9377 43-10-8.

9378 (a) It shall be unlawful for any person to pursue the occupation of cosmetology in this state
9379 unless he or she has first completed the required hours for and obtained the appropriate
9380 certificate of registration as provided in this chapter.

9381 (b) It shall be unlawful for any person to hold himself or herself out as a master
9382 cosmetologist or hair designer without having first obtained the certificate of registration
9383 for such. Such person shall be authorized to perform all the services mentioned in
9384 paragraph (4) of Code Section 43-10-1. Nothing in this chapter shall prohibit any person
9385 who holds a valid master cosmetologist license in this state on March 29, 1983, from
9386 practicing at the master cosmetologist level as defined in paragraph (8) of Code Section
9387 43-10-1.

9388 (c) Reserved.

9389 (d) Notwithstanding any other provisions of this chapter, any person desiring to perform
9390 solely hair design services shall be allowed to obtain a certificate of registration at the hair
9391 design level upon completing the required hours therefor, which certifies that the holder
9392 thereof shall be authorized to perform some or all of the services mentioned in paragraph
9393 (7) of Code Section 43-10-1.

9394 (e) Notwithstanding any other provisions of this chapter, any person desiring to perform
9395 solely cosmetic skin care services shall be allowed to obtain a certificate of registration at
9396 the esthetician level upon completing the required hours therefor, which certifies that the
9397 holder thereof shall be authorized to perform some or all of the services mentioned in
9398 paragraph (5) of Code Section 43-10-1.

9399 (f)(1) Notwithstanding any other provisions of this chapter, any person desiring to
9400 perform solely cosmetic nail care services shall be allowed to obtain a certificate of
9401 registration at the nail technician level upon completing the required hours therefor,
9402 which certifies that the holder thereof shall be authorized to perform some or all of the
9403 services mentioned in paragraph (9) of Code Section 43-10-1.

9404 (2) Notwithstanding any other provisions of this chapter, any person who has actively
9405 engaged in the practice of cosmetology, hair design, esthetics, or nail care on a military
9406 installation in Georgia for three years prior to July 1, 1985, shall be eligible to receive a
9407 certificate of registration at the cosmetology, hair design, esthetics, or nail care level upon
9408 proper proof of experience, application, and appropriate fee being submitted to the board
9409 on or before September 1, 1985.

9410 (g) It shall also be unlawful for any person or persons to operate a beauty shop, beauty
 9411 salon, hair design salon, school of cosmetology, school of hair design, school of esthetics,
 9412 or school of nail care without first having obtained a certificate of registration for such
 9413 shop, salon, or school as provided in this chapter. Any beauty shop, salon, or school shall
 9414 register with the ~~division~~ director of the ~~professional licensing boards~~ prior to opening.

9415 (h) This chapter shall have uniform application throughout the state so that no
 9416 cosmetologist, hair designer, beauty shop, school of cosmetology, school of hair design,
 9417 school of esthetics, or school of nail care shall be exempt from regulation.

9418 43-10-9.

9419 (a) Any person desiring to obtain a certificate of registration to enable him or her to engage
 9420 in the occupation of cosmetology shall make application ~~through the division~~ to the director
 9421 ~~to the board~~ and shall present proof that he or she has obtained a high school diploma, a
 9422 general educational development (GED) diploma, or a postsecondary education or college
 9423 degree. If, after review of the application, it is determined that the applicant is at least 17
 9424 years of age; has met the minimum educational requirements; is of good moral character;
 9425 has completed a 1,500 credit hour study course with at least nine months at a ~~board~~
 9426 ~~approved~~ school approved by the licensing board or has served as an apprentice in a beauty
 9427 shop or beauty salon for a period of at least 3,000 credit hours; has practiced or studied the
 9428 occupation of cosmetology; is possessed of the requisite skill in such occupation to perform
 9429 properly all the duties of the occupation, including his or her ability in the preparation of
 9430 tools, in performing the services mentioned in paragraph (4) of Code Section 43-10-1, and
 9431 in all the duties and services incident thereto; and has passed both a written and a practical
 9432 examination approved by the licensing board, a certificate of registration shall be issued
 9433 to him or her entitling him or her to practice the occupation of master cosmetologist.
 9434 Notwithstanding any other provisions of this subsection, the ~~board~~ director shall be
 9435 authorized to waive any education requirements under this subsection in cases of hardship,
 9436 disability, or illness or under such other circumstances as the licensing board deems
 9437 appropriate with respect to any applicant who was enrolled in a licensing board approved
 9438 school or had completed a licensing board approved study course as of June 30, 2000.

9439 (b) Should an applicant under this Code section fail to pass the written or the practical
 9440 examination, the ~~board~~ director shall furnish the applicant a statement in writing, stating
 9441 wherein the applicant was deficient. Nothing in this chapter shall be construed to prevent
 9442 applicants from making subsequent applications to qualify under this Code section,
 9443 provided they again pay the required examination fee.

9444 (c) An approved applicant for examination under this Code section may be issued a work
 9445 permit authorizing said applicant to practice such occupation until the release of the results

9446 of the written and the practical examination for which the applicant is scheduled. If the
 9447 applicant fails to appear for the examination or fails any portion of the examination, the
 9448 work permit shall be revoked unless the applicant provides just cause to the board director
 9449 as to why the applicant was unable to appear for the examination.

9450 (d) Should an applicant have a current cosmetology license in force from another state or
 9451 country, ~~or~~ territory of the United States, or the District of Columbia, where similar
 9452 reciprocity is extended to this state and licensure requirements are substantially equal to
 9453 those in this state, and pays a fee and submits an application, the applicant may be issued,
 9454 without examination, a certificate of registration at the appropriate level, entitling the
 9455 applicant to practice the occupation of cosmetology or the teaching of cosmetology at that
 9456 level, unless the board director, in its his or her discretion, sees fit to require a written or
 9457 a practical examination subject to the terms and provisions of this chapter.
 9458 Notwithstanding any other provisions of this subsection, the board director shall be
 9459 authorized to waive any education or experience requirements applicable to any person
 9460 who holds a current license or certificate to practice cosmetology outside of this state and
 9461 who desires to obtain a license or certificate at a level authorized under this Code section
 9462 to practice at such level in this state in cases of hardship, disability, or illness or under such
 9463 other circumstances as the board director deems appropriate.

9464 (e) Reserved.

9465 (f)(1) Any person desiring to obtain a certificate of registration to enable him or her to
 9466 engage in the occupation of hair design shall make application ~~through the division to the~~
 9467 director and shall present proof that he or she has obtained a high school diploma, a
 9468 general educational development (GED) diploma, or a postsecondary education or
 9469 college degree. If, after review of the application, it is determined that the applicant is
 9470 at least 17 years of age; has met the minimum educational requirements; is of good moral
 9471 character; has completed a 1,325 credit hour study course with at least seven months at
 9472 a ~~board approved~~ school approved by the licensing board or has served as an apprentice
 9473 in a beauty shop, beauty salon, or hair design salon for a period of at least 2,650 credit
 9474 hours; has practiced or studied the occupation of hair design; is possessed of the requisite
 9475 skill in such occupation to perform properly all the duties of the occupation, including his
 9476 or her ability in the preparation of tools, in performing the services mentioned in
 9477 paragraph (7) of Code Section 43-10-1, and in all the duties and services incident thereto;
 9478 and has passed both a written and a practical examination approved by the licensing
 9479 board, a certificate of registration shall be issued to him or her entitling him or her to
 9480 practice the occupation of hair design. Notwithstanding any other provisions of this
 9481 subsection, the board director shall be authorized to waive any education requirements
 9482 under this subsection in cases of hardship, disability, or illness or under such other

9483 circumstances as the licensing board deems appropriate with respect to any applicant who
 9484 was enrolled in a ~~board approved~~ school approved by the licensing board or had
 9485 completed a board approved study course as of June 30, 2006.

9486 (2) Should an applicant under this subsection fail to pass the written or the practical
 9487 examination, the ~~board~~ director shall furnish the applicant a statement in writing, stating
 9488 in what manner the applicant was deficient. Nothing in this chapter shall be construed
 9489 to prevent applicants from making subsequent applications to qualify under this
 9490 subsection, provided they again pay the required examination fee.

9491 (3) An approved applicant for examination under this subsection may be issued a work
 9492 permit authorizing said applicant to practice such occupation until the release of the
 9493 results of the written and the practical examination for which the applicant is scheduled.
 9494 If the applicant fails to appear for the examination or fails any portion of the examination,
 9495 the work permit shall be revoked unless the applicant provides just cause to the ~~board~~
 9496 director as to why the applicant was unable to appear for the examination.

9497 (4) Should an applicant have a current hair design license in force from another state,
 9498 country, territory of the United States, or the District of Columbia, where similar
 9499 reciprocity is extended to this state and licensure requirements are substantially equal to
 9500 those in this state, and have paid a fee and have submitted an application, the applicant
 9501 may be issued, without examination, a certificate of registration at the appropriate level
 9502 entitling him or her to practice the occupation of hair design or the teaching of hair design
 9503 at that level, unless the ~~board~~ director, in its his or her discretion, sees fit to require a
 9504 written or a practical examination subject to the terms and provisions of this chapter.
 9505 Notwithstanding any other provisions of this subsection, the ~~board~~ director shall be
 9506 authorized to waive any education or experience requirements applicable to any person
 9507 who holds a current license or certificate to practice hair design outside of this state and
 9508 who desires to obtain a license or certificate at a level authorized under this subsection
 9509 to practice at such level in this state in cases of hardship, disability, or illness or under
 9510 such other circumstances as the ~~board~~ director deems appropriate.

9511 (g)(1) Any person desiring to obtain a certificate of registration at the esthetician level
 9512 under the terms of this chapter shall make application ~~through the division~~ to the director
 9513 ~~to the board~~ and shall present proof that he or she has obtained a high school diploma, a
 9514 general educational development (GED) diploma, or a postsecondary education or
 9515 college degree. If, after review of the application, it is determined that the applicant is
 9516 at least 17 years of age; has met the minimum educational requirements; is of good moral
 9517 character; has completed a 1,000 credit hour study course of at least nine months at a
 9518 ~~board approved~~ school approved by the licensing board or has served as an apprentice in
 9519 a beauty shop or beauty salon for a period of at least 2,000 credit hours; has practiced or

9520 studied cosmetic skin care as defined in paragraph (5) of Code Section 43-10-1; is
 9521 possessed of the requisite skill to perform properly these services; and has passed a
 9522 written and a practical examination approved by the licensing board, a certificate of
 9523 registration shall be issued to the applicant entitling the applicant to practice the
 9524 occupation of cosmetology at the esthetician level. Notwithstanding any other provisions
 9525 of this subsection, the board director shall be authorized to waive any education
 9526 requirements under this subsection in cases of hardship, disability, or illness or under
 9527 such other circumstances as the licensing board deems appropriate with respect to any
 9528 applicant who was enrolled in a licensing board approved school or had completed a
 9529 licensing board approved study course as of June 30, 2000.

9530 (2) Should an applicant have a current esthetician license in force from another state,
 9531 country, territory of the United States, or the District of Columbia, where similar
 9532 reciprocity is extended to this state and licensure requirements are substantially equal to
 9533 those in this state, and have paid a fee and have submitted an application, the applicant
 9534 may be issued, without examination, a certificate of registration at the appropriate level
 9535 entitling him or her to practice the occupation of esthetician or the teaching of esthetics
 9536 at that level, unless the board director, in its his or her discretion, sees fit to require a
 9537 written or a practical examination subject to the terms and provisions of this chapter.
 9538 Notwithstanding any other provisions of this subsection, the board director shall be
 9539 authorized to waive any education or experience requirements applicable to any person
 9540 who holds a current license or certificate to practice esthetics outside of this state and
 9541 who desires to obtain a license or certificate at a level authorized under this subsection
 9542 to practice at such level in this state in cases of hardship, disability, or illness or under
 9543 such other circumstances as the board director deems appropriate.

9544 (h)(1) Any person desiring to obtain a certificate of registration at the nail technician
 9545 level under the terms of this chapter shall make application ~~through the division~~ to the
 9546 ~~director to the board~~ and shall present proof that he or she has obtained a high school
 9547 diploma, a general educational development (GED) diploma, or a postsecondary
 9548 education or college degree. If, after review of the application, it is determined that the
 9549 applicant is at least 17 years of age; has met the minimum educational requirements; is
 9550 of good moral character; has completed a 525 credit hour study course of at least four
 9551 months at a ~~board approved~~ school approved by the licensing board or has served as an
 9552 apprentice in a beauty shop or beauty salon for a period of at least 1,050 credit hours; has
 9553 practiced or studied nail care; is possessed of the requisite skill to perform properly these
 9554 services; and has passed both a written and a practical examination approved by the
 9555 licensing board, a certificate of registration shall be issued to the applicant entitling the
 9556 applicant to practice the occupation of cosmetology at the nail technician level.

9557 Notwithstanding any other provisions of this subsection, the ~~board~~ director shall be
 9558 authorized to waive any education requirements under this subsection in cases of
 9559 hardship, disability, or illness or under such other circumstances as the licensing board
 9560 deems appropriate with respect to any applicant who was enrolled in a ~~board-approved~~
 9561 school approved by the licensing board or had completed a licensing board approved
 9562 study course as of June 30, 2000.

9563 (2) Should an applicant have a current nail technician license in force from another state,
 9564 country, territory of the United States, or the District of Columbia, where similar
 9565 reciprocity is extended to this state and licensure requirements are substantially equal to
 9566 those in this state, and have paid a fee and have submitted an application, the applicant
 9567 may be issued, without examination, a certificate of registration at the appropriate level
 9568 entitling him or her to practice the occupation of nail technician or the teaching of nail
 9569 care at that level, unless the ~~board~~ director, in ~~its~~ his or her discretion, sees fit to require
 9570 a written or a practical examination subject to the terms and provisions of this chapter.

9571 Notwithstanding any other provisions of this subsection, the ~~board~~ director shall be
 9572 authorized to waive any education or experience requirements applicable to any person
 9573 who holds a current license or certificate to practice nail care outside of this state and who
 9574 desires to obtain a license or certificate at a level authorized under this subsection to
 9575 practice at such level in this state in cases of hardship, disability, or illness or under such
 9576 other circumstances as the licensing board deems appropriate.

9577 (i) Nothing in this Code section shall be construed as preventing a person from obtaining
 9578 a certificate of registration for the occupation of cosmetology at the master level, the hair
 9579 design level, the esthetician level, or the nail technician level if such person obtains his or
 9580 her credit hour study at a State Board of Education approved school or a technical college
 9581 under the jurisdiction of the Technical College System of Georgia or the Department of
 9582 Education rather than at a ~~board-approved~~ school approved by the licensing board.

9583 (j) A person licensed to practice barbering under Chapter 7 of this title shall be eligible to
 9584 take the master cosmetologist examination provided for in this Code section if that person
 9585 completes a licensing board approved 250 hour prescribed course in an approved
 9586 cosmetology school, submits a completed application, and pays the proper fees established
 9587 by the licensing board.

9588 (k) Board members may attend and observe all written and practical examinations held for
 9589 certificates of registration pursuant to this Code section.

9590 43-10-10.

9591 (a) The holder of any certificate of registration issued under Code Section 43-10-9 shall
 9592 display the same in a conspicuous place in his or her shop or place of business. Certificates

9593 of registration issued under Code Section 43-10-9 shall be renewable biennially. The
9594 holder shall pay to the ~~division~~ director a renewal fee in such amount as shall be set by
9595 regulation of the licensing board by ~~regulation~~. Upon failure to renew such certificate of
9596 registration, it shall stand automatically revoked. The holder shall be disqualified from
9597 practicing the occupation of cosmetology under this chapter until all fees to date of
9598 application for reinstatement shall be paid, an application for reinstatement shall be
9599 submitted along with a reinstatement fee in such amount as shall be set by the licensing
9600 board by regulation, and documentation shall be submitted of completion of all required
9601 continuing education hours since the date the registration was automatically revoked. If
9602 the ~~board~~ director is satisfied that the applicant for reinstatement meets all the
9603 qualifications set forth in this Code section and Code Section 43-10-9, the applicant shall
9604 be issued a new certificate of registration.

9605 (b) Notwithstanding subsection (a) of this Code section, at the time of renewal of any
9606 certificate of registration issued under Code Section 43-10-9, the holder of such certificate
9607 shall provide proof, in a form approved by the licensing board, of completion of five hours
9608 of continuing education in compliance with this Code section since the date of issuance of
9609 the latest renewal certificate. A holder who is renewing a certificate for the first time shall
9610 not be required to meet the continuing education requirement until the time of the second
9611 renewal. Further, the requirement for continuing education for the holder of any certificate
9612 of registration issued under this chapter shall become effective on January 1, 2003,
9613 provided that the licensing board has adopted rules and regulations implementing this Code
9614 section pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

9615 (c) Three hours of continuing education shall be satisfied by a health and safety course
9616 using a curriculum developed by the Technical College System of Georgia. Such
9617 curriculum may be revised by the Technical College System of Georgia as necessary to
9618 incorporate new developments. The Technical College System of Georgia shall make the
9619 curriculum available to other providers of continuing education.

9620 (d) The remaining two hours of continuing education may be satisfied by:

- 9621 (1) Attendance at an industry or trade show registered with the ~~board~~ director; or
9622 (2) A course or courses of study registered with the ~~board~~ director in one or more of the
9623 following subjects: health and safety, industry trends, computer skills, business
9624 management, or the holder's area of practice.

9625 (e) To request registration of an industry or trade show for continuing education credit, a
9626 person or entity shall submit to the ~~board~~ director the date and location of the industry or
9627 trade show. To request registration of a course of study for continuing education credit,
9628 the person or entity offering the course of study shall submit to the ~~board~~ director an
9629 outline of the subject matter, a list of the persons teaching the course with a summary of

9630 their qualifications, the number of hours for each course, and the date and location where
 9631 the course of study will be presented or has been presented, if applicable. Any certificate
 9632 holder may request ~~board~~ director approval of an unregistered industry or trade show or an
 9633 unregistered course of study. A person or entity conducting an industry or trade show or
 9634 a course of study shall provide written proof of attendance at the industry or trade show or
 9635 completion of a course of study to all participants.

9636 (f) The ~~board~~ director shall register and allow credit as continuing education for courses
 9637 conducted via the Internet or other electronic means or home study courses.

9638 (g) Courses in cosmetology, hair design, nail technology, esthetics, computers, business,
 9639 or health and safety issues offered by schools under the jurisdiction of the Board of Regents
 9640 of the University System of Georgia, the Technical College System of Georgia, the
 9641 Department of Education, or any accredited postsecondary institution shall satisfy the
 9642 continuing education requirement without a request to the ~~board~~ director for approval or
 9643 registration.

9644 (h) In no event shall the testing of knowledge or skills be required as proof of the
 9645 successful completion of a continuing education course.

9646 (i) For the first renewal period during which the continuing education requirement will be
 9647 enforced, the ~~board~~ director shall allow credit for continuing education hours which were
 9648 board approved or which did not require prior approval by the board received between
 9649 March 31, 2000, and January 1, 2002, for master cosmetologists and between August 31,
 9650 1999, and January 1, 2002, for nail technicians and estheticians. Thereafter, no excess
 9651 hours from one renewal period shall be authorized to be credited toward the continuing
 9652 education requirement for another renewal period.

9653 (j) The continuing education requirement shall not apply to certificate holders who:

9654 (1) Have held a certificate for 25 or more years; or

9655 (2) Demonstrate a hardship based on a disability, age, illness, or such other circumstance
 9656 as the ~~board~~ director may identify by rule and determine on a case-by-case basis.

9657 Certificate holders who claim an exemption from the continuing education requirement on
 9658 the basis of paragraph (2) of this subsection shall provide a sworn statement setting out the
 9659 facts supporting such exemption.

9660 43-10-11.

9661 All beauty shops, salons, schools of cosmetology, schools of hair design, schools of
 9662 esthetics, and schools of nail care shall be registered with the ~~division~~ director by the owner
 9663 or manager. Such registration shall be made by the filing of an application on forms
 9664 furnished by the ~~division~~ director; shall include the name and location of the beauty shop,
 9665 salon, or school, the name and address of the owner, and the names and addresses of all

9666 instructors of the shop, salon, or school at the time of registration; and shall be
 9667 accompanied by a registration fee in such amount as shall be set by the licensing board by
 9668 regulation. The ~~board~~ director is authorized and directed to issue a certificate of
 9669 registration to each shop, salon, or school so registering and paying such fee, ~~which and~~
 9670 such certificate shall be displayed in a conspicuous place in the registered shop, salon, or
 9671 school.

9672 43-10-12.

9673 (a)(1) All schools of cosmetology, schools of esthetics, or schools of nail care shall:

9674 (A) Cause to be registered with the ~~board~~ director, at the time of opening, 15 bona fide
 9675 students;

9676 (B) Have not less than one instructor for every 20 students or a fraction thereof; and

9677 (C) Keep permanently displayed a sign reading 'School of Cosmetology,' 'School of
 9678 Esthetics,' or 'School of Nail Care,' as the case may be; and all such signs shall also
 9679 display the words 'Service by Students Only.' Where service is rendered by a student,
 9680 no commissions or premiums shall be paid to such student for work done in the schools;
 9681 nor shall any person be employed by the schools to render professional service to the
 9682 public.

9683 (2) All schools of cosmetology, schools of esthetics, and schools of nail care are required
 9684 to keep in a conspicuous place in such schools a copy of the rules and regulations adopted
 9685 by the licensing board.

9686 (3) All cosmetologists who take an apprentice pursuant to Code Section 43-10-14 shall
 9687 file immediately with the ~~board through the division~~ director the name and age of such
 9688 apprentice; and the ~~board~~ director shall cause such information to be entered on a register
 9689 kept by the ~~division~~ director for that purpose.

9690 (b) Any person desiring to operate or conduct a school of cosmetology, school of esthetics,
 9691 or school of nail care prior to opening shall first secure from the ~~board~~ director a permit to
 9692 do so and shall keep the permit prominently displayed in the school.

9693 (c) The ~~board~~ director shall have the right to pass upon the qualifications, appointments,
 9694 courses of study, and hours of study in the school of cosmetology, school of esthetics, or
 9695 school of nail care, provided that:

9696 (1) All schools of cosmetology shall be required to teach the following courses: theory,
 9697 permanent and cold waving, hair coloring and bleaching, hair and scalp treatments, hair
 9698 and scalp conditioning, hair cutting and shaping, hairdressing, shampooing, styling, comb
 9699 out, charm, reception, desk work, art and laboratory, facials, makeup and arching, skin
 9700 care, nail care, state law, state rules and regulations, and any other subjects related to
 9701 cosmetology and sanitation;

9702 (2) All schools of esthetics shall be required to teach the following courses: theory, skin
 9703 care, facials, makeup and arching, charm, reception, desk work, art and laboratory,
 9704 massaging the face or neck, trimming eyebrows, dyeing, waxing, stimulating, cleansing,
 9705 or beautifying, state law, state rules and regulations, and any other subjects related to
 9706 esthetics and sanitation; and

9707 (3) All schools of nail care shall be required to teach the following courses: theory,
 9708 trimming, filing, shaping, decorating, sculpturing and artificial nails, nail care, charm,
 9709 reception, desk work, art and laboratory, state law, state rules and regulations, and any
 9710 other subjects related to nail care and sanitation.

9711 (d)(1) The ~~board~~ director shall have the right to suspend or revoke the certificate, permit,
 9712 or license of or to reprimand any such school of cosmetology, school of esthetics, or
 9713 school of nail care, or instructor or teacher therein, for the violation of this chapter as
 9714 provided in Code Section 43-1-3.1.

9715 (2) The ~~board~~ director shall have the same power and authority as to sanitary conditions
 9716 over schools as it has over beauty shops and beauty salons.

9717 (e)(1) All teachers or instructors shall devote their entire time to instruction of students.
 9718 Any person desiring to teach or instruct in any school of cosmetology, school of esthetics,
 9719 or school of nail care shall first file his or her application with the ~~division~~ director for
 9720 a license, shall pay a fee in such amount as shall be set by the licensing board by
 9721 regulation, and shall successfully pass both a written and a practical examination to
 9722 become an instructor.

9723 (2)(A) A person desiring to teach at the master level shall satisfy the ~~board~~ director that
 9724 he or she:

9725 (i) Holds a current cosmetology license at the master level and is a high school
 9726 graduate, has a general educational development (GED) diploma, or has a
 9727 postsecondary education or college degree;

9728 (ii) Has 750 hours of instructor training in cosmetology at a ~~board-approved~~
 9729 approved by the licensing board; and

9730 (iii) Has one year of work experience at the master level.

9731 (B) A person holding a current cosmetology license at the master level who is a high
 9732 school graduate, has a general educational development (GED) diploma, or has a
 9733 postsecondary education or college degree; who has completed the required licensing
 9734 board approved hours of continuing education; and has licensing board approved work
 9735 experience as an instructor or in education may, at the ~~board's~~ director's discretion, be
 9736 permitted to take the written and the practical examination to become an instructor at
 9737 the master level.

9738 (3)(A) A person desiring to teach at the esthetician level shall satisfy the ~~board~~ director
9739 that he or she:

9740 (i) Holds a current cosmetology license at the esthetician or master level and is a high
9741 school graduate, has a general educational development (GED) diploma, or has a
9742 postsecondary education or college degree;

9743 (ii) Has 500 hours of licensing board approved instructor training in esthetics of at
9744 least nine months;

9745 (iii) Has one year of work experience at the esthetician or master level; and

9746 (iv) Has passed both a written and a practical examination to become an instructor
9747 in esthetics.

9748 (B) A person holding a current cosmetology license at the esthetician or master level
9749 who is a high school graduate, has a general educational development (GED) diploma,
9750 or has a postsecondary education or college degree; who has completed the required
9751 licensing board approved hours of continuing education; and has licensing board
9752 approved work experience as an instructor or in education may, at the ~~board's~~ director's
9753 discretion, be permitted to take the written and the practical examination to become an
9754 instructor at the esthetician level.

9755 (4)(A) A person desiring to teach at the nail technician level shall satisfy the ~~board~~
9756 director that he or she:

9757 (i) Holds a current cosmetology license at the nail technician or master level and is
9758 a high school graduate, has a general educational development (GED) diploma, or has
9759 a postsecondary education or college degree;

9760 (ii) Has 250 hours of licensing board approved instructor training in nail care of at
9761 least four months;

9762 (iii) Has one year of work experience at the nail technician or master level; and

9763 (iv) Has passed both a written and a practical examination to become an instructor
9764 in nail care.

9765 (B) A person holding a current cosmetology license at the nail technician or master
9766 level who is a high school graduate, has a general educational development (GED)
9767 diploma, or has a postsecondary education or college degree; who has completed the
9768 required licensing board approved hours of continuing education; and has licensing
9769 board approved work experience as an instructor or in education may, at the ~~board's~~
9770 director's discretion, be permitted to take the written and the practical examination to
9771 become an instructor at the nail technician level.

9772 (5) Reserved.

9773 (6)(A) A person desiring to teach at the hair designer level shall satisfy the ~~board~~
9774 director that he or she:

- 9775 (i) Holds a current cosmetology license at the hair designer or master level and is a
 9776 high school graduate, has a general educational development (GED) diploma, or has
 9777 a postsecondary education or college degree;
- 9778 (ii) Has 750 hours of licensing board approved instructor training in hair design of
 9779 at least four months;
- 9780 (iii) Has one year of work experience at the hair designer or master level; and
- 9781 (iv) Has passed both a written and a practical examination to become an instructor
 9782 in hair design.
- 9783 (B) A person holding a current cosmetology license at the hair designer or master level
 9784 who is a high school graduate, has a general educational development (GED) diploma,
 9785 or has a postsecondary education or college degree; who has completed the required
 9786 licensing board approved hours of continuing education; and has licensing board
 9787 approved work experience as an instructor or in education may, at the ~~board's~~ director's
 9788 discretion, be permitted to take the written and the practical examinations to become
 9789 an instructor at the hair designer level.
- 9790 (7) Any teacher or instructor shall renew his or her license to teach cosmetology
 9791 biennially in odd years by remitting with his or her application a renewal fee in such
 9792 amount as shall be set by the licensing board by regulation; provided, however, any
 9793 teacher or instructor who fails to renew his or her certificate of registration to practice as
 9794 a cosmetologist, esthetician, or nail technician on or before the date established by the
 9795 licensing board by regulation shall automatically have his or her license to teach or
 9796 instruct suspended. A person failing to renew his or her instructor's license within two
 9797 years after expiration shall be required to pay a reinstatement fee after ~~board~~ review by
 9798 the licensing board.
- 9799 (8) Nothing in this Code section shall be construed as preventing a person from obtaining
 9800 a certificate of registration as teacher or instructor who is certified by the Department of
 9801 Education to teach cosmetology in the state public schools. The certification is limited
 9802 to those persons who hold a current cosmetology license at the master level and also hold
 9803 a diploma or certificate of 1,500 credit hours from a ~~board-approved~~ school approved by
 9804 the licensing board and have completed the three-year teachers training program required
 9805 by the Department of Education. Such persons shall also pass both a written and a
 9806 practical examination satisfactory to the licensing board and, upon passage thereof, shall
 9807 receive a license to teach cosmetology.
- 9808 (f) All teachers or instructors of cosmetology at all levels seeking renewal of licenses are
 9809 required to submit to the ~~board~~ director proof of completion of 15 hours of continuing
 9810 education in the cosmetology profession approved by the licensing board at least half of
 9811 which consists of instruction in teaching methods.

9812 43-10-13.

9813 (a) The licensing board shall have the right to set a course of study for all students of the
9814 schools of cosmetology, schools of hair design, schools of esthetics, and schools of nail
9815 care within this state.

9816 (b) Before a student shall be eligible to take the examination provided for in Code Section
9817 43-10-9, he or she shall first file with his or her application for examination a transcript
9818 showing the number of hours and courses completed from the school or shop attended by
9819 the student.

9820 43-10-14.

9821 (a) Nothing in this chapter shall prohibit any person at least 17 years of age from learning
9822 the occupation of cosmetology under a master cosmetologist, provided that such
9823 cosmetologist has had at least 36 months' experience and has held a certificate of a master
9824 cosmetologist for at least 36 months. In addition, nothing in this chapter shall prohibit any
9825 person at least 17 years of age from learning the occupation of cosmetology under an
9826 instructor in a school of cosmetology who has been a cosmetologist for a period of at least
9827 one year and has registered under this chapter. Nothing in this chapter shall prohibit any
9828 person at least 17 years of age from learning the occupation of hair designer under a
9829 cosmetologist holding a master cosmetologist certificate or a hair design certificate,
9830 provided that such cosmetologist has had at least 36 months' experience or, under an
9831 instructor in a school of cosmetology or school of hair design who has held a certificate as
9832 a cosmetologist for a period of at least one year, is qualified to teach said practices and has
9833 registered under this chapter. Nothing in this chapter shall prohibit any person at least 17
9834 years of age from learning the occupation of esthetics under a cosmetologist holding a
9835 master cosmetologist certificate or an esthetician certificate, provided that such
9836 cosmetologist has had at least 36 months' experience or, under an instructor in a school of
9837 cosmetology or school of esthetics who has held a certificate as a cosmetologist for a
9838 period of at least one year, is qualified to teach said practices and has registered under this
9839 chapter. Nothing in this chapter shall prohibit any person at least 17 years of age from
9840 learning the occupation of nail care or manicuring under a cosmetologist holding a master
9841 cosmetologist certificate or a nail technician certificate, provided that such cosmetologist
9842 has had at least 36 months' experience or, under an instructor in a school of cosmetology
9843 or school of nail care who has been a licensed cosmetologist for a period of at least one
9844 year, is qualified to teach said practices and has registered under this chapter. Any person
9845 registered as an apprentice under this Code section on June 30, 1997, shall be eligible to
9846 continue such apprenticeship under the person from whom that apprentice was learning the
9847 occupation of cosmetology, hair design, esthetics, or nail care or manicuring at the time of

9848 registration notwithstanding that the person under whom the apprentice was learning such
 9849 occupation does not meet the 36 months' experience otherwise required by this Code
 9850 section. Every shop owner shall have the responsibility for registering apprentices with the
 9851 ~~division~~ director. The shop owner shall file a statement in writing, showing the
 9852 apprentice's name and the address of the shop. The ~~board~~ director shall have the authority
 9853 to require the shop owner to furnish to the ~~board~~ director the number of hours completed
 9854 by the apprentice. The shop owner shall remit to the ~~division~~ director a fee in such amount
 9855 as shall be set by the licensing board by regulation for the registration of the apprentice.
 9856 The apprentice shall receive a certificate of registration showing the capacity in which he
 9857 or she is permitted to practice cosmetology. The certificate of registration shall be effective
 9858 for a period of two years and may be renewed at the end of such period upon the filing of
 9859 an application on forms furnished by the ~~division~~ director and the payment of a renewal fee
 9860 in such amount as shall be set by the licensing board by regulation. A certificate of
 9861 registration authorizing a person to learn the occupation of cosmetology under a
 9862 cosmetologist shall not be renewed more than one time; and, upon the expiration of the last
 9863 certificate of registration issued, such person shall not be permitted to practice in any
 9864 capacity.

9865 (b) Notwithstanding any other provisions of this Code section, the ~~board~~ director shall be
 9866 authorized to waive any education requirements under this Code section in cases of
 9867 hardship, disability, or illness or under such other circumstances as the licensing board
 9868 deems appropriate with respect to any applicant who was enrolled in a licensing board
 9869 approved school or had completed a licensing board approved study course as of June 30,
 9870 2000.

9871 43-10-15.

9872 (a) The ~~board~~ director, acting upon ~~its~~ his or her own knowledge or written or verified
 9873 complaint filed by any person, shall have the power to reprimand or power to suspend,
 9874 revoke, or cancel the certificate of registration of or refuse to grant, renew, or restore a
 9875 certificate of registration to a holder of any certificate of registration issued pursuant to this
 9876 chapter upon proof of any one of the following grounds:

- 9877 (1) Willfully committing any false, fraudulent, or deceitful act or using any forged, false,
 9878 or fraudulent document in connection with any requirement of this chapter or the rules
 9879 and regulations of the licensing board;
- 9880 (2) Willfully failing at any time to comply with the requirements for a certificate of
 9881 registration under this chapter;
- 9882 (3) Practicing cosmetology under a false or assumed name;
- 9883 (4) Willfully permitting an unlicensed person to practice, learn, or teach cosmetology;

9884 (5) Knowingly performing an act which in any way assists an unlicensed person to
 9885 practice, learn, or teach cosmetology; or

9886 (6) Violating, directly or indirectly, or assisting in the violation of this chapter or any rule
 9887 or regulation of the licensing board.

9888 (b) The ~~board~~ director may impose a fine not to exceed \$500.00 for each violation of any
 9889 provision of subsection (a) of this Code section. Such fines shall be listed in a schedule
 9890 contained in the rules and regulations of the licensing board. The licensee shall pay the
 9891 fine within 30 days after receiving written notification from ~~either the board or a~~
 9892 ~~representative of the board~~ director unless the licensee requests in writing a hearing before
 9893 the licensing board. ~~Such request for a hearing must be received by the board within 30~~
 9894 ~~days after receipt of the written notification from the board in compliance with Code~~
 9895 Section 43-1-3.1. Failure either to pay the fine or request a hearing shall result in
 9896 immediate suspension of the license ~~pending a hearing to determine whether revocation or~~
 9897 ~~other disciplinary action should be imposed on the licensee in compliance with Code~~
 9898 Section 43-1-3.1.

9899 (c) The ~~board~~ director, for good cause shown and under such conditions as ~~it~~ he or she may
 9900 prescribe, may restore a certificate of registration to any person, beauty shop or beauty
 9901 salon, or school or college of cosmetology whose certificate of registration has been
 9902 suspended, revoked, or canceled.

9903 (d) ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' shall apply to any~~
 9904 ~~proceeding under this Code section. An action of the director taken pursuant to this Code~~
 9905 section shall be made in compliance with Code Section 43-1-3.1.

9906 43-10-16.

9907 The licensing board or the director may bring an action to enjoin any person, firm, or
 9908 corporation from engaging in the occupation of cosmetology if such person, firm, or
 9909 corporation, without being licensed or registered to do so by the ~~board~~ director, engages
 9910 in or practices the occupation of cosmetology. The action shall be brought in the county
 9911 in which such person resides or, in the case of a firm or corporation, where the firm or
 9912 corporation maintains its principal office; and, unless it appears that such person, firm, or
 9913 corporation so engaging or practicing cosmetology is licensed or registered, the injunction
 9914 shall be issued, and such person, firm, or corporation shall be perpetually enjoined from
 9915 engaging in such activities throughout ~~the~~ this state. It shall not be necessary in order to
 9916 obtain the equitable relief provided in this Code section for the licensing board or the
 9917 director to allege and prove that there is no adequate remedy at law. It is declared that the
 9918 unlicensed activities referred to in this Code section are a menace and a nuisance dangerous
 9919 to the public health, safety, and welfare.

9920 43-10-17.

9921 Notwithstanding any other provision of this chapter, a beauty shop or salon shall be
9922 authorized to employ persons to wash, shampoo, comb, and brush hair, and such persons
9923 shall not be required to be registered by the ~~board~~ director.

9924 43-10-18.

9925 (a) Nothing contained in this chapter nor any rule or regulation adopted in implementation
9926 hereof shall be construed to prohibit any person from operating a beauty shop within his
9927 or her home or residence, provided that such shop meets and complies with all of the
9928 provisions of this chapter and the rules and regulations promulgated by the licensing board.

9929 (b) It shall not be necessary for any person operating a beauty shop in a private home to
9930 post a sign denoting same to be a beauty shop unless the person elects to do so.

9931 43-10-18.1.

9932 A beauty shop or salon licensed under this chapter shall be authorized to employ a barber
9933 licensed under Chapter 7 of this title. A beauty shop or salon employing such a barber
9934 shall not be subject to the licensure provisions of Chapter 7 of this title.

9935 43-10-18.2.

9936 Notwithstanding any other provision of this chapter, premises made available for a beauty
9937 shop within a facility licensed as a nursing home pursuant to Article 1 of Chapter 7 of Title
9938 31 shall not be required to be licensed or registered as a beauty shop under this chapter, or
9939 otherwise be subject to any provisions of this chapter except for inspections, investigations,
9940 or both, for alleged violations of this chapter by any person licensed under this chapter, if
9941 cosmetologist services in such premises are rendered only to residents of the nursing home.

9942 43-10-18.3.

9943 (a) Notwithstanding any other provision of this chapter, cosmetology services may be
9944 performed by a licensed cosmetologist in a client's residence, a nursing home, or a hospital
9945 when the client for reasons of ill health, infirmity, or other physical disability is unable to
9946 go to the licensed beauty shop or salon for regular cosmetology services.

9947 (b) The licensing board is authorized to adopt reasonable rules and regulations prescribing
9948 requirements and conditions for the performance of the services authorized in subsection

9949 (a) of this Code section.

9950 43-10-19.

9951 (a) If any person not lawfully entitled to a certificate of registration under this chapter shall
 9952 practice the occupation of a cosmetologist; or if any such person shall endeavor to learn the
 9953 trade of a cosmetologist by practicing the same under the instructions of a cosmetologist
 9954 or other person, other than as provided in this chapter; or if any such person shall instruct
 9955 or attempt to instruct any person in such trade; or if any proprietor of or person in control
 9956 of or operating any beauty shop, school of cosmetology, school of hair design, school of
 9957 esthetics, or school of nail care shall knowingly employ for the purpose of practicing such
 9958 occupation any cosmetologist not registered under this chapter; or if any person, beauty
 9959 shop, salon, or school shall engage in any of the acts covered in this chapter though not
 9960 registered under the provisions of this chapter; or if any person shall falsely or fraudulently
 9961 pretend to be qualified under this chapter to practice or learn such trade or occupation; or
 9962 if any person shall violate any provision of the chapter for which a penalty is not
 9963 specifically provided, he or she shall be guilty of a misdemeanor.

9964 (b) Any person who operates or manages a beauty shop, salon, or school that employs a
 9965 person who does not possess a license as provided in this chapter shall be guilty of a
 9966 misdemeanor.

9967 43-10-20.

9968 (a) For the purposes of this chapter, the teachers and instructors of and courses of
 9969 instruction or training in cosmetology operated by the Department of Corrections shall be
 9970 considered to be subject to the same standards and to be part of the cosmetology programs
 9971 that are approved by the Technical College System of Georgia or the Department of
 9972 Education as provided for by paragraphs (10), (11), (13), and (14) of Code Section 43-10-1
 9973 and paragraph (8) of subsection (e) of Code Section 43-10-12.

9974 (b) The ~~board~~ director shall be required to test an inmate who is an applicant for a
 9975 certificate of registration under this chapter who has completed successfully a cosmetology
 9976 training program operated by the Department of Corrections and who meets the
 9977 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
 9978 and practical examinations, the ~~board~~ director may issue the appropriate certificate of
 9979 registration to such inmate after consideration of all requirements under Code Sections
 9980 43-10-9 and 43-1-19; provided, however, that the ~~board~~ director shall not apply the
 9981 provisions of paragraph (4) of subsection (a) of Code Section 43-1-19 to such inmate based
 9982 solely upon such person's status as an inmate and shall apply such provisions in the same
 9983 manner as would otherwise be applicable to an applicant who is not an inmate."

9984 **SECTION 1-14.**

9985 Said title is further amended by revising Chapter 10A, relating to professional counselors,
9986 social workers, and marriage and family therapists, as follows:

9987 "CHAPTER 10A

9988 43-10A-1.

9989 This chapter shall be known and may be cited as the 'Professional Counselors, Social
9990 Workers, and Marriage and Family Therapists Licensing Law.'

9991 43-10A-2.

9992 It is declared to be the purpose of the General Assembly that the activities of certain
9993 persons who utilize certain titles relating to or who practice professional counseling, social
9994 work, and marriage and family therapy be regulated to ensure the protection of the health,
9995 safety, and welfare of the people of this state.

9996 43-10A-3.

9997 As used in this chapter, the term:

9998 (1) 'Advertise' means, but is not limited to, the issuing of or causing to be distributed any
9999 card, sign, or other device or the causing or permitting any sign or marking on or in any
10000 building or structure, ~~or in~~ any newspaper, magazine, or directory, ~~or on~~ or radio or
10001 television.

10002 (2) 'Allied profession' means the practice of medicine, psychiatric nursing, psychology,
10003 or pastoral counseling.

10004 (3) 'Board' means the Georgia Composite Board of Professional Counselors, Social
10005 Workers, and Marriage and Family Therapists established by this chapter, a professional
10006 licensing policy board pursuant to Chapter 1 of this title with the authority and
10007 responsibility set forth in such chapter.

10008 ~~(17)~~(3.1) 'The Commission on Accreditation for Marriage and Family Therapy Education'
10009 means the national accrediting agency for marriage and family therapy education as
10010 recognized by the United States Department of Education.

10011 (3.2) 'Commission on Rehabilitation Counselor Certification' means the national
10012 certifying agency for rehabilitation counselors as recognized by the National Commission
10013 for Certifying Agencies.

10014 ~~(18)~~(3.3) 'The Council on Social Work Education' means the national accrediting agency
10015 for social work education as recognized by the United States Department of Education
10016 and the Council on Postsecondary Accreditation.

- 10017 (4) 'Counseling' means those techniques used to help persons learn how to solve
 10018 problems and make decisions related to personal growth, vocation, family, social, and
 10019 other interpersonal concerns.
- 10020 (5) 'Direction' means the ongoing administrative overseeing by an employer or superior
 10021 of a specialty practitioner's work. The person providing direction shall be responsible for
 10022 assuring the quality of the services rendered by that practitioner and shall ensure that
 10023 qualified supervision or intervention occurs in situations which require expertise beyond
 10024 that of the practitioner. Direction may be provided by any person acceptable to the
 10025 ~~standards committee~~ director for that specialty in which the practitioner is working.
- 10026 (6) ~~'Division director'~~ 'Director' means the director of ~~the professional licensing boards~~
 10027 ~~division~~. The ~~division~~ director shall serve as secretary to the board.
- 10028 (7) 'Fee' means money or anything of value, including but not limited to a salary, offered
 10029 or received as compensation in return for rendering services in any specialty.
- 10030 (7.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 10031 Article 2 of Chapter 1 of this title.
- 10032 (8) 'Marriage and family therapy' means that specialty which evaluates and treats
 10033 emotional and mental problems and conditions, whether cognitive, affective, or
 10034 behavioral, resolves intrapersonal and interpersonal conflicts, and changes perception,
 10035 attitudes, and behavior; all within the context of marital and family systems. Marriage
 10036 and family therapy includes, without being limited to, individual, group, couple, sexual,
 10037 family, and divorce therapy. Marriage and family therapy involves an applied
 10038 understanding of the dynamics of marital and family systems, including individual
 10039 psychodynamics, the use of assessment instruments that evaluate marital and family
 10040 functioning, designing and recommending a course of treatment, and the use of
 10041 psychotherapy and counseling.
- 10042 (9) 'Practice a specialty' or 'practice' means to offer to render for a fee or to render for a
 10043 fee any service involving the application of principles, methods, or procedures of
 10044 professional counseling, social work, or marriage and family therapy.
- 10045 (10) 'Professional counseling' means that specialty which utilizes counseling techniques
 10046 based on principles, methods, and procedures of counseling that assist people in
 10047 identifying and resolving personal, social, vocational, intrapersonal and interpersonal
 10048 concerns; utilizes counseling and psychotherapy to evaluate, treat, and recommend a
 10049 course of treatment for emotional and mental problems and conditions, whether
 10050 cognitive, behavioral, or affective, provided that the counselor shall have training and
 10051 experience working with people with mental illness, mental retardation, or substance
 10052 abuse; administers and interprets educational and vocational assessment instruments and
 10053 other tests which the professional counselor is qualified to employ by virtue of education,

10054 training, and experience; utilizes information, community resources, and goal setting for
 10055 personal, social, or vocational development; utilizes individual and group techniques for
 10056 facilitating problem solving, decision making, and behavior change; utilizes functional
 10057 assessment and vocational planning and guidance for persons requesting assistance in
 10058 adjustment to a disability or disabling condition; utilizes referral for persons who request
 10059 counseling services; performs service planning; and utilizes and interprets counseling
 10060 research.

10061 (11) 'Psychotherapeutic techniques' means those specific techniques involving the
 10062 in-depth exploration and treatment of interpersonal and intrapersonal dynamics but shall
 10063 not include the performance of those activities exclusively reserved to any other business
 10064 or profession by any other chapter of this title.

10065 (12) 'Recognized educational institution' means any educational institution which grants
 10066 a bachelor's, master's, specialist, or doctoral degree and which is recognized by an
 10067 accrediting body acceptable to the licensing board.

10068 (13) 'Social work' means that specialty which helps individuals, marriages, families,
 10069 couples, groups, or communities to enhance or restore their capacity for functioning: by
 10070 assisting in the obtaining or improving of tangible social and health services; by
 10071 providing psychosocial evaluations, in-depth analyses and determinations of the nature
 10072 and status of emotional, cognitive, mental, behavioral, and interpersonal problems or
 10073 conditions; and by counseling and psychotherapeutic techniques, casework, social work
 10074 advocacy, psychotherapy, and treatment in a variety of settings which include but are not
 10075 limited to mental and physical health facilities, child and family service agencies, or
 10076 private practice.

10077 (14) 'Specialty' means social work, marriage and family therapy, or professional
 10078 counseling, or any combination thereof.

10079 (15) 'Supervision' means the direct clinical review, for the purpose of training or
 10080 teaching, by a supervisor of a specialty practitioner's interaction with a client. It may
 10081 include, without being limited to, the review of case presentations, audio tapes, video
 10082 tapes, and direct observation in order to promote the development of the practitioner's
 10083 clinical skills.

10084 (16) 'Supervisor' means a person who meets the requirements established by the
 10085 ~~standards committee for that specialty~~ licensing board which is being supervised and who
 10086 is either licensed under this chapter or is a psychiatrist or a psychologist.

10087 43-10A-4.

10088 (a) There is created the Georgia Composite Board of Professional Counselors, Social
 10089 Workers, and Marriage and Family Therapists as a professional licensing policy board as

10090 provided in Chapter 1 of this title. The board shall consist of ten members who have been
10091 residents of this state for at least 12 months prior to taking office. The ten members shall
10092 be constituted as follows:

10093 (1) Three members licensed in professional counseling, two of whom shall be designated
10094 at the time of their appointment to serve an initial term ending December 31, 1988, and
10095 one of whom shall be designated to serve an initial term ending December 31, 1987;

10096 (2) Three members licensed as social workers, one of whom shall be designated at the
10097 time of appointment to serve an initial term ending December 31, 1988, the other two of
10098 whom shall be designated to serve an initial term ending December 31, 1987;

10099 (3) Three members licensed as marriage and family therapists, two of whom shall be
10100 designated at the time of their appointment to serve an initial term ending December 31,
10101 1987, and one of whom shall be designated to serve an initial term ending December 31,
10102 1988; and

10103 (4) One member who shall represent the public at large and have no professional
10104 connection with any specialty to serve an initial term ending December 31, 1988.

10105 (b) All members of the board shall be appointed by the Governor, subject to confirmation
10106 by the Senate. Those members first appointed to the board under this chapter shall serve
10107 for initial terms of office beginning September 1, 1985. Those members of the board
10108 required to be licensed and who are first appointed to the board shall be persons who are
10109 practicing in the designated specialty at the time of appointment and who must be licensed
10110 therein as required within 12 months following their appointment.

10111 (c) After the initial terms specified in subsection (a) of this Code section, members of the
10112 board shall take office on the first day of January immediately following the expired term
10113 of that office and shall serve for a term of three years and until the appointment and
10114 qualification of their respective successors. No member shall serve on the board more than
10115 two consecutive terms.

10116 (d) Members of the board may be removed by the Governor, after notice and opportunity
10117 for hearing, for incompetence, neglect of duty, unprofessional conduct, or conviction of
10118 any felony.

10119 (e) Vacancies occurring on the board, other than those caused by expiration of a term of
10120 office, shall be filled in the same manner as the original appointment to the position
10121 vacated for the remainder of the unexpired term and until a successor is appointed and
10122 qualified.

10123 (f) Any person appointed to the board when the Senate is not in regular session may serve
10124 on the board without Senate confirmation until the Senate acts upon that appointment.

10125 43-10A-5.

10126 (a) The members of the board shall take an oath to perform faithfully the duties of their
 10127 office. Within 30 days after taking the oath of office, the first board appointed under this
 10128 chapter shall meet for an organizational meeting on call by the ~~division~~ director. At such
 10129 meeting and at an organizational meeting in January every odd-numbered year thereafter,
 10130 the board shall elect from its members a chairperson and vice chairperson to serve for terms
 10131 of two years.

10132 (b) The quorum for the transaction of business of the board shall be as provided in
 10133 subsection (b) of Code Section 43-1-12.

10134 (c) ~~Unless specifically delegated to a standards committee pursuant to Code Section~~
 10135 ~~43-10A-6, the~~ The licensing board shall have the following powers and duties:

10136 (1) To adopt, amend, and repeal such rules and regulations not inconsistent with this
 10137 chapter necessary for the proper administration and enforcement of this chapter; and

10138 (2) To conduct hearings upon the petition of any person who is aggrieved or adversely
 10139 affected by an order or action of the director, which shall be conducted by the licensing
 10140 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 10141 Act.'

10142 (c.1) The director shall have the following powers and duties:

10143 ~~(2)~~(1) To issue, renew, and reinstate the licenses of duly qualified applicants for
 10144 licensure to practice a specialty in this state;

10145 ~~(3)~~(2) To deny, suspend, revoke, or otherwise sanction licenses to practice a specialty
 10146 in this state;

10147 ~~(4)~~(3) To initiate investigations for the purpose of discovering violations of this chapter;

10148 ~~(5)~~(4) To conduct hearings upon charges calling enter orders or take other action
 10149 consistent with this chapter in compliance with Code Section 43-1-3.1, for the discipline
 10150 of a licensee or on violations of this chapter;

10151 ~~(6)~~(5) To issue to specialists licensed under this chapter certificates ~~under the seal of the~~
 10152 ~~board evidencing such licensure and signed, either by hand or facsimile signature, by the~~
 10153 ~~chairperson of the board and the division director; and~~

10154 ~~(7) To adopt a seal; and~~

10155 ~~(8)~~(6) To do all other things necessary to administer and enforce this chapter and all rules
 10156 and regulations adopted by the licensing board pursuant to this chapter.

10157 (d) The licensing board shall adopt a code of ethics to govern the behavior of persons
 10158 licensed under this chapter, including but not limited to the prohibiting of practice in those
 10159 areas in which the specialty practitioner has not obtained university level graduate training
 10160 or substantially equivalent supervised experience.

10161 (e) Each member of the board shall be reimbursed as provided in subsection (f) of Code
10162 Section 43-1-2.

10163 (f) After a person has applied for licensure, no member of the board may supervise or
10164 direct such applicant for a fee nor shall any member vote on any applicant previously
10165 supervised or directed by that member.

10166 (g) The board shall hold at least two regular meetings each year. Additional meetings may
10167 be held upon the call of the chairperson of the board or at the written request of any four
10168 members of the board.

10169 43-10A-6.

10170 (a) Those members of the board from the professional counseling specialty, the social
10171 work specialty, and the marriage and family therapy specialty shall constitute a separate
10172 standards committee for their respective specialty. ~~Each standards committee by majority
10173 vote shall approve or disapprove the granting of all licenses in that specialty, approve the
10174 examination required of applicants for licensure in that committee's specialty and provide
10175 for the grading of that examination, and provide for other matters relating to licensure in
10176 that specialty.~~

10177 (b) ~~No decision of a standards committee shall become effective until approved by the
10178 board. The board may initiate or otherwise act regarding any matter in which a standards
10179 committee is authorized to act. No decision of the board regarding a particular specialty
10180 shall become effective without the approval of at least two of the members of the standards
10181 committee for that specialty.~~

10182 (c) Meetings of a standards committee shall be reimbursed on the same basis as board
10183 meetings.

10184 43-10A-7.

10185 (a) Except as otherwise provided in this chapter, a person who is not licensed under this
10186 chapter shall not practice professional counseling, social work, or marriage and family
10187 therapy, nor advertise the performance of such practice, nor use the title 'professional
10188 counselor,' 'associate professional counselor,' 'social worker,' 'marriage and family
10189 therapist,' or 'associate marriage and family therapist,' nor use any words, letters, titles, or
10190 figures indicating or implying that the person is a professional counselor, associate
10191 professional counselor, social worker, marriage and family therapist, or associate marriage
10192 and family therapist or is licensed under this chapter.

10193 (b) The prohibition of subsection (a) of this Code section shall not apply to the following
10194 persons; provided, however, that no such person shall hold himself or herself out as being
10195 licensed to practice professional counseling, social work, or marriage and family therapy

10196 or any combination thereof or use the words 'licensed' or 'licensure' or any other words,
 10197 letters, titles, images, or figures stating or implying that he or she is licensed to practice any
 10198 such specialty, and no organization shall present itself as authorized to license individuals
 10199 to practice any such specialty:

10200 (1) Persons licensed to practice medicine or psychology under Chapter 34 or 39,
 10201 respectively, of this title;

10202 (2) Persons engaged in the practice of a specialty as an employee of any agency or
 10203 department of the federal government or any licensed hospital or long-term care facility,
 10204 but only when engaged in that practice as an employee of such agency, department,
 10205 hospital, or facility;

10206 (3)(A) Persons who, prior to July 1, 2000, engaged in the practice of a specialty as an
 10207 employee of any community service board or similar entity created by general law to
 10208 provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any
 10209 agency or department of the state or any of its political subdivisions, but only when
 10210 engaged in that practice as an employee of such an agency or department.

10211 (B) Persons who engage in the practice of social work as employees of any community
 10212 service board or similar entity created by general law to provide services to persons
 10213 with disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the
 10214 state or any of its political subdivisions, but only when engaged in that practice as
 10215 employees of such community service board or similar entity, agency, or department,
 10216 and persons or entities which contract to provide social work services with any
 10217 community service board or similar entity or any agency or department of the state or
 10218 any of its political subdivisions, but such contracting persons and entities shall only be
 10219 exempt under this subparagraph when engaged in providing social work services
 10220 pursuant to those contracts and shall only be exempt until January 1, 1996.

10221 (C) Persons who engage in the practice of professional counseling as employees of
 10222 privately owned correctional facilities, the Department of Corrections, Department of
 10223 Community Health, Department of Public Health, Department of Behavioral Health and
 10224 Developmental Disabilities, Department of Human Services, any county board of
 10225 health, or any community service board or similar entity created by general law to
 10226 provide services to persons with disabilities, as defined in Chapter 2 of Title 37, but
 10227 only when engaged in that practice as employees of such privately owned correctional
 10228 facility, department, board, or entity and persons or entities which contract to provide
 10229 professional counseling services with such department or county board of health, but
 10230 such contracting persons and entities shall only be exempt under this subparagraph
 10231 when engaged in providing professional counseling services pursuant to those contracts
 10232 and shall only be exempt until January 1, 1996;

- 10233 (4) Students of a recognized educational institution who are preparing to become
10234 practitioners of a specialty, but only if the services they render as such practitioners are
10235 under supervision and direction and their student status is clearly designated by the title
10236 'trainee' or 'intern';
- 10237 (5) Persons who have obtained a master's degree from a program accredited by the
10238 Council on Social Work Education and who are practicing social work under direction
10239 and supervision while preparing to take the master's social work licensing examination,
10240 but only for a period of up to one year following the granting of such degree;
- 10241 (6) Persons who have obtained one of the graduate degrees required for licensure as a
10242 professional counselor or marriage and family therapist and who are practicing such
10243 specialty under supervision and direction in order to obtain the experience required for
10244 licensure;
- 10245 (7) Elementary, middle, or secondary school counselors and school social workers
10246 certificated as such by the Department of Education, Professional Standards Commission,
10247 or its successor agency but only when practicing within the scope of such certification
10248 and only when designated by the title 'school counselor,' 'school social worker,' or a title
10249 designated by the school system in which they are employed for persons practicing within
10250 such certification;
- 10251 (8) Persons registered as rehabilitation suppliers by the Georgia Board of Workers'
10252 Compensation, including those registered as of July 1, 1992, but only when practicing
10253 rehabilitation counseling as a rehabilitation supplier for workers' compensation claimants
10254 and only so long as they do not use any titles other than titles describing the certifications
10255 or licenses they are required to hold under Code Section 34-9-200.1;
- 10256 (9) Active members of the clergy but only when the practice of their specialty is in the
10257 course of their service as clergy;
- 10258 (10) Members of religious ministries responsible to their established ecclesiastical
10259 authority who possess a master's degree or its equivalent in theological studies;
- 10260 (11) Persons engaged in the practice of a specialty in accordance with Biblical doctrine
10261 in public or nonprofit agencies or entities or in private practice;
- 10262 (12) Persons engaged in the practice of a specialty as an employee of the Division of
10263 Family and Children Services of the Department of Human Services but only when
10264 engaged in such practice as an employee of that division;
- 10265 (13) Persons who have obtained a master's degree from a program accredited by the
10266 Council on Social Work Education and who are engaged in the practice of community
10267 organization, policy, planning, research, or administration may use the title 'social worker'
10268 and may only engage in such practice;

10269 (14) Persons who have obtained a bachelor's degree in social work from a program
 10270 accredited by the Council on Social Work Education, who may use the title 'social
 10271 worker' and may practice social work, but they may not practice autonomously and may
 10272 only practice under direction and supervision, and, notwithstanding the definitions in
 10273 paragraphs (5) and (15) of Code Section 43-10A-3, such supervision shall be provided
 10274 by a social worker who, as a minimum, has been awarded a bachelor's or a master's
 10275 degree in social work from a program accredited by the Council on Social Work
 10276 Education and who has completed at least two years of post-degree practice in the field
 10277 of social work;

10278 (15) Addiction counselors who have met the certification requirements of the Georgia
 10279 ~~Counselors'~~ Counselors Association or any other similar private association
 10280 of addiction counselors which ~~association~~ includes among its certification requirements
 10281 the following:

10282 (A) Attainment of a high school diploma or a general educational development (GED)
 10283 equivalency diploma;

10284 (B) Completion of at least 4,000 hours of full-time paid experience under direction
 10285 provided by a person acceptable to the association in the practice of chemical
 10286 dependency and abuse counseling;

10287 (C) Completion of at least 180 hours of education in the field of addiction and
 10288 addiction counseling or treatment; and

10289 (D) Completion of at least 220 hours of supervision provided by a supervisor who
 10290 meets the qualifications established by the association and which teaches chemical
 10291 dependency and abuse counseling.

10292 Services which may be provided under this paragraph shall be limited to those practices
 10293 sanctioned by the certifying association and shall in any event be limited to the provision
 10294 of chemical dependency treatment in the following settings: screening; intake;
 10295 orientation; assessment for addiction diseases; treatment planning; individual, family, and
 10296 group addiction counseling; case management; crisis intervention; client education;
 10297 referral, reporting, and record keeping; and consultation with other professionals in
 10298 regard to client treatment and services. Persons exempt under this paragraph shall not use
 10299 any title indicating or implying that they are licensed under this chapter;

10300 (15.1) Persons who are training to be addiction counselors but only when such persons
 10301 are:

10302 (A) Employed by an agency or facility that is licensed to provide addiction counseling;

10303 (B) Supervised and directed by a supervisor who meets the qualifications established
 10304 by the Georgia ~~Counselor's~~ Counselors Association or any other similar

10305 private association of addiction counselors which includes among its certification
10306 requirements the criteria specified in paragraph (15) of this subsection;

10307 (C) Graduated from high school or have a general educational development (GED)
10308 equivalency diploma; and

10309 (D) Actively seeking certification in accordance with the requirements of paragraph
10310 (15) of this subsection.

10311 No person shall qualify for the exception provided under this paragraph for a period in
10312 excess of three years. Services which may be provided under this paragraph shall be
10313 limited to those practices sanctioned by the certifying association and shall in any event
10314 be limited to the provision of chemical dependency treatment in the following settings:
10315 screening; intake; orientation; assessment for addiction diseases; treatment planning;
10316 individual, family, and group addiction counseling; case management; crises intervention;
10317 client education; referral, reporting, and record keeping; and consultation with other
10318 professionals in regard to client treatment and services. Persons exempt under this
10319 paragraph shall not use any title indicating or implying that they are licensed under this
10320 chapter;

10321 (16) Any person engaged in the practice of professional counseling as an employee or
10322 student peer counselor of the University System of Georgia or its educational units, the
10323 Technical College System of Georgia or its educational units, or of a public or private
10324 college or university within this state, but only when engaged in that practice as such an
10325 employee or student peer counselor and excepting the use of psychotherapeutic
10326 techniques to evaluate and treat emotional and mental illness, disorder, or dysfunction;

10327 (17) Persons who engage in the practice of professional counseling, excluding the use
10328 of psychotherapy, as employees of organizations which maintain, now or in the future,
10329 accreditation from the Commission on Accreditation of Rehabilitation Facilities or the
10330 national Accreditation Council for Agencies Serving ~~the Blind and Visually Handicapped~~
10331 People with Blindness or Visual Impairment, but only when those persons are providing
10332 those services as employees of those organizations pursuant to contracts between such
10333 organizations and the state or a department, agency, county, municipality, or political
10334 subdivision of the state;

10335 (18) Persons engaged in the practice of a specialty as an employee of the Department of
10336 Labor, but only when engaged in such practice as an employee of such department; and

10337 (19) Persons currently licensed to practice a specialty in another jurisdiction and who are
10338 practicing such specialty within a defined disaster area in order to alleviate the impact on
10339 persons affected by a disaster as defined in paragraph (1) of Code Section 38-3-91 or a
10340 state of emergency as defined in paragraph (7) of Code Section 38-3-3, but only when

10341 such specialty services are provided without cost to the recipients, and only for a
 10342 maximum of 30 consecutive days following a disaster or a state of emergency.

10343 (c) Unless exempt under paragraph (1), (2), (4), (5), (6), (11), (13), (14), (15), (16), or (17)
 10344 of subsection (b) of this Code section, a person who is not licensed under this chapter shall
 10345 not practice a specialty for any corporation, partnership, association, or other business
 10346 entity which uses in its corporate, partnership, association, or business name any words,
 10347 letters, titles, or figures indicating or implying that such entity or any of its employees,
 10348 officers, or agents are practicing a specialty.

10349 (d) Notwithstanding any other provision of law to the contrary, a person who is exempt
 10350 from licensure pursuant to paragraph (9) of subsection (b) of this Code section may be
 10351 authorized by the ~~board~~ director to serve as a supervisor as defined in paragraph (16) of
 10352 Code Section 43-10A-3 without being licensed if such person meets all the requirements
 10353 to be licensed and to serve as a supervisor in the specialty for which such person would
 10354 serve as a supervisor and has filed the necessary documentation with and been approved
 10355 by the ~~standards committee of that specialty~~ director as required by the rules of the
 10356 licensing board.

10357 (e) Nothing in this chapter shall be construed to prohibit the licensed practice of nursing
 10358 or the performance of duties which constitute a standard procedure of the practice of
 10359 medicine by any person acting under the direct supervision of a licensed medical doctor,
 10360 provided that such supervised persons are qualified by virtue of their education, training,
 10361 or experience to perform such duties and that such persons shall not use any titles
 10362 indicating or implying that they are licensed under this chapter.

10363 43-10A-8.

10364 No person shall be eligible for licensure under this chapter unless such person furnishes
 10365 satisfactory evidence to the ~~board~~ director of all of the following:

- 10366 (1) Having met the education, training, and experience requirements of Code Section
 10367 43-10A-11, 43-10A-12, or 43-10A-13 regarding that specialty for which a license is
 10368 sought;
- 10369 (2) Having successfully passed the examination established for that specialty under Code
 10370 Section 43-10A-9, except that persons meeting the requirements of subparagraph
 10371 (a)(2)(A) of Code Section 43-10A-13 shall not be required to pass such examination;
- 10372 (3) Having paid any required license fee; and
- 10373 (4) Having furnished at least two personal references from supervisors, teachers, or any
 10374 combination thereof.

10375 43-10A-9.

10376 The licensing board shall provide for the conduct of examinations for licensure in each
 10377 specialty at least twice a year. Examinations may be written, oral, experiential, or any
 10378 combination thereof and shall deal with such theoretical and applied fields as prescribed
 10379 by the licensing board. The examinee's name shall not be disclosed to any person grading
 10380 the examination until that grading is complete.

10381 43-10A-10.

10382 The ~~board~~ director may issue a license without examination to any applicant licensed in a
 10383 specialty under the laws of another jurisdiction having requirements for licensure in that
 10384 specialty which are substantially equal to the licensure requirements for that specialty in
 10385 this state.

10386 43-10A-11.

10387 (a) The education, experience, and training requirements for licensure in professional
 10388 counseling are as follows:

10389 (1) For licensure as an associate professional counselor, a master's degree from a
 10390 recognized educational institution in a program that is primarily counseling in content or
 10391 in a program of applied psychology, ~~which degree includes~~ including a supervised
 10392 internship or practicum as part of the degree program and registration with the ~~board~~
 10393 director of an acceptable contract for obtaining the post-master's experience under
 10394 direction and supervision required for licensure as a professional counselor; and

10395 (2) For licensure as a professional counselor:

10396 (A) A doctoral degree from a recognized educational institution in a program that is
 10397 primarily counseling in content and requires at least one year of supervised internship
 10398 in a work setting acceptable to the licensing board; ~~or~~

10399 (B) A specialist degree from a recognized educational institution in a program that is
 10400 primarily counseling in content with supervised internship or practicum and two years
 10401 of post-master's directed experience under supervision in a setting acceptable to the
 10402 licensing board; ~~or~~

10403 (C)(i) A master's degree in rehabilitation counseling or in a program that is primarily
 10404 counseling in content from a recognized educational institution;

10405 (ii) An internship or practicum supervised either by a supervisor, as defined in
 10406 paragraph (16) of Code Section 43-10A-3, or by a Certified Rehabilitation Counselor
 10407 certified as such by the Commission on Rehabilitation Counselor Certification;

10408 (iii) The Certified Rehabilitation Counselor designation from the Commission on
 10409 Rehabilitation Counselor Certification; and

10410 (iv) Three years of post-master's directed experience providing rehabilitation services
 10411 in a rehabilitation setting under supervision provided either by a supervisor, as
 10412 defined in paragraph (16) of Code Section 43-10A-3, or by a Certified Rehabilitation
 10413 Counselor certified as such by the Commission on Rehabilitation Counselor
 10414 Certification. Up to one year of such experience may have been in an approved
 10415 practicum or internship placement as part of the degree program; or

10416 (D) A master's degree from a recognized educational institution in a program that is
 10417 primarily counseling in content with supervised internship or practicum and four years
 10418 of post-master's directed experience under supervision in a setting acceptable to the
 10419 licensing board. Up to one year of such experience may have been in an approved
 10420 practicum placement as part of the degree program; or

10421 (E) A master's degree from a recognized educational institution in a program of applied
 10422 psychology with supervised internship or practicum and four years of post-master's
 10423 directed experience under supervision in a setting acceptable to the licensing board. Up
 10424 to one year of such experience may have been in an approved practicum placement as
 10425 part of the degree program. Supervision of the practicum or internship and the
 10426 post-master's directed experience shall be provided by a supervisor, as defined in
 10427 paragraph (16) of Code Section 43-10A-3, except that such supervision may be
 10428 provided all or in part by a psychologist or, before January 1, 2004, by a person with
 10429 a master's degree from a recognized educational institution in a program of applied
 10430 psychology.

10431 (b) For purposes of subsection (a) of this Code section, work settings acceptable to the
 10432 licensing board may include, but are not limited to, educational, rehabilitation, career
 10433 development, mental health, community, or industrial organizations.

10434 (c) Associate professional counselors may only use the title 'associate professional
 10435 counselor' and may practice professional counseling only under direction and supervision
 10436 and only for a period not to exceed five years while obtaining the post-master's experience
 10437 required for licensure as a professional counselor.

10438 43-10A-12.

10439 (a) The education, experience, and training requirements for licensure in social work are
 10440 as follows:

10441 (1) For licensure as a master's social worker, a master's degree in social work from a
 10442 program accredited by the Council on Social Work Education; and

10443 (2) For licensure as a clinical social worker:

10444 (A) A master's degree in social work from a program accredited by the Council on
 10445 Social Work Education; and

10446 (B) As defined by the licensing board, three years' full-time supervised experience in
 10447 the practice of social work following granting of the master's degree. Of the three years
 10448 of supervised experience, only the first two must be under direction. A doctoral degree
 10449 in a specialty, an allied profession, or child and family development may substitute for
 10450 one year of such experience. At least one year of experience shall have occurred within
 10451 two years immediately preceding application for licensure as a clinical social worker
 10452 or the applicant shall have met the continuing education requirement established by the
 10453 licensing board for clinical social work during the year immediately preceding
 10454 application.

10455 (b) Licensed master's social workers may render or offer to render to individuals,
 10456 marriages, couples, families, groups, organizations, governmental units, or the general
 10457 public service which is guided by knowledge of social resources, social systems, and
 10458 human behavior. They may provide evaluation, prevention, and intervention services
 10459 which include but are not restricted to community organization, counseling, and supportive
 10460 services such as administration, direction, supervision of bachelor's level social workers,
 10461 consultation, research, or education. The first two years of their practice after licensure as
 10462 a master's social worker shall be under direction and supervision. Thereafter, they may
 10463 engage in private practice, except that those social workers whose practice includes
 10464 counseling or psychotherapeutic techniques may only engage in such practice under the
 10465 supervision of a duly qualified supervisor and only for such period of time as is prescribed
 10466 for qualification to take the clinical social work licensing examination.

10467 (c) Licensed clinical social workers may practice all authorized services of licensed
 10468 master's social workers and may: provide supervision and direction; provide psychosocial
 10469 evaluation through data collection and analyses to determine the nature of an individual's
 10470 mental, cognitive, emotional, behavioral, and interpersonal problems or conditions; provide
 10471 counseling and psychotherapy to individuals, marriages, couples, families, and groups;
 10472 interpret the psychosocial dynamics of a situation and recommend and implement a course
 10473 of action to individuals, marriages, couples, families, or groups in such settings as private
 10474 practice, family service and counseling agencies, health care facilities, and schools; and
 10475 provide direct evaluation, casework, social work advocacy, education, training, prevention,
 10476 and intervention services in situations threatened or affected by social, intrapersonal, or
 10477 interpersonal stress or health impairment.

10478 43-10A-13.

10479 (a) The education, experience, and training requirements for licensure in marriage and
 10480 family therapy are as follows:

10481 (1) For licensure as an associate marriage and family therapist, a master's degree in a
10482 program in marriage and family therapy or a program including a master's degree and
10483 additional post-master's degree course work, both of which ~~programs~~ shall include three
10484 courses in marriage and family studies, three courses in marriage and family therapy,
10485 three courses in human development, one course in marriage and family therapy ethics,
10486 and one course in research, or from any program accredited by the Commission on
10487 Accreditation for Marriage and Family Therapy Education, which degree shall have been
10488 granted by a recognized educational institution; completion of a one-year practicum in
10489 marriage and family therapy under supervision before or after the granting of the master's
10490 degree, ~~which practicum shall include~~ including 500 hours of direct clinical experience
10491 in marriage and family therapy and 100 hours of supervision of such experience; and
10492 registration with the ~~board~~ director of an acceptable contract for obtaining the
10493 post-master's experience under direction and supervision required for licensure as a
10494 marriage and family therapist; and

10495 (2) For licensure as a marriage and family therapist:

10496 (A) Licensure as an associate marriage and family therapist and two years of full-time
10497 post-master's experience or its equivalent in the practice of marriage and family therapy
10498 under direction and supervision as an associate marriage and family therapist, which
10499 shall include a minimum of 2,000 hours of direct clinical experience and 100 hours of
10500 supervision of such experience and which shall be completed within a period of not less
10501 than two years and not more than five years;

10502 (B) A master's degree from a program in any specialty, any allied profession, applied
10503 child and family development, applied sociology, or from any program accredited by
10504 the Commission on Accreditation for Marriage and Family Therapy Education, which
10505 degree shall have been granted by a recognized educational institution and shall
10506 include, as part of the degree program or as additional post-master's degree course
10507 work, at least two courses in marriage and family studies, two courses in marriage and
10508 family therapy, and, after July 1, 2000, one course in marriage and family therapy
10509 ethics; and three years' full-time post-master's experience or its equivalent under
10510 direction and supervision in the practice of any specialty, which shall include a
10511 minimum of 2,500 hours of direct clinical experience, one year of which may have been
10512 in an approved practicum before or after the granting of the master's degree which shall
10513 include a minimum of 500 hours of direct clinical experience, and two years of which
10514 shall have been in the practice of marriage and family therapy which shall include a
10515 minimum of 2,000 hours of direct clinical experience, and 200 hours of supervision of
10516 such experience all of which shall be completed within a period of not less than three
10517 years and not more than five years; or

10518 (C) A doctorate degree from a program in any specialty, any allied profession, applied
 10519 child and family development, applied sociology, or from any program accredited by
 10520 the Commission on Accreditation for Marriage and Family Therapy ~~education~~
 10521 Education, which degree shall have been granted by a recognized educational
 10522 institution and shall include, as part of a master's or doctoral degree program or as
 10523 additional postgraduate degree course work, at least two courses in marriage and family
 10524 studies, two courses in marriage and family therapy, and, after July 1, 2000, one course
 10525 in marriage and family therapy ethics; two years' full-time post-master's experience
 10526 under direction in the practice of marriage and family therapy which shall include a
 10527 minimum of 1,500 hours of direct clinical experience, one year of which may have been
 10528 in an approved internship program before or after the granting of the doctoral degree,
 10529 which shall include a minimum of 500 hours of direct clinical experience, and one year
 10530 of which shall have been full-time post-master's experience, which shall include a
 10531 minimum of 1,000 hours of direct clinical experience; and 100 hours of supervision of
 10532 such experience in the practice of marriage and family therapy, 50 hours of which may
 10533 have been obtained while a student or intern in an accredited doctoral program.

10534 (b) Persons intending to apply for licensure as a marriage and family therapist and who
 10535 have completed one of the graduate degrees required for such licensure may register a
 10536 contract with the ~~board~~ director for obtaining the required post-master's experience under
 10537 direction and supervision.

10538 (c) Associate marriage and family therapists may only use the title 'associate marriage and
 10539 family therapist' and may practice marriage and family therapy only under direction and
 10540 supervision and only for a period not to exceed five years while obtaining the post-master's
 10541 experience required for licensure as a marriage and family therapist.

10542 43-10A-14.

10543 Application, examination, license, license renewal, and penalty fees shall be established
 10544 by the licensing board ~~pursuant to Code Section 43-1-7~~.

10545 43-10A-15.

10546 Expiration, renewal, and penalty dates for licenses issued under this chapter shall be
 10547 established ~~pursuant to Code Section 43-1-4~~ by the director. No person whose license has
 10548 expired shall have such license reinstated without complying with the rules and regulations
 10549 regarding reinstatement set forth by the licensing board.

10550 43-10A-16.

10551 The licensing board shall establish continuing education requirements for license renewal.
 10552 The number of hours of continuing education in each specialty shall not exceed the number
 10553 of hours available that year in each such specialty in licensing board approved courses
 10554 within the state. The ~~board~~ director may waive these continuing education requirements
 10555 for not more than 12 months, but such waiver shall only be available upon the licensee's
 10556 satisfactory showing to the ~~board~~ director of undue hardship.

10557 43-10A-17.

10558 (a) The ~~board~~ director shall have the authority to refuse to grant a license to an applicant
 10559 therefor or to revoke the license of ~~a person licensed by the board or to~~ or discipline a
 10560 person licensed by the ~~board~~ director, upon a finding by ~~a majority of the entire board~~ the
 10561 director that the licensee or applicant has:

10562 (1) Failed to demonstrate the qualifications or standards for a license contained in this
 10563 chapter or rules or regulations promulgated thereunder; it shall be incumbent upon the
 10564 applicant to demonstrate to the satisfaction of the ~~board~~ director that he or she meets all
 10565 the requirements for the issuance of a license, and, if the ~~board~~ director is not satisfied as
 10566 to the applicant's qualifications, ~~it~~ the director may deny a license without a prior hearing;
 10567 provided, however, that the applicant shall be allowed to appear before the licensing
 10568 board if he or she so desires;

10569 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
 10570 practice of a specialty or on any document connected therewith; ~~or~~ practiced fraud or
 10571 deceit or intentionally made any false statement in obtaining a license to practice the
 10572 specialty; or made a false statement or deceptive registration with the ~~board~~ director;

10573 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
 10574 of this state or any other state, territory, or country or in the courts of the United States;
 10575 as used in this paragraph and paragraph (4) of this subsection, the term 'felony' shall
 10576 include any offense which, if committed in this state, would be deemed a felony, without
 10577 regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'
 10578 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
 10579 appeal of the conviction has been sought;

10580 (4) Been arrested, charged, and sentenced for the commission of any felony, or any crime
 10581 involving moral turpitude, where:

10582 (A) First offender treatment without adjudication of guilt pursuant to the charge was
 10583 granted; or

10584 (B) An adjudication or sentence was otherwise withheld or not entered on the charge
 10585 except with respect to a plea of nolo contendere.

10586 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
 10587 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
 10588 treatment shall be conclusive evidence of arrest and sentencing for such crime;

10589 (5) Had his or her license to practice a specialty revoked, suspended, or annulled by any
 10590 lawful licensing authority other than the licensing board or the director; ~~or~~ had other
 10591 disciplinary action taken against him or her by any such lawful licensing authority other
 10592 than the licensing board or the director; ~~or~~ was denied a license by any such lawful
 10593 licensing authority other than the licensing board or the director, pursuant to disciplinary
 10594 proceedings; or was refused the renewal of a license by any such lawful licensing
 10595 authority other than the licensing board or the director, pursuant to disciplinary
 10596 proceedings;

10597 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
 10598 or practice harmful to the public; ~~which conduct or practice that~~ that materially affects the
 10599 fitness of the licensee or applicant to practice the specialty or is of a nature likely to
 10600 jeopardize the interest of the public; ~~which;~~ such conduct or practice need not have
 10601 resulted in actual injury to any person or be directly related to the practice of the specialty
 10602 but shows that the licensee or applicant has committed any act or omission which is
 10603 indicative of bad moral character or untrustworthiness; ~~unprofessional.~~ Unprofessional
 10604 conduct shall also include any departure from, or the failure to conform to, the minimal
 10605 standards of acceptable and prevailing practice of the specialty, as well as the practice of
 10606 any professional activity which the licensee or applicant is not qualified to perform by
 10607 virtue of not having acquired the requisite professional education, training, or experience;

10608 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
 10609 encourages any unlicensed person or any licensee whose license has been suspended or
 10610 revoked by the licensing board or the director to practice unlawfully a specialty or to
 10611 practice outside the scope of any disciplinary limitation placed upon the licensee by the
 10612 licensing board or the director;

10613 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
 10614 licensing board, the United States, or any other lawful authority (without regard to
 10615 whether the violation is criminally punishable); ~~which when such~~ when such statute, law, or rule or
 10616 regulation relates to or in part regulates the practice of the specialty; and when the
 10617 licensee or applicant knows or should know that such action ~~is violative of~~ violates such
 10618 statute, law, or rule; or violated a lawful order of the licensing board or the director
 10619 previously entered by the ~~board~~ director in a disciplinary hearing matter, consent decree,
 10620 or license reinstatement;

10621 (9) Been adjudged mentally incompetent by a court of competent jurisdiction within or
 10622 without this state; any such adjudication shall automatically suspend the license of any

10623 such person and shall prevent the reissuance or renewal of any license so suspended for
 10624 as so long as the adjudication of incompetence is in effect; or

10625 (10) Displayed an inability to practice the specialty with reasonable skill and safety to
 10626 the public or has become unable to practice the specialty with reasonable skill and safety
 10627 to the public by reason of illness; or use of alcohol, drugs, narcotics, chemicals, or any
 10628 other type of material:

10629 (A) In enforcing this subsection, the ~~board~~ director may, if it he or she has a reasonable
 10630 basis to believe that the licensee is practicing while incapacitated in the performance
 10631 of his or her duties by reason of substance abuse or mental or physical illness, require
 10632 a licensee or applicant to submit to a mental, physical, or mental and physical
 10633 examination by an appropriate licensed practitioner designated by the ~~board~~ director.
 10634 The results of such examination shall be admissible in any hearing before the licensing
 10635 board, notwithstanding any claim of privilege under a contrary rule of law or statute.
 10636 If a licensee fails to submit to each examination when properly directed to do so by the
 10637 ~~board~~ director, the ~~board~~ director may summarily suspend the license of such licensee,
 10638 if the public health, safety, and welfare imperatively require such action, and thereafter
 10639 enter a final order upon proper notice, hearing, and proof of such refusal; and

10640 (B) For the purpose of this subsection, the ~~board~~ director, if it he or she has a
 10641 reasonable basis to believe that the licensee is incapacitated in the performance of his
 10642 or her duties by reason of substance abuse or mental or physical illness, may require the
 10643 licensee to produce or give the ~~board~~ director permission to obtain any and all records
 10644 relating to the alleged incapacitating mental or physical condition of a licensee or
 10645 applicant, including that individual's personal psychiatric, psychological, and mental
 10646 health records; and such records shall be admissible in any hearing before the licensing
 10647 board. If a licensee fails to provide such records when properly directed to do so by the
 10648 ~~board~~ director, the ~~board~~ director may summarily suspend the license of such licensee,
 10649 if the public health, safety, and welfare imperatively require such action, and thereafter
 10650 enter a final order upon proper notice, hearing, and proof of such refusal.

10651 (b) The provisions of ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'~~
 10652 Code Section 43-1-3.1 with respect to emergency action by a professional licensing board
 10653 the director and summary suspension of a license are adopted and incorporated by
 10654 reference into this Code section.

10655 (c) For purposes of this Code section, the ~~board~~ director may obtain, through subpoena ~~by~~
 10656 ~~the division director~~, upon reasonable grounds, any and all records relating to the mental
 10657 or physical condition of a licensee or applicant, and such records shall be admissible in any
 10658 hearing before the licensing board.

10659 (d) When the ~~board~~ director finds that any person is unqualified to be granted a license or
 10660 finds that any person should be disciplined pursuant to subsection (a) of this Code section
 10661 or the laws, rules, or regulations relating to a specialty, the ~~board~~ director may take any one
 10662 or more of the following actions:

- 10663 (1) Refuse to grant or renew a license to an applicant;
- 10664 (2) Administer a public or private reprimand, but a private reprimand shall not be
 10665 disclosed to any person except the licensee;
- 10666 (3) Suspend any license for a definite period or for an indefinite period in connection
 10667 with any condition which may be attached to the restoration of said license;
- 10668 (4) Limit or restrict any license as the ~~board~~ director deems necessary for the protection
 10669 of the public;
- 10670 (5) Revoke any license;
- 10671 (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's
 10672 or licensee's submission to such care, counseling, or treatment as the ~~board~~ director may
 10673 direct; or
- 10674 (7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation
 10675 relating to the specialty.

10676 (e) In addition to and in conjunction with the actions described in subsection (d) of this
 10677 Code section, the ~~board~~ director may make a finding adverse to the licensee or applicant
 10678 but withhold imposition of judgment and penalty; or ~~it~~ the director may impose the
 10679 judgment and penalty but suspend enforcement thereof and place the licensee on probation,
 10680 which ~~probation~~ may be vacated upon noncompliance with such reasonable terms as the
 10681 ~~board~~ director may impose.

10682 (f) Any order or disciplinary action of the director taken pursuant to this Code section shall
 10683 be made in compliance with Code Section 43-1-3.1. Initial judicial review of a final
 10684 decision of the licensing board shall be had solely in the ~~superior court of the county of~~
 10685 ~~domicile of the board~~ Superior Court of Bibb County.

10686 (g) In ~~its~~ his or her discretion, the ~~board~~ director may reinstate a license which has been
 10687 revoked or issue a license which has been denied or refused, following such procedures as
 10688 the licensing board may prescribe by rule; and, as a condition thereof, ~~it~~ the director may
 10689 impose any disciplinary or corrective method provided in this Code section.

10690 (h)(1) The ~~division~~ director is vested with the power and authority to make, ~~or cause to~~
 10691 ~~be made through employees or agents of the board,~~ such investigations as he or she ~~or the~~
 10692 ~~board~~ may deem necessary or proper for the enforcement of the provisions of this
 10693 chapter. Any person properly conducting an investigation on behalf of the ~~board~~ director
 10694 shall have access to and may examine any writing, document, or other material relating
 10695 to the fitness of any licensee or applicant. The ~~division~~ director ~~or his or her appointed~~

10696 ~~representative~~ may issue subpoenas to compel such access upon a determination that
 10697 reasonable grounds exist for the belief that a violation of this chapter may have taken
 10698 place.

10699 (2) The results of all investigations initiated by the ~~board shall be reported solely to the~~
 10700 ~~board, director~~ and the records of such investigations shall be kept for the board by the
 10701 ~~division director, with the board retaining the right to have access at any time to such~~
 10702 ~~records~~. No part of any such records shall be released, except to the licensing board, for
 10703 any purpose other than a hearing before the licensing board, nor shall such records be
 10704 subject to subpoena; provided, however, that the ~~board~~ director shall be authorized to
 10705 release such records to another enforcement agency or lawful licensing authority.

10706 (3) If a licensee is the subject of a ~~board~~ director inquiry, all records relating to any
 10707 person who receives services rendered by that licensee in his or her capacity as licensee
 10708 shall be admissible at any hearing before the licensing board held to determine whether
 10709 a violation of this chapter has taken place, regardless of any statutory privilege; provided,
 10710 however, that any documentary evidence relating to a person who received those services
 10711 shall be reviewed in camera and shall not be disclosed to the public.

10712 (4) The ~~board~~ director shall have the authority to exclude all persons during ~~its~~ his or her
 10713 deliberations on disciplinary proceedings and to discuss any disciplinary matter in private
 10714 with a licensee or applicant and the legal counsel of that licensee or applicant.

10715 (i) A person, firm, corporation, association, authority, or other entity shall be immune from
 10716 civil and criminal liability for reporting or investigating the acts or omissions of a licensee
 10717 or applicant which violate the provisions of this chapter or for initiating or conducting
 10718 proceedings against such licensee or applicant, if such report is made or action is taken in
 10719 good faith, without fraud or malice. Any person who testifies or who makes a
 10720 recommendation to the licensing board or the director in the nature of peer review, in good
 10721 faith, without fraud or malice, before the licensing board or the director in any proceeding
 10722 involving the provisions of subsection (a) of this Code section shall be immune from civil
 10723 and criminal liability for so testifying.

10724 (j) Neither the issuance of a private reprimand nor the denial of a license by reciprocity nor
 10725 the denial of a request for reinstatement of a revoked license nor the refusal to issue a
 10726 previously denied license shall be considered to be a contested case within the meaning of
 10727 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; Act. Such action shall
 10728 be taken in compliance with Code Section 43-1-3.1 notice and hearing within the meaning
 10729 of said chapter shall not be required, but the applicant or licensee shall be allowed to appear
 10730 before the board if he so requests.

10731 (k) If any licensee or applicant after reasonable notice fails to appear at any hearing of the
 10732 licensing board, the licensing board may proceed to hear the evidence against such licensee

10733 or applicant and take action as if such licensee or applicant had been present. A notice of
 10734 hearing, initial or recommended decision, or final decision of the licensing board in a
 10735 disciplinary proceeding shall be served upon the licensee or applicant ~~by certified mail or~~
 10736 ~~statutory overnight delivery, return receipt requested, to the last known address of record~~
 10737 ~~with the board. If such material is returned marked 'unclaimed' or 'refused' or is otherwise~~
 10738 ~~undeliverable and if the licensee or applicant cannot, after diligent effort, be located, the~~
 10739 ~~division director shall be deemed to be the agent for service for such licensee or applicant~~
 10740 ~~for purposes of this Code section, and service upon the division director shall be deemed~~
 10741 ~~to be service upon the licensee or applicant as provided in Code Section 43-1-3.1.~~

10742 (l) The voluntary surrender of a license or the failure to renew a license by the end of an
 10743 established penalty period shall have the same effect as a revocation of said license, subject
 10744 to reinstatement in the discretion of the board director. The board director may restore and
 10745 reissue a license to practice a specialty and, as a condition thereof, may impose any
 10746 disciplinary sanction provided by this Code section.

10747 (m) This Code section shall apply equally to all licensees or applicants whether
 10748 individuals, partners, or members of any other incorporated or unincorporated associations,
 10749 limited liability companies, corporations, or other associations of any kind whatsoever.

10750 (n) Regulation by the licensing board of a specialty shall not exempt licensees under this
 10751 chapter from regulation pursuant to any other applicable law, including but not limited to
 10752 Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.'

10753 43-10A-18.

10754 Whenever it shall appear to the board director that any person is or has been violating any
 10755 provisions of this chapter or any of the lawful rules, regulations, or orders of the licensing
 10756 board or the director, the ~~board, the division~~ director, or the appropriate district attorney
 10757 may file a petition for injunction in the proper superior court of this state against such
 10758 person for the purpose of enjoining any such violation. It shall not be necessary to allege
 10759 or prove that there is no adequate remedy at law. The right of injunction provided for in
 10760 this Code section shall be in addition to any other legal remedy available, including but not
 10761 limited to any right of criminal prosecution provided by law.

10762 43-10A-19.

10763 It shall be unlawful for a person to obtain or attempt to obtain a license under this chapter
 10764 by fraudulent representation.

10765 43-10A-20.

10766 Any person violating Code Section 43-10A-7 or 43-10A-19 or ~~Code Section 43-10A-7~~
 10767 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine
 10768 of not less than \$100.00 nor more than \$1,000.00 for each offense and, in addition, may be
 10769 imprisoned for a term not to exceed 12 months.

10770 43-10A-21.

10771 (a) No corporation, partnership, association, or other business entity may use in its
 10772 corporate, partnership, association, or business name any term or title restricted under
 10773 subsection (a) of Code Section 43-10A-7 or the term 'professional counseling,' 'social
 10774 work,' or 'marriage and family therapy,' or any words, letters, titles, or figures indicating
 10775 or implying that such entity or any of its employees, officers, or agents are practicing a
 10776 specialty regulated under this chapter, unless each person practicing a specialty in that
 10777 entity, except those persons exempt under paragraph (1), (4), (5), (6), (11), (13), or (14) of
 10778 subsection (b) of Code Section 43-10A-7, is licensed under this chapter.

10779 (b) Any corporation, partnership, association, or other business entity which violates
 10780 subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction
 10781 thereof, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 for
 10782 each offense.

10783 43-10A-22.

10784 Nothing in this chapter shall be construed to authorize persons licensed under this chapter
 10785 to practice nursing, occupational therapy, physical therapy, medicine, or psychology, as
 10786 regulated under Chapters 26, 28, 33, 34, and 39, respectively, of this title nor shall anything
 10787 in this chapter be construed to limit or regulate the practice of those licensed under ~~said~~
 10788 Chapters 26, 28, 33, 34, and 39 of this title, nor shall anything in this chapter be construed
 10789 to authorize persons licensed under this chapter to perform psychological testing.

10790 43-10A-23.

10791 Nothing in this chapter shall be construed to mandate insurance coverage or reimbursement
 10792 for specialty practitioners licensed under this chapter."

10793 **SECTION 1-15.**

10794 Said title is further amended in Chapter 11, relating to dentists, dental hygienists, and dental
 10795 assistants, by revising Code Section 43-11-1, relating to definitions, as follows:

10796 "43-11-1.

10797 As used in this chapter, the term:

- 10798 (1) 'Accredited dental college' and 'accredited dental school' or 'accredited school of
 10799 dentistry' means a dental school, college, or university with an education program
 10800 accredited by the Commission on Dental Accreditation of the American Dental
 10801 Association or its successor agency.
- 10802 (2) 'Accredited dental hygiene school' means a dental hygiene education program
 10803 accredited by the Commission on Dental Accreditation of the American Dental
 10804 Association or its successor agency.
- 10805 (3) 'Advanced dental education program' means an accredited dental advanced specialty
 10806 education program or accredited dental education program accredited by the Commission
 10807 on Dental Accreditation of the American Dental Association or its successor agency.
- 10808 (4) 'Board' means the Georgia Board of Dentistry.
- 10809 (5) 'Conscious sedation' means a minimally depressed level of consciousness that retains
 10810 the patient's ability to independently and continuously maintain an airway and respond
 10811 appropriately to physical stimulation or verbal command and that is produced by a
 10812 pharmacological or nonpharmacological method or combination thereof. A patient
 10813 whose only response is reflex withdrawal from repeated painful stimuli shall not be
 10814 considered to be in a state of conscious sedation. The use of nitrous oxide is not
 10815 considered conscious sedation for purposes of this chapter.
- 10816 (6) 'Dentistry' means the evaluation, diagnosis, prevention, or treatment, or any
 10817 combination thereof, whether using surgical or nonsurgical procedures, of diseases,
 10818 disorders, or conditions, or any combination thereof, of the oral cavity, maxillofacial area,
 10819 or the adjacent and associated structures, or any combination thereof, and their impact on
 10820 the human body provided by a dentist, within the scope of his or her education, training,
 10821 and experience, in accordance with the ethics of the profession and applicable law,
 10822 including, but not limited to, the acts specified in Code Section 43-11-17.
- 10823 (6.1) 'Division director' means the individual appointed by the commissioner of
 10824 community health as the director of the Georgia Board of Dentistry.
- 10825 (7) 'General anesthesia' means an induced state of depressed consciousness, or an
 10826 induced state of unconsciousness, accompanied by partial or complete loss of protective
 10827 reflexes, including the inability to continually and independently maintain an airway and
 10828 respond purposefully to physical stimulation or verbal command, and produced by a
 10829 pharmacological or nonpharmacological method or combination thereof. For purposes
 10830 of this chapter, 'general anesthesia' includes deep sedation.
- 10831 (8) 'Instructor' means either a dentist or a dental hygienist whom the ~~state~~ licensing board
 10832 has granted a teacher's or instructor's license pursuant to Code Section 43-11-42.
- 10833 (9) 'Licensed dental hygienist' means a dental hygienist licensed and in good standing
 10834 in this state pursuant to this chapter.

10835 (10) 'Licensed dentist' means a dentist licensed and in good standing in this state
 10836 pursuant to this chapter.

10837 (11) 'Training clinic' means a clinic operated as a nonprofit facility by an accredited
 10838 dental college, advanced dental education program, or accredited dental hygiene school
 10839 primarily to train students or residents of such college, program, or school."

10840 **SECTION 1-16.**

10841 Said title is further amended by revising Chapter 11A, relating to dietitians, as follows:

10842 "CHAPTER 11A

10843 43-11A-1.

10844 This chapter shall be known and may be cited as the 'Dietetics Practice Act.'

10845 43-11A-2.

10846 The General Assembly acknowledges that the application of scientific knowledge relating
 10847 to nutrition is important in the treatment of disease and in the attainment and maintenance
 10848 of health; and acknowledges further that the rendering of sound dietetic or nutrition
 10849 services in hospitals, nursing homes, school districts, health departments, private practice
 10850 and consultation, and in other settings requires trained and competent professionals. It is
 10851 declared, therefore, to be the purpose of this chapter to protect the health, safety, and
 10852 welfare of the public by providing for the licensure and regulation of the activities of
 10853 persons engaged in dietetic practice.

10854 43-11A-3.

10855 As used in this chapter, the term:

10856 (1) 'Advertise' means, but is not limited to, the issuing of or causing to be distributed any
 10857 card, sign, or other device or the causing or permitting any sign or marking on or in any
 10858 building or structure or in any newspaper, magazine, or directory or announcement on
 10859 radio or announcement or display on television.

10860 (2) 'Applicant' means any person seeking a license under this chapter.

10861 (3) 'Board' means the Georgia Board of Examiners of Licensed Dietitians established by
 10862 this chapter, a professional licensing policy board pursuant to Chapter 1 of this title with
 10863 the authority and responsibility set forth in such chapter.

10864 (4) 'Dietetic practice' or 'dietetics' means the integration and application for
 10865 compensation of principles derived from the sciences of nutrition, biochemistry, food,

10866 physiology, management, and behavioral and social sciences to achieve and maintain
10867 client health through the provision of nutrition care services, which shall include:

10868 (A) Assessing the nutritional needs of individuals and groups based upon appropriate
10869 biochemical, anthropometric, physical, and dietary data to determine nutrient needs and
10870 recommend appropriate intake including enteral and parenteral nutrition;

10871 (B) Establishing priorities, goals, and objectives which meet nutritional needs and are
10872 consistent with available resources;

10873 (C) Providing dietetic nutrition counseling by advising and assisting individuals or
10874 groups on appropriate nutritional intake by integrating information from the nutritional
10875 assessment with information on food and other sources of nutrients and meal
10876 preparation consistent with cultural background and socioeconomic status;

10877 (D) Developing, implementing, and managing nutrition care delivery systems; and

10878 (E) Evaluating, making changes in, and maintaining standards of quality in food and
10879 nutrition care services.

10880 As used in this chapter, the terms 'dietetic practice,' 'dietetics,' and 'medical nutrition
10881 therapy' are interchangeable.

10882 (5) 'Dietitian' means a person duly licensed under this chapter to practice dietetics. As
10883 used in this chapter, the terms 'dietitian' and 'dietetic counselor' are interchangeable.

10884 (5.1) 'Director' means the director of professional licenses.

10885 (5.2) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
10886 Article 2 of Chapter 1 of this title.

10887 (6) 'Provisionally licensed dietitian' means a person provisionally licensed under this
10888 chapter.

10889 (7) 'Registered dietitian' means a person registered by the Commission on Dietetic
10890 Registration of the American Dietetic Association.

10891 43-11A-4.

10892 (a) There is created the Georgia Board of Examiners of Licensed Dietitians as a
10893 professional licensing policy board pursuant to Chapter 1 of this title. The board shall
10894 consist of seven members as follows:

10895 (1) Six members shall be dietitians with at least one member from each of the following
10896 areas of dietetic practice: clinical dietetics; community or public health dietetics; an
10897 educator on the faculty of a college or university specializing in the field of dietetics; and
10898 the private practice of dietetics; and

10899 (2) One member shall represent the public at large.

10900 (b) The Georgia Board of Examiners of Licensed Dietitians existing immediately prior to
10901 July 1, 1994, is continued in existence and shall continue to consist of seven members to

10902 be appointed by the Governor with the confirmation of the Senate. Members of the board
 10903 shall take office on the first day of July immediately following the expired terms of that
 10904 office and shall serve for a term of four years and until their successors are appointed and
 10905 qualified. Those persons serving as members of the board immediately prior to July 1,
 10906 1994, shall continue to serve out their respective terms of office and until their respective
 10907 successors are appointed and qualified. Any person appointed to the board when the
 10908 Senate is not in session may serve on the board without Senate confirmation until the
 10909 Senate acts on that appointment. No member shall serve on the board for more than two
 10910 consecutive terms. Any vacancy shall be filled by the Governor subject to confirmation
 10911 of the Senate.

10912 (c) All members of the board shall be reimbursed as provided for in subsection (f) of Code
 10913 Section 43-1-2.

10914 (d) All members of the board shall take the constitutional oath of office.

10915 43-11A-5.

10916 (a) Professional members of the board shall:

10917 (1) Be citizens of the United States and residents of this state;

10918 (2) Have engaged in the dietetic practice for compensation for not less than five years;
 10919 and

10920 (3) Be licensed under this chapter.

10921 (b) Consumer members of the board shall be appointed by the Governor from the public
 10922 at large, shall be citizens of the United States and residents of this state, and shall have no
 10923 connection whatsoever with dietetic practice.

10924 (c) The Governor may remove members of the board, after notice and opportunity for
 10925 hearing, for incompetence, neglect of duty, unprofessional conduct, conviction of any
 10926 felony, failure to meet the qualifications of this chapter, or committing any act prohibited
 10927 by this chapter.

10928 43-11A-6.

10929 The board shall meet annually and shall elect from its members a chairperson, vice
 10930 chairperson, and any other officers as deemed necessary who shall hold office according
 10931 to the rules adopted by the board. In addition to its annual meeting, the board shall hold
 10932 at least two other meetings each year as provided by the rules adopted by the board.

10933 43-11A-7.

10934 (a) ~~This board~~ The director shall have the power to:

- 10935 (1) Enforce the provisions of this chapter, and ~~it~~ the director shall be granted all of the
 10936 necessary duties, powers, and authority to carry out this responsibility;
- 10937 ~~(2) Draft, adopt, amend, repeal, and enforce such rules as it deems necessary for the~~
 10938 ~~administration and enforcement of this chapter in the protection of public health, safety,~~
 10939 ~~and welfare; Reserved;~~
- 10940 (3) License duly qualified applicants by examination, endorsement, or reinstatement;
- 10941 (4) Implement the disciplinary process;
- 10942 (5) Enforce qualifications for licensure;
- 10943 ~~(6) Set standards for competency of licensees continuing in or returning to practice~~
 10944 Enter orders or take other action consistent with this chapter, which shall be entered in
 10945 compliance with Code Section 43-1-3.1;
- 10946 (7) Issue orders when a license is surrendered ~~to the board~~ while a complaint,
 10947 investigation, or disciplinary action against such license is pending;
- 10948 ~~(8) Adopt, revise, and enforce rules regarding the advertising by licensees including, but~~
 10949 ~~not limited to, rules to prohibit false, misleading, or deceptive practices; Reserved;~~
- 10950 ~~(9) Adopt, publish in print or electronically, and enforce a code of ethics; Reserved;~~
- 10951 ~~(10) Establish examination and licensing fees; Reserved;~~
- 10952 (11) Request and receive the assistance of state educational institutions or other state
 10953 agencies; and
- 10954 (12) Prepare information of consumer interest describing the regulatory functions of the
 10955 ~~board~~ office of the director and describing the procedures by which consumer complaints
 10956 are filed with and resolved by the ~~board~~ director. The ~~board~~ director shall make the
 10957 information available to the general public and appropriate state agencies;
- 10958 ~~(13) Establish continuing education requirements; and~~
- 10959 ~~(14) Adopt a seal which shall be affixed only in such manner as prescribed by the board.~~
- 10960 (b) The licensing board shall have the power to:
- 10961 (1) Draft, adopt, amend, repeal, and enforce such rules as it deems necessary for the
 10962 administration and enforcement of this chapter in the protection of public health, safety,
 10963 and welfare;
- 10964 (2) Set standards for competency of licensees continuing in or returning to practice;
- 10965 (3) Adopt, revise, and enforce rules regarding the advertising by licensees including, but
 10966 not limited to, rules to prohibit false, misleading, or deceptive practices;
- 10967 (4) Adopt, publish in print or electronically, and enforce a code of ethics;
- 10968 (5) Establish examination and licensing fees; and
- 10969 (6) Conduct hearings upon the petition of any person who is aggrieved or adversely
 10970 affected by an order or action of the director, which shall be conducted by the licensing

10971 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
10972 Act.'

10973 43-11A-8.

10974 The ~~board~~ director may grant, upon application and payment of proper fees, a license
10975 without examination to a person who, at the time of application, either:

10976 (1) Holds a valid license as a licensed dietitian issued by another state, political territory,
10977 or jurisdiction acceptable to the licensing board if, in the ~~board's~~ director's opinion, the
10978 requirements for that license are substantially equal to or greater than the requirements
10979 of this chapter; or

10980 (2) Presents evidence satisfactory to the ~~board~~ director that the applicant is registered as
10981 a registered dietitian by the Commission on Dietetic Registration of the American
10982 Dietetic Association or its successor organization.

10983 43-11A-9.

10984 Each applicant for a license as a dietitian shall be at least 18 years of age, shall have
10985 submitted a completed application upon a form and in such manner as the licensing board
10986 prescribes, accompanied by applicable fees, and shall be in compliance with the following
10987 requirements:

10988 (1) Receipt of a baccalaureate or higher degree from a college or university accredited
10989 by the Southern Association of Schools and Colleges or any other regional accreditation
10990 agency with a major course of study in dietetics, human nutrition, food and nutrition,
10991 nutrition education, or food systems management;

10992 (2) Satisfactory completion of a documented, supervised experience component in
10993 dietetic practice of not less than 900 hours supervised by a licensed dietitian or registered
10994 dietitian as prescribed by the licensing board;

10995 (3) Successful completion of an examination as required by Code Section 43-11A-13;
10996 and

10997 (4) Completion of such other requirements as may be prescribed by the licensing board.

10998 43-11A-10.

10999 A provisional permit to practice as a provisionally licensed dietitian under the supervision
11000 of a dietitian may be issued by the ~~board~~ director upon the filing of an application with
11001 appropriate fees and submission of evidence of successful completion of a substantial
11002 portion of the requirements for licensure as provided by Code Section 43-11A-9, at the
11003 discretion of the ~~board~~ director. The permit shall be issued for one year and may be
11004 renewed at the discretion of the ~~board~~ director for a length of time determined by the

11005 licensing board. A renewal fee may be required by the licensing board to maintain a
11006 provisional license.

11007 43-11A-11.

11008 The licensing board may require that all applications be made under oath.

11009 43-11A-12.

11010 After evaluation of an application and other evidence submitted, the ~~board~~ director shall
11011 notify each applicant that the application and evidence submitted are satisfactory and
11012 accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for
11013 the rejection.

11014 43-11A-13.

11015 (a) Examinations to determine competence shall be administered to qualified applicants
11016 at least twice each calendar year. The examinations may be administered by a national
11017 testing service. The licensing board shall prescribe or develop the examinations which may
11018 include an examination given by the Commission on Dietetic Registration of the American
11019 Dietetic Association or any other examination approved by two-thirds' vote of the licensing
11020 board.

11021 (b) The ~~board~~ director shall notify each examinee of the results of the examination.

11022 43-11A-14.

11023 (a) A license issued by the ~~board~~ director is the property of the ~~board~~ director and must be
11024 surrendered on demand.

11025 (b) The licensee shall display the license certificate in an appropriate and public manner.

11026 (c) The licensee shall inform the ~~board~~ director of any change of address.

11027 (d) The license shall be renewed biennially if the licensee is not in violation of this chapter
11028 at the time of application for renewal and if the applicant fulfills current requirements of
11029 continuing education as established by the licensing board.

11030 (e) Each person licensed under this chapter is responsible for renewing his or her license
11031 before the expiration date.

11032 (f) Under procedures and conditions established by the licensing board, a licensee may
11033 request that his or her license be declared inactive. The licensee may apply for active status
11034 at any time and upon meeting the conditions set by the licensing board shall be declared
11035 active.

11036 43-11A-15.

11037 (a) The ~~board~~ director may refuse to grant or renew a license to an applicant; administer
 11038 a public or private reprimand, but a private reprimand shall not be disclosed to any person
 11039 except the licensee; suspend any licensee for a definite period or for an indefinite period
 11040 in connection with any condition which may be attached to the restoration of said license;
 11041 limit or restrict any licensee as the ~~board~~ director deems necessary for the protection of the
 11042 public; revoke any license; condition the penalty upon, or withhold formal disposition
 11043 pending, the applicant's or licensee's submission to such care, counseling, or treatment as
 11044 the ~~board~~ director may direct; or impose a fine not to exceed \$500.00 for each violation of
 11045 a law, rule, or regulation relating to the profession regulated by this chapter upon a finding
 11046 ~~by a majority of the entire board~~ that the licensee or applicant has:

11047 (1) Failed to demonstrate the qualifications or standards for a license contained in this
 11048 Code section or under the laws, rules, or regulations under which licensure is sought or
 11049 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the
 11050 ~~board~~ director that ~~said~~ the applicant meets all the requirements for the issuance of a
 11051 license, and, if the ~~board~~ director is not satisfied as to the applicant's qualifications, ~~it~~ the
 11052 director may deny a license without a prior hearing; provided, however, that the applicant
 11053 shall be allowed to appear before the licensing board if he or she so desires;

11054 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
 11055 practice of a business or profession licensed under this title or on any document
 11056 connected therewith; or practiced fraud or deceit or intentionally made any false
 11057 statement in obtaining a license to practice the licensed business or profession; or made
 11058 a false statement or deceptive registration with the ~~board~~ director;

11059 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
 11060 of this state or any other state, territory, or country or in the courts of the United States;
 11061 as used in this paragraph and paragraph (4) of this Code section, the term 'felony' shall
 11062 include any offense which, if committed in this state, would be deemed a felony, without
 11063 regard to its designation elsewhere; and, as used in this paragraph, the term 'conviction'
 11064 shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an
 11065 appeal of the conviction has been sought;

11066 (4) Been arrested, charged, and sentenced for the commission of any felony, or any crime
 11067 involving moral turpitude, where:

11068 (A) A plea of nolo contendere was entered to the charge;

11069 (B) First offender treatment without adjudication of guilt pursuant to the charge was
 11070 granted; or

11071 (C) An adjudication or sentence was otherwise withheld or not entered on the charge.

11072 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
 11073 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
 11074 treatment shall be conclusive evidence of arrest and sentencing for such crime;

11075 (5) Had his or her license to practice a business or profession licensed under this title
 11076 revoked, suspended, or annulled by any lawful licensing authority other than the ~~board~~
 11077 director; ~~or~~ had other disciplinary action taken against him or her by any such lawful
 11078 licensing authority other than the licensing board or the director; ~~or~~ was denied a license
 11079 by any such lawful licensing authority other than the licensing board or the director,
 11080 pursuant to disciplinary proceedings; or was refused the renewal of a license by any such
 11081 lawful licensing authority other than the licensing board or the director, pursuant to
 11082 disciplinary proceedings;

11083 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
 11084 or practice harmful to the public; ~~which conduct or practice that~~ that materially affects the
 11085 fitness of the licensee or applicant to practice a business or profession licensed under this
 11086 title; or is of a nature likely to jeopardize the interest of the public; ~~which; such~~ such conduct
 11087 or practice need not have resulted in actual injury to any person or be directly related to
 11088 the practice of the licensed business or profession but shows that the licensee or applicant
 11089 has committed any act or omission which is indicative of bad moral character or
 11090 untrustworthiness; ~~unprofessional.~~ Unprofessional conduct shall also include any
 11091 departure from, or the failure to conform to, the minimal standards of acceptable and
 11092 prevailing practice of the business or profession licensed under this title;

11093 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
 11094 encourages any unlicensed person or any licensee whose license has been suspended or
 11095 revoked by a professional licensing board to practice a business or profession licensed
 11096 under this title or to practice outside the scope of any disciplinary limitation placed upon
 11097 the licensee by the licensing board or the director;

11098 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
 11099 professional licensing board regulating the business or profession licensed under this title,
 11100 the United States, or any other lawful authority, without regard to whether the violation
 11101 is criminally punishable, ~~which when such~~ when such statute, law, or rule or regulation relates to or
 11102 in part regulates the practice of a business or profession licensed under this title; and
 11103 when the licensee or applicant knows or should know that such action ~~is violative of~~
 11104 violates such statute, law, or rule or regulation; or violated a lawful order of the licensing
 11105 board or the director previously entered by the licensing board or the director in a
 11106 disciplinary hearing, consent decree, or license reinstatement;

11107 (9) Been adjudged mentally incompetent by a court of competent jurisdiction within or
 11108 outside of this state; any such adjudication shall automatically suspend the license of any

11109 such person and shall prevent the reissuance or renewal of any license so suspended for
 11110 as so long as the adjudication of incompetence is in effect; or

11111 (10) Displayed an inability to practice a business or profession licensed under this title
 11112 with reasonable skill and safety to the public or has become unable to practice the
 11113 licensed business or profession with reasonable skill and safety to the public by reason
 11114 of illness; or the use of alcohol, drugs, narcotics, chemicals, or any other type of material.

11115 (b) An order of the director entered pursuant to this Code section shall be made in
 11116 compliance with Code Section 43-1-3.1.

11117 43-11A-16.

11118 (a) Only a person licensed or otherwise authorized to practice under this chapter shall be
 11119 engaged in dietetic practice or use the title 'dietitian' or use the letters 'LD' or any facsimile
 11120 thereof or represent himself or herself to the public as a dietitian.

11121 (b) Notwithstanding any other provisions of this Code section, a person duly registered as
 11122 a registered dietitian shall have the right to use the title 'registered dietitian,' the designation
 11123 'RD,' or any facsimile thereof.

11124 (c) Any person violating the provisions of subsection (a) of this Code section shall be
 11125 guilty of a misdemeanor.

11126 43-11A-17.

11127 ~~Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the 'Georgia~~
 11128 ~~Administrative Procedure Act.'~~ Any order or other action of the director made under this
 11129 chapter shall be made in compliance with Code Section 43-1-3.1.

11130 43-11A-18.

11131 Nothing in this chapter shall be construed to affect or prevent:

11132 (1) A student enrolled in an approved academic program in dietetics from engaging in
 11133 the practice of dietetics under the supervision of a dietitian; or a dietetic technician,
 11134 certified dietary manager, or dietetic aide in a health care facility from providing nutrition
 11135 services under the supervision of or in consultation with a dietitian;

11136 (2) A dietitian who is serving in the armed forces of the United States or any other
 11137 federal agency from engaging in the practice of dietetics, provided that such practice is
 11138 related to service or employment;

11139 (3) Persons licensed to practice the professions of dentistry, medicine, osteopathy,
 11140 chiropractic, nursing, or pharmacy from engaging in the practice of dietetics when
 11141 incidental to the practice of their profession, except that such persons may not use the title
 11142 'dietitian';

11143 (4) A nonresident registered dietitian from practicing dietetics in this state for five days
11144 without a license or up to 30 days per year with licensure from another state if the
11145 requirements for licensure are substantially equal to the requirements contained in this
11146 chapter;

11147 (5) Employees of a department, agency, or division of state, county, or local government
11148 from engaging in the practice of dietetics within the discharge of official duties when
11149 such practice is directed by or in consultation with a dietitian licensed under this chapter;

11150 (6) Persons who were engaged in dietetic practice prior to July 1, 1994, but the
11151 prohibition of Code Section 43-11A-16 shall apply to such persons on and after July 1,
11152 1995;

11153 (7) Persons who provide weight control services, provided the weight control program
11154 has been reviewed by, consultation is available from, and no program change can be
11155 initiated without the prior approval of either a dietitian licensed under this chapter, a
11156 dietitian licensed in another state which has licensure requirements which are
11157 substantially equal to the requirements contained in this chapter, or a registered dietitian;

11158 (8) Persons from marketing or distributing food, disseminating information on food, food
11159 materials, dietary or food supplements, or minerals or herbs, including but not limited to
11160 operators and employees of health food stores or other licensed businesses which sell
11161 such products, provided that such persons shall not engage in the oral or written
11162 explanation of the historical use, benefit, or preparation of such products which is
11163 intentionally deceptive or fraudulent, and such persons shall not furnish specific nutrition
11164 information related to such products which is deceptive or fraudulent. Persons included
11165 in this paragraph shall not use the title 'dietitian' and shall not designate themselves by
11166 any other term or title which implies that such persons are licensed under this chapter;

11167 (9) The practice of the tenets of any religion, sect, or denomination whatsoever, provided
11168 that a member of such religion, sect, or denomination shall not use the title 'dietitian' and
11169 shall not designate himself or herself by any other term or title which implies that such
11170 member is engaged in dietetic practice; or

11171 (10) Persons with a master's or doctorate degree from any regionally accredited college
11172 or university with a major course of study in human nutrition, food and nutrition,
11173 dietetics, food systems management, or nutrition education, or persons with a doctorate
11174 degree from a regionally accredited college or university with a major course of study in
11175 nutritional biochemistry, provided that such persons shall not use the title 'dietitian.'

11176 43-11A-19.

11177 A person who does not meet the requirements for licensure under this chapter but who has
11178 been employed as a nutritionist under the state or a county merit system for at least five

11179 years prior to July 1, 1993, and who makes application for licensure as a dietitian prior to
 11180 July 1, 1995, may be granted a license as a dietitian if he or she pays the required fee and
 11181 complies with the continuing education requirements established by the licensing board."

11182 **SECTION 1-17.**

11183 Said title is further amended by revising Chapter 14, relating to electrical contractors,
 11184 plumbers, conditioned air contractors, low-voltage contractors, and utility contractors, as
 11185 follows:

11186 "CHAPTER 14

11187 43-14-1.

11188 This chapter is enacted for the purpose of safeguarding homeowners, other property
 11189 owners, tenants, and the general public against faulty, inadequate, inefficient, or unsafe
 11190 electrical, plumbing, low-voltage wiring, utility contracting, or conditioned air installations.
 11191 The practice of electrical contracting, plumbing contracting, installing, or repairing,
 11192 low-voltage contracting, utility contracting, and conditioned air contracting are declared
 11193 to be businesses or professions affecting the public interest; and this chapter shall be
 11194 liberally construed so as to accomplish the purposes stated in this Code section.

11195 43-14-2.

11196 As used in this chapter, the term:

11197 (1) 'Alarm system' means any device or combination of devices used to detect a
 11198 situation, causing an alarm in the event of a burglary, fire, robbery, medical emergency,
 11199 or equipment failure, or on the occurrence of any other predetermined event.

11200 (1) 'Board' means the State Construction Industry Licensing Board, a professional
 11201 licensing policy board pursuant to Chapter 1 of this title with the authority and
 11202 responsibility set forth in such chapter.

11203 (2) 'Certificate of competency' means a valid and current certificate issued ~~by the~~
 11204 ~~Division of Electrical Contractors created in Code Section 43-14-3, which certificate shall~~
 11205 ~~give as provided in this chapter that gives~~ the named electrical contractor to which it is
 11206 issued authority to engage in electrical contracting of the kind described therein.
 11207 Certificates of competency shall be of two kinds, Class I and Class II, according to the
 11208 classification of license held by the electrical contractor.

11209 (3) 'Conditioned air contracting' means the installation, repair, or service of conditioned
 11210 air systems or conditioned air equipment. Service to or installation of the electrical
 11211 connection between the electrical disconnect and conditioned air equipment is considered

- 11212 to be installation, repair, or service of conditioned air equipment or the conditioned air
 11213 system. Service to or installation of the electrical circuit from the electrical distribution
 11214 panel to the conditioned air equipment where the electrical service to the building or site
 11215 is a single-phase electrical circuit not exceeding 200 amperes is considered to be
 11216 installation, repair, or service of conditioned air equipment or the conditioned air system.
- 11217 (4) 'Conditioned air contractor' means an individual who is engaged in conditioned air
 11218 contracting under express or implied contract or who bids for, offers to perform, purports
 11219 to have the capacity to perform, or does perform conditioned air contracting services
 11220 under express or implied contract. The term 'conditioned air contractor' shall not include
 11221 a person who is an employee of a conditioned air contractor and who receives only a
 11222 salary or hourly wage for performing conditioned air contracting work.
- 11223 (5) 'Conditioned air equipment' means heating and air-conditioning equipment covered
 11224 under state codes and the natural gas piping system on the outlet side of the gas meter.
- 11225 (6) 'Electrical contracting' means the installation, maintenance, alteration, or repair of
 11226 any electrical equipment, apparatus, control system, or electrical wiring device which is
 11227 attached to or incorporated into any building or structure in this state but shall not include
 11228 low-voltage contracting.
- 11229 (6.1) 'Director' means the director of professional licensing.
- 11230 (7) 'Electrical contractor' means any person who engages in the business of electrical
 11231 contracting under express or implied contract or who bids for, offers to perform, purports
 11232 to have the capacity to perform, or does perform electrical contracting services under
 11233 express or implied contract. The term 'electrical contractor' shall not include a person
 11234 who is an employee of an electrical contractor and who receives only a salary or hourly
 11235 wage for performing electrical contracting work.
- 11236 (8) 'Executive director' means the executive director of the State Construction Industry
 11237 Licensing Board.
- 11238 (8.1) 'General system' means any electrical system, other than an alarm or
 11239 telecommunication system, involving low-voltage wiring.
- 11240 (9) 'Journeyman plumber' means any person other than a master plumber who has
 11241 practical knowledge of the installation of plumbing and installs plumbing under the
 11242 direction of a master plumber.
- 11243 (10) 'License' means a valid and current certificate of registration issued ~~by a division of~~
 11244 ~~the board which certificate shall give~~ as provided in this chapter that gives the named
 11245 person to whom it is issued authority to engage in the activity prescribed thereon.
- 11246 (10.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created
 11247 by Article 2 of Chapter 1 of this title.

11248 (10.2) 'Low-voltage contracting' means the installation, alteration, service, or repair of
 11249 a telecommunication system, alarm system, or general system involving low-voltage
 11250 wiring.

11251 ~~(10.2)~~(10.3) 'Low-voltage contractor' means an individual who is engaged in low-voltage
 11252 contracting under express or implied contract or who bids for, offers to perform, purports
 11253 to have the capacity to perform, or does perform low-voltage contracting services under
 11254 express or implied contract. An employee of a low-voltage contractor who receives only
 11255 a salary or hourly wage for performing low-voltage contracting work shall not be
 11256 required to be licensed under this chapter, except that those employees upon whom the
 11257 qualification of a partnership, limited liability company, or corporation rests as outlined
 11258 in subsection ~~(b)~~(a) of Code Section 43-14-8.1 shall be licensed.

11259 ~~(10.3)~~(10.4) 'Low-voltage wiring' means:

11260 (A) Wiring systems of 50 volts or less and control circuits directly associated
 11261 therewith;

11262 (B) Wiring systems having a voltage in excess of 50 volts, provided such systems
 11263 consist solely of power limited circuits meeting the definition of a Class II and Class
 11264 III wiring system as defined in Article 725 of the National Electrical Code; or

11265 (C) Line voltage wiring having a voltage not in excess of 300 volts to ground and
 11266 installed from the load-side terminals of a suitable disconnecting means which has been
 11267 installed for the specific purpose of supplying the low-voltage wiring system involved
 11268 or installed from a suitable junction box which has been installed for such specific
 11269 purpose.

11270 (11) 'Master plumber' means any individual engaging in the business of plumbing under
 11271 express or implied contract or who bids for, offers to perform, purports to have the
 11272 capacity to perform, or does perform plumbing contracting services under express or
 11273 implied contract.

11274 (12) 'Plumbing' means the practice of installing, maintaining, altering, or repairing piping
 11275 fixtures, appliances, and appurtenances in connection with sanitary drainage or storm
 11276 drainage facilities, venting systems, medical gas piping systems, natural gas piping
 11277 systems on the outlet side of gas meters, or public or private water supply systems within
 11278 or adjacent to any building, structure, or conveyance; provided, however, that after July
 11279 1, 1997, only master plumbers and journeyman plumbers who have been certified by the
 11280 Division of Master Plumbers and Journeyman Plumbers to perform such tasks shall be
 11281 authorized to install, maintain, alter, or repair medical gas piping systems; and provided,
 11282 further, that after July 1, 2012, only master plumbers and journeyman plumbers who have
 11283 been certified by the director to perform such tasks shall be authorized to install,
 11284 maintain, alter, or repair medical gas piping systems. The term 'plumbing' also includes

11285 the practice of and materials used in installing, maintaining, extending, or altering the
 11286 natural gas, storm-water, sewerage, and water supply systems of any premises to their
 11287 connection with any point of public disposal or other acceptable terminal; provided,
 11288 however, that licensure under this chapter shall not be required for a contractor certified
 11289 by the Department of Public Health to make the connection to any on-site waste-water
 11290 management system from the stub out exiting the structure to an on-site waste-water
 11291 management system. Notwithstanding any other provision of this chapter, any person
 11292 who holds a valid master plumbing license or any company which holds a valid utility
 11293 contractor license shall be qualified to construct, alter, or repair any plumbing system
 11294 which extends from the property line up to but not within five feet of any building,
 11295 structure, or conveyance, regardless of the cost or depth of any such plumbing system.

11296 (12.1) 'Telecommunication system' means a switching system and associated apparatus
 11297 which performs the basic function of two-way voice or data service, or both, and which
 11298 can be a commonly controlled system capable of being administered both locally and
 11299 remotely via secured access.

11300 (13) 'Utility contracting' means undertaking to construct, erect, alter, or repair or have
 11301 constructed, erected, altered, or repaired any utility system.

11302 (14) 'Utility contractor' means a sole proprietorship, partnership, or corporation which
 11303 is engaged in utility contracting under express or implied contract or which bids for,
 11304 offers to perform, purports to have the capacity to perform, or does perform utility
 11305 contracting under express or implied contract.

11306 (15) 'Utility foreman' means any individual who is employed by a licensed contractor to
 11307 supervise the construction, erection, alteration, or repair of utility systems.

11308 (16) 'Utility manager' means any individual who is employed by a utility contractor to
 11309 have oversight and charge of the construction, erection, alteration, or repair of utility
 11310 systems.

11311 (17) 'Utility system' means:

11312 (A) Any system at least five feet underground, when installed or accessed by trenching,
 11313 open cut, cut and cover, or other similar construction methods which install or access
 11314 the system from the ground surface, including, but not limited to, gas distribution
 11315 systems, electrical distribution systems, communication systems, water supply systems,
 11316 and sanitary sewerage and drainage systems; and

11317 (B) Reservoirs and filtration plants, water and waste-water treatment plants, leachate
 11318 collection and treatment systems associated with landfills, and pump stations, when the
 11319 system distributes or collects a service, product, or commodity for which a fee or price
 11320 is paid for said service, product, or commodity or for the disposal of said service,
 11321 product, or commodity.

11322 43-14-3.

11323 (a) There is created within the executive branch of state government the State Construction
11324 Industry Licensing Board as a professional licensing policy board. The board shall be
11325 assigned to the Secretary of State's office for administrative purposes and shall be under
11326 the jurisdiction of the ~~division~~ director.

11327 (b) The board shall be composed of 27 members as follows:

11328 (1) Five members known as the Division of Electrical Contractors, one of whom shall
11329 be a consulting engineer engaged in electrical practice, another of whom shall be the
11330 chief electrical inspector of a county or municipality and shall have served in such office
11331 for five years immediately preceding appointment to the board, and the remaining three
11332 of whom shall be engaged in the electrical contracting business;

11333 (2) Five members known as the Division of Master Plumbers and Journeyman Plumbers,
11334 one of whom shall be a full-time plumbing inspector of a county or municipality, three
11335 of whom shall be master or contracting plumbers, and one of whom shall be a
11336 journeyman plumber;

11337 (3) Five members known as the Division of Conditioned Air Contractors, one of whom
11338 shall be a licensed professional engineer engaged in mechanical practice, one of whom
11339 shall be the chief conditioned air inspector of a county or municipality, and three of
11340 whom shall be conditioned air contractors with more than five years of installation and
11341 service experience in the trade;

11342 (4) Five members known as the Division of Low-voltage Contractors, one of whom shall
11343 be an alarm system low-voltage contractor, one of whom shall be an unrestricted
11344 low-voltage contractor, one of whom shall be a telecommunication system low-voltage
11345 contractor, one of whom shall be a professional electrical engineer, and one of whom
11346 shall be the chief electrical inspector of a county or municipality;

11347 (5) Five members known as the Division of Utility Contractors, three of whom shall be
11348 utility contractors, one of whom shall be a registered professional engineer, and one of
11349 whom shall be an insurance company representative engaged primarily in the bonding of
11350 construction projects; and

11351 (6) Two members who shall not have any connection with the electrical contracting,
11352 plumbing, or conditioned air contracting businesses whatsoever but who shall have a
11353 recognized interest in consumer affairs and consumer protection concerns.

11354 (c) All members shall be appointed by the Governor, subject to confirmation by the
11355 Senate, for four-year terms.

11356 (d) A member shall serve until a successor has been duly appointed and qualified.

11357 (e) The Governor shall make appointments to fill the unexpired portions of any terms
11358 vacated for any reason. In making such appointments, the Governor shall preserve the

11359 composition of the board as required by this chapter. Members shall be eligible for
11360 reappointment.

11361 (f) Any ~~appointive~~ appointed member who, during his or her term, shall cease to meet the
11362 qualifications for original appointment shall thereby forfeit membership on the board.

11363 (g) Each member of the board shall take an oath of office before the Governor to faithfully
11364 perform the duties of such office.

11365 (h) The Governor may remove any member for failure to attend meetings, neglect of duty,
11366 incompetence, revocation or suspension of professional trade license, or other dishonorable
11367 conduct.

11368 (i) Members of the board shall be reimbursed as provided for in subsection (f) of Code
11369 Section 43-1-2.

11370 43-14-4.

11371 (a) The office of chairperson shall be rotated among the five divisions enumerated in Code
11372 Section 43-14-3 unless the board, through its rules and regulations, provides otherwise.
11373 Any vacancy in the office of chairperson shall be filled by the members for the unexpired
11374 term. The person selected to fill the vacancy shall be a member of the same division as the
11375 previous chairperson.

11376 (b) The board shall meet at the call of the chairperson or upon the recommendation of a
11377 majority of its members.

11378 (c) Each division within the board shall also elect from its membership a chairperson who
11379 shall serve for a term of two years. Any vacancy in the office of chairperson shall be filled
11380 by one of the members for the unexpired term.

11381 (d) Any member elected chairperson of a division may serve more than one consecutive
11382 term of office.

11383 (e) Each division shall carry out its powers and duties provided for in this chapter with the
11384 assistance of the executive director and staff of the board.

11385 (f) The divisions shall meet at the call of the chairperson.

11386 (g) Three members of each division shall constitute a quorum for the transaction of
11387 business of such division.

11388 43-14-5.

11389 (a) The licensing board shall have the power to:

11390 ~~(1) Request from the various state departments and other agencies and authorities of the~~
11391 ~~state and its political subdivisions and their agencies and authorities such available~~
11392 ~~information as it may require in its work; and all such agencies and authorities shall~~
11393 ~~furnish such requested available information to the board within a reasonable time;~~

- 11394 (1) Promulgate and adopt rules and regulations necessary to carry out this chapter.
- 11395 (2) Provide by regulation for reciprocity with other states in the registration and licensing
- 11396 of electrical contractors, master plumbers, journeyman plumbers, low-voltage contractors,
- 11397 utility contractors, or conditioned air contractors and in the certification of utility
- 11398 contracting foremen, provided that such other states have requirements substantially
- 11399 equal to the requirements in force in this state for registration, licensure, and certification;
- 11400 provided, further, that a similar privilege is offered to residents of this state;
- 11401 ~~(3) Adopt an official seal for its use and change it at pleasure;~~
- 11402 ~~(4)~~(3) Establish the policies for regulating the businesses of electrical contracting,
- 11403 plumbing, low-voltage, utility, and conditioned air contracting;
- 11404 (4) Determine qualifications for licensure or certification including such experience
- 11405 requirements as the licenisng board deems necessary;
- 11406 (5) Conduct hearings upon the petition of any person who is aggrieved or adversely
- 11407 affected by an order or action of the director, which shall be conducted by the licensing
- 11408 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
- 11409 Act'; and
- 11410 ~~(4.1)(6) Upon notice and hearing authorized and conducted in accordance with Code~~
- 11411 ~~Section 43-14-10 and any rules and regulations promulgated by the board, either by the~~
- 11412 ~~board directly or through a valid delegation of the board's enforcement power to a~~
- 11413 ~~division thereof, assess~~ Assess civil penalties in an amount up to \$10,000.00 per violation
- 11414 against any person found to be in violation of any requirement of this chapter;.
- 11415 ~~(5) Determine qualifications for licensure or certification including such experience~~
- 11416 ~~requirements as the board deems necessary; and~~
- 11417 ~~(6) Promulgate and adopt rules and regulations necessary to carry out this chapter.~~
- 11418 (b) The director shall have the power to:
- 11419 (1) Request from the various state departments and other agencies and authorities of the
- 11420 state and its political subdivisions and their agencies and authorities such available
- 11421 information as the director may require in his or her work; and all such agencies and
- 11422 authorities shall furnish such requested available information to the director within a
- 11423 reasonable time;
- 11424 (2) Assess civil penalties in an amount up to \$10,000.00 per violation against any person
- 11425 found to be in violation of any requirement of this chapter; and
- 11426 (3) Enter orders or take other action consistent with this chapter, which shall be entered
- 11427 in compliance with Code Section 43-1-3.

11428 43-14-6.

11429 (a) ~~The Division of Electrical Contractors~~ director, with respect to applicants for a license
 11430 to engage in or licensees engaging in the business of electrical contracting; ~~the Division of~~
 11431 ~~Master Plumbers and Journeyman Plumbers~~, with respect to applicants for a license to
 11432 engage in or licensees engaging in the business of plumbing as master plumbers or
 11433 journeyman plumbers; ~~the Division of Low-voltage Contractors~~, with respect to applicants
 11434 for a license to engage in or licensees engaging in the business of low-voltage contracting;
 11435 ~~the Division of Utility Contractors~~ with respect to applicants for a license to engage in or
 11436 licensees engaging in the business of utility contracting and ~~with respect to~~ applicants for
 11437 a certificate to be a utility manager or utility foreman or holders of a utility manager or
 11438 utility foreman certificate; and ~~the Division of Conditioned Air Contractors~~, with respect
 11439 to applicants for a license to engage in or licensees engaging in the business of conditioned
 11440 air contracting, shall:

11441 (1) Administer licensing board approved ~~Approve~~ examinations for all applicants for
 11442 licenses or certificates, except for utility contractor licenses and utility foreman
 11443 certificates.; ~~The Division of Electrical Contractors shall approve separate~~
 11444 ~~examinations for Class I and Class II licenses. Class I licenses shall be restricted to~~
 11445 ~~electrical contracting involving multifamily structures of not more than two levels or~~
 11446 ~~single-family dwellings of up to three levels. In addition, the structures shall have~~
 11447 ~~single-phase electrical installations which do not exceed 400 amperes at the service~~
 11448 ~~drop or the service lateral. Class II licenses shall be unrestricted. The Division of~~
 11449 ~~Master Plumbers and Journeyman Plumbers shall approve separate examinations for~~
 11450 ~~Master Plumber Class I, Master Plumber Class II, and Journeyman Plumbers. Master~~
 11451 ~~Plumber Class I licenses shall be restricted to plumbing involving single-family~~
 11452 ~~dwellings and one-level dwellings designed for not more than two families and~~
 11453 ~~commercial structures not to exceed 10,000 square feet in area. Master Plumber Class~~
 11454 ~~II licenses shall be unrestricted. The Division of Conditioned Air Contractors shall~~
 11455 ~~approve separate examinations for Class I and Class II licenses. Class I licenses shall~~
 11456 ~~be restricted to the installation, repair, or service of conditioned air systems or~~
 11457 ~~equipment not exceeding 175,000 BTU (net) of heating and five tons (60,000 BTU) of~~
 11458 ~~cooling. Class II licenses shall be unrestricted. The Division of Low-voltage~~
 11459 ~~Contractors shall approve separate examinations for Low-voltage Contractor Class~~
 11460 ~~LV-A, Low-voltage Contractor Class LV-T, Low-voltage Contractor Class LV-U, and~~
 11461 ~~Low-voltage Contractor Class LV-G. Class LV-A licenses shall be restricted to alarm~~
 11462 ~~and general system low-voltage contracting, Class LV-T licenses shall be restricted to~~
 11463 ~~telecommunication and general system low-voltage contracting, Class LV-G licenses~~
 11464 ~~shall be restricted to general system low-voltage contracting, and Class LV-U licenses~~

11465 ~~shall be unrestricted and permit the performance of alarm, telecommunication, and~~
 11466 ~~general system low-voltage contracting;~~

11467 (2) Register and license or grant a certificate and issue renewal licenses and renewal
 11468 certificates biennially to all persons meeting the qualifications for a license or certificate.

11469 The following licenses or certificates shall be issued by the ~~divisions~~ director:

- 11470 (A) Electrical Contractor Class I;
- 11471 (B) Electrical Contractor Class II;
- 11472 (C) Master Plumber Class I;
- 11473 (D) Master Plumber Class II;
- 11474 (E) Journeyman Plumber;
- 11475 (F) Conditioned Air Contractor Class I;
- 11476 (G) Conditioned Air Contractor Class II;
- 11477 (H) Low-voltage Contractor Class LV-A;
- 11478 (I) Low-voltage Contractor Class LV-T;
- 11479 (J) Low-voltage Contractor Class LV-G;
- 11480 (K) Low-voltage Contractor Class LV-U;
- 11481 (L) Utility Contractor; Class A;
- 11482 (M) Utility Contractor; Class B;
- 11483 (N) Utility Contractor; Class U;
- 11484 (O) Utility Manager (certificate); and
- 11485 (P) Utility Foreman (certificate);

11486 (3) Investigate, ~~with the aid of the division director~~, alleged violations of this chapter or
 11487 other laws and rules and regulations of the licensing board relating to the profession;

11488 (4) ~~After notice and hearing, have the power to reprimand~~ Reprimand any person,
 11489 licensee, or certificate holder, or to suspend, revoke, or cancel the license or certificate
 11490 of or refuse to grant, renew, or restore a license or certificate to any person, licensee, or
 11491 certificate holder in compliance with Code Section 43-1-3.1 upon any one of the
 11492 following grounds:

- 11493 (A) The commission of any false, fraudulent, or deceitful act or the use of any forged,
 11494 false, or fraudulent document in connection with the license or certificate requirements
 11495 of this chapter or the rules and regulations of the licensing board;
- 11496 (B) Failure at any time to comply with the requirements for a license or certificate
 11497 under this chapter or the rules and regulations of the licensing board;
- 11498 (C) Habitual intemperance in the use of alcoholic spirits, narcotics, or stimulants to
 11499 such an extent as to render the license or certificate holder unsafe or unfit to practice
 11500 any profession licensed or certified under this chapter;

- 11501 (D) Engaging in any dishonorable or unethical conduct likely to deceive, defraud, or
 11502 harm the public;
- 11503 (E) Knowingly performing any act which in any way assists an unlicensed or
 11504 noncertified person to practice such profession;
- 11505 (F) Violating, directly or indirectly, or assisting in or abetting any violation of any
 11506 provision of this chapter or any rule or regulation of the licensing board;
- 11507 (G) The performance of any faulty, inadequate, inefficient, or unsafe electrical,
 11508 plumbing, low-voltage contracting, utility contracting, or conditioned air work likely
 11509 to endanger life, health, or property. The performance of any work that does not
 11510 comply with the standards set by state codes or by local codes in jurisdictions where
 11511 such codes are adopted, provided that such local codes are as stringent as the state
 11512 codes, or by other codes or regulations which have been adopted by the licensing board,
 11513 shall be prima-facie evidence of the faulty, inadequate, inefficient, or unsafe character
 11514 of such electrical, plumbing, low-voltage contracting, utility contracting, or conditioned
 11515 air work; provided, however, that the ~~board~~ director, in ~~its~~ his or her sole discretion, for
 11516 good cause shown and under such conditions as it may prescribe, may restore a license
 11517 to any person whose license has been suspended or revoked;
- 11518 (H) With respect to utility contractors, the bidding by such a utility contractor in excess
 11519 of license coverage; or
- 11520 (I) With respect to utility contractors, violations of Chapter 9 of Title 25;
- 11521 (5) Review amendments to or revisions in the state minimum standard codes as prepared
 11522 pursuant to Part 1 of Article 1 of Chapter 2 of Title 8; and the Department of Community
 11523 Affairs shall be required to provide to the ~~division~~ director a copy of any amendment to
 11524 or revision in the state minimum standard codes at least 45 days prior to the adoption
 11525 thereof; ~~and~~
- 11526 (6) Do all other things necessary and proper to exercise their powers and perform ~~their~~
 11527 the director's duties in accordance with this chapter; ~~and~~
- 11528 (7) Any order or disciplinary action of the director entered as a result of a violation of
 11529 this Code section shall be made in compliance with Code Section 43-1-3.1.
- 11530 (b) The ~~Division of Electrical Contractors~~ licensing board may also provide, by rules and
 11531 regulations, for the issuance of certificates of competency pertaining to financial
 11532 responsibility and financial disclosure; ~~provided, however, that such rules and regulations~~
 11533 ~~are adopted by the board.~~ The ~~division~~ director shall issue certificates of competency and
 11534 renewal certificates to persons meeting the qualifications therefor.
- 11535 (b.1) The licensing board shall:
- 11536 (1) Approve separate examinations for Class I and Class II electrical contractor licenses.
 11537 Class I licenses shall be restricted to electrical contracting involving multifamily

11538 structures of not more than two levels or single-family dwellings of up to three levels.
 11539 In addition, the structures shall have single-phase electrical installations which do not
 11540 exceed 400 amperes at the service drop or the service lateral. Class II licenses shall be
 11541 unrestricted;

11542 (2) Approve separate examinations for Master Plumber Class I, Master Plumber Class
 11543 II, and Journeyman Plumbers. Master Plumber Class I licenses shall be restricted to
 11544 plumbing involving single-family dwellings and one-level dwellings designed for not
 11545 more than two families and commercial structures not to exceed 10,000 square feet in
 11546 area. Master Plumber Class II licenses shall be unrestricted;

11547 (3) Approve separate examinations for Class I and Class II conditioned air contractor
 11548 licenses. Class I licenses shall be restricted to the installation, repair, or service of
 11549 conditioned air systems or equipment not exceeding 175,000 BTU (net) of heating and
 11550 five tons (60,000 BTU) of cooling. Class II licenses shall be unrestricted; and

11551 (4) Approve separate examinations for Low-voltage Contractor Class LV-A,
 11552 Low-voltage Contractor Class LV-T, Low-voltage Contractor Class LV-U, and
 11553 Low-voltage Contractor Class LV-G. Class LV-A licenses shall be restricted to alarm
 11554 and general system low-voltage contracting, Class LV-T licenses shall be restricted to
 11555 telecommunication and general system low-voltage contracting, Class LV-G licenses
 11556 shall be restricted to general system low-voltage contracting, and Class LV-U licenses
 11557 shall be unrestricted and permit the performance of alarm, telecommunication, and
 11558 general system low-voltage contracting.

11559 (c) ~~The divisions mentioned in subsection (a) of this Code section~~ licensing board shall
 11560 ~~also~~ hear appeals resulting from the suspension of licenses by an approved municipal or
 11561 county licensing or inspection authority pursuant to Code Section 43-14-12.

11562 (d)(1) ~~With respect to Conditioned Air Contractor Class I and Class II licenses, the~~
 11563 ~~Division of Conditioned Air Contractors~~ The licensing board shall be authorized to
 11564 require persons seeking renewal of Conditioned Air Contractor Class I and Class II
 11565 licenses to complete licensing board approved continuing education of not more than four
 11566 hours annually. ~~The division~~ licensing board shall be authorized to approve courses
 11567 offered by institutions of higher learning, vocational technical schools, and trade,
 11568 technical, or professional organizations; provided, however, that continuing education
 11569 courses or programs related to conditioned air contracting provided or conducted by
 11570 public utilities, equipment manufacturers, or institutions under the State Board of the
 11571 Technical College System of Georgia shall constitute acceptable continuing professional
 11572 education programs for the purposes of this subsection. Continuing education courses
 11573 or programs shall be in the areas of safety, technological advances, business management,

11574 or government regulation. Courses or programs conducted by manufacturers specifically
11575 to promote their products shall not be approved.

11576 (2) All provisions of this subsection relating to continuing professional education shall
11577 be administered by the ~~division~~ director.

11578 (3) The ~~division~~ director shall be authorized to waive the continuing education
11579 requirements in cases of hardship, disability, or illness or under such other circumstances
11580 as the licensing board deems appropriate.

11581 (4) The ~~division~~ licensing board shall be authorized to promulgate rules and regulations
11582 to implement and ensure compliance with the requirements of this Code section.

11583 (5) The continuing education requirements of this subsection shall not be required of any
11584 licensed conditioned air contractor who is a registered professional engineer.

11585 (6) This Code section shall apply to each licensing and renewal cycle which begins after
11586 the 1990-1991 renewal.

11587 (e)(1) ~~With respect to Electrical Contractor Class I and Class II licenses, the Division of~~
11588 ~~Electrical Contractors~~ The licensing board shall be authorized to require persons seeking
11589 renewal of Electrical Contractor Class I and Class II licenses to complete licensing board
11590 approved continuing education of not more than four hours annually. The ~~division~~
11591 licensing board shall be authorized to approve courses offered by institutions of higher
11592 learning, vocational-technical schools, and trade, technical, or professional organizations;
11593 provided, however, that continuing education courses or programs related to electrical
11594 contracting provided or conducted by public utilities, equipment manufacturers, or
11595 institutions under the State Board of the Technical College System of Georgia shall
11596 constitute acceptable continuing professional education programs for the purposes of this
11597 subsection. Continuing education courses or programs conducted by manufacturers
11598 specifically to promote their products shall not be approved.

11599 (2) The ~~division~~ director shall be authorized to waive the continuing education
11600 requirements in cases of hardship, disability, or illness or under such other circumstances
11601 as the division deems appropriate.

11602 (f)(1) ~~With respect to utility foreman certificates and utility manager certificates issued~~
11603 ~~under this chapter, the Division of Utility Contractors~~ The licensing board shall be
11604 authorized to require persons seeking renewal of ~~such certificates~~ utility foreman
11605 certificates and utility manager certificates issued under this chapter to complete licensing
11606 board approved continuing education of not more than four hours annually. The ~~division~~
11607 licensing board shall be authorized to approve courses offered by institutions of higher
11608 learning, vocational-technical schools, and trade, technical, or professional organizations;
11609 provided, however, that continuing education courses or programs related to utility
11610 contracting provided or conducted by institutions under the State Board of the Technical

11611 College System of Georgia shall constitute acceptable continuing professional education
11612 programs for the purposes of this subsection.

11613 (2) The ~~division~~ director shall be authorized to waive the continuing education
11614 requirements in cases of hardship, disability, or illness or under such other circumstances
11615 as the division deems appropriate.

11616 (g)(1) ~~With respect to Journeyman Plumber, Master Plumber Class I, and Master~~
11617 ~~Plumber Class II licenses, the Division of Master Plumbers and Journeyman Plumbers~~
11618 The licensing board shall be authorized to require persons seeking renewal of ~~such~~
11619 Journeyman Plumber, Master Plumber Class I, and Master Plumber Class II licenses to
11620 complete licensing board approved continuing education of not more than four hours
11621 annually. The ~~division~~ licensing board shall be authorized to approve courses offered by
11622 institutions of higher learning, vocational-technical schools, and trade, technical, or
11623 professional organizations; provided, however, that continuing education courses or
11624 programs related to plumbing provided or conducted by institutions under the State Board
11625 of the Technical College System of Georgia shall constitute acceptable continuing
11626 professional education programs for the purposes of this subsection.

11627 (2) The ~~division~~ director shall be authorized to waive the continuing education
11628 requirements in cases of hardship, disability, or illness or under such other circumstances
11629 as the division deems appropriate.

11630 43-14-7.

11631 (a) ~~All orders and processes of the board and the divisions of the board shall be signed and~~
11632 ~~attested by the division director; and any notice or legal process necessary to be served~~
11633 ~~upon the board or the divisions may be served upon the division director.~~

11634 (b) The ~~division~~ director or his or her designee is vested with the power and authority to
11635 make such investigations in connection with the enforcement of this chapter and the rules
11636 and regulations of the licensing board as ~~he, the board, the divisions of the board, the~~
11637 director or any district attorney may deem necessary or advisable.

11638 43-14-8.

11639 (a) No person shall engage in the electrical contracting business as an electrical contractor
11640 unless such person has a valid license from the ~~Division of Electrical Contractors~~ director
11641 and a certificate of competency, if such certificates are issued ~~by the division~~ pursuant to
11642 subsection (b) of Code Section 43-14-6.

11643 (b)(1) No person shall engage in the business of plumbing as a master plumber unless
11644 such person has a valid license from the ~~Division of Master Plumbers and Journeyman~~
11645 ~~Plumbers~~ director.

11646 (2) No person shall engage in the business of plumbing as a journeyman plumber unless
 11647 such person has a valid license from the ~~Division of Master Plumbers and Journeyman~~
 11648 ~~Plumbers~~ director.

11649 (c)(1) No person shall engage in the business of conditioned air contracting as a
 11650 conditioned air contractor unless such person has a valid license from the ~~Division of~~
 11651 ~~Conditioned Air Contractors~~ director.

11652 (2) A person who is not licensed as a conditioned air contractor shall be prohibited from
 11653 advertising in any manner that such person is in the business or profession of a
 11654 conditioned air contractor unless the work is performed by a licensed conditioned air
 11655 contractor.

11656 (d) ~~Notwithstanding any other provision of this chapter, prior to and including September~~
 11657 ~~30, 1983, the following persons, desiring to qualify under the provisions stated in this~~
 11658 ~~subsection, shall be issued a state-wide license without restriction by the appropriate~~
 11659 ~~division of the State Construction Industry Licensing Board, provided that such individual~~
 11660 ~~submits proper application and pays or has paid the required fees and is not otherwise in~~
 11661 ~~violation of this chapter:~~

11662 (1) ~~Any individual holding a license issued by the State Construction Industry Licensing~~
 11663 ~~Board, prior to the effective date of this chapter;~~

11664 (2) ~~Any individual holding a license issued by the State Board of Electrical Contractors,~~
 11665 ~~the State Board of Examiners of Plumbing Contractors, or the State Board of Warm Air~~
 11666 ~~Heating Contractors;~~

11667 (3) ~~Any individual holding a license to engage in such vocation issued to him or her by~~
 11668 ~~any governing authority of any political subdivision; and~~

11669 (4) ~~Any individual who has successfully and efficiently engaged in such vocation in a~~
 11670 ~~local jurisdiction, which did not issue local licenses, for a period of at least two~~
 11671 ~~consecutive years immediately prior to the time of application. To prove that he or she~~
 11672 ~~has successfully engaged in said vocation, the individual shall only be required to give~~
 11673 ~~evidence of three successful jobs completed over such period. Such applicant shall swear~~
 11674 ~~before a notary public that such evidence is true and accurate prior to its submission to~~
 11675 ~~the division. Reserved.~~

11676 (e) The decision of the ~~division~~ director as to the necessity of taking the examination or
 11677 as to the qualifications of applicants taking the required examination shall, in the absence
 11678 of fraud, be conclusive. All individuals, partnerships, limited liability companies, or
 11679 corporations desiring to engage in such vocation after September 30, 1983, shall take the
 11680 examination and qualify under this chapter before engaging in such vocation or business,
 11681 including such vocation at the local level.

11682 (f) No partnership, limited liability company, or corporation shall have the right to engage
 11683 in the business of electrical contracting unless there is regularly connected with such
 11684 partnership, limited liability company, or corporation a person or persons actually engaged
 11685 in the performance of such business on a full-time basis who have valid licenses issued to
 11686 them as provided for in this chapter.

11687 (g) No partnership, limited liability company, or corporation shall have the right to engage
 11688 in the business of plumbing unless there is regularly connected with such partnership,
 11689 limited liability company, or corporation a person or persons actually engaged in the
 11690 performance of such business on a full-time basis who have valid licenses for master
 11691 plumbers issued to them as provided in this chapter.

11692 (h) No partnership, limited liability company, or corporation shall have the right to engage
 11693 in the business of conditioned air contracting unless there is regularly connected with such
 11694 partnership, limited liability company, or corporation a person or persons actually engaged
 11695 in the performance of such business on a full-time basis who have valid licenses issued to
 11696 them as provided for in this chapter; provided, however, that partners, officers, and
 11697 employees of the individual who fulfilled the licensing requirements shall continue to be
 11698 authorized to engage in the business of conditioned air contracting under a license which
 11699 was valid at the time of the licensee's death for a period of 90 days following the date of
 11700 such death.

11701 (i) It shall be the duty of all partnerships, limited liability companies, and corporations
 11702 qualified under this chapter to notify the ~~appropriate division~~ director immediately of the
 11703 severance of connection with such partnership, limited liability company, or corporation
 11704 of any person or persons upon whom such qualification rested.

11705 (j) All applicants for examinations and licenses provided for by this chapter and all
 11706 applicants for renewal of licenses under this chapter shall be required to fill out a form
 11707 which shall be provided by ~~each division, which form shall show~~ the licensing board that
 11708 shows whether or not the applicant is an individual, partnership, limited liability company,
 11709 or corporation and, if a partnership, limited liability company, or corporation, the names
 11710 and addresses of the partners or members or the names and addresses of the officers, when
 11711 and where formed or incorporated, and such other information as the ~~board or each division~~
 11712 director, in his or her discretion, may require. All forms of applications for renewal of
 11713 licenses shall also show whether or not the applicant, if it is a partnership, limited liability
 11714 company, or corporation, still has connected with it a duly qualified person holding a
 11715 license issued by the ~~division~~ director.

11716 (k) The ~~board~~ director shall notify each local governing authority of the provisions of this
 11717 chapter relating to licensure, ~~especially the provisions of subsection (d) of this Code~~
 11718 ~~section~~. The ~~board~~ director shall notify such governing authorities that after September 30,

11719 1983, any person desiring a license to engage in a profession covered by this chapter shall
11720 be required to pass an examination as provided in this chapter.

11721 (l) Any applicant for licensure standing the examination on and after July 1, 1989, who
11722 fails the examination for licensure twice after such date shall be required to present
11723 satisfactory evidence to the ~~appropriate division~~ director that the applicant has completed
11724 a licensing board approved review course before such applicant will be admitted to a third
11725 examination. If such applicant fails the examination a third time, the applicant shall not
11726 be required to complete additional licensing board approved review courses prior to taking
11727 subsequent examinations.

11728 43-14-8.1.

11729 ~~(a) For purposes of this Code section only, 'division' means the 'Division of Low-voltage~~
11730 ~~Contractors.'~~

11731 ~~(b)(a)~~ (a) No person shall engage in alarm system, general system, or telecommunication
11732 system low-voltage contracting unless such person has a valid license therefor from the
11733 ~~Division of Low-voltage Contracting~~ director.

11734 ~~(c) Any person desiring to qualify under the provisions of this subsection who meets the~~
11735 ~~requirements of this subsection, submits proper application prior to and including~~
11736 ~~December 31, 1984, and pays or has paid the required fees and is not otherwise in violation~~
11737 ~~of this chapter shall be issued a state-wide Low-voltage Contractor Class LV-A, LV-G,~~
11738 ~~LV-U, or LV-T license without examination. An individual desiring to obtain Low-voltage~~
11739 ~~Contractor Class LV-T shall submit to the division an affidavit which outlines the~~
11740 ~~experience of said individual in the practice of low-voltage wiring relating to~~
11741 ~~telecommunication systems. An individual desiring to obtain a Low-voltage Contractor~~
11742 ~~Class LV-A license shall submit to the division an affidavit which outlines the experience~~
11743 ~~of said individual in the practice of low-voltage wiring relating to alarm systems. An~~
11744 ~~individual desiring to obtain a Low-voltage Contractor Class LV-G license shall submit to~~
11745 ~~the division an affidavit which outlines the experience of said individual in the practice of~~
11746 ~~low-voltage wiring relating to general systems. Each such affidavit for licensure shall~~
11747 ~~describe in detail the installation of at least three complete low-voltage wiring jobs which~~
11748 ~~shall demonstrate that the individual has successfully performed low-voltage wiring in the~~
11749 ~~area of licensure requested for a period of at least one year immediately prior to the time~~
11750 ~~of application. An individual desiring to obtain a Low-voltage Contractor Class LV-U~~
11751 ~~license shall submit to the division an affidavit which outlines the experience of said~~
11752 ~~individual in the practice of low-voltage wiring relating to alarm and telecommunication~~
11753 ~~systems and which describes in detail the installation of at least six complete low-voltage~~
11754 ~~wiring jobs, three in alarm and three in telecommunication systems, which shall~~

11755 ~~demonstrate that the individual has successfully performed low-voltage wiring in those~~
 11756 ~~areas for a period of at least one year immediately prior to the time of application.~~

11757 Reserved.

11758 ~~(d)~~(b) The decision of the ~~division~~ director as to the necessity of taking the examination
 11759 or as to the qualifications of applicants taking the required examination shall, in the
 11760 absence of fraud, be conclusive. All individuals, partnerships, limited liability companies,
 11761 or corporations desiring to engage in the vocation of low-voltage contracting after
 11762 December 31, 1984, shall take the examination and qualify under this Code section before
 11763 engaging in such vocation.

11764 ~~(e)~~(c) No partnership, limited liability company, or corporation shall have the right to
 11765 engage in the business of low-voltage contracting unless there is regularly connected with
 11766 such partnership, limited liability company, or corporation a person or persons, actually
 11767 engaged in the performance of such business on a full-time basis and supervising the
 11768 low-voltage systems installation, repair, alteration, and service work of all employees of
 11769 such partnership, limited liability company, or corporation, who have valid licenses issued
 11770 to them as provided in this chapter. In cases where a partnership, limited liability
 11771 company, or corporation has more than one office location from which low-voltage
 11772 contracting is performed, at least one person stationed in each branch office of such
 11773 partnership, limited liability company, or corporation, engaged in the performance of
 11774 low-voltage contracting on a full-time basis and supervising the low-voltage wiring
 11775 systems installation, repair, alteration, and service work of all employees of such branch
 11776 office locations, shall have a valid license issued as provided in this Code section.

11777 ~~(f)~~(d) It shall be the duty of all partnerships, limited liability companies, and corporations
 11778 qualified under this Code section to notify the ~~division~~ director, in accordance with
 11779 licensing board rules, of severance of connection with such partnership, limited liability
 11780 company, or corporation of any person or persons upon whom the qualification of any such
 11781 partnership, limited liability company, or corporation rested.

11782 ~~(g)~~(e) All applicants for examinations and licenses provided for by this Code section and
 11783 all applicants for renewal of licenses under this Code section shall be required to fill out
 11784 a form ~~which shall be provided by the division, which form shall show~~ provided by the
 11785 licensing board that shows whether or not the applicant is an individual, partnership,
 11786 limited liability company, or corporation and, if a partnership, limited liability company,
 11787 or corporation, the names and addresses of the partners or members or the names and
 11788 addresses of the officers, when and where formed or incorporated, and such other
 11789 information as the ~~division in its~~ director in his or her discretion may require. All forms
 11790 of application for renewal of licenses shall also show whether or not the applicant, if it is

11791 a partnership, limited liability company, or corporation, still has connected with it a duly
 11792 qualified person holding a license issued by the ~~division~~ director.

11793 ~~(h)(f)~~ The ~~division~~ director shall notify each local governing authority of the provisions
 11794 of this chapter relating to licensure, especially the provisions of subsection ~~(b)(a)~~ of this
 11795 Code section. The ~~division~~ director shall notify such governing authorities that after
 11796 December 31, 1984, any person desiring a license to engage in the vocation of low-voltage
 11797 contracting shall be required to pass an examination as provided in this chapter.

11798 43-14-8.2.

11799 ~~(a) For purposes of this Code section only, 'division' means the 'Division of Utility~~
 11800 ~~Contractors.'~~

11801 ~~(b)(a)~~(1) After June 30, 1994, no sole proprietorship, partnership, or corporation shall
 11802 have the right to engage in the business of utility contracting unless such business holds
 11803 a utility contractor license and there is regularly connected with such business a person
 11804 or persons who holds a valid utility manager certificate issued under this chapter. Such
 11805 utility manager must be actually engaged in the performance of such business on a
 11806 full-time basis and oversee the utility contracting work of all employees of the business.
 11807 In cases where a sole proprietorship, partnership, or corporation has more than one
 11808 permanent office, then each permanent office shall be registered with the ~~division~~ director
 11809 and at least one person who holds a valid utility manager certificate issued under this
 11810 chapter shall be stationed in each office on a full-time basis and shall oversee the utility
 11811 contracting work of all employees of that office.

11812 (2) The requirements of this Code section shall not prevent any person holding a valid
 11813 license issued by the ~~State Construction Industry Licensing Board~~, or any ~~division~~
 11814 ~~thereof~~, pursuant to this chapter, from performing any work defined in the Code section
 11815 or sections under which the license held by said person was issued.

11816 ~~(e)(b)~~ Any corporation, partnership, or sole proprietorship desiring to qualify and be issued
 11817 a utility contractor license under the provisions of this subsection shall:

11818 (1) Submit a completed application to the ~~division~~ director on the form provided
 11819 indicating:

11820 (A) The names and addresses of proprietor, partners, or officers of such applicant;

11821 (B) The place and date such partnership was formed or such corporation was
 11822 incorporated; and

11823 (C) The name of the qualifying utility manager holding a current certificate who is
 11824 employed for each permanent office location of the business from which utility
 11825 contracting is performed;

11826 (2) Submit its safety policy which must meet the minimum standards established by the
11827 licensing board;

11828 (3) Pay or have paid the required fees; and

11829 (4) Not be otherwise in violation of this chapter.

11830 ~~(d)~~(c) The decision of the ~~division~~ director as to the qualifications of applicants shall, in
11831 the absence of fraud, be conclusive.

11832 ~~(e)~~(d) It shall be the duty of the utility manager certificate holders and the licensed utility
11833 contractor to notify the ~~division~~ director, in accordance with licensing board rules, of
11834 severance of connection between such utility contractor and the utility manager certificate
11835 holder or holders upon whom the qualification of the utility contractor rested.

11836 ~~(f)~~(e) In the event that a licensed utility contractor temporarily does not have employed a
11837 utility manager certificate holder to oversee its utility contracting work, upon notice by
11838 such utility contractor to the ~~division~~ director within five days following the last day of
11839 employment of the utility manager certificate holder, the ~~division~~ director shall grant the
11840 utility contractor a 90 day grace period in which to employ a utility manager certificate
11841 holder to oversee its utility contracting work before any action may be taken by the ~~division~~
11842 director to revoke the utility contractor's license. The ~~division~~ director may, ~~at its~~ in his or
11843 her discretion, upon application by the utility contractor showing good cause grant one
11844 additional 90 day grace period. Grace periods totaling not more than 180 days may be
11845 granted during any two-year period. Failure to have employed a utility manager certificate
11846 holder to oversee the utility contracting work of the utility contractor shall be grounds for
11847 the revocation or suspension of the utility contractor license ~~after a notice of hearing in~~
11848 compliance with Code Section 43-1-3.1.

11849 ~~(g)~~(f) All applicants for renewal of utility contractor licenses provided for by this Code
11850 section shall be required to submit with the required fee a completed application on a form
11851 provided by the ~~division~~ director.

11852 ~~(h)~~(g) It shall be unlawful for any person to contract with any other person for the
11853 performance of utility contracting work who is known by such person not to have a current,
11854 valid license as a utility contractor pursuant to this chapter.

11855 43-14-8.3.

11856 (a) After June 30, 1994, no person may be employed as a utility manager unless that
11857 person holds a current utility manager certificate issued by the ~~Division of Utility~~
11858 Contractors director.

11859 (b) The ~~division~~ director shall certify all applicants for certification under this chapter who
11860 satisfy the requirements of this chapter and the rules and regulations promulgated under
11861 this chapter. Persons wishing to qualify for utility manager certification shall submit a

11862 completed application form documenting required experience and other qualifications as
 11863 prescribed by the licensing board with the required fees and shall pass an examination. In
 11864 order to obtain a utility manager certificate, an applicant must submit proof of completion
 11865 of a course of safety training in utility contracting approved by the ~~division~~ licensing board.
 11866 In order to continue to hold such certificate, the certificate holder must present proof to the
 11867 ~~division~~ director of completion of a safety training course approved by the ~~division~~
 11868 licensing board at least every two years from the date of the completion of the initial safety
 11869 training course.
 11870 (c) An applicant may request an oral administration of the examination.

11871 43-14-8.4.

11872 (a) After June 30, 1994, no person may be employed as a utility foreman unless that person
 11873 holds a current utility foreman certificate issued by the ~~Division of Utility Contractors~~
 11874 director.

11875 (b) The ~~division~~ director shall certify all applicants for certification under this chapter who
 11876 satisfy the requirements of this chapter and the rules and regulations promulgated under
 11877 this chapter. One requirement for such certification shall be the successful completion of
 11878 a course of safety training in utility contracting approved by the ~~division~~ licensing board.
 11879 In order to continue to hold such certificate, the certificate holder must submit proof to the
 11880 ~~division~~ director of completion of a safety training course approved by the ~~division~~
 11881 licensing board at least every two years from the date of the completion of the initial safety
 11882 training course. In lieu of safety training any person desiring to be issued a utility foreman
 11883 certificate may submit a completed application on or before December 31, 1994, which
 11884 documents to the satisfaction of the division at least two years of experience as a utility
 11885 foreman during the period between January 1, 1984, and June 30, 1994. Any person who
 11886 does not submit a completed application for certification on or before December 31, 1994,
 11887 must complete the required safety training in order to be certified.

11888 (c) After June 30, 1994, no utility system shall be constructed, erected, altered, or repaired
 11889 unless a certified utility manager or certified utility foreman who holds a current
 11890 certification is present at the job site of such construction, erection, alteration, or repair of
 11891 the utility system.

11892 43-14-9.

11893 (a) Every person holding a license issued by ~~a division of the board~~ the director shall
 11894 display it in a conspicuous manner at his or her place of business.

11895 (b) All commercial vehicles used by licensees and certificate holders exclusively in the
 11896 daily operation of their business shall have prominently displayed thereon the company or

11897 business registration number issued by the Secretary of State's office. Such registration
 11898 number shall also be prominently displayed on any advertising in telephone yellow pages
 11899 and newspapers relating to work which a licensee or certificate holder purports to have the
 11900 capacity to perform. ~~Said~~ The registration number shall also be printed on all invoices and
 11901 proposal forms.

11902 43-14-10.

11903 ~~This chapter shall be administered in accordance with Chapter 13 of Title 50, the 'Georgia~~
 11904 ~~Administrative Procedure Act.'~~ Any order or action of the director entered pursuant to this
 11905 chapter shall be made in compliance with Code Section 43-1-3.1.

11906 43-14-11.

11907 Whenever it shall appear to ~~a division of the board or to the executive~~ the director or to a
 11908 county or municipal inspection authority that any person is or has been violating this
 11909 chapter or any of the lawful rules, regulations, or orders of the licensing board or the
 11910 director, ~~the division of the board~~ director, the local inspection authority, or the appropriate
 11911 prosecuting attorney may file a petition for an injunction in the proper superior court of this
 11912 state against such person for the purpose of enjoining any such violation. It shall not be
 11913 necessary to allege or prove that there is no adequate remedy at law. The right of
 11914 injunction provided for in this Code section shall be in addition to any other legal remedy
 11915 which the ~~board~~ director has and shall be in addition to any right of criminal prosecution
 11916 provided for by law.

11917 43-14-12.

11918 (a) Any municipal or county inspection authority which meets the standards established
 11919 by the licensing board shall be authorized, after notice and hearing, to suspend the license
 11920 or certificate of competency of, or refuse to restore a license or certificate of competency
 11921 to, any person or licensee upon the grounds set out in paragraph (4) of subsection (a) of
 11922 Code Section 43-14-6; provided, however, that such suspension of a license by a local
 11923 inspection authority shall be applicable only within the jurisdiction of such local authority.
 11924 Any person aggrieved by an action of a local authority shall be entitled to an appeal to the
 11925 ~~appropriate division of the~~ licensing board and shall be entitled to a hearing.

11926 (b)(1) This chapter shall not be construed to prohibit the governing authority of any
 11927 county or municipality in the state from adopting and enforcing codes at the local level;
 11928 provided, however, that no county or municipality may require any licensed conditioned
 11929 air contractor or licensed plumber who has executed and deposited a bond as authorized
 11930 in paragraph (2) of this subsection to give or furnish or execute any code compliance

11931 bond or similar bond for the purpose of ensuring that all construction, installation, or
 11932 modifications are made or completed in compliance with the county or municipal
 11933 ordinances or building and construction codes.

11934 (2) In order to protect the public from damages arising from any work by a licensed
 11935 conditioned air contractor or licensed plumber, ~~which work~~ that fails to comply with the
 11936 ordinances or building and construction codes adopted by any county or municipal
 11937 corporation, any such licensed conditioned air contractor or licensed plumber may
 11938 execute and deposit with the judge of the probate court in the county of his or her
 11939 principal place of business a bond in the sum of \$10,000.00. Such bond shall be a cash
 11940 bond of \$10,000.00 or executed by a surety authorized and qualified to write surety bonds
 11941 in the State of Georgia and shall be approved by the judge of the probate court. Such
 11942 bond shall be conditioned upon all work done or supervised by such licensee complying
 11943 with the provisions of any ordinances or building and construction codes of any county
 11944 or municipal corporation wherein the work is performed. Action on such bond may be
 11945 brought against the principal and surety thereon in the name of and for the benefit of any
 11946 person who suffers damages as a consequence of said licensee's work not conforming to
 11947 the requirements of any ordinances or building and construction codes; provided,
 11948 however, that the aggregate liability of the surety to all persons so damaged shall in no
 11949 event exceed the sum of such bond.

11950 (3) In any case where a bond is required under this subsection, the conditioned air
 11951 contractor or plumber shall file a copy of the bond with the building official in the
 11952 political subdivision wherein the work is being performed.

11953 (4) The provisions of this subsection shall not apply to or affect any bonding
 11954 requirements involving contracts for public works as provided in Chapter 10 of Title 13.

11955 (c) No provision of this chapter shall be construed as prohibiting or preventing a
 11956 municipality or county from fixing, charging, assessing, or collecting any license fee,
 11957 registration fee, tax, or gross receipt tax on any related business or on anyone engaged in
 11958 any related business governed by this chapter.

11959 43-14-12.1.

11960 (a) If a person is in violation of paragraph (1) or (2) of subsection (c) of Code Section
 11961 43-14-8, it shall not be necessary for an investigator to observe or witness the unlicensed
 11962 person engaged illegally in the process of work or to show work in progress or work
 11963 completed in order to prove the unlawful practice of conditioned air contracting by an
 11964 unlicensed person.

11965 (b) It shall be prima-facie evidence of a violation of this chapter if any person not licensed
 11966 as a conditioned air contractor advertises that such person is in the business or profession

11967 of a conditioned air contractor or advertises in a manner such that the general public would
 11968 believe that such person is a licensed conditioned air contractor or in the business or
 11969 profession of a conditioned air contractor. Advertising under this subsection includes, but
 11970 is not limited to, newspaper, television, radio, telephone directory, mailings, business cards,
 11971 or sign at place of business or attached to a vehicle.

11972 (c) Notwithstanding the provisions of Code Section 43-1-20.1, ~~after notice and hearing,~~
 11973 the ~~board~~ director may issue a cease and desist order in compliance with Code Section
 11974 43-1-3.1 prohibiting any person from violating the provisions of this chapter by engaging
 11975 in the business or profession of a conditioned air contractor without a license as required
 11976 under this chapter. Upon issuance of a cease and desist order by the director, the person
 11977 who the cease and desist order is entered against may petition the licensing board within
 11978 30 days after the issuance thereof for an administrative hearing conducted by the licensing
 11979 board in accordance with Code Section 43-1-3.1. The filing of a petition for a hearing
 11980 before the licensing board shall stay enforcement of the cease and desist order of the
 11981 director.

11982 (d) The violation of any cease and desist order of the ~~board~~ director issued under
 11983 subsection (c) of this Code section shall subject the person violating the order to further
 11984 ~~proceedings before the~~ disciplinary action by the director or the licensing board, and the
 11985 licensing board and the director shall be authorized to impose a fine not to exceed \$500.00
 11986 for each violation thereof. Each day that a person practices in violation of this Code
 11987 section and chapter shall constitute a separate violation.

11988 (e) Nothing in this Code section shall be construed to prohibit the ~~board~~ director from
 11989 seeking remedies otherwise available by statute without first seeking a cease and desist
 11990 order in accordance with the provisions of this Code section.

11991 43-14-12.2.

11992 (a) If a person is in violation of Code Section 43-14-8.2, 43-14-8.3, or 43-14-8.4, it shall
 11993 not be necessary for an investigator to observe or witness the unlicensed person engaged
 11994 illegally in the process of work or to show work in progress or work completed in order to
 11995 prove the unlawful practice of utility contracting by an unlicensed person.

11996 (b) It shall be prima-facie evidence of a violation of this chapter if any person not licensed
 11997 as a utility contractor advertises that such person is in the business or profession of a utility
 11998 contractor or advertises in a manner such that the general public would believe that such
 11999 person is a licensed utility contractor or in the business or profession of a utility contractor.
 12000 Advertising under this subsection includes, but is not limited to, newspaper, television, or
 12001 radio advertisements, telephone directory listings, mailings, business cards, or a sign or
 12002 signs at a place of business or attached to a vehicle.

12003 (c) Notwithstanding the provisions of Code Section 43-1-20.1, ~~after notice and hearing,~~
 12004 the ~~board~~ director may issue a cease and desist order in compliance with Code Section
 12005 43-1-3.1 prohibiting any person from violating the provisions of this chapter by engaging
 12006 in the business or profession of a utility contractor without a license as required under this
 12007 chapter or by constructing, erecting, altering, or repairing a utility system without a
 12008 properly certified utility manager or properly certified utility foreman present at such job
 12009 site. Upon issuance of a cease and desist order by the director, the person who the cease
 12010 and desist order is entered against may petition the licensing board within 30 days after the
 12011 issuance thereof for an administrative hearing conducted by the licensing board in
 12012 accordance with Code Section 43-1-3.1. The filing of a petition for a hearing before the
 12013 licensing board shall stay enforcement of the cease and desist order of the director.

12014 (d) The violation of any cease and desist order of the ~~board~~ director issued under
 12015 subsection (c) of this Code section shall subject the person violating the order to further
 12016 ~~proceedings before the~~ disciplinary action by the director and the licensing board, and the
 12017 licensing board and the director shall be authorized to impose a fine not to exceed
 12018 \$5,000.00 for each violation thereof. Each day that a person practices in violation of this
 12019 Code section and chapter or constructs, erects, alters, or repairs a utility system without a
 12020 properly certified utility manager or properly certified utility foreman present at such job
 12021 site shall constitute a separate violation.

12022 (e) Nothing in this Code section shall be construed to prohibit the ~~board~~ director from
 12023 seeking remedies otherwise available by statute without first seeking a cease and desist
 12024 order in accordance with the provisions of this Code section.

12025 43-14-13.

12026 (a) This chapter shall apply to all installations, alterations, and repairs of plumbing,
 12027 air-conditioning and heating, or electrical or low-voltage wiring or utility systems within
 12028 or on public or private buildings, structures, or premises except as otherwise provided in
 12029 this Code section.

12030 (b) Any person who holds a license issued under this chapter may engage in the business
 12031 of plumbing, electrical contracting, conditioned air contracting, low-voltage contracting,
 12032 or utility contracting but only as prescribed by the license, throughout the state; and except
 12033 as provided in Code Section 43-14-12, no municipality or county may require such person
 12034 to comply with any additional licensing requirements imposed by such municipality or
 12035 county.

12036 (c) This chapter shall not apply to the installation, alteration, or repair of plumbing,
 12037 air-conditioning and heating, utility systems, or electrical services, except low-voltage
 12038 wiring services, up to and including the meters where such work is performed by and is an

12039 integral part of the system owned or operated by a public service corporation, an electrical,
12040 water, or gas department of any municipality in this state, a railroad company, a pipeline
12041 company, or a mining company in the exercise of its normal function as such.

12042 (d) This chapter shall not prohibit an individual from installing, altering, or repairing
12043 plumbing fixtures, air-conditioning and heating, air-conditioning and heating fixtures,
12044 utility systems, or electrical or low-voltage wiring services in a residential dwelling owned
12045 or occupied by such individual; provided, however, that all such work must be done in
12046 conformity with all other provisions of this chapter, the rules and regulations of the
12047 licensing board, and any applicable county or municipal resolutions, ordinances, codes, or
12048 inspection requirements.

12049 (e) This chapter shall not prohibit an individual employed on the maintenance staff of a
12050 facility owned by the state or by a county, municipality, or other political subdivision from
12051 installing, altering, or repairing plumbing, plumbing fixtures, air-conditioning and heating
12052 fixtures, utility systems, or electrical or low-voltage wiring services when such work is an
12053 integral part of the maintenance requirements of the facility; provided, however, that all
12054 such work must be done in conformity with all other provisions of this chapter and the
12055 orders, rules, and regulations of the licensing board.

12056 (f) This chapter shall not prohibit any person from installing, altering, or repairing
12057 plumbing, plumbing fixtures, air-conditioning and heating fixtures, utility systems, or
12058 electrical or low-voltage wiring services in a farm or ranch service building or as an
12059 integral part of any irrigation system on a farm or ranch when such system is not located
12060 within 30 feet of any dwelling or any building devoted to animal husbandry. Nothing in
12061 this subsection shall be construed to limit the application of any resolution, ordinance,
12062 code, or inspection requirements of a county or municipality relating to such connections.

12063 (g) This chapter shall not apply to low-voltage wiring performed by public utilities, except
12064 that such portion of the business of those public utilities which involves the installation,
12065 alteration, repair, or service of telecommunication systems for profit shall be covered under
12066 this chapter.

12067 (h) This chapter shall not apply to the installation, construction, or maintenance of power
12068 systems or telecommunication systems for the generation or distribution of electric current
12069 constructed under the National Electrical Safety Code, which regulates the safety
12070 requirements of utilities; but the interior wiring regulated by the National Electrical Safety
12071 Code ~~would~~ shall not be exempt and must be done by an electrical contractor except as
12072 otherwise provided by law.

12073 (i) This chapter shall not apply to any technician employed by a municipal or
12074 county-franchised community antenna television (CATV) system or a municipally owned
12075 community antenna television system in the performance of work on the system.

12076 (j) This chapter shall not apply to regular full-time employees of an institution,
 12077 manufacturer, or business who perform plumbing, electrical, low-voltage wiring, utility
 12078 contracting, or conditioned air work when working on the premises of that employer.

12079 (k) This chapter shall not apply to persons licensed as manufactured or mobile home
 12080 installers by the state fire marshal when:

12081 (1) Coupling the electrical connection from the service entrance panel outside the
 12082 manufactured housing to the distribution panel board inside the manufactured housing;

12083 (2) Connecting the exterior sewer outlets to the above-ground sewer system; or

12084 (3) Connecting the exterior water line to the above-ground water system.

12085 (l) Any person qualified by the Department of Transportation to perform work for the
 12086 department shall not be required to be licensed under Code Section 43-14-8.2 or certified
 12087 under Code Sections 43-14-8.3 and 43-14-8.4 in order to perform work for the department.

12088 Any person qualified by the Department of Transportation to perform work for the
 12089 department shall not be required to be licensed under Code Section 43-14-8.2 or certified
 12090 under Code Sections 43-14-8.3 and 43-14-8.4 in order to perform work for a county,
 12091 municipality, authority, or other political subdivision when such work is of the same nature
 12092 as that for which the person is qualified when performing department work; provided,
 12093 however, that such work is not performed on a utility system as defined in paragraph (17)
 12094 of Code Section 43-14-2 for which the person receives compensation.

12095 (m) This chapter shall not prohibit any person from installing, altering, or repairing the
 12096 plumbing component of a lawn sprinkler system from a backflow preventer which was
 12097 installed by a licensed plumber; provided, however, that all such work must be done in
 12098 conformity with all other provisions of this chapter, the rules and regulations of the
 12099 licensing board, and ordinances of the county or municipality.

12100 (n) Any person who contracts with a licensed conditioned air contractor as part of a
 12101 conditioned air contract to install, alter, or repair duct systems, control systems, or
 12102 insulation is not required to hold a license ~~from the Division of Conditioned Air~~
 12103 ~~Contractors~~ under this chapter. The conditioned air contractor must retain responsibility
 12104 for completion of the contract, including any subcontracted work. Any person who
 12105 contracts with a licensed conditioned air contractor to perform a complete installation,
 12106 alteration, or repair of a conditioned air system must hold a valid license ~~from the Division~~
 12107 ~~of Conditioned Air Contractors~~ under this chapter. Any person who contracts to perform
 12108 for or on behalf of a conditioned air contractor to install, alter, or repair electrical,
 12109 low-voltage, or plumbing components of a conditioned air system must hold a valid license
 12110 ~~from the appropriate division of the board~~ under this chapter.

12111 (o) This chapter shall not prohibit any propane dealer who is properly insured as required
 12112 by law and who holds a liquefied petroleum gas license issued by the Safety Fire

12113 Commissioner from installing, repairing, or servicing a propane system or the gas piping
 12114 or components of such system; provided, however, that such propane dealers shall be
 12115 prohibited from performing the installation of conditioned air systems or forced air heating
 12116 systems unless licensed to do so under this chapter.

12117 (p) This chapter shall not apply to any employee or authorized agent of a regulated gas
 12118 utility or municipal owned gas utility while in the course and scope of such employment.

12119 (q) Any utility contractor holding a valid utility contractor's license under this chapter shall
 12120 be authorized to bid for and perform work on any utility system in this state without
 12121 obtaining a license under Chapter 41 of this title. It shall be unlawful for the owner of a
 12122 utility system or anyone soliciting work to be performed on a utility system to refuse to
 12123 allow a utility contractor holding a valid utility contractor's license under this chapter to bid
 12124 for or perform work on a utility system on the basis that such contractor does not hold a
 12125 license under Chapter 41 of this title.

12126 43-14-14.

12127 Any person violating this chapter shall be guilty of a misdemeanor and, upon conviction
 12128 thereof, shall be fined not more than \$1,000.00 or imprisoned for not more than six months,
 12129 or both."

12130 **SECTION 1-18.**

12131 Said title is further amended by revising Chapter 15, relating to professional engineers and
 12132 land surveyors, as follows:

12133 **"CHAPTER 15**

12134 43-15-1.

12135 This chapter is enacted to safeguard life, health, and property and to promote the public
 12136 welfare.

12137 43-15-2.

12138 As used in this chapter, the term:

12139 (1) 'Board' means the State Board of Registration for Professional Engineers and Land
 12140 Surveyors, a professional licensing policy board pursuant to Chapter 1 of this title with
 12141 the authority and responsibility set forth in such chapter.

12142 (2) 'Certificate' means any certificate issued under Code Section 43-15-8 or 43-15-12.

12143 (3) 'Certificate of registration' means any certificate issued under Code Section 43-15-9,
 12144 43-15-13, or 43-15-16.

12145 (4) 'Current certificate of registration' means a certificate of registration which has not
 12146 expired or been revoked and the rights under which have not been suspended or otherwise
 12147 restricted ~~by the board~~.

12148 (4.1) 'Director' means the director of professional licensing.

12149 (5) 'Engineer-in-training' means an individual who meets the qualifications for and to
 12150 whom the ~~board~~ director has duly issued an engineer-in-training certificate.

12151 (6) 'Land surveying' means any service, work, or practice, the adequate performance of
 12152 which requires the application of special knowledge of the principles of mathematics, the
 12153 related physical and applied sciences, and the requirements of relevant law in the
 12154 evaluation and location of property rights, as applied to:

12155 (A) Measuring and locating lines, angles, elevations, natural and manmade features in
 12156 the air, on the surface of the earth, in underground works, and on the beds of bodies of
 12157 water, for the purpose of determining and reporting positions, topography, areas, and
 12158 volumes;

12159 (B) Establishing or reestablishing, locating or relocating, or setting or resetting of
 12160 monumentation for any property, easement, or right of way boundaries, or the boundary
 12161 of any estate or interest therein;

12162 (C) The platting and layout of lands and subdivisions thereof, including alignment and
 12163 grades of streets and roads, excluding thoroughfares;

12164 (D) The design, platting, and layout, incidental to subdivisions of any tract of land by
 12165 a land surveyor, of:

12166 (i) Grading plans and site plans;

12167 (ii) Erosion and sediment control plans, including detention ponds, provided that no
 12168 impoundment shall be designed on a live (perennial) stream; provided, further, that
 12169 such detention ponds:

12170 (I) Contain no more than five acre-feet of water storage at maximum pool (top of
 12171 dam) or are no more than ten feet in height for a dry storage pond;

12172 (II) Are no more than six feet in height for a permanent (wet) storage pond; or

12173 (III) Contain no more than three acre-feet of water storage at maximum pool (top
 12174 of dam) if the height is more than ten feet but less than 13 feet for a dry storage
 12175 pond;

12176 (iii) Storm water management plans and facilities, including hydrologic studies and
 12177 temporary sediment basins, provided that the contributing drainage area shall not be
 12178 larger than 100 acres; and

12179 (iv) Extension of existing water distribution piping and gravity sewers, eight inches
 12180 in diameter or smaller, provided that off-site length shall not exceed 1,000 feet, the
 12181 design and construction of which shall conform to the local government ordinances

12182 and regulations, and such extensions shall be subjected to the review and approval of
 12183 a local government which has been delegated approval authority by the
 12184 Environmental Protection Division of the Department of Natural Resources;

12185 (E) Conducting horizontal and vertical control surveys, layout or stake-out of proposed
 12186 construction, or the preparation of as-built surveys which relate to property, easement,
 12187 or right of way boundaries;

12188 (F) Utilization of measurement devices or systems, such as aerial photogrammetry,
 12189 geodetic positioning systems, land information systems, or similar technology for
 12190 evaluation or location of property, easement, or right of way boundaries; or

12191 (G) The preparation and perpetuation of maps, record plats, drawings, exhibits, field
 12192 notes, or property descriptions representing these services.

12193 (7) 'Land surveyor' means an individual who is qualified to engage in the practice of land
 12194 surveying and who possesses a current certificate of registration as a land surveyor issued
 12195 by the ~~board~~ director. A person shall be construed to practice or offer to practice land
 12196 surveying within the meaning of this chapter who by verbal claim, sign, advertisement,
 12197 letterhead, cards, or in any other way represents or holds himself or herself out as able or
 12198 qualified to perform or who does perform any of the services defined as land surveying.

12199 (8) 'Land surveyor-in-training' means an individual who meets the qualifications for and
 12200 to whom the ~~board~~ director has duly issued a certificate as a land surveyor-in-training.

12201 (8.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 12202 Article 2 of Chapter 1 of this title.

12203 (9) 'Person' means an individual and any legal or commercial entity, including, by way
 12204 of illustration and not limitation, a partnership, corporation, association, or governmental
 12205 agency.

12206 (10) 'Professional engineer' means an individual who is qualified, by reason of
 12207 knowledge of mathematics, the physical sciences, and the principles by which mechanical
 12208 properties of matter are made useful to man in structures and machines, acquired by
 12209 professional education and practical experience, to engage in the practice of professional
 12210 engineering and who possesses a current certificate of registration as a professional
 12211 engineer issued by the ~~board~~ director.

12212 (11) 'Professional engineering' means the practice of the art and sciences, known as
 12213 engineering, by which mechanical properties of matter are made useful to man in
 12214 structures and machines and shall include any professional service, such as consultation,
 12215 investigation, evaluation, planning, designing, or responsible supervision of construction
 12216 or operation, in connection with any public or private utilities, structures, buildings,
 12217 machines, equipment, processes, works, or projects, wherein the public welfare or the
 12218 safeguarding of life, health, or property is concerned or involved, when such professional

12219 service requires the application of engineering principles and data and training in the
 12220 application of mathematical and physical sciences. A person shall be construed to
 12221 practice or offer to practice professional engineering, within the meaning of this chapter
 12222 who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents
 12223 or holds himself or herself out as a professional engineer or engineer or as able or
 12224 qualified to perform engineering services or who does perform any of the services set out
 12225 in this paragraph. Nothing contained in this chapter shall include the work ordinarily
 12226 performed by persons who operate or maintain machinery or equipment.

12227 43-15-3.

12228 (a) A State Board of Registration for Professional Engineers and Land Surveyors is created
 12229 ~~whose duty it shall be to administer this chapter~~ as a professional licensing policy board.

12230 (b) The board shall consist of six professional engineers, two land surveyors, and a
 12231 member appointed from the public at large who has no connection with the professions of
 12232 engineering and land surveying, all of whom shall be appointed by the Governor for a term
 12233 of five years. Of the professional engineers appointed to the board, one shall be a structural
 12234 engineer, one shall be a mechanical engineer, one shall be an electrical engineer, two shall
 12235 be civil or sanitary engineers, and one shall be from any discipline of engineering. Each
 12236 member of the board shall be a citizen of the United States and a resident of this state.

12237 (c) Each member shall hold office until his or her successor has been duly appointed and
 12238 qualified. All successors shall be appointed in the same manner as the original
 12239 appointment.

12240 (d) A vacancy on the membership of the board shall be filled by appointment by the
 12241 Governor, in the same manner as the original appointment to the position vacated, for the
 12242 unexpired term.

12243 (e) Professional engineers appointed to the board shall have been engaged in the practice
 12244 of engineering in their respective disciplines for at least 12 years and shall have been in
 12245 responsible charge of important engineering work in their respective disciplines for at least
 12246 five years. Land surveyors appointed to the board shall have been engaged in the practice
 12247 of land surveying for at least 12 years and shall have been in responsible charge of
 12248 important land surveying work for at least five years. Responsible charge of engineering
 12249 or land surveying teaching may be construed as responsible charge of important
 12250 engineering or land surveying work, respectively.

12251 (f) Each member of the board shall be reimbursed as provided for in subsection (f) of Code
 12252 Section 43-1-2.

12253 (g) The Governor may remove any member of the board for misconduct, incompetency,
 12254 neglect of duty, or for any other sufficient and just cause.

12255 43-15-4.

12256 (a) ~~The board shall adopt all necessary rules, regulations, and bylaws, not inconsistent with~~
 12257 ~~this chapter and the Constitution and laws of this state or of the United States, to govern~~
 12258 ~~its times and place of meetings for organization and reorganization, for the holding of~~
 12259 ~~examinations, for fixing the length of terms of its officers, and for governing all other~~
 12260 ~~matters requisite to the exercise of its powers, the performance of its duties, and the~~
 12261 ~~transaction of its businesses. The board shall adopt an official seal.~~

12262 (b) The board shall meet at such times as the business of the board shall require, as the
 12263 board or its ~~chairman~~ chairperson may determine, but shall hold one annual meeting each
 12264 year at which time the board shall elect a ~~chairman~~ chairperson and a ~~vice chairman~~ vice
 12265 chairperson.

12266 (b)(c) The board shall be assigned to the office of the ~~division~~ director for those purposes
 12267 described in Chapter 1 of this title.

12268 43-15-5.

12269 The ~~board~~ director shall keep records of its proceedings of the board and the licensing
 12270 board.

12271 43-15-6.

12272 (a) ~~In carrying out this chapter, in addition to other powers conferred upon it under this~~
 12273 ~~chapter, the board~~ The director shall have the power:

12274 (1) To ~~adopt and~~ enforce regulations of the licensing board implementing this chapter,
 12275 including regulations governing the professional conduct of those individuals registered
 12276 by it;

12277 (2) ~~Under the hand of its chairman or his or her delegate and the seal of the board, to~~ To
 12278 subpoena witnesses and compel their attendance and to require thereby the production of
 12279 books, papers, documents, and other things relevant to such investigation in order to
 12280 investigate conduct subject to regulation by the licensing board; the ~~chairman or the~~
 12281 ~~member of the board who is his or her delegate~~ director may administer oaths to
 12282 witnesses appearing before the ~~board~~ director; and the ~~board~~ director may secure the
 12283 enforcement of its subpoenas in the manner provided by Chapter 13 of Title 50, the
 12284 'Georgia Administrative Procedure Act'; and

12285 (3) To maintain in it's the director's name an action for injunctive or other appropriate
 12286 legal or equitable relief to remedy violations of this chapter and, in pursuing equitable
 12287 remedies, it shall not be necessary that the ~~board~~ director allege or prove that ~~it has~~ there
 12288 is no adequate remedy at law; and

12289 (4) To enter orders or take other action consistent with this chapter, which shall be
 12290 entered in compliance with Code Section 43-1-3.1.

12291 ~~(b) In addition to other powers conferred upon the board under this chapter, the~~ The
 12292 licensing board shall through rules and regulations require each person seeking renewal of
 12293 a certificate of registration as a professional engineer or a land surveyor to complete
 12294 licensing board approved continuing education of not more than 30 hours biennially for
 12295 professional engineers and not more than 15 hours biennially for land surveyors. The
 12296 licensing board shall be authorized to approve courses offered by institutions of higher
 12297 learning or offered by other institutions or organizations. The ~~board~~ director shall
 12298 randomly audit some applications for renewal of a certificate of registration to enforce
 12299 compliance with this subsection. The continuing education requirements adopted by the
 12300 licensing board shall recognize the continuing education requirements imposed by other
 12301 states to the extent that such continuing education courses meet the requirements imposed
 12302 by the licensing board. The ~~board~~ director shall be authorized to waive the continuing
 12303 education requirements in cases of hardship, disability, or illness or under such other
 12304 circumstances as the licensing board deems appropriate. The ~~board~~ director shall waive
 12305 the continuing education requirement for individuals over the age of 65 who have retired
 12306 from active practice and who apply for an inactive license and for individuals over the age
 12307 of 65 who are engaged in the active practice of their profession who have had a valid active
 12308 license for the previous 25 consecutive years. The requirement for continuing education
 12309 including the exemptions provided for in this subsection shall apply to each licensing
 12310 renewal cycle which begins after the 1996 renewal cycle.

12311 43-15-7.

12312 (a) It shall be unlawful for any person other than a professional engineer to practice or to
 12313 offer to practice professional engineering in this state.

12314 (b) It shall be unlawful for any person other than a land surveyor to practice or to offer to
 12315 practice land surveying in this state.

12316 43-15-8.

12317 To be eligible for certification as an engineer-in-training, an applicant must meet the
 12318 following minimum requirements:

12319 (1)(A) Graduate in an engineering curriculum of not less than four years from a school
 12320 or college approved by the licensing board; and

12321 (B) Pass a written examination in fundamental engineering subjects
 12322 (engineer-in-training examination);

- 12323 (2)(A) Graduate in an engineering curriculum of not less than four years or in a
12324 curriculum of four or more years in engineering technology or related science, from a
12325 school or college approved by the licensing board; and
- 12326 (B) Pass a written examination in fundamental engineering subjects
12327 (engineer-in-training examination); or
- 12328 (3)(A) Acquire not less than eight years of experience in engineering work of a nature
12329 satisfactory to the licensing board; and
- 12330 (B) Pass a written examination in fundamental engineering subjects
12331 (engineer-in-training examination).

12332 43-15-9.

12333 To be eligible for a certificate of registration as a professional engineer, an applicant must
12334 meet the following minimum requirements:

- 12335 (1)(A) Obtain certification by the ~~board~~ director as an engineer-in-training under
12336 paragraph (1) of Code Section 43-15-8;
- 12337 (B) Acquire a specific record of not less than four years' experience in engineering
12338 work of a character satisfactory to the ~~board~~ director which indicates the applicant is
12339 competent to practice professional engineering; and
- 12340 (C) Subsequently pass a written examination in the principles and practice of
12341 engineering (professional engineer's examination);
- 12342 (2)(A) Obtain certification by the ~~board~~ director as an engineer-in-training under
12343 paragraph (2) of Code Section 43-15-8;
- 12344 (B) Acquire a specific record of not less than seven years' experience in engineering
12345 work of a character satisfactory to the ~~board~~ director which indicates the applicant is
12346 competent to practice professional engineering; and
- 12347 (C) Subsequently pass a written examination in the principles and practice of
12348 engineering (professional engineer's examination);
- 12349 (3)(A) Obtain certification by the ~~board~~ director as an engineer-in-training under
12350 paragraph (3) of Code Section 43-15-8;
- 12351 (B) Acquire a specific record of not less than seven years' experience in engineering
12352 work of a character satisfactory to the ~~board~~ director which indicates the applicant is
12353 competent to practice professional engineering; and
- 12354 (C) Subsequently pass a written examination in the principles and practice of
12355 engineering (professional engineer's examination); or
- 12356 (4)(A) Graduate in an engineering or related science curriculum of not less than four
12357 academic years;

12358 (B) Acquire a specific record of not less than 16 years' experience in engineering work,
 12359 of which at least eight years have been in responsible charge of important engineering
 12360 work of a character satisfactory to the board director, which indicates the applicant is
 12361 competent to practice professional engineering; and

12362 (C) Subsequently pass a written examination in the principles and practice of
 12363 engineering (professional engineer's examination).

12364 43-15-10.

12365 (a) For the purpose of determining whether an applicant has acquired the experience
 12366 required under Code Section 43-15-8 or 43-15-9:

12367 (1) Responsible charge of engineering teaching may, in the board's director's sole
 12368 discretion, be considered as responsible charge of engineering work;

12369 (2) The satisfactory completion of each academic year of an approved course in
 12370 engineering or engineering technology in a school or college approved by the licensing
 12371 board, without graduation, may be considered as equivalent to a year of engineering
 12372 experience;

12373 (3) Partial credit may be granted by the licensing board for the successful completion of
 12374 one or more scholastic years of a four-year engineering curriculum in a school or college
 12375 not approved by the licensing board or in a curriculum in related science in a school or
 12376 college approved by the licensing board. The degree of credit shall be determined by the
 12377 licensing board upon consideration of the mathematics, science, and engineering courses
 12378 completed by the applicant;

12379 (4) No applicant shall receive experience credit for more than four years of
 12380 undergraduate education; and

12381 (5) The satisfactory completion of graduate study in an approved engineering curriculum
 12382 may, in the licensing board's sole discretion, be credited for not more than one year's
 12383 experience.

12384 (b) The execution, as a contractor, of work designed by a professional engineer or the
 12385 supervision of the construction of such work as foreman, inspector, or superintendent shall
 12386 not be deemed to be engineering experience unless such work involves the application of
 12387 engineering principles and the applicant presents evidence of additional engineering
 12388 experience of a character satisfactory to the board director and indicating the applicant is
 12389 competent to be placed in responsible charge of engineering work.

12390 43-15-11.

12391 An applicant for the professional engineer's examination shall designate the special branch
 12392 of engineering in which the applicant proposes to engage. The scope of the professional

12393 engineer's examination administered to him or her shall be prescribed by the licensing
 12394 board with respect to that branch of engineering, with special reference to the applicant's
 12395 ability to design and supervise engineering work so as to ensure the safety of life, health,
 12396 and property.

12397 43-15-12.

12398 To be eligible for certification as a land surveyor-in-training, an applicant must meet the
 12399 following minimum requirements:

12400 (1)(A) Earn a bachelor's degree in a curriculum approved by the licensing board;

12401 (B) Earn an associate degree, or its equivalent, in a curriculum approved by the
 12402 licensing board and acquire not less than two years of combined office and field
 12403 experience in land surveying of a nature satisfactory to the licensing board; or

12404 (C) Earn a high school diploma, or its equivalent, and acquire not less than four years'
 12405 experience in land surveying of a nature satisfactory to the licensing board;

12406 (2) Acquire a minimum of 15 quarter hours' credit, or its equivalent, in land surveying
 12407 subjects in a course of study approved by the licensing board; provided, however, that on
 12408 and after January 1, 1995, the minimum requirement shall be 20 quarter hours' credit, five
 12409 of which shall be in hydrology; and

12410 (3) Subsequently pass the licensing board approved examination in the fundamentals of
 12411 land surveying (land surveyor-in-training examination).

12412 43-15-13.

12413 To be eligible for a certificate of registration as a land surveyor, an applicant must meet the
 12414 following minimum requirements:

12415 (1)(A) Obtain certification as a land surveyor-in-training under subparagraph (A) of
 12416 paragraph (1) and paragraph (3) of Code Section 43-15-12;

12417 (B) Acquire a specific record of the equivalent of not less than four years of combined
 12418 office and field experience in land surveying with a minimum of three years' experience
 12419 in responsible charge of land surveying projects under the supervision of a registered
 12420 land surveyor or such other supervision deemed by the ~~board~~ director to be the
 12421 equivalent thereof; and

12422 (C) Subsequently pass a written examination on the principles and practices of land
 12423 surveying and the laws of this state relating to land surveying (land surveyor
 12424 examination);

12425 (2)(A) Obtain certification as a land surveyor-in-training under subparagraph (B) of
 12426 paragraph (1) and paragraph (3) of Code Section 43-15-12;

12427 (B) Acquire an additional specific record of the equivalent of not less than four years
 12428 of combined office and field experience in land surveying which, together with the
 12429 qualifying experience under subparagraph (B) of paragraph (1) of Code Section
 12430 43-15-12, includes not less than four years' experience in responsible charge of land
 12431 surveying projects under the supervision of a registered land surveyor or such other
 12432 supervision deemed by the ~~board~~ director to be the equivalent thereof; and
 12433 (C) Subsequently pass a written examination on the principles and practices of land
 12434 surveying and the laws of Georgia relating to land surveying (land surveyor
 12435 examination); or
 12436 (3)(A) Obtain certification as a land surveyor-in-training under subparagraph (C) of
 12437 paragraph (1) and paragraph (3) of Code Section 43-15-12;
 12438 (B) Acquire an additional specific record of not less than four years of experience in
 12439 land surveying which, together with the qualifying experience under subparagraph (C)
 12440 of paragraph (1) of Code Section 43-15-12, includes not less than six years' experience
 12441 in responsible charge of land surveying under the supervision of a registered land
 12442 surveyor or such other supervision deemed by the ~~board~~ director to be the equivalent
 12443 thereof and of a grade and character satisfactory to the ~~board~~ director indicating that the
 12444 applicant is competent to practice land surveying; and
 12445 (C) Subsequently pass a written examination on the principles and practices of land
 12446 surveying and laws of this state relating to land surveying (land surveyor examination).

12447 43-15-14.

12448 ~~Board approval~~ Approval by the director of an applicant for examination entitles the
 12449 applicant to admission to the next four consecutive examination offerings without
 12450 reapplication. Following the first offering to which the applicant is entitled to admission,
 12451 the applicant shall not be admitted to any of the succeeding three examination offerings
 12452 except upon payment of a fee for each examination, to be determined by the licensing
 12453 board. Admission to any future examinations will be at the discretion of the ~~board~~ director
 12454 ~~which~~ who may require the applicant to file a new application. An examination offering
 12455 occurs regardless of whether the applicant attends.

12456 43-15-15.

12457 (a) Applications for certificates and for certificates of registration shall be made under oath
 12458 to the ~~board~~ director and shall contain such information in the form and manner as shall be
 12459 prescribed by the licensing board. The application shall be accompanied by a fee in an
 12460 amount prescribed by the licensing board.

12461 (b) No individual shall be eligible for a certificate or a certificate of registration under this
12462 chapter who is not of good character and reputation.

12463 (c) If the board director denies an application on the ground that the applicant lacks the
12464 requisite experience to admit him to the examination, the board director may impose on the
12465 applicant a period of deferment on the filing of a new application, during which period the
12466 board director shall not be required to accept for filing a new application by the applicant.
12467 The period of deferment shall not exceed the time reasonably required to acquire the
12468 requisite experience.

12469 (d) An application shall contain the names of not less than five persons, not related to the
12470 applicant by blood or marriage, of whom at least three shall be professional engineers or
12471 land surveyors having personal knowledge of the experience on which the applicant
12472 predicates his qualifications.

12473 (e) Experience required under this chapter shall be of a character and nature approved by
12474 the licensing board or the director and consistent with the purposes of this chapter.

12475 43-15-16.

12476 (a) The board director may, in its his or her discretion, upon application therefor and the
12477 payment of a fee prescribed by the licensing board, issue a certificate of registration as a
12478 professional engineer to any individual who holds a certificate of qualification or
12479 registration issued to him or her by proper authority of the National Council of Engineering
12480 Examiners or of any state or territory or possession of the United States if the requirements
12481 of the registration of professional engineers under which the certificate of qualification or
12482 registration was issued do not conflict with this chapter and are of a standard not lower than
12483 that specified in this chapter or if the applicant held such certificate on or before July 1,
12484 1956. The fact that the statute under which the individual was issued a certificate of
12485 qualification or registration in another state does not provide that the required written
12486 examination be passed subsequent to the acquisition of the required experience shall not
12487 be deemed as a conflict with, or lower than, the Georgia requirements, provided that the
12488 written examination and the amount of experience required for registration are substantially
12489 equivalent to the Georgia requirements.

12490 (b) The board director may, in its his or her discretion, upon application therefor and the
12491 payment of a fee prescribed by the licensing board, issue a certificate of registration as a
12492 land surveyor to any person who holds a certificate of registration to practice land
12493 surveying issued by a state or territory or possession of the United States obtained:

- 12494 (1) By written examination of not less than eight hours in duration prior to July 1, 1968;
- 12495 (2) By written examination of not less than 16 hours in duration prior to July 1, 1978; or
- 12496 (3) Under qualifications comparable to those prescribed by this chapter; and

12497 in addition passes a written examination on the laws of Georgia relating to land surveying
12498 (land surveyor examination).

12499 43-15-17.

12500 (a) Certificates and certificates of registration shall be issued to applicants who
12501 successfully complete the respective requirements therefor upon the payment of fees
12502 prescribed by the licensing board.

12503 (b) Certificates of registration shall be renewable biennially. Renewal may be effected for
12504 the succeeding two years by the payment of the fee prescribed by the licensing board.

12505 Certificates of registration may be renewed subsequent to their expiration upon the
12506 payment of accumulated unpaid fees and of a penalty in an amount to be determined by the
12507 licensing board. A certificate of registration which has been expired for a period of greater
12508 than four years shall be automatically revoked.

12509 (c) The ~~division~~ director shall give notice by mail to each person holding a certificate of
12510 registration under this chapter of the date of the expiration of the certificate of registration
12511 and the amount of the fee required for renewal, at least one month prior to the expiration
12512 date; but the failure to receive such notice shall not avoid the expiration of any certificate
12513 of registration not renewed in accordance with this Code section.

12514 43-15-18.

12515 (a) In the case of a registered professional engineer, the certificate of registration shall
12516 authorize the practice of professional engineering. In the case of a registered land
12517 surveyor, the certificate of registration shall authorize the practice of land surveying. A
12518 certificate of registration shall show the full name of the registrant, shall have a serial
12519 number, and shall be signed by the ~~chairman of the board and the division director under~~
12520 ~~the seal of the board~~ director.

12521 (b) The issuance of a certificate of registration ~~by the board~~ shall be evidence that the
12522 person named therein is entitled to all the rights and privileges of a registered professional
12523 engineer or a registered land surveyor, as the case may be, as so long as the certificate
12524 remains unrevoked, unexpired, or unaffected by other discipline imposed by the ~~board~~
12525 director.

12526 43-15-19.

12527 (a) The ~~board~~ director shall have the power, ~~after notice and hearing in compliance with~~
12528 Code Section 43-1-3.1, to deny any application ~~made to it~~, to revoke or suspend any
12529 certificate or certificate of registration issued ~~by it~~, or to reprimand any person holding a
12530 certificate or certificate of registration issued ~~by it~~, upon the following grounds:

- 12531 (1) Commission of any fraud or deceit in obtaining a certificate or certificate of
 12532 registration;
- 12533 (2) Any gross negligence, incompetency, or unprofessional conduct in the practice of
 12534 professional engineering or land surveying as a registered professional engineer or land
 12535 surveyor;
- 12536 (3) Affixing a seal to any plan, specification, plat, or report contrary to Code Section
 12537 43-15-22;
- 12538 (4) Conviction of a felony or crime involving moral turpitude in the courts of this state,
 12539 the United States, or of any state or territory of the United States or the conviction of an
 12540 offense in another jurisdiction which, if committed in this state, would be deemed a
 12541 felony. 'Conviction' shall include a finding or verdict of guilt, a plea of guilty, or a plea
 12542 of nolo contendere in a criminal proceeding, regardless of whether the adjudication of
 12543 guilt or sentence is withheld or not entered thereon pursuant to Article 3 of Chapter 8 of
 12544 Title 42 or any comparable rule or statute; or
- 12545 (5) Any violation of this chapter or any rule or regulation promulgated by the licensing
 12546 board pursuant to the powers conferred on it by this chapter.
- 12547 (b) 'Unprofessional conduct,' as referred to in paragraph (2) of subsection (a) of this Code
 12548 section, includes a violation of those standards of professional conduct for professional
 12549 engineers and land surveyors adopted by the licensing board pursuant to the power
 12550 conferred upon it to promulgate rules and regulations to effectuate the duties and powers
 12551 conferred on it by this chapter.
- 12552 (c) Any order or action of the director based on a violation of this Code section shall be
 12553 made in compliance with Code Section 43-1-3.1.
- 12554 43-15-20.
- 12555 (a) The ~~board~~ director, in its his or her sole discretion, may reissue a certificate or a
 12556 certificate of registration to any person whose certificate or certificate of registration has
 12557 been revoked or may terminate any suspension imposed ~~by it upon the affirmative vote of~~
 12558 ~~a majority of the members of the board and~~ upon the payment of a fee prescribed by the
 12559 licensing board.
- 12560 (b) A new certificate or certificate of registration to replace any certificate lost, destroyed,
 12561 or mutilated may be issued subject to the rules of the licensing board upon the payment of
 12562 a fee prescribed by the licensing board.
- 12563 43-15-21.
- 12564 (a) The ~~board, or its delegate~~ director, in its his or her sole discretion, may issue a
 12565 temporary permit to a person who is not a resident of and who has no established place of

12566 business in this state, or who has recently become a resident thereof, to permit him or her,
 12567 in accordance with the conditions of the temporary permit, to practice or offer to practice
 12568 engineering in this state if:

12569 (1) An application for a certificate of registration has been filed with the board director
 12570 and the fee required by this chapter has been paid;

12571 (2) The applicant is legally qualified to practice such profession in the state or country
 12572 of the applicant's residence or former residence; and

12573 (3) The requirements and qualifications for obtaining a certificate of registration in that
 12574 jurisdiction are not lower than those specified in this chapter.

12575 (b) An application under subsection (a) of this Code section shall be made to the board
 12576 director in writing, containing such information and in the form and manner as shall be
 12577 prescribed by the licensing board.

12578 (c) The temporary permit shall continue only for such time as the board director requires
 12579 for the consideration of the application for registration. The temporary permit shall contain
 12580 such conditions with respect to the scope of the permission granted as the board director
 12581 deems necessary or desirable.

12582 (d) Plans, specifications, plats, and reports issued by a person holding a temporary permit
 12583 shall bear his or her signature and a stamp containing his or her name, business address,
 12584 and 'Georgia Professional Engineer Temporary Permit No. ____.' The signature and stamp
 12585 shall be affixed only in accordance with the requirements of subsection (b) of Code Section
 12586 43-15-22.

12587 (e) A person who has obtained a temporary permit and practices in accordance therewith
 12588 is deemed to be a professional engineer for purposes of this chapter, but a temporary permit
 12589 shall not be deemed to be a registration under any provision of this chapter, including, by
 12590 way of illustration and not limitation, Code Section 43-15-23.

12591 43-15-22.

12592 (a) Every engineer and land surveyor registered under this chapter shall, upon receipt of
 12593 a certificate of registration, obtain a seal of the design authorized by the licensing board,
 12594 bearing the registrant's name, certificate number, and the legend 'Registered Professional
 12595 Engineer,' or 'Registered Land Surveyor,' in accordance with the certificate of registration.

12596 (b) Plans, specifications, plats, and reports issued by a registrant shall be stamped or sealed
 12597 and countersigned by the registrant; but it shall be unlawful for the registrant or any other
 12598 person to stamp or seal any document with such seal after the certificate of the registrant
 12599 named thereon has expired, or has been revoked, or during the period of any suspension
 12600 imposed by the licensing board or the director. No plans, specifications, plats, or reports
 12601 shall be stamped with the seal of a registrant unless such registrant has personally

12602 performed the engineering or land surveying work involved or, when the registrant has not
12603 personally performed the engineering or land surveying work reflected in any plan,
12604 specification, plat, or report, such registrant has affixed his or her seal thereto only if such
12605 document has been prepared by an employee or employees under the registrant's direct
12606 supervisory control on a daily basis and after the registrant has thoroughly reviewed the
12607 work embodied in such document and has satisfied himself or herself completely that such
12608 work is adequate.

12609 (c) No registrant shall affix his or her seal to any plan, specification, plat, or report unless
12610 he or she has assumed the responsibility for the accuracy and adequacy of the work
12611 involved.

12612 (d) Any registrant who has affixed his or her seal to any plan, specification, plat, or report
12613 prepared by another person not under the registrant's direct supervisory control on a daily
12614 basis, and without having thoroughly reviewed such work, shall be deemed to have
12615 committed a fraudulent act of misconduct in the practice of professional engineering or
12616 land surveying.

12617 43-15-23.

12618 (a) The practice of or offer to practice professional engineering, as defined in this chapter,
12619 by individual professional engineers registered under this chapter through a firm,
12620 corporation, professional corporation, partnership, association, or other entity offering
12621 engineering services to the public or by a firm, corporation, professional corporation,
12622 partnership, association, or other entity offering engineering services to the public through
12623 individual registered professional engineers as agents, employees, officers, members, or
12624 partners is permitted subject to the provisions of this chapter; provided, however, that one
12625 or more of the principals, officers, members, or partners of said firm, corporation,
12626 professional corporation, partnership, association, or other entity and all personnel of such
12627 firm, corporation, partnership, association, or entity who act in its behalf as professional
12628 engineers in this state shall be registered as provided in this chapter; and ~~further~~ provided,
12629 further, that said firm, corporation, professional corporation, partnership, association, or
12630 entity has been issued a certificate of authorization by the ~~board~~ director as provided in this
12631 chapter.

12632 (b) A firm, corporation, professional corporation, partnership, association, or other entity
12633 desiring a certificate of authorization shall file with the ~~board~~ director an application upon
12634 a form to be prescribed by the licensing board and accompanied by the registration fee
12635 prescribed by the licensing board.

12636 (c)(1) A corporation or professional corporation shall file with the ~~board~~ director, using
12637 a form provided by the licensing board, the names and addresses of all officers and board

12638 members of the corporation, including the principal officer or officers duly registered to
 12639 practice professional engineering in this state and of an individual or individuals duly
 12640 registered to practice professional engineering within this state who shall be in
 12641 responsible charge of the practice of professional engineering in this state by ~~said~~ such
 12642 corporation.

12643 (2) A partnership shall file with the ~~board~~ director, using a form provided by the
 12644 licensing board, the names and addresses of all partners of the partnership, including the
 12645 partner or partners duly registered to practice professional engineering in this state and
 12646 of an individual or individuals duly registered to practice professional engineering in this
 12647 state who shall be in responsible charge of the practice of professional engineering in this
 12648 state by ~~said~~ such partnership.

12649 (3) Any firm, limited liability company, association, or entity which is not a corporation,
 12650 professional corporation, or partnership shall file with the ~~board~~ director, using a form
 12651 ~~provided~~ prescribed by the licensing board, the names and addresses of all principals or
 12652 members of the firm, association, or entity duly registered to practice professional
 12653 engineering in this state who shall be in responsible charge of the practice of professional
 12654 engineering in this state by ~~said~~ such firm, association, or other entity.

12655 (4) The forms provided in paragraphs (1) through (3) of this subsection must accompany
 12656 a biennial renewal fee prescribed by the licensing board. In the event there shall be a
 12657 change in any of these persons, such change shall be designated on the same form and
 12658 filed with the ~~board~~ director by the firm, corporation, professional corporation,
 12659 partnership, association, or entity within 30 days after the effective date of the change.

12660 (d)(1) After all of the requirements of this Code section have been complied with, the
 12661 ~~board~~ director shall issue to such firm, corporation, professional corporation, partnership,
 12662 association, or other entity a certificate of authorization.

12663 (2) The ~~board~~ director may refuse to issue a certificate if any facts exist which would
 12664 entitle the ~~board~~ director to suspend or revoke an existing certificate or if the ~~board~~
 12665 director shall determine that any of the officers, directors, principals, members, agents,
 12666 or employees of the entity to be licensed are not persons of good character. The refusal
 12667 to issue a certificate shall not be considered a contested case within the meaning of
 12668 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and
 12669 hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the
 12670 applicant shall have the right to a hearing before the licensing board as provided in Code
 12671 Section 43-1-3.1.

12672 43-15-23.1.

12673 (a) The practice of or offer to practice land surveying, as defined in this chapter, by
12674 individual land surveyors registered under this chapter through a firm, corporation,
12675 professional corporation, partnership, association, or other entity offering land surveying
12676 services to the public or by a firm, corporation, professional corporation, partnership,
12677 association, or other entity offering land surveying services to the public through individual
12678 registered land surveyors as agents, employees, officers, members, or partners is permitted
12679 subject to the provisions of this chapter; provided, however, that one or more of the
12680 principals, officers, members, or partners of said firm, corporation, professional
12681 corporation, partnership, association, or other entity and all personnel of such firm,
12682 corporation, professional corporation, partnership, association, or entity who act in its
12683 behalf as land surveyors in this state shall be registered as provided in this chapter; and
12684 ~~further~~ provided, further, that ~~said~~ such firm, corporation, professional corporation,
12685 partnership, association, or entity has been issued a certificate of authorization by the ~~board~~
12686 director as provided in this chapter.

12687 (b) A firm, corporation, professional corporation, partnership, association, or other entity
12688 desiring a certificate of authorization shall file with the ~~board~~ director an application upon
12689 a form to be prescribed by the licensing board and accompanied by the registration fee
12690 prescribed by the licensing board.

12691 (c)(1) A corporation or professional corporation shall file with the ~~board~~ director, using
12692 a form provided by the licensing board, the names and addresses of all officers and board
12693 members of the corporation, including the principal officer or officers duly registered to
12694 practice land surveying in this state and of an individual or individuals duly registered to
12695 practice land surveying within this state who shall be in responsible charge of the practice
12696 of land surveying in this state by ~~said~~ such corporation.

12697 (2) A partnership shall file with the ~~board~~ director, using a form provided by the
12698 licensing board, the names and addresses of all partners of the partnership, including the
12699 partner or partners duly registered to practice land surveying in this state and of an
12700 individual or individuals duly registered to practice land surveying in this state who shall
12701 be in responsible charge of the practice of land surveying in this state by ~~said~~ such
12702 partnership.

12703 (3) Any firm, limited liability company, association, or entity which is not a corporation,
12704 professional corporation, or partnership shall file with the ~~board~~ director, using a form
12705 provided by the licensing board, the names and addresses of all principals or members
12706 of the firm, association, or entity duly registered to practice land surveying in this state
12707 who shall be in responsible charge of the practice of land surveying in this state by ~~said~~
12708 such firm, association, or other entity.

12709 (4) The forms provided in paragraphs (1) through (3) of this subsection must accompany
 12710 a biennial renewal fee prescribed by the licensing board. In the event there shall be a
 12711 change in any of these persons, such change shall be designated on the same form and
 12712 filed with the board director by the firm, corporation, professional corporation,
 12713 partnership, association, or entity within 30 days after the effective date of the change.

12714 (d)(1) After all of the requirements of this Code section have been complied with, the
 12715 board director shall issue to such firm, corporation, professional corporation, partnership,
 12716 association, or other entity a certificate of authorization.

12717 (2) The board director may refuse to issue a certificate if any facts exist which would
 12718 entitle the board director to suspend or revoke an existing certificate or if the board
 12719 director shall determine that any of the officers, directors, principals, members, agents,
 12720 or employees of the entity to be licensed are not persons of good character. The refusal
 12721 to issue a certificate shall not be considered a contested case within the meaning of
 12722 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and
 12723 hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the
 12724 applicant shall have the right to a hearing before the licensing board as provided in Code
 12725 Section 43-1-3.1.

12726 (3) Every firm, partnership, corporation, or other entity which performs or offers to
 12727 perform surveying services shall have a resident registered land surveyor in responsible
 12728 charge in each separate branch office in which surveying services are performed or
 12729 offered to be performed. A resident means a registrant who spends the majority of his
 12730 or her normal working time at his or her place of business. The registrant can be the
 12731 resident licensee at only one place of business at one time.

12732 43-15-24.

12733 (a) It shall be unlawful for this state or any of its political subdivisions such as a county,
 12734 municipality, or school district, or agencies thereof, or for any private or commercial entity
 12735 to engage in the construction of any work or structures involving professional engineering
 12736 which by the nature of their function or existence could adversely affect or jeopardize the
 12737 health, safety, or welfare of the public unless the plans and specifications have been
 12738 prepared under the direct supervision or review of and bear the seal of, and the construction
 12739 is executed under the direct supervision of or review by, a registered professional engineer
 12740 or architect.

12741 (b) Nothing in this Code section shall be held to apply to any construction, including
 12742 alterations, of which the completed cost is less than \$100,000.00 or which is used
 12743 exclusively for private or noncommercial purposes, or to private residences, or to

12744 noncommercial farm buildings, or to residence buildings not exceeding two stories in
12745 height, excluding basements.

12746 (c) Any county, municipality, or other governing body in this state that issues building
12747 permits is required to maintain a permanent record of the permit application and issuance
12748 thereon, ~~which record shall indicate~~ indicating the name of the professional engineer or
12749 architect, if any, ~~that who~~ has sealed the plans, specifications, plats, or reports pursuant to
12750 which ~~said~~ such building permit is issued, ~~said~~ such record to include details on the size,
12751 type of building or structure, use for ~~said~~ such building or structure, and estimated cost of
12752 construction.

12753 43-15-25.

12754 (a) Any person may ~~prefer~~ proffer charges of fraud, deceit, gross negligence,
12755 incompetency, or unprofessional conduct against any person holding a certificate or
12756 certificate of registration. Such charges shall be in writing, shall be sworn to by the person
12757 making them, and shall be filed with the ~~board~~ director.

12758 (b) All such charges, unless dismissed by the ~~board~~ director as unfounded or trivial, shall
12759 be acted upon by the ~~board~~ director.

12760 43-15-26.

12761 (a) ~~After notice and hearing, the board~~ The director may issue an order prohibiting any
12762 person from violating Code Section 43-15-7 and may fine such person at least \$100.00 but
12763 not more than \$5,000.00 per violation.

12764 (b) The violation of any order of the ~~board~~ director issued under subsection (a) of this
12765 Code section shall subject the person violating the order to an additional civil penalty not
12766 in excess of \$100.00 for each transaction constituting a violation of such order. The ~~board~~
12767 director may maintain an action in the superior courts of this state ~~in its own name~~ to
12768 recover the penalties provided for in this Code section.

12769 (c) An order of the director issued under this Code section shall be made in compliance
12770 with Code Section 43-1-3.1.

12771 43-15-27.

12772 (a) It shall be the duty of all duly constituted law enforcement officers of this state and of
12773 the political subdivisions of this state to enforce this chapter and to prosecute any person
12774 violating this chapter.

12775 (b) The Attorney General or his or her designated assistant shall ~~act as legal adviser to the~~
12776 ~~board and~~ render such legal assistance upon request of the director or the licensing board
12777 as may be necessary in carrying out this chapter.

12778 (c) Except as provided in Code Section 25-2-14, it shall be the duty of all public officials
 12779 charged with the responsibility of enforcing codes related to construction to require
 12780 compliance with Code Section 43-15-24 before engineering plans, drawings, and
 12781 specifications are approved by construction. Except as provided in Code Section 25-2-14,
 12782 no construction which is subject to Code Section 43-15-24 and which requires the service
 12783 of an engineer shall be built without such approval prior to construction.

12784 43-15-28.

12785 The ~~board~~ director shall exercise the powers and duties conferred upon it him or her in
 12786 accordance with ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~ this
 12787 chapter and Chapter 1 of this title.

12788 43-15-29.

12789 (a) Nothing in this chapter shall be construed as excluding a qualified architect registered
 12790 in this state from such engineering practice as may be incident to the practice of his or her
 12791 profession or as excluding a professional engineer from such architectural practice as may
 12792 be incident to the practice of professional engineering.

12793 (b) The following persons shall be exempt from this chapter:

12794 (1) A person working as an employee or a subordinate of a person holding a certificate
 12795 of registration under this chapter or an employee of a person practicing lawfully under
 12796 Code Section 43-15-21, provided such work does not include final design decisions and
 12797 is done under the supervision of, and responsibility therefor is assumed by, a person
 12798 holding a certificate of registration under this chapter or a person practicing lawfully
 12799 under Code Section 43-15-21;

12800 (2) Officers and employees of the government of the United States while engaged within
 12801 this state in the practice of professional engineering or land surveying for such
 12802 government;

12803 (3) All ~~elective~~ elected officers of the political subdivisions of ~~the~~ this state while in the
 12804 practice of professional engineering or land surveying in the performance of their official
 12805 duties; and

12806 (4) Officers and employees of the Department of Transportation, except as required by
 12807 Title 46, while engaged within this state in the practice of professional engineering or
 12808 land surveying for such department.

12809 (c) This chapter shall not be construed as requiring registration for the purpose of
 12810 practicing professional engineering or land surveying by an individual, firm, or corporation
 12811 on property owned or leased by such individual, firm, or corporation unless the same

12812 involves the public safety or public health or for the performance of engineering which
12813 relates solely to the design or fabrication of manufactured products.

12814 (d) This chapter shall not be construed to prevent or affect the practice of professional
12815 engineering and land surveying with respect to utility facilities by any public utility subject
12816 to regulation by the Public Service Commission, the Federal Communications
12817 Commission, the Federal Power Commission, or like regulatory agencies, including its
12818 parents, affiliates, or subsidiaries; or by the officers and full-time permanent employees of
12819 any such public utility, including its parents, affiliates, or subsidiaries, except where such
12820 practice involves property lines of adjoining property owners, provided that this exception
12821 does not extend to any professional engineer or land surveyor engaged in the practice of
12822 professional engineering or land surveying whose compensation is based in whole or in
12823 part on a fee or to any engineering services performed by the above-referenced utility
12824 companies not directly connected with work on their facilities.

12825 (e) This chapter shall not be construed to affect the lawful practice of a person acting
12826 within the scope of a license granted by the state under any other law.

12827 43-15-30.

12828 (a) Any person who violates Code Section 43-15-7 shall be guilty of a misdemeanor.

12829 (b) Any person presenting or attempting to use as his or her own the certificate of
12830 registration or the seal of another obtained under this chapter shall be guilty of a
12831 misdemeanor.

12832 (c) Any person who gives any false or forged evidence of any kind to the ~~board or to any~~
12833 ~~member thereof~~ director in obtaining a certificate or certificate of registration shall be
12834 guilty of a misdemeanor.

12835 (d) Any person who falsely impersonates any other registrant or any person who attempts
12836 to use an expired or revoked certificate of registration shall be guilty of a misdemeanor.

12837 (e) Each day or occurrence shall be considered a separate offense.

12838 (f) Any person offering services to the public who uses by name, verbal claim, sign,
12839 advertisement, directory listing, or letterhead the words 'Engineer,' 'Engineers,'
12840 'Professional Engineering,' 'Engineering,' or 'Engineered' shall be guilty of a misdemeanor
12841 unless ~~said~~ such person has complied with the provisions of this chapter."

12842 **SECTION 1-19.**

12843 Said title is further amended by revising Chapter 18, relating to funeral directors and
12844 establishments, embalmers, and crematories, as follows:

12845 "CHAPTER 18
 12846 ARTICLE 1
 12847 Part 1

12848 43-18-1.

12849 As used in this article, the term:

12850 (1) 'Alternative container' means any receptacle or enclosure which is of sufficient
 12851 strength to be used to hold and to transport a dead human body.

12852 (2) 'Apprentice' means a person who practices embalming, funeral directing, or both,
 12853 under the direct supervision of a funeral director, embalmer, or both, in this state.

12854 (3) 'Board' means the State Board of Funeral Service, a professional licensing policy
 12855 board pursuant to Chapter 1 of this title with the authority and responsibility set forth in
 12856 such chapter.

12857 (4) 'Casket' means a container which is designed for the encasement and viewing of a
 12858 dead human body.

12859 (5) 'Cremation' means the reduction of the dead human body to residue by intense heat.

12860 (6) 'Crematory' means any place where cremation is performed, other than a hospital,
 12861 clinic, laboratory, or other facility authorized by the Department of Community Health
 12862 for such purposes.

12863 (7) 'Direct supervision' means that the embalmer, funeral director, or both, are present
 12864 overseeing the activities of the apprentice.

12865 (7.1) 'Director' means the director of professional licensing.

12866 (8) 'Embalmer' means a person who practices embalming or uses in connection with that
 12867 person's name the words 'embalmer,' 'licensed embalmer,' 'undertaker,' or 'mortician' or
 12868 offers or holds himself or herself out as offering such services.

12869 (9) 'Final disposition' means the final disposal of a dead human body whether it is by, but
 12870 not limited to, earth interment, above-ground interment, cremation, burial at sea, or
 12871 delivery to a medical institution for lawful dissection if the medical institution assumes
 12872 responsibility for disposal.

12873 (10) 'Funeral' or 'funeral services' means the observances, services, or ceremonies held
 12874 for dead human bodies.

12875 (11) 'Funeral director' means a person who practices funeral directing or uses in
 12876 connection with that person's name or with a picture of that person the words 'funeral
 12877 director,' 'licensed funeral director,' 'undertaker,' or 'mortician' or offers or holds himself
 12878 or herself out as offering such services.

12879 (12) 'Funeral director in full and continuous charge' means a funeral director who is
 12880 approved by the ~~board~~ director to assume full responsibility for the operations of a

12881 particular funeral establishment and who shall ensure that ~~said~~ such establishment
12882 complies with this article and with all rules promulgated pursuant thereto.

12883 (13) 'Funeral establishment' means a place where embalming or funeral directing is
12884 practiced and which is open to the public and transacting business relating to funeral
12885 services.

12886 (14) 'Funeral merchandise' means the goods that may only be sold or offered for sale by
12887 a funeral director working in a funeral establishment and includes, but is not limited to,
12888 a casket or alternative container, but does not include an outer burial container or
12889 cemetery marker.

12890 (15) 'Funeral service contract' means a written or oral agreement between a funeral
12891 director or funeral establishment and a legally authorized person for the embalming,
12892 funeral, or final disposition of a dead human body.

12893 (16) 'Legally authorized person' means the deceased's surviving spouse, a son or
12894 daughter who is 18 years of age or older; the deceased's parent, a brother or sister who
12895 is 18 years of age or older; any other person who is 18 years of age or older and who is
12896 in the next degree of kinship to the deceased; the deceased's guardian or personal
12897 representative; or a public health officer.

12898 (16.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created
12899 by Article 2 of Chapter 1 of this title.

12900 (17) 'Outer burial container' means an enclosure into which a casket is placed, including,
12901 but not limited to, a vault made of concrete, steel, fiberglass, or copper, a sectional
12902 concrete enclosure, a crypt, or a wooden enclosure.

12903 (18) 'Practice of embalming' means disinfecting or preserving or attempting to disinfect
12904 or preserve dead human bodies by replacing certain body fluids with preserving and
12905 disinfecting chemicals.

12906 (19) 'Practice of funeral directing' means making or directing, at need or preneed,
12907 arrangements for the preparation and transportation of dead human bodies for final
12908 disposition and the supervision and direction of all funeral services.

12909 (20) 'Retort' means a furnace where dead human bodies are cremated.

12910 (21) 'Soliciting' means the making of any uninvited contact with another person by a
12911 funeral director or by a funeral director's agent, assistant, employer, or employee for the
12912 purpose of the sale of funeral services or merchandise but shall not mean any advertising
12913 which is directed to the public in general.

12914 43-18-2.

12915 It is declared that this article shall be deemed an exercise of the health powers of the state
12916 for the prevention of the spread of infectious, communicable, and contagious diseases and

12917 for the protection of the sanitation, health, and welfare of the people of this state; and that
 12918 all of this article and the regulations authorized to be made pursuant to it are necessary to
 12919 effectuate its purpose.

12920 43-18-3.

12921 (a) It shall be unlawful for any person to engage in the practice of embalming or to
 12922 represent to the public that such person is an embalmer, mortician, or undertaker without
 12923 first complying with this article.

12924 (b) It shall be unlawful for any person to engage in the business or profession of funeral
 12925 directing or to represent to the public that such person is a funeral director, undertaker, or
 12926 mortician without first complying with this article.

12927 (c) Any person who actively engages or participates in any way in the business or
 12928 profession of funeral directing shall be considered to be practicing as a funeral director and
 12929 must be a licensed funeral director under the terms of this article.

12930 43-18-4.

12931 The practice of embalming or funeral directing, as defined in this article, is declared to be
 12932 a business or profession affecting the public interest and involving the health and safety of
 12933 the public. Such practice by a person who is not licensed to practice in this state is declared
 12934 to be a public nuisance; and any citizen of this state, the ~~board~~ director, or the appropriate
 12935 prosecuting attorney where such practice is carried on by such unlicensed person may, on
 12936 behalf of the public, bring an action in the superior court of the county where such nuisance
 12937 exists or is carried on to restrain and abate the same. On satisfactory proof to the judge of
 12938 the superior court that such illegal practice or business of funeral directing or embalming
 12939 is being carried on, the judge shall issue a temporary injunction against the party or parties
 12940 operating such practice or business until they have qualified and been licensed under the
 12941 terms of this article.

12942 43-18-5.

12943 (a) It shall be unlawful for any person, firm, or corporation or any officer, agent, or
 12944 employee of such person, firm, or corporation to practice or hold out to the public that such
 12945 person, firm, or corporation as practicing embalming or funeral directing, or to act as an
 12946 embalmer or funeral director, or to assist in so doing as an apprentice, without having
 12947 complied with this article, or to practice embalming or funeral directing without having
 12948 paid the fee for license renewal prior to the expiration of that license as provided for in this
 12949 article.

12950 (b) Any person, firm, or corporation ~~who~~ that has control of a funeral establishment or
12951 crematory and fails to obtain licensure as required by this article, upon conviction thereof,
12952 may be fined not less than \$100.00 nor more than \$500.00 for each violation. Each day
12953 that the funeral establishment or crematory is operated in violation of this article shall be
12954 deemed to be a separate and distinct offense.

12955 (c) Any persons representing themselves as an embalmer or funeral director without
12956 having first complied with this article shall be deemed and considered guilty of practicing
12957 without a license and the use of these terms shall be prima-facie evidence of guilt.

12958 (d) It shall be unlawful for any person, firm, or corporation or any officer, agent, or
12959 employee of such person, firm, or corporation engaged in the funeral or crematory business
12960 to give, or contract to give, either directly or indirectly, any reward, commission,
12961 compensation, or anything of value to any person, firm, or corporation for the purpose of,
12962 or as an inducement to, such person, firm, or corporation to persuade or induce any person
12963 to use or employ such funeral director or embalmer in or about the preparation for burial
12964 or conducting the burial of any deceased person.

12965 (e) It shall be unlawful for any funeral director, embalmer, firm, or corporation, or any
12966 officer, agent, or employee of such person, firm, or corporation engaged in the funeral
12967 business for compensation or otherwise to influence, or attempt to influence, by persuasion,
12968 argument, or suggestion, the family or friends of any deceased person as to where the body
12969 should or should not be buried.

12970 (f) It shall be unlawful for any funeral establishment, funeral director, or embalmer to
12971 refuse to release a dead human body to a legally authorized person upon request of that
12972 person, but the release of such body shall not constitute a release of any indebtedness or
12973 other claim owed for any services performed on that body by the person or entity releasing
12974 that body.

12975 (g) Accredited colleges of funeral service and those otherwise approved by the licensing
12976 board are authorized to perform on-campus embalming operations subject to satisfying
12977 inspection standards as established by the licensing board. Nothing in this article shall
12978 require any person who is currently enrolled full time or part time in a program at an
12979 accredited college of funeral service or such other college as provided by rule to be
12980 licensed or registered as provided in this article when obtaining practical training in
12981 embalming or funeral directing under the supervision of a licensed embalmer, funeral
12982 director, or both, at such college or at a funeral establishment; provided, however, that any
12983 licensed embalmer, funeral director, or both, who supervise such student shall be
12984 responsible for the acts of such student.

12985 43-18-6.

12986 Any person, firm, or corporation or any officer, agent, or employee of such person, firm,
12987 or corporation who violates this article shall be guilty of a misdemeanor.

12988 43-18-7.

12989 Reserved.

12990 43-18-8.

12991 (a)(1) The funeral director or person in charge of final disposition of a dead body shall,
12992 prior to the interment or cremation of such dead body, affix on the ankle or wrist of the
12993 deceased a tag of durable, noncorroding material permanently marked with the name of
12994 the deceased, the date of death, the social security number of the deceased, the county and
12995 state of death, and the serial number of any prosthesis removed from the dead body by
12996 the funeral establishment or crematory.

12997 (2) No funeral director in charge of a crematory shall permit any dead body to be on the
12998 premises of the crematory without the dead body being identified as provided by this
12999 subsection, except when the body is placed in the retort; and the tag shall be removed
13000 from the body and kept in a regular location near the retort during cremation and
13001 thereafter placed atop the cremated remains on the inside of the vessel and any liner
13002 therein. The vessel containing cremated remains shall be plainly labeled on the outside
13003 so as to identify the deceased with the same information, excluding social security
13004 number, as is required to be on the tag inside the vessel and so as to identify the name of
13005 the person or firm to which such remains are to be delivered or released.

13006 (3) Tags and labels used for purposes of this subsection shall be in such standard forms
13007 as prescribed by the licensing board. If the religious faith of the deceased prohibits such
13008 means of identification, alternative means of identification of the body may be used.

13009 (b) A crematory may deliver or release cremated remains to a funeral establishment or a
13010 legally authorized person. The funeral director in charge of a crematory shall provide to
13011 the funeral establishment or legally authorized person to whom cremated remains are
13012 delivered or released, at the time of such delivery or release, a written statement, on such
13013 standard form as prescribed by the licensing board, signed and verified by such funeral
13014 director before a person authorized to administer oaths and attesting that the vessel contains
13015 substantially the remains of the deceased identified in accordance with subsection (a) of
13016 this Code section.

13017 (c) No funeral establishment shall accept or take delivery of any cremated remains from
13018 any crematory unless the vessel containing such remains is labeled as required by
13019 paragraph (2) of subsection (a) of this Code section and is accompanied by the affidavit

13020 required by subsection (b) of this Code section, ~~which~~ and the vessel and affidavit shall be
 13021 provided by the funeral establishment to a legally authorized person upon delivery or
 13022 release of the cremated remains.

13023 **Part 2**

13024 **ARTICLE 2**

13025 43-18-20.

13026 The State Board of Funeral Service existing immediately prior to April 11, 1990, is
 13027 continued in existence as a professional licensing policy board as defined in Chapter 1 of
 13028 this title and shall be constituted as provided in this article with the powers, duties, and
 13029 authority vested in such board by this article.

13030 43-18-21.

13031 (a) The board shall consist of six members who shall be licensed and practicing funeral
 13032 directors and embalmers with a minimum of five years as such in this state immediately
 13033 preceding their appointment and one member who shall have no connection whatsoever
 13034 with the funeral service industry but who shall have a recognized interest in consumer
 13035 affairs and in consumer protection concerns.

13036 (b) The members of the board shall be appointed by the Governor for terms of office of
 13037 six years and all vacancies occurring on the board shall be filled by the Governor. When
 13038 an appointment is made to fill a vacancy caused by death or resignation of a member, such
 13039 appointment shall be for the remainder of the unexpired term of the member whose death
 13040 or resignation caused the vacancy so filled.

13041 (c) A majority of the members of the board may remove any member who misses three or
 13042 more consecutive regular meetings of the board without a medical reason and may declare
 13043 that position on the board to be vacant. A member so removed shall not be eligible for
 13044 reappointment until the expiration of the term of office for which such person was serving.
 13045 The Governor shall have the power to remove from office any member of the board for
 13046 willful neglect of duty or for conviction of a crime involving moral turpitude.

13047 (d) Those persons serving as members of the board immediately prior to April 11, 1990,
 13048 shall continue to serve out the respective terms of office for which they were appointed and
 13049 until their respective successors are appointed and qualified.

13050 43-18-22.

13051 (a) The board shall each year elect from its members a president whose term shall be one
13052 year and who shall serve during the period for which elected and until a successor shall be
13053 elected.

13054 (b) The board shall meet at least once in each year and more often as the proper and
13055 efficient discharge of its duties may require.

13056 (c) Each member of the board shall be reimbursed as provided for in subsection (f) of
13057 Code Section 43-1-2.

13058 (d) No board inspector shall own, operate, or be employed by any funeral establishment
13059 or crematory, or perform any services on behalf thereof without prior approval by the board
13060 and the ~~division~~ director. However, this shall not prohibit any board member from acting
13061 as an inspector as authorized in this article.

13062 43-18-23.

13063 (a) For the purpose of better protection of life and health, preventing the spread of
13064 contagious, communicable, and infectious diseases, and regulating the practice of
13065 embalming and funeral directing and the care and disposition of dead human bodies, the
13066 licensing board is authorized:

13067 (1) To prescribe a standard of proficiency as to the qualifications and fitness of those
13068 engaged in and who may engage in the practice of embalming or funeral directing and
13069 the care and disposition of dead human bodies;

13070 ~~(2) To revoke the license of any embalmer or funeral director for incompetency,~~
13071 ~~conviction of a crime involving moral turpitude, violation of this article, failure to~~
13072 ~~observe the standards of proficiency or rules and regulations promulgated by the board,~~
13073 ~~or any other cause as provided in this article;~~

13074 ~~(3)~~ To fix and prescribe rules and regulations governing the business or profession of
13075 funeral directing and the business or profession of embalming;

13076 ~~(4)~~(3) To fix and prescribe standards of sanitation to be observed in the embalming of
13077 dead human bodies or cremation of dead human bodies;

13078 ~~(5)~~(4) To regulate and control the business or profession of funeral directing or
13079 embalming;

13080 ~~(6)~~(5) To fix and prescribe minimum standards of general appearance of funeral
13081 establishments or crematories;

13082 ~~(7) To adopt a common seal; and~~

13083 ~~(8)~~(6) To make and promulgate rules and regulations not inconsistent with the laws of
13084 this state for the regulation of such board and for the practice of embalming and funeral
13085 directing within this state. All rules and regulations of the board existing immediately

13086 prior to April 11, 1990, which are not inconsistent with this article shall continue in effect
 13087 until repealed, amended, or otherwise changed by the licensing board; and
 13088 (7) To conduct hearings upon the petition of any person who is aggrieved or adversely
 13089 affected by an order or action of the director, which shall be conducted by the licensing
 13090 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 13091 Act.'
 13092 (b) The director shall implement the rules and regulations adopted by the licensing board
 13093 and is authorized to revoke the license of any embalmer or funeral director for
 13094 incompetency, conviction of a crime involving moral turpitude, violation of this article,
 13095 failure to observe the standards of proficiency or rules and regulations promulgated by the
 13096 licensing board, or any other cause as provided in this article. An order of the director
 13097 revoking a license of an embalmer or funeral director as provided in this article shall be
 13098 made in compliance with Code Section 43-1-3.1.

13099 **Part 3**
 13100 **ARTICLE 3**

13101 43-18-40.
 13102 Any person desiring to engage in the practice of embalming or in the business or practice
 13103 of funeral directing and who has not been licensed to do so shall make written application
 13104 ~~to the board through~~ to the division director for such license. Such application shall be
 13105 upon such form and shall be submitted in such manner as shall be prescribed by the
 13106 licensing board and the applicant shall pay such fee as may be fixed by the licensing board.
 13107 Before being issued a license to practice funeral directing or embalming in this state, all
 13108 applicants shall pass an examination approved by the licensing board which tests their
 13109 qualifications and skill in either funeral directing or embalming, or both, as the case may
 13110 be; and such examination shall be made in the manner provided for in this article and by
 13111 the licensing board through rules and regulations.

13112 43-18-41.
 13113 (a) Each applicant for a license as either an embalmer or a funeral director shall:
 13114 (1) Be at least 18 years of age;
 13115 (2) Be of good moral character; and
 13116 (3) Have graduated from a high school or have earned a general education development
 13117 certificate.
 13118 (b) In addition to the qualifications set out in subsection (a) of this Code section, an
 13119 applicant for an embalmer's license shall:

13120 (1) Have graduated from a program at an accredited college of funeral service or such
 13121 other college as provided by licensing board rule; and

13122 (2) Have completed a minimum of 3,120 hours, pursuant to rules and regulations of the
 13123 licensing board, of service as an apprentice as provided in Code Sections 43-18-50
 13124 through 43-18-54.

13125 (c) In addition to the qualifications set out in subsection (a) of this Code section, an
 13126 applicant for a funeral director's license shall have, prior to the issuance of said license, a
 13127 valid embalmer's license; shall furnish an affidavit which lists the names of the 50 funerals
 13128 at which the apprentice assisted as provided in Code Section 43-18-50; and, effective
 13129 January 1, 1991, must pass an examination approved by the licensing board which tests
 13130 knowledge of the law of this state relating to funeral directors.

13131 (d) An individual who has met the educational requirement specified in paragraph (1) of
 13132 subsection (b) of this Code section shall be eligible to take the section of the examination
 13133 for embalmer relating directly to scholastic training without waiting until such individual
 13134 meets the additional requirements for licensure specified in paragraph (2) of said
 13135 subsection; provided, however, that such individual must submit a proper application to the
 13136 director and pay the required fees as determined by the licensing board. An applicant for
 13137 licensure as an embalmer who ~~shall have~~ has successfully completed the section of the
 13138 examination for embalmer relating directly to scholastic training shall have no status as an
 13139 embalmer until such applicant meets all other requirements for licensure as outlined in this
 13140 article and has received a license as an embalmer from the ~~board~~ director.

13141 43-18-42.

13142 (a) The ~~board~~ director may, in its his or her discretion and in accordance with regulations
 13143 adopted by the licensing board, grant to any person licensed in another state, territory,
 13144 country, or District of Columbia full privileges to engage in equivalent practice authorized
 13145 by this article without taking a national examination if:

13146 (1)(A) On or after January 1, 1991, such person successfully passes an examination
 13147 approved by the licensing board which tests knowledge of the law of this state relating
 13148 to funeral directors; and

13149 (B) Such person satisfied in another state, territory, country, or District of Columbia
 13150 the requirements for licensure which are:

13151 (i) In effect in Georgia on the date of application; or

13152 (ii) Substantially equal to the requirements for a similar license in Georgia; or

13153 (2) Such person seeking a license pursuant to this Code section has engaged in the active
 13154 practice of funeral service as a licensed funeral director and embalmer for three years
 13155 immediately preceding his or her application for a license in Georgia.

13156 (b) Nothing in this Code section shall be construed to prevent an applicant denied pursuant
 13157 to this Code section from taking the examination for licensure pursuant to this article if that
 13158 applicant otherwise meets the qualifications set out in Code Section 43-18-41.

13159 43-18-43.

13160 (a) Each license issued by the ~~board~~ director shall expire biennially.

13161 (b) If the licensee desires a renewal of such license, the ~~board~~ director shall grant and issue
 13162 the same without further examination upon application therefor and upon the payment of
 13163 a renewal fee to be fixed by the licensing board.

13164 43-18-44.

13165 Each person or establishment ~~who~~ that receives a renewal license, wall certificate, or
 13166 apprentice registration under this article shall display such renewal license, wall certificate,
 13167 or apprentice registration in a conspicuous place in that person's or establishment's
 13168 principal office or place of business.

13169 43-18-45.

13170 All funeral director and embalmer licenses and apprentice registrations issued under this
 13171 article shall apply only to the person receiving same and shall not be transferred or
 13172 assigned.

13173 43-18-46.

13174 (a) In addition to the authority provided in Code Section 43-1-19, the ~~board~~ director may
 13175 refuse to grant a license to operate a funeral establishment or to practice embalming or
 13176 funeral directing, may refuse to grant a registration to serve as an apprentice, or may
 13177 revoke, suspend, fine, or otherwise discipline a licensee or registrant upon any of the
 13178 following grounds:

13179 (1) The employment of fraud or deception in applying for a license or registration or in
 13180 passing the examination provided for in this article;

13181 (2) Issuance of a license or registration through error;

13182 (3) Conviction of a crime involving moral turpitude;

13183 (4) The practice of embalming or funeral directing under a false name or the
 13184 impersonation of another embalmer, funeral director, or apprentice of a like or different
 13185 name;

13186 (5) The making of a false statement or representation regarding the qualifications,
 13187 training, or experience of any applicant;

13188 (6) The making of a misrepresentation of any kind regarding any funeral merchandise;

- 13189 (7) Directly or indirectly, by gifts or otherwise, committing the offense of buying
 13190 business or paying a commission or making gifts, directly or indirectly, for the purpose
 13191 of securing business to any physician or hospital, or to any institution where death occurs,
 13192 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
 13193 home, or other institution where death occurs; or to any coroner or other government
 13194 official;
- 13195 (8) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
 13196 directing, or cremating;
- 13197 (9) Signing a death certificate as having embalmed or prepared a body for burial or
 13198 preservation when in fact someone else performed such embalming or preparation;
- 13199 (10) Interfering, either directly or indirectly, with a licensed embalmer or funeral director
 13200 having legal charge of a dead human body;
- 13201 (11) Using any statements that mislead or deceive the public including, but not limited
 13202 to, false or misleading statements regarding a legal or cemetery requirement, funeral
 13203 merchandise, funeral services, or in the operation of a funeral establishment;
- 13204 (12) Failing to fulfill the terms of a funeral service contract;
- 13205 (13) Disregarding a decedent's dignity, right to privacy, or right to confidentiality unless
 13206 compelled by law to do otherwise;
- 13207 (14) Using profane, indecent, or obscene language in the presence of a dead human body,
 13208 or within the immediate hearing of the family or relatives of a deceased, whose body has
 13209 not yet been interred or otherwise disposed;
- 13210 (15) Failing to turn assigned benefits in excess of charges incurred over to the assignee
 13211 of the deceased within ten working days of receipt of the assigned funds;
- 13212 (16) Refusing to surrender promptly the custody of a dead human body upon the express
 13213 order of the person lawfully entitled to the custody;
- 13214 (17) Failing to have the charges rendered to be in compliance with those listed in the
 13215 funeral establishment general price list, the casket price list, the outer burial container list,
 13216 or the funeral service contract price list;
- 13217 (18) Aiding or abetting an unlicensed person to practice under this article;
- 13218 (19) Promoting or participating in a burial society, burial association, burial certificate
 13219 plan, or burial membership plan;
- 13220 (20) Soliciting, as defined in ~~paragraph (21)~~ of Code Section 43-18-1;
- 13221 (21) Presenting a false certification of work done by an apprentice or as an apprentice;
- 13222 (22) Willfully violating any state law or regulation; Federal Trade Commission law or
 13223 regulation; Occupational Safety and Health Administration law or regulation; Department
 13224 of Public Health law or regulation; Environmental Protection Agency law or regulation;
 13225 or municipal or county ordinance or regulation that affects the handling, custody, care,

- 13226 or transportation of dead human bodies, including, but not limited to, the disposal of
 13227 equipment, residual fluids, or medical wastes;
- 13228 (23) Knowingly making any misleading, deceptive, untrue, or fraudulent representation
 13229 in the practice of funeral directing or embalming or in any document connected
 13230 therewith;
- 13231 (24) Discriminating in the provision of services because of race, creed, color, religion,
 13232 gender, or national origin;
- 13233 (25) Failing to safeguard all personal properties that were obtained from dead human
 13234 remains and failing to dispose of same as directed by a legally authorized person;
- 13235 (26) Failing to refund moneys due as a result of overpayment by an insurance company
 13236 or other third party;
- 13237 (27) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
 13238 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
 13239 affects the fitness of the licensee or registrant to practice in the funeral business; or is of
 13240 a nature likely to jeopardize the interest of the general public; ~~which;~~ such conduct or
 13241 practice need not have resulted in actual injury to any person or be directly related to the
 13242 practice of funeral directing or embalming but shows that the person has committed any
 13243 act or omission which is indicative of bad moral character or untrustworthiness;
 13244 ~~unprofessional.~~ Unprofessional conduct shall also include any departure from or failure
 13245 to conform to the minimal reasonable standards of acceptable and prevailing practice of
 13246 funeral services;
- 13247 (28) Engaging in any practice whereby a person who is both a funeral director and a
 13248 coroner or who is both a funeral director and a minister presents that person as a funeral
 13249 director to a legally authorized person when death is imminent or after death occurs prior
 13250 to when the legally authorized person selects a funeral director or funeral establishment
 13251 which will handle the dead human body;
- 13252 (29) Practicing embalming or funeral directing or operating a funeral establishment or
 13253 crematory prior to the ~~board's~~ director's having approved an application for licensure; or
- 13254 (30) Failing to satisfy the funeral director in full and continuous charge requirements as
 13255 set out in Code Section 43-18-71 or funeral establishment requirements as set out in Code
 13256 Section 43-18-70.
- 13257 (b) An order of the director entered as a result of a violation of subsection (a) of this Code
 13258 section shall be entered in compliance with Code Section 43-1-3.1.
- 13259 43-18-47.
- 13260 ~~(a) Upon the presentation before the board of~~ An order of the director based on any of the
 13261 grounds enumerated in Code Section 43-18-46 or elsewhere in this article for revoking a

13262 license or registration, it shall be ~~the duty of the board to cause written notice of the time~~
 13263 ~~and place of hearing upon the charge preferred, together with a copy of the charge, to be~~
 13264 ~~served upon the licensee or applicant for license, as the case may be, 20 days before the~~
 13265 ~~hearing entered in compliance with Code Section 43-1-3.1.~~

13266 (b) ~~The board shall conduct such hearing in accordance with Chapter 13 of Title 50, the~~
 13267 ~~'Georgia Administrative Procedure Act.'~~

13268 (c) ~~The board may, upon satisfactory proof that a licensee or registrant has been guilty of~~
 13269 ~~any of the offenses enumerated in Code Section 43-18-46 or elsewhere in this article~~
 13270 ~~revoke a license or registration or may limit or restrict a license or registration upon a~~
 13271 ~~majority vote of the board after a hearing thereon.~~

13272 43-18-48.

13273 The ~~board~~ director may refuse to grant a license or registration. Refusal to grant a license
 13274 or registration shall not be deemed to be a contested case under Chapter 13 of Title 50, the
 13275 'Georgia Administrative Procedure Act.'

13276 43-18-49.

13277 At any time after the final termination of the proceeding revoking a license, the ~~board~~
 13278 director may, ~~by a majority vote,~~ issue a new license to a person affected restoring and
 13279 conferring all the rights and privileges of and pertaining to the practice of embalming or
 13280 funeral directing, as defined and regulated by this article. Any person desiring a new
 13281 license shall be held to the same requirements as are persons who have not previously been
 13282 licensed as such in this state.

13283 43-18-50.

13284 (a) Every person desiring to serve as an apprentice shall make application as a funeral
 13285 service apprentice to the ~~board~~ director upon a form ~~provided~~ approved by the licensing
 13286 board. The applicant must be at least 18 years of age and have either graduated from high
 13287 school or have a general educational development certificate. The apprenticeship shall be
 13288 served at an approved establishment and under the direct supervision of a funeral director,
 13289 embalmer, or both. The application must be verified by oath of applicant and be
 13290 accompanied by a fee to be established by the licensing board. The application shall be
 13291 submitted to the ~~board~~ director and may be accepted or rejected by ~~a majority of the board~~
 13292 director.

13293 (b) An apprenticeship shall be approved for a specific establishment and under a specific
 13294 supervising funeral director, embalmer, or both. Any change in establishment or

13295 supervising funeral director, embalmer, or both shall terminate that apprenticeship and shall
 13296 require submission of a new application.

13297 (c) The total period of apprenticeship shall be 3,120 hours and must be served in a
 13298 minimum of 18 months, but the minimum period shall be in addition to the time required
 13299 to graduate from a college of funeral service or other college pursuant to paragraph (1) of
 13300 subsection (b) of Code Section 43-18-41.

13301 43-18-51.

13302 A registration of apprenticeship shall be renewable biennially upon payment of the renewal
 13303 fee as provided by the licensing board but shall not be renewed more than two times.
 13304 Failure to renew a registration shall be the same as a revocation and such apprentice may
 13305 be reregistered as provided in Code Section 43-18-54. The hours served after a registration
 13306 has been revoked will not be carried forth into any subsequent apprenticeship period.

13307 43-18-52.

13308 All apprentices shall be under the supervision and control of the board director and shall
 13309 upon application for licensure submit to the board director proof of having served the
 13310 required number of hours on forms ~~provided~~ approved by the licensing board. After
 13311 completing the 3,120 hours for apprenticeship within the specified period, they shall send
 13312 the last report to the board director regardless of the date. The information contained in the
 13313 report shall be certified as correct by the funeral director in full and continuous charge and
 13314 by the supervising funeral director and embalmer.

13315 43-18-53.

13316 (a) The board director may grant leaves of absence for good cause; and grant extensions
 13317 thereof to apprentices registered under the provisions of this article. However, no credit
 13318 shall be given for the period during which the apprentice is on such leave, and no more
 13319 than an aggregate of four years of such leave shall be granted to any person. Application
 13320 for leave of absence and for extension thereof shall be made by the apprentice upon a form
 13321 approved by the licensing board and provided by the board director.

13322 (b) Upon the termination of a leave of absence or of any extension thereof, if the
 13323 apprentice resumes the apprenticeship at the same establishment and under the same
 13324 funeral director in full and continuous charge and under the same funeral director,
 13325 embalmer, or both, the apprentice shall report to the board director the fact of having so
 13326 resumed the duties as an apprentice. Such notice must be certified to by each of the
 13327 aforementioned funeral directors and embalmers. An apprentice who fails to provide such

13328 notice within 30 days after the end of the leave of absence may not enter those hours on the
13329 apprenticeship report form.

13330 (c) Upon the termination of a leave of absence or of any extension thereof, if the
13331 apprentice seeks to serve at a different facility or under different personnel, a new
13332 application and fee must be submitted.

13333 43-18-54.

13334 (a) Refusal to grant an apprenticeship registration shall not be deemed to be a contested
13335 case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' Act, and
13336 notice and hearing within the meaning of such Act shall not be required, but the applicant
13337 shall have the right to a hearing before the licensing board as provided in Code Section
13338 43-1-3.1.

13339 (b) The ~~board~~ director shall be authorized to suspend, revoke, limit, or refuse to renew a
13340 registration of apprenticeship, ~~after notice and hearing pursuant to Chapter 13 of Title 50,~~
13341 ~~the 'Georgia Administrative Procedure Act,'~~ upon a finding by a majority of the board of
13342 any of the following:

13343 (1) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
13344 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
13345 affects the fitness of the apprentice to practice in the funeral business; or is of a nature
13346 likely to jeopardize the interest of the public, ~~which;~~ such conduct or practice need not
13347 have resulted in actual injury to any person or be directly related to the practice of funeral
13348 directing or embalming but shows that the apprentice has committed any act or omission
13349 which is indicative of bad moral character or untrustworthiness; ~~unprofessional.~~
13350 Unprofessional conduct shall also include any departure from, or failure to conform to,
13351 the minimal reasonable standards of acceptable and prevailing practice of funeral
13352 services;

13353 (2) Being on duty as an apprentice while under the influence of alcohol or illegal drugs;

13354 (3) Being unable to practice with reasonable skill and safety to the public by reason of
13355 a physical or mental condition;

13356 (4) Being convicted of a felony or of any crime involving moral turpitude in the courts
13357 of this state or any other state, territory, or country, or in the courts of the United States,
13358 regardless of whether first offender treatment without an adjudication of guilt was given
13359 or whether an adjudication of guilty or sentence was otherwise withheld or not entered
13360 on the charge. As used in this paragraph, the term 'conviction' shall include a finding or
13361 verdict of guilt or plea of guilty or probation relating to first time offenders; and 'felony'
13362 shall include any offense which, if committed in this state, would be deemed a felony;

- 13363 (5) Disobeying proper orders or instructions of that apprentice's supervising embalmer,
 13364 funeral director, or both;
- 13365 (6) Violating any provision of this article or rule or regulation of the licensing board
 13366 made pursuant to this article; or
- 13367 (7) Practicing fraud or misrepresentation in obtaining a certificate of registration as an
 13368 apprentice or knowingly making misleading, deceptive, untrue, or fraudulent
 13369 representations in the practice of funeral service or on any document connected therewith
 13370 while registered as an apprentice.
- 13371 (c) An apprentice who has failed to renew that person's registration or who has had that
 13372 person's registration suspended or revoked may, within one year after such expiration,
 13373 suspension, or revocation, make application for registration but no more than two such
 13374 applications may be approved by the board director. An applicant for reregistration whose
 13375 previous apprenticeship was revoked for failure to renew may be granted full credit for the
 13376 time previously served prior to expiration. An applicant for reregistration whose previous
 13377 apprenticeship was suspended or revoked upon any of the grounds set forth in subsection
 13378 (b) of this Code section, however, may be granted credit for no more than 75 percent of the
 13379 time previously served prior to the disciplinary action. In all other cases regarding
 13380 applicants for reregistration, the board director may, when the circumstances warrant, allow
 13381 an apprentice credit under a reregistration for time actually served under a previous
 13382 registration.
- 13383 (d) An order or finding of the director made pursuant to subsection (b) of this Code section
 13384 shall be made in compliance with Code Section 43-1-3.1.
- 13385 43-18-55.
- 13386 (a) The licensing board shall be authorized to require persons seeking renewal of an
 13387 embalmer's license under this chapter to complete licensing board approved continuing
 13388 education of not less than ten hours biennially. The licensing board shall be authorized to
 13389 approve courses offered by institutions of higher learning, specialty societies, or
 13390 professional organizations or by others the licensing board deems appropriate.
- 13391 (b) The board director shall be authorized to waive the continuing education requirement
 13392 in cases of hardship, disability, illness, or under other such circumstances as the licensing
 13393 board deems appropriate.
- 13394 (c) The continuing education requirement pursuant to this Code section shall be waived
 13395 for persons who hold an inactive license or for licensed individuals over the age of 65.
- 13396 (d) An embalmer who is also a licensed funeral director and who completes the continuing
 13397 education requirements for funeral directors pursuant to Code Section 43-18-56 shall not

13398 be required to complete additional continuing education requirements pursuant to this Code
13399 section.

13400 (e) The licensing board shall be authorized to promulgate rules and regulations to
13401 implement and ensure compliance with the requirements of this Code section.

13402 (f) This Code section shall apply to each licensing renewal cycle which begins after the
13403 1996 renewal.

13404 43-18-56.

13405 (a) The licensing board shall be authorized to require persons seeking renewal of a funeral
13406 director's license under this chapter to complete licensing board approved continuing
13407 education of not less than ten hours biennially. The licensing board shall be authorized to
13408 approve courses offered by institutions of higher learning, specialty societies, or
13409 professional organizations or by others the licensing board deems appropriate.

13410 (b) The ~~board~~ director shall be authorized to waive the continuing education requirement
13411 in cases of hardship, disability, illness, or under other such circumstances as the licensing
13412 board deems appropriate.

13413 (c) The continuing education requirement pursuant to this Code section shall be waived
13414 for persons who hold an inactive license or for licensed individuals over the age of 65.

13415 (d) A funeral director who is also a licensed embalmer and who completes the continuing
13416 education requirements established for embalmers pursuant to Code Section 43-18-55 shall
13417 not be required to complete additional continuing education requirements pursuant to this
13418 Code section.

13419 (e) The licensing board shall be authorized to promulgate rules and regulations to
13420 implement and ensure compliance with the requirements of this Code section.

13421 (f) This Code section shall apply to each licensing renewal cycle which begins after the
13422 1996 renewal.

13423 **Part 4**

13424 **ARTICLE 4**

13425 43-18-70.

13426 (a) No embalmer or funeral director shall engage in the practice of embalming or funeral
13427 directing at a funeral establishment or crematory which is not licensed by the ~~board~~
13428 director.

13429 (b) A funeral establishment must be at a specified street address or location and must have
13430 the following minimum facilities and equipment:

- 13431 (1) A room with adequate seating for a minimum of 30 people in which funeral services
 13432 may be conducted;
- 13433 (2) A preparation room equipped with a nonporous, sanitary floor and walls, and
 13434 necessary drainage and ventilation and containing necessary instruments and supplies for
 13435 the preparation and embalming of dead human bodies;
- 13436 (3) A display room containing actual caskets or models, mock-ups, or sections of caskets
 13437 or similar items if all such caskets are available and in stock for purchase at the
 13438 establishment or can be delivered within 24 hours. Each funeral establishment shall
 13439 maintain on the premises at each of its locations an adequate stock of funeral caskets
 13440 which shall not be less than eight and which shall meet such other criteria as necessary
 13441 to protect the public;
- 13442 (4) At least one operable motor hearse which is either owned or leased by the
 13443 establishment and which has a current Georgia registration; and
- 13444 (5) At least one church truck.
- 13445 (c) The licensing board may adopt and the director shall enforce such rules as may be
 13446 reasonable and proper to define such necessary drainage, ventilation, and sanitary flooring
 13447 and walls and necessary and suitable instruments, supplies, and merchandise in a funeral
 13448 establishment.
- 13449 (d) If the funeral director resides in the funeral establishment to be accessible to the
 13450 community for purposes of satisfying the requirements of funeral director in full and
 13451 continuous charge, the living quarters in the funeral establishment must include at a
 13452 minimum furnished sleeping quarters, cooking, refrigerating, and bathing facilities.
- 13453 43-18-71.
- 13454 (a) It shall be unlawful for any person, firm, corporation, or association to operate a funeral
 13455 establishment or crematory engaged in the business of funeral directing or embalming or
 13456 cremating without first obtaining a license from the ~~board~~ director in accordance with this
 13457 article. The ~~board~~ director shall not issue a license to any funeral establishment or
 13458 crematory unless such funeral establishment or crematory shall employ the service of a
 13459 funeral director licensed in accordance with this article, who shall be in full and continuous
 13460 charge of the establishment and who is a resident of this state. There shall be
 13461 conspicuously displayed in each funeral establishment and crematory the name and license
 13462 of the funeral director in full and continuous charge. A funeral director who is in full and
 13463 continuous charge shall:
- 13464 (1) Assume full responsibility for the supervision and operation of the funeral
 13465 establishment for which that person has been designated as funeral director;
- 13466 (2) Act as funeral director for only one funeral establishment; and

13467 (3) Spend a minimum of 40 hours per week in the employ and operation of the
13468 establishment and be accessible and available to the community.

13469 (b) When there is a change in the funeral director in full and continuous charge, such
13470 change shall be reported to the board director in writing within five days of the effective
13471 date of such change. The board director may request the new funeral director in full and
13472 continuous charge and owner to appear before the board director to determine if the
13473 requirements for a funeral director in full and continuous charge have been met.

13474 43-18-72.

13475 (a)(1) It shall be unlawful for any person, firm, corporation, or association to operate a
13476 crematory without first obtaining a separate license for such purpose from the board
13477 director in accordance with this article. The crematory must be at a specific address or
13478 location and must meet the following requirements and have the following minimum
13479 equipment, facilities, and personnel:

13480 (A) A room with seating for a minimum of 30 people in which funeral services may
13481 be conducted;

13482 (B) A display room containing an adequate supply of urns;

13483 (C) Rolling stock consisting of at least one operable motor hearse either owned or
13484 leased by said firm with current Georgia registration;

13485 (D) At least one operable retort for cremation;

13486 (E) At least one operable processing station for grinding of cremated remains;

13487 (F) At least one church truck; and

13488 (G) Not be located within 1,000 feet of a residential subdivision platted and recorded
13489 in the office of the clerk of the superior court of a county in which such residential
13490 subdivision is located.

13491 (2)(A) The provisions of subparagraphs (A), (B), and (F) of paragraph (1) of this
13492 subsection shall not apply to crematories which provide cremation services only to
13493 other funeral establishments.

13494 (B) The provision of paragraph (G) of paragraph (1) of this subsection shall only apply
13495 to the issuance or renewal of any license on or after July 1, 2009, for any stand-alone
13496 crematory that was not in operation as of July 1, 2009. For purposes of this
13497 subparagraph, the term 'stand-alone crematory' shall mean a crematory that is not
13498 located on or adjacent to a tract or parcel of land which contains a funeral
13499 establishment.

13500 (b) The licensing board may adopt and enforce such rules as may be reasonable and
13501 necessary to provide for the sanitary disposal of dead human bodies and prevent the spread
13502 of disease and to protect the health, safety, and welfare of the people of this state.

13503 (c) Application for licensure of a crematory shall be made to the director upon a form
13504 approved by the licensing board and shall be accompanied by an application fee. No
13505 license shall be issued unless the facility meets all the requirements set forth by the
13506 licensing board.

13507 (d) The licensing board shall adopt rules requiring each crematory to submit periodic
13508 reports to the ~~board~~ director in a standard form which include the names of persons
13509 cremated and the types of containers used.

13510 (e) No more than one dead human body shall be placed in a retort at one time unless
13511 written permission has been received from the person possessing legal responsibility for
13512 the disposition of the dead human body.

13513 (f) Nothing in this article shall require a funeral establishment for which a valid license to
13514 operate is in effect on May 9, 2002, to have a separate license for a crematory until on and
13515 after the renewal date of such license to operate a funeral establishment which first occurs
13516 after May 9, 2002, but such establishment must comply with all the minimum equipment
13517 and facilities requirements and all other statutes, rules, and regulations relating to
13518 crematories.

13519 43-18-73.

13520 (a) Licenses for the operation of funeral establishments and of crematories shall expire
13521 biennially unless the owner or proprietor of a licensed funeral establishment or crematory
13522 applies to the ~~board~~ director to renew the license prior to its expiration. The application
13523 shall show the name of the funeral establishment or crematory; the names and addresses
13524 of all owners or, if the owner is a corporation, the names and addresses of all officers and
13525 directors of the corporation; and the names of all licensed embalmers and funeral directors
13526 who own or are employed by such funeral establishment or crematory or are otherwise
13527 connected therewith, together with the date of issue and the number of the license of each
13528 registered embalmer and funeral director as required. If the renewal fee prescribed by the
13529 licensing board has been paid and the funeral establishment or crematory meets the other
13530 requirements of this article, the ~~board~~ director shall issue a license; otherwise it shall be
13531 unlawful for any funeral establishment or crematory to operate in this state. Nothing in this
13532 Code section shall be construed to require a crematory to employ an embalmer in order to
13533 be licensed.

13534 (b) Whenever there is a change in ownership of a funeral establishment or crematory, the
13535 ~~board~~ director shall be notified within 15 days prior to the proposed change upon a form
13536 approved by the licensing board and provided by the board director.

13537 43-18-74.

13538 Licenses for funeral establishments or crematories shall be issued to such enterprises at
13539 their location at the time of issuance. Such license shall not be transferable to another
13540 location.

13541 43-18-75.

13542 (a) The licensing board shall provide for inspections by the director from time to time, but
13543 not less frequently than annually, of the premises of funeral establishments and crematories
13544 for purposes of ensuring compliance with the provisions of this article and any rules or
13545 regulations issued pursuant thereto, and every such firm shall submit to such inspections.
13546 The ~~board~~ director is authorized to contract with any one or more county boards of health,
13547 and each county board of health is authorized to contract with the ~~board~~ director, for the
13548 provision of inspection services on behalf of the ~~board~~ director for purposes of this
13549 subsection.

13550 (b) The director may suspend or revoke the license of any funeral establishment or
13551 crematory ~~may be suspended, revoked, or put~~ such establishment or crematory on
13552 probation, or impose fines ~~may be imposed by the board~~ if the evidence ~~produced before~~
13553 it indicates that the establishment or crematory has violated any of the provisions of this
13554 article or any rules or regulations issued pursuant thereto. The ~~board~~ director shall comply
13555 with ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' Code Section~~
13556 43-1-3.1 in relation to such hearing action; and the licensee shall have the right to appeal
13557 ~~any decision of a hearing before the licensing~~ board in accordance with ~~Chapter 13 of Title~~
13558 50, the 'Georgia Administrative Procedure Act.' Code Section 43-1-3.1.

13559 43-18-76.

13560 The licensing board may establish a fine schedule for violation of minimum standards
13561 which the licensing board determines to be a threat to the health, safety, or welfare of the
13562 public. A determination of such a violation shall not be deemed to be a contested case
13563 under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

13564 43-18-77.

13565 In the event that a funeral establishment or crematory is temporarily without the services
13566 of a funeral director in full and continuous charge, upon notice by the funeral establishment
13567 or crematory to the ~~board~~ director within five days following the last day of service by such
13568 funeral director, the ~~board~~ director shall grant the funeral establishment or crematory a 90
13569 day grace period in which to have a funeral director in full and continuous charge approved
13570 by the ~~board~~ director before any action may be taken by the ~~board~~ director to revoke or

13571 terminate the establishment's or crematory's license. The board director may, in its his or
13572 her discretion, upon application by the funeral establishment or crematory, grant one
13573 additional 90 day grace period upon showing of good cause. Grace periods totaling not
13574 more than 180 days may be granted during any two-year period beginning the first day on
13575 which the grace period was granted. Failure to have a funeral director in full and
13576 continuous charge shall be grounds for the revocation or suspension of any license, after
13577 notice and hearing.

13578 43-18-78.

13579 In the event any funeral establishment or crematory is temporarily destroyed by fire, flood,
13580 or other natural catastrophe, upon notice by the funeral establishment or crematory to the
13581 board director within five days following the destruction, the board director may grant the
13582 funeral establishment or crematory a 90 day grace period to use a board director approved
13583 temporary location while reconstructing the previous location, provided the funeral
13584 establishment or crematory complies with all other provisions of this article and the rules
13585 of the licensing board. The board director may, in its his or her discretion, upon application
13586 by the funeral establishment or crematory, grant additional 90 day grace periods upon
13587 showing of good cause.

13588 43-18-79.

13589 No funeral establishment license shall terminate upon the death of the holder thereof but
13590 shall pass to the legal representative of the deceased or, if there is no legal representative,
13591 to the widow or widower of the deceased who may continue to operate the establishment
13592 for the unexpired time of the license.

13593 43-18-80.

13594 (a) For the purposes of this Code section, 'authorizing agent' means a person legally
13595 entitled to authorize the cremation of human remains.

13596 (b) The authorizing agent shall provide to the funeral establishment in which the cremation
13597 arrangements are made a signed statement specifying the ultimate disposition of the
13598 cremated remains, if known. A copy of this statement shall be retained by the funeral
13599 establishment offering or conducting the cremation.

13600 (c) Cremated remains shall be shipped only by a method that has an internal tracking
13601 system available and that provides a receipt signed by the person accepting delivery.

13602 (d) The authorizing agent shall be responsible for the disposition of the cremated remains.
13603 If, after 60 days from the date of cremation, the authorizing agent or his or her
13604 representative has not specified the ultimate disposition or claimed the cremated remains,

13605 the funeral establishment or entity in possession of the cremated remains shall send a
 13606 notification to the authorizing agent notifying him or her that, pursuant to this subsection,
 13607 failure to respond to such notification and specify the final disposition of the cremains
 13608 within 30 days of the transmission of such notice shall authorize the funeral establishment
 13609 to make arrangements for the disposition of the cremains. If, after 30 days, the funeral
 13610 establishment or entity in possession of the cremated remains has not received instructions
 13611 from the authorizing agent describing a specific method of disposing of the cremains, the
 13612 funeral establishment or entity in possession of the cremains shall be authorized to dispose
 13613 of the cremated remains in a dignified and humane manner by entombing such cremains
 13614 in a crypt or underground in accordance with local and state law or by storage in the funeral
 13615 establishment. The final resting place of the cremains shall be clearly marked and recorded
 13616 by the funeral establishment entombing the cremains. Any costs or fees incurred to
 13617 entomb, inter, or disinter the cremains shall be the responsibility of the authorizing agent;
 13618 provided, however, that such cost shall not exceed \$100.00."

13619 **SECTION 1-20.**

13620 Said title is further amended by revising Chapter 19, relating to geologists, as follows:

13621 "CHAPTER 19

13622 43-19-1.

13623 This chapter shall be known and may be cited as the 'Registration of Geologists Act of
 13624 1975.'

13625 43-19-2.

13626 In order to safeguard life, health, and property and to promote the public welfare, the
 13627 practice of geology in this state is declared to be subject to regulation in the public interest.
 13628 This chapter is intended to introduce qualifying criteria into a previously unregulated
 13629 professional field. Such action recommends itself through benefits to the safety, health,
 13630 and property of the people of this state and to the promotion of the public welfare. These
 13631 benefits are in the fields of geology as related to engineering, ground water, mineral
 13632 exploration and development, geologic hazards, the further development of the science of
 13633 geology, and other geologic matters of concern to the people of the state.

13634 43-19-3.

13635 As used in this chapter, the term:

- 13636 (1) 'Board' means the State Board of Registration for Professional Geologists, a
13637 professional licensing policy board pursuant to Chapter 1 of this title with the authority
13638 and responsibility set forth in such chapter.
- 13639 (1.1) 'Director' means the director of professional licensing.
- 13640 (2) 'Geologist' means a person engaged in the practice of geology.
- 13641 (3) 'Geology' means that science which treats of the earth in general; investigation of the
13642 earth's crust and the rocks and other materials which compose it; and the applied science
13643 of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases, and
13644 other materials for the benefit of mankind.
- 13645 (3.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
13646 Article 2 of Chapter 1 of this title.
- 13647 (4) 'Public practice of geology' means the performance of geological service or work
13648 such as consultation, investigation, surveys, evaluation, planning, mapping, and
13649 inspection of geological work in which the performance is related to public welfare or
13650 safeguarding of life, health, property, and the environment, except as specifically
13651 exempted by this chapter. A person shall be construed to practice publicly or offer to
13652 practice publicly geology, within the meaning and intent of this chapter, who practices
13653 any branch of the profession of geology; or who by verbal claim, sign, advertisement,
13654 letterhead, card, or in any other way represents himself or herself to be a geologist; or
13655 through the use of some other title implies that he or she is a geologist; or that he or she
13656 is registered under this chapter; or who holds himself or herself out as able to perform or
13657 who does perform any geological services or work recognized as geology.
- 13658 (5) 'Qualified geologist' means a person who is not registered under this chapter but who
13659 possesses all the qualifications specified in this chapter for registration.
- 13660 (6) 'Registered certified specialty geologist' means a person who is certified as a
13661 specialty geologist under this chapter.
- 13662 (7) 'Registered geologist' means a person who is registered as a geologist under this
13663 chapter.
- 13664 (8) 'Responsible charge of work' means the independent control and direction, by the use
13665 of initiative, skill, and independent judgment, of geological work or the supervision of
13666 such work.
- 13667 (9) 'Subordinate' means any person who assists a registered geologist or a registered
13668 engineer in the practice of geology without assuming the responsible charge of work.

- 13669 43-19-4.
- 13670 (a) A State Board of Registration for Professional Geologists is created as a professional
13671 licensing policy board, whose duty it shall be to administer this chapter. The board shall
13672 be ~~comprised~~ composed of:
- 13673 (1) Five members who shall be geologists registered under this chapter, one of whom
13674 shall be an academic geologist, one a governmental geologist, one a salaried company
13675 geologist, one an independent or consultant geologist, and one a geologist at large;
- 13676 (2) A sixth member who shall be appointed from the public at large and who shall have
13677 no connection whatsoever with the practice of professional geology; and
- 13678 (3) The commissioner of natural resources, or his or her designated agent, as a permanent
13679 ex officio member.
- 13680 (b) The members of the board mentioned in paragraphs (1) and (2) of subsection (a) of this
13681 Code section shall be appointed by the Governor, approved by the Secretary of State, and
13682 confirmed by the Senate.
- 13683 (c) Each member of the board shall be a citizen of the United States and a resident of the
13684 State of Georgia.
- 13685 (d) The members of the board provided for in paragraphs (1) and (2) of subsection (a) of
13686 this Code section shall be appointed by the Governor for terms of five years and until their
13687 successors are appointed and qualified. The members of the board holding office on June
13688 30, 1987, shall serve until the expiration of the term for which they were appointed and
13689 until their successors have been appointed and qualified. On the expiration of the term of
13690 any member, the member's successor shall be appointed in like manner by the Governor
13691 for a term of five years.
- 13692 (e) No person shall serve as a member of the board for more than one consecutive
13693 five-year term.
- 13694 (f) The Governor may remove any member of the board pursuant to the authority of Code
13695 Section 43-1-17. Vacancies in the membership of the board shall be filled for the
13696 unexpired term by appointment by the Governor as provided for in this chapter.
- 13697 (g) The members of the board shall, before entering upon the discharge of their duty,
13698 subscribe to and file with the Secretary of State the constitutional oath of officers,
13699 whereupon the Secretary of State shall issue to each appointee a certificate of appointment.
- 13700 (h) Each member of the board shall be reimbursed as provided for in subsection (f) of
13701 Code Section 43-1-2.

13702 43-19-5.

13703 (a) The board shall hold such meetings as may be necessary for it to carry out its duties
13704 under this chapter. An affirmative vote of a majority of the members present shall be
13705 necessary to transact business.

13706 (b) The board shall annually elect a ~~chairman~~ chairperson and a ~~vice-chairman~~
13707 vice-chairperson. The ~~division~~ director shall be the secretary of the board and, in addition
13708 to his or her duties as prescribed by law, shall perform such other administrative duties as
13709 may be prescribed by the licensing board.

13710 43-19-6.

13711 ~~(a) In addition to other powers and duties specified in this chapter, the~~ The licensing board
13712 shall:

13713 (1) Adopt and amend rules and regulations which may be reasonably necessary for this
13714 chapter ~~and the regulation of proceedings before the board~~. The licensing board and all
13715 of its rules, regulations, and procedures are subject to and shall comply with Chapter 13
13716 of Title 50, the 'Georgia Administrative Procedure Act';

13717 (2) Adopt ~~and have an official seal;~~ a code of professional conduct; and

13718 (3) Conduct hearings upon the petition of any person who is aggrieved or adversely
13719 affected by an order or action of the director, which shall be conducted by the licensing
13720 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
13721 Act.'

13722 (b) The director shall:

13723 ~~(3)~~(1) Issue, renew, and reinstate the certificates of duly qualified persons;

13724 ~~(4)~~(2) Initiate investigations for the purpose of discovering violations of this chapter;

13725 ~~(5)~~(3) ~~Conduct hearings upon charges calling for the discipline of a licensee or on~~
13726 ~~violations of this chapter;~~ Enter orders or take other action consistent with this chapter
13727 for the discipline of a licensee or on violations of this chapter, which shall be made in
13728 compliance with Code Section 43-1-3.1; and

13729 ~~(6)~~ Adopt a code of professional conduct; and

13730 ~~(7)~~(4) Have such other powers and duties as are necessary to implement the rules and
13731 regulations of the licensing board and effectuate this chapter.

13732 43-19-7.

13733 All appeals from a decision of the licensing board, all documents or applications required
13734 by law to be filed with the ~~board~~ director, and any notice or legal process to be served upon
13735 the ~~board~~ director shall be filed with or served upon the ~~division~~ licensing board or the
13736 director at his or her office.

13737 43-19-8.

13738 All official records of the licensing board, or affidavits by the ~~division~~ director as to the
13739 content of such records, shall be prima-facie evidence of all matters required to be kept
13740 therein.

13741 43-19-9.

13742 Reserved.

13743 43-19-10.

13744 It shall be unlawful for any person to practice publicly or offer to practice publicly geology
13745 in this state, as defined in this chapter, or to use in connection with his name or otherwise
13746 assume or advertise any title or description tending to convey the impression that he or she
13747 is a registered geologist unless such person has been duly registered or exempted under this
13748 chapter. The right to engage in the practice of geology shall be deemed a personal right,
13749 based on the qualifications of the individual as evidenced by his or her certificate of
13750 registration, and shall not be transferable.

13751 43-19-11.

13752 An application for registration as a geologist or certification in a specialty shall be made
13753 to the director under oath and shall show the applicant's education and a detailed summary
13754 of his or her geologic work. The application shall be accompanied by an application fee
13755 fixed by the licensing board.

13756 43-19-12.

13757 To be eligible for a certificate of registration, an applicant shall meet each of the following
13758 minimum qualifications:

13759 (1) Be of good ethical character;

13760 (2) Have graduated from an accredited college or university which has been approved
13761 by the licensing board with a major in either geology, engineering geology, or geological
13762 engineering; or have completed 45 quarter hours or the equivalent in geological science
13763 courses leading to a major in geology, of which at least 36 quarter hours or the equivalent
13764 were taken in the third or fourth year or in graduate courses;

13765 (3) Have at least seven years of professional geological work which shall include a
13766 minimum of three years of professional geological work under the supervision of a
13767 registered geologist, a registered civil engineer, or other supervision acceptable to the
13768 licensing board. The following criteria of education and experience qualify, as specified,
13769 toward accumulation of the required seven years of professional geological work:

13770 (A) Each year of undergraduate study in the geological sciences shall count as one-half
 13771 year of training up to a maximum of two years, and each year of graduate study shall
 13772 count as a year of training;

13773 (B) Credit for undergraduate study, graduate study, and graduate courses, individually
 13774 or in any combination thereof, shall in no case exceed a total of four years toward
 13775 meeting the requirements for at least seven years of professional geological work as set
 13776 forth above;

13777 (C) The board director may consider, in lieu of the above professional geological work
 13778 as set out in this paragraph, the cumulative total of professional geological work or
 13779 geological research of persons teaching at the college or university level, provided that
 13780 such work or research can be demonstrated to be of a sufficiently responsible nature to
 13781 be equivalent to the professional requirements required; and

13782 (D) The ability of the applicant shall have been demonstrated by his or her having
 13783 performed the work in a responsible position as determined by the board director. The
 13784 adequacy of the required supervision and experience shall be determined by the board
 13785 director in accordance with standards set forth in regulations adopted by it the licensing
 13786 board; and

13787 (4) Successfully pass such examinations as are established by the licensing board and
 13788 which are designed to demonstrate that the applicant has the necessary knowledge and
 13789 skill to exercise the responsibilities of the public practice of geology.

13790 43-19-13.

13791 (a) Examinations shall be held at least annually.

13792 (b) The licensing board shall approve the scope, form, and content of the examinations
 13793 required for licensure under this chapter.

13794 43-19-14.

13795 A person holding a certificate of registration to engage in the practice of geology, on the
 13796 basis of comparable licensing requirements issued to him or her by a proper authority of
 13797 a state, territory or possession of the United States, or the District of Columbia, and who,
 13798 in the opinion of the board director, otherwise meets the requirements of this chapter based
 13799 on verified evidence may be registered, upon application, without further examination.

13800 43-19-15.

13801 (a) The board director shall issue a certificate of registration, upon payment of the
 13802 registration fee as fixed by the licensing board, to any applicant who, in the opinion of the
 13803 board director, has satisfactorily met all the requirements of this chapter. The issuance of

13804 a certificate of registration by the ~~board~~ director shall be prima-facie evidence that the
 13805 person named therein is entitled to all the rights and privileges of a registered geologist
 13806 while the certificate remains unrevoked or unexpired.

13807 (b) All certificates shall be renewable biennially at such time as may be designated by the
 13808 ~~division~~ director. All applications for renewal shall be filed with the ~~division~~ director prior
 13809 to the expiration date, accompanied by the renewal fee prescribed by the licensing board.
 13810 A license which has expired for failure to renew may only be restored after application and
 13811 payment of the prescribed restoration fee.

13812 (c) A new certificate of registration to replace any certificate lost, destroyed, or mutilated
 13813 may be issued subject to the rules of the licensing board and payment of a fee set by the
 13814 licensing board.

13815 43-19-16.

13816 (a) The ~~board~~ director shall have the authority to refuse to grant a certificate to an
 13817 applicant ~~therefor~~ or to revoke or suspend the certificate of a person registered by the ~~board~~
 13818 director or to discipline a person registered by the ~~board~~ director as provided in Code
 13819 Section 43-1-19.

13820 (b) ~~The~~ Neither the action by the ~~board~~ director in granting or refusing to grant or renew
 13821 a certificate under this chapter ~~or~~ nor the action in revoking or suspending or in refusing
 13822 to revoke or suspend such a certificate ~~may be appealed in accordance with Chapter 13 of~~
 13823 ~~Title 50, the 'Georgia Administrative Procedure Act,' to the superior court of the county of~~
 13824 ~~domicile of the board; provided that, if the findings of the board are supported by any~~
 13825 ~~evidence, such findings shall be accepted by the court~~ shall be considered a contested case
 13826 within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
 13827 and notice and hearing within the meaning of Chapter 13 of Title 50 shall not be required,
 13828 but the applicant or licensee shall be allowed to appear before the licensing board as
 13829 provided in Code Section 43-1-3.1. The filing of a request to appear before the licensing
 13830 board shall stay enforcement of an action of the director.

13831 43-19-17.

13832 Reserved.

13833 43-19-18.

13834 (a) In addition to registering as a geologist, qualified persons may also be eligible for
 13835 certification in a specialty. Such specialties may be created by the licensing board by
 13836 regulation, with such regulations to contain any required additional qualifications. Only
 13837 a registered geologist is eligible for certification in a specialty. Application may be

13838 submitted for both registration as a geologist and certification in a specialty at the same
 13839 time, but the applicant must be approved for registration as a geologist before being
 13840 considered for certification in a specialty. The certification in a specialty is dependent, in
 13841 every case, upon the approval of registration as a geologist.

13842 (b) An applicant for certification in a specialty shall meet all of the requirements of a
 13843 registered geologist and such special requirements as the licensing board may establish by
 13844 regulation.

13845 43-19-19.

13846 Each registrant under this chapter, upon issuance of a certificate of registration, may use
 13847 a seal of such design as is authorized by the licensing board, bearing the registrant's name
 13848 and the legend 'Registered Professional Geologist' or 'Certified (subspecialty) Geologist.'
 13849 All drawings, reports, or other geologic papers or documents involving the practice of
 13850 geology, as defined in this chapter, which shall have been prepared or approved by a
 13851 registered geologist or a subordinate employee under his or her direction for the use of or
 13852 for delivery to any person or for public record within this state shall be signed by him or
 13853 her and impressed with the seal provided for in this Code section or the seal of a
 13854 nonresident practicing under this chapter, either of which shall indicate his or her
 13855 responsibility for them.

13856 43-19-20.

13857 This state and its political subdivisions, such as a county, a municipality, or a legally
 13858 constituted board, district, commission, or authority, shall contract for geological services
 13859 only with persons registered under this chapter or with a firm employing a registered
 13860 geologist.

13861 43-19-21.

13862 Reserved.

13863 43-19-22.

13864 ~~The Attorney General of this state or any assistant designated by him or her shall act as~~
 13865 ~~legal adviser of the board.~~ Reserved.

13866 43-19-23.

13867 Reserved.

13868 43-19-24.

13869 Any person, except as specifically exempted ~~below~~ by this Code section, who ~~shall~~
13870 ~~publicly practice or offer practices or offers~~ to practice publicly geology in this state is
13871 subject to this chapter. The following persons are exempt:

13872 (1) Persons engaged solely in teaching the science of geology or engaged in nonpublic
13873 geologic research in this state;

13874 (2) Officers and employees of the United States or this state, practicing solely as such
13875 officers or employees; and

13876 (3) A subordinate to a geologist registered under this chapter or to a registered engineer,
13877 insofar as he or she acts solely in such capacity. This exemption, however, does not
13878 permit any such subordinate to practice geology for others in his or her own right or use
13879 the title 'registered geologist.'

13880 43-19-25.

13881 (a) This chapter does not prohibit one or more geologists from practicing through the
13882 medium of a sole proprietorship, partnership, limited liability company, or corporation. In
13883 a partnership, limited liability company, or corporation whose primary activity consists of
13884 geological services, at least one partner, member, or officer shall be a registered geologist.

13885 (b) This chapter does not prevent or prohibit an individual, firm, company, association, or
13886 corporation whose principal business is other than the public practice of geology from
13887 employing a nonregistered geologist to perform nonpublic geological services necessary
13888 to the conduct of its business.

13889 (c) This chapter shall not be construed to prevent or to affect:

13890 (1) The practice of any profession or trade for which a license is required under any other
13891 law of this state; the practice of registered professional engineers from lawfully practicing
13892 soils mechanics, foundation engineering, and other professional engineering as provided
13893 in this title; or licensed architects from lawfully practicing architecture as provided in this
13894 title; or

13895 (2) The practice of a person who is not a resident of and has no established place of
13896 business in this state or who has recently become a resident ~~hereof~~ practicing or offering
13897 to practice the profession of geology herein in this state for more than 90 days in any
13898 calendar year if the person shall have filed with the ~~board~~ director an application for a
13899 certificate of registration and shall have paid the fee required by this chapter. Such
13900 practice shall continue only for such time as the ~~board~~ director requires for the
13901 consideration of the applicant for registration.

13902 43-19-26.

13903 (a) It shall be unlawful for any person other than a registered geologist, a registered
13904 certified specialty geologist, or a subordinate under the direction of one of the above to
13905 prepare any geologic plans, reports, or documents in which the performance is related to
13906 the public welfare or safeguarding of life, health, property, or the environment.

13907 (b) It shall be unlawful for anyone other than a geologist registered under this chapter to
13908 stamp or seal any plans, plats, reports, or other documents with the seal or stamp of a
13909 registered geologist or registered certified specialty geologist or to use in any manner the
13910 title 'registered geologist' or the title of any registered certified specialty geologist unless
13911 registered, or registered and certified, under this chapter.

13912 (c) It shall be unlawful for any person to affix his or her signature or to stamp or seal any
13913 plans, plats, reports, or other documents after the certification of the registrant named
13914 thereon has expired or has been suspended or revoked unless the certificate has been
13915 renewed or reissued.

13916 43-19-27.

13917 Any person who publicly practices or offers to practice publicly geology for others in this
13918 state without being registered in accordance with this chapter; any person presenting or
13919 attempting to use as his or her own the certificate of registration or the seal of another; any
13920 person who gives any false or forged evidence of any kind to the ~~board or to any member~~
13921 ~~thereof~~ director in obtaining a certificate of registration; any person who falsely
13922 impersonates any other registrant of like or different name; or any person who attempts to
13923 use an expired or revoked certificate of registration or who attempts to practice at any time
13924 during a period when the licensing board or the director has suspended or revoked his or
13925 her certificate of registration shall be guilty of a misdemeanor."

13926 **SECTION 1-21.**

13927 Said title is further amended by revising Chapter 20, relating to hearing aid dealers and
13928 dispensers, as follows:

13929 "CHAPTER 20

13930 43-20-1.

13931 This chapter shall be known and may be cited as the 'Georgia Hearing Aid Dealers and
13932 Dispensers Act.'

13933 43-20-2.

13934 The purpose and intent of this chapter is to establish and enforce standards of competence
13935 and ethics in the dispensing of hearing aid devices or instruments, for profit or otherwise,
13936 and to protect the public from the dispensing of hearing aids, for profit or otherwise, by
13937 unskilled or unprincipled persons.

13938 43-20-3.

13939 As used in this chapter, the term:

13940 (1) 'Apprentice dispenser's permit' means a temporary nonrenewable one-year permit
13941 issued while the applicant is in apprenticeship under a licensed dispenser in order to
13942 become a licensed hearing aid dispenser.

13943 (2) 'Board' means the State Board of Hearing Aid Dealers and Dispensers, a professional
13944 licensing policy board pursuant to Chapter 1 of this title with the authority and
13945 responsibility set forth in such chapter.

13946 (3) 'Dealer's license' means the license required for each office, store, or location
13947 established or maintained for the dispensing of hearing aid devices or instruments in this
13948 state.

13949 (3.1) 'Director' means the director of professional licensing.

13950 (4) 'Dispenser's license' means the license required for each individual who shall engage
13951 in the practice of dispensing hearing aid instruments or devices to or for use by the
13952 eventual user thereof.

13953 (5) 'Hearing aid device or instrument,' 'hearing aid,' or 'aid' means any wearable
13954 electronic instrument or device designed for or represented or offered for the purpose of
13955 compensating for defective human hearing, including parts, attachments, ear molds, and
13956 accessories, except batteries, cords, replacement tubing, and minor service limited to the
13957 removal of battery corrosion.

13958 (6) 'License' means any license issued to hearing aid dealers or to hearing aid dispensers
13959 ~~by the State Board of Hearing Aid Dealers and Dispensers or by the division director on~~
13960 ~~behalf of the board~~ under this chapter.

13961 (6.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
13962 Article 2 of Chapter 1 of this title.

13963 (7) 'Practice of dispensing hearing aids' means the providing of a hearing aid to a
13964 consumer by sale, rental, lease, or otherwise. A holder of a license or permit issued under
13965 this chapter shall be entitled to conduct testing and other procedures to determine
13966 suitability for use of a hearing aid, to determine hearing aid characteristics which properly
13967 compensate the hearing condition, to select suitable aids, to fit aids to the subject, and to
13968 counsel and instruct in the use thereof.

13969 (8) 'Training permit' means a temporary renewable six-month permit issued while the
 13970 applicant is in training, under the direct supervision and immediate observation of a
 13971 licensed dispenser, to become a licensed dispenser.

13972 43-20-4.

13973 (a) There shall be established a State Board of Hearing Aid Dealers and Dispensers, ~~which~~
 13974 ~~shall administer and enforce this chapter~~ as a professional licensing policy board.

13975 (b) Members of the board shall be residents of the state. The board shall consist of seven
 13976 members; four of whom shall hold licenses issued ~~by the board~~ under this chapter and shall
 13977 have no less than three years' experience as a hearing aid dispenser; one of whom shall be
 13978 a diplomate or eligible for certification by the American Board of Otolaryngology and
 13979 licensed to practice medicine in this state; one of whom shall be an audiologist licensed
 13980 under Chapter 44 of this title; and one of whom shall be appointed from the public at large.

13981 (c) Each member of the board shall be appointed by the Governor with the approval of the
 13982 Secretary of State. The term of office for each member shall be three years or until his or
 13983 her successor has been appointed and qualified except that, for the first board appointed
 13984 under this chapter, two members shall be appointed for a two-year term and three members
 13985 shall be appointed for a three-year term. Upon the expiration of each term, the Governor,
 13986 with the approval of the Secretary of State, shall appoint a successor as provided ~~above~~ by
 13987 this Code section. Any vacancy on the board arising from death, resignation, or other
 13988 cause shall be filled by such appointment for the unexpired term. The members of the
 13989 board shall annually designate one such member to serve as ~~chairman~~ chairperson and
 13990 another to serve as ~~vice-chairman~~ vice chairperson and may select such additional officers
 13991 as the board deems necessary.

13992 43-20-5.

13993 (a) The board shall meet not less than once a year at a place, day, and hour determined by
 13994 the ~~division~~ director and as many other times per year as deemed necessary. Each member
 13995 of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

13996 (b) The ~~division~~ director shall notify each member of the board not less than ten days in
 13997 advance of the time and place of any meeting of the board.

13998 43-20-6.

13999 (a) The licensing board shall ~~have the responsibility and duty of administering and~~
 14000 ~~enforcing~~ provide by rule and regulation for the administration and enforcement of this
 14001 chapter. The licensing board shall have the power to establish and to revise minimal

- 14002 procedure and equipment requirements which shall be used in the dispensing of hearing
 14003 aids.
- 14004 (b) The ~~board~~ director shall:
- 14005 (1) Supervise the issuance of licenses and administer qualifying examinations;
- 14006 (2) License persons who make proper application ~~to the division director~~ and who meet
 14007 the qualifications for licensure;
- 14008 (3) Issue and renew licenses;
- 14009 (4) Suspend, revoke, or otherwise sanction licenses in the manner provided in this
 14010 chapter;
- 14011 (5) Appoint representatives to conduct or supervise examinations; and
- 14012 (6) Make available to the public a copy of this chapter, any amendments thereto, and all
 14013 adopted rules.
- 14014 (c) ~~The division director shall be guided by the recommendations of the board in all~~
 14015 ~~matters relating to this chapter and shall assist the board~~ implement the rules and
 14016 regulations of the licensing board in carrying out this chapter.
- 14017 (d) ~~In the administration and enforcement of this chapter, the~~ The licensing board shall
 14018 have the power to adopt reasonable rules and regulations not inconsistent with this chapter
 14019 and the Constitution and laws of this state or of the United States for ~~governing its times~~
 14020 ~~and places of meetings; for organization and reorganization;~~ for the holding of
 14021 examinations; for governing all other matters requisite to the exercising of its powers under
 14022 this chapter; for the performance of its duties relating to examinations; for granting,
 14023 suspending, revoking, or otherwise sanctioning licenses; and for the transaction of its
 14024 business under this chapter.
- 14025 (e) The licensing board may provide, by regulation, for the general scope of the
 14026 examination described in Code Section 43-20-9. The licensing board may approve the
 14027 examination and obtain advice and assistance in providing for and grading such
 14028 examination; and the ~~division~~ director may contract with third parties to perform
 14029 administrative services related to the examination as he or she deems appropriate.
- 14030 43-20-7.
- 14031 (a) It is unlawful for any person or firm to engage in the practice of dispensing hearing
 14032 aids, as defined in this chapter, in this state without having a valid license issued under this
 14033 chapter.
- 14034 (b) No person or firm, except those exempted in Code Section 43-20-19, shall engage in
 14035 the practice of dispensing hearing aid devices or instruments or display a sign or in any
 14036 way advertise or represent himself or herself or any firm as practicing the dispensing of

14037 hearing aid devices or instruments in this state unless such person holds an unsuspended,
14038 unrevoked license issued by the ~~board~~ director.

14039 (c) A dispenser's license issued under this chapter shall entitle the holder to dispense
14040 hearing aid devices or instruments under the supervision of a licensed dealer.

14041 (d) The dealer's license issued under this chapter shall permit and require the holder to
14042 establish and operate an establishment open to the public for the purpose of dispensing
14043 hearing aids and providing follow-up services.

14044 (e) No firm shall engage in the practice of dispensing hearing aid devices or instruments
14045 or display a sign or in any way advertise or represent itself as dispensing hearing aid
14046 devices or instruments in this state unless each office or location is staffed by a person who
14047 holds a valid dispenser's license issued under this chapter.

14048 (f) Duplicate dealers' licenses shall be issued by the ~~division~~ director ~~on behalf of the~~
14049 ~~board~~ to valid license holders operating more than one office or place of practice upon the
14050 payment of an additional dealer's license fee for each location, provided that each such
14051 location shall be staffed and supervised by a person holding a valid dispenser's license
14052 issued under this chapter.

14053 43-20-8.

14054 (a) The ~~board~~ director may issue a dealer's license to any applicant for a dealer's license
14055 upon compliance with this chapter, upon payment of the appropriate license fee for a
14056 dealer's license, and upon the presentation of evidence satisfactory to the ~~board~~ director that
14057 he or she has established or will establish and maintain a regular office, store, or location
14058 for the dispensing of hearing aid devices or instruments, and that a person who possesses
14059 a valid Georgia dispenser's license will be responsible for the dispensing of hearing aids
14060 under such dealer's license.

14061 (b) The ~~board~~ director may issue a dispenser's license to an applicant only when the
14062 applicant has satisfactorily completed a licensing board approved examination and when
14063 proof of age has been verified. The license shall authorize the holder to dispense hearing
14064 aids under the general supervision of a licensed dealer.

14065 (c) The dealer's license fee shall be in an amount determined by the licensing board and
14066 ~~must~~ shall be paid for each office or location established by the dealer.

14067 (d) The dispenser's license fee shall be in an amount determined by the licensing board.

14068 43-20-9.

14069 (a) An applicant may obtain a license by successfully passing a licensing board approved
14070 examination, provided that the applicant:

14071 (1) Is at least 18 years of age; and

- 14072 (2) Is of good moral character.
- 14073 (b) Every apprentice dispenser who has held the permit over 30 days shall be scheduled
 14074 to stand for the written examination at every scheduled examination until all sections have
 14075 been passed, the permit has been revoked by the board director, or the permit has expired.
 14076 The board director shall have the power to revoke a permit ~~without a hearing in compliance~~
 14077 with Code Section 43-1-3.1 if the holder of an apprentice dispenser permit fails to stand for
 14078 the examination. The board director shall also have the power to revoke a permit ~~without~~
 14079 ~~a hearing in compliance with Code Section 43-1-3.1~~ if the holder of an apprentice dispenser
 14080 permit fails to pass the written portion of the examination on two occasions. The board
 14081 director may include the fee for an initial examination as a condition for approval of an
 14082 applicant for an apprentice dispenser's permit.
- 14083 (c) The licensing board shall establish uniform criteria for passing and failing candidates.
- 14084 43-20-10.
- 14085 (a) Nonresident dealers' licenses may be issued to individuals domiciled outside of this
 14086 state upon presentation of satisfactory evidence to the board director that they comply with
 14087 all provisions of this chapter for a dealer's license and upon payment of the fees required
 14088 for such licenses. Holders of nonresident dealers' licenses shall be governed by and shall
 14089 be subject to all conditions and provisions of this chapter relating to dealers' licenses.
- 14090 (b) A nonresident dispenser's license may be issued to an applicant who holds a current
 14091 unsuspended, unrevoked license to practice the dispensing of hearing aids in another state
 14092 or jurisdiction upon payment of the fee provided for a dispenser's license under this chapter
 14093 and upon presentation of satisfactory evidence to the board director that such other state
 14094 or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this
 14095 chapter for the practice of dispensing hearing aids, provided that such state or jurisdiction
 14096 has a program equivalent to or stricter than that required by this chapter for determining
 14097 the qualifications of applicants for a dispenser's license and that such state or jurisdiction
 14098 has a provision for reciprocity and has entered into a reciprocal agreement with the
 14099 licensing board. No such applicant for a reciprocal nonresident dispenser's license shall
 14100 be required to submit to or undergo a qualifying examination. The holder of a nonresident
 14101 dispenser's license shall be registered in the same manner as the holder of a regular resident
 14102 dispenser's license. Fees, grounds, and procedures for renewal, suspension, and revocation
 14103 of dispensers' licenses shall apply to all nonresident dispensers' licenses.
- 14104 43-20-11.
- 14105 (a) An apprentice dispenser's permit shall be issued by the ~~division~~ director ~~on behalf of~~
 14106 ~~the board~~ only when:

- 14107 (1) Application has been made;
- 14108 (2) A statement of supervision has been provided by a licensed dispenser;
- 14109 (3) A statement has been made by the supervising dealer that the applicant is capable of
- 14110 making the tests and applying the techniques required to dispense hearing aids in
- 14111 accordance with this chapter;
- 14112 (4) Proof of age has been made. ~~Apprentice dispensers' permits are limited to one year~~
- 14113 ~~in duration and shall not be renewed;~~ and
- 14114 (5) The applicant has passed the practical portion of the examination.

14115 Apprentice dispensers' permits are limited to one year in duration and shall not be renewed.

- 14116 (b) Training permits shall be issued by the ~~division~~ director ~~on behalf of the board~~ only
- 14117 when application has been made and a statement of supervision has been provided by a
- 14118 licensed dispenser. The permit should authorize the person to dispense hearing aids only
- 14119 under direct supervision and immediate observation of the licensed dispenser who shall be
- 14120 responsible for the trainees' compliance with this chapter. Proof of age shall also be made.
- 14121 Training permits should be for a duration of six months and may be renewed as often as
- 14122 necessary for additional six-month time periods so long as the requirements of this Code
- 14123 section for issuance of permits are met for each renewal.

14124 43-20-12.

- 14125 (a) A person holding a dealer's license shall notify the ~~division~~ director in writing of the
- 14126 regular addresses of places of business operated by the dealer for dispensing hearing aids.
- 14127 Furthermore, the dealer is required to notify the ~~division~~ director in writing as to the names
- 14128 and license or permit numbers of all dispensers, apprentice dispensers, and trainees
- 14129 employed or otherwise practicing at each of his or her places of business. The dealer is
- 14130 required to notify the ~~division~~ director in writing of any changes of the foregoing within
- 14131 seven calendar days of such change. Any failure shall be considered a violation of this
- 14132 chapter by the dealer.

- 14133 (b) Any notice required to be given by the ~~division~~ director ~~or by the board~~ to any person
- 14134 who holds a license or permit ~~issued by the board~~ shall be mailed to such licensee or permit
- 14135 holder to the address of the place of practice last recorded with the ~~division~~ director; and
- 14136 such mailing shall constitute sufficient notice to such licensee.

14137 43-20-13.

- 14138 Any person who dispenses hearing aid devices or instruments shall deliver to each person
- 14139 supplied with a hearing aid device or instrument a written receipt or bill of sale in such
- 14140 form as may be prescribed by the licensing board; which ~~receipt or bill of sale~~ shall
- 14141 contain, as a minimum, the dealer's name, license number, address, and schedule of office

14142 hours, as well as the dispenser's name, signature, and license number, together with
 14143 specification as to the make and model and serial number of the hearing aid device or
 14144 instrument furnished. The receipt or bill of sale shall also clearly state the full terms of
 14145 sale, including guarantees, if any, and shall also contain such other information as the
 14146 licensing board may determine to be necessary in the public interest. If a hearing aid
 14147 device or instrument which is not new is sold, the receipt therefor must be clearly marked
 14148 'used' or 'reconditioned,' whichever is applicable, with the terms of the guarantee, if any,
 14149 clearly stated.

14150 43-20-14.

14151 Licenses issued under this chapter shall be renewable biennially. Each and every dealer's
 14152 license and dispenser's license required by this chapter shall be conspicuously posted at
 14153 each location and place of practice at all times as may be required by regulations
 14154 established by the licensing board. When more than one office or place of business is
 14155 operated, a duplicate license shall be obtained from the ~~division~~ director for each such
 14156 location or place regularly carrying on the practice of dispensing hearing aid devices or
 14157 instruments, upon the payment of an additional appropriate fee for each duplicate license.
 14158 The address of the location or place of doing business shall be stated on the duplicate
 14159 license, which shall be posted at the location.

14160 43-20-15.

14161 As a prerequisite for the renewal of a dispenser's license, the dispenser must provide proof
 14162 to the ~~board~~ director that the dispenser has successfully completed 14 hours of continuing
 14163 education in a program approved by the licensing board. The licensing board may
 14164 promulgate such rules and regulations as are necessary to implement the continuing
 14165 education requirement.

14166 43-20-16.

14167 In addition to any other penalties as provided for in this chapter, the ~~board~~ director is
 14168 authorized to reprimand any licensee or permit holder under this chapter and to suspend,
 14169 revoke, or otherwise sanction his or her license or permit for a fixed period, or may refuse
 14170 to renew or may deny the license or permit, ~~upon affording an opportunity for a hearing in~~
 14171 compliance with Code Section 43-1-3.1, for any of the following causes:

14172 (1) Conviction of, or a plea of nolo contendere to, a felony or a misdemeanor involving
 14173 moral turpitude. The record of conviction or plea or a copy thereof certified by the clerk
 14174 of the court shall be conclusive evidence of such conviction or plea;

14175 (2) Procuring of a license or permit by fraud or deceit;

- 14176 (3) Selling, bartering, or offering to sell or barter a license or permit;
- 14177 (4) Purchasing or procuring by barter a license or permit with intent to use it as evidence
14178 of the holder's qualifications to practice the dispensing of hearing aid devices or
14179 instruments or to sell such devices or instruments;
- 14180 (5) Altering a license or permit with fraudulent intent;
- 14181 (6) Using or attempting to use as a valid license or permit a license or permit which has
14182 been purchased, fraudulently obtained, counterfeited, or materially altered;
- 14183 (7) Willfully making a false statement in an application for a license or permit or
14184 application for renewal of a license or permit;
- 14185 (8) Being found guilty of unethical conduct by the licensing board or the director or by
14186 some other tribunal or court of law. Unethical conduct shall include:
- 14187 (A) Fraud or misrepresentation in the dispensing of a hearing aid;
- 14188 (B) Knowingly employing, directly or indirectly, any suspended or unlicensed person
14189 to perform any service covered by this chapter;
- 14190 (C) Using, or causing or promoting the use of, any advertising material, promotional
14191 literature, testimonial, guarantee, warranty, label, brand, insignia, or any other
14192 representation, however disseminated or published, which is misleading, deceptive, or
14193 untruthful;
- 14194 (D) Advertising a particular model or type of hearing aid for sale when purchasers or
14195 prospective purchasers responding to the advertisement cannot purchase the advertised
14196 model or type and where it is determined that the purchase of the advertisement is to
14197 obtain prospects for the sale of a different model or type than that advertised;
- 14198 (E) Representing that the services or advice of a licensed physician or an audiologist
14199 will be used or made available in the selection, adjustment, maintenance, or repair of
14200 hearing aids when that is not true or using the words 'hearing center,' 'doctor,' 'ear
14201 specialist,' 'clinic,' 'clinical audiologists,' 'state licensed clinic,' 'state registered,' 'state
14202 certified,' 'state approved,' or any other term, abbreviation, or symbol when it would
14203 falsely give the impression that one is being treated medically or that the licensee's or
14204 permit holder's service has been recommended by the state;
- 14205 (F) Representing or implying that a hearing aid device or instrument is or will be
14206 'custom made,' 'made to order,' 'prescription made,' or in any other sense specially
14207 fabricated for an individual person when such is not the case;
- 14208 (G) Representing that a recommendation for a specific brand or model aid or source
14209 of product or service has resulted from an unbiased or impartial process when such is
14210 not the case;
- 14211 (H) Permitting another to use his or her license or permit;

- 14212 (I) Advertising a manufacturer's product or using a manufacturer's name or trademark
 14213 which implies a relationship with the manufacturer that does not exist;
- 14214 (J) Giving or receiving, directly or indirectly, or offering to give or receive money or
 14215 anything of value to any person who advises another in a professional capacity as an
 14216 inducement to influence or have such person influence others to purchase or contract
 14217 to purchase any product sold or offered for sale by a licensee or permit holder or to
 14218 influence persons to refrain from dealing in the products of competitors;
- 14219 (K) Selecting or fitting a hearing aid for a person who has not been given the
 14220 appropriate tests utilizing procedures and instrumentation as specified by this chapter
 14221 or by the rules and regulations of the licensing board; or
- 14222 (L) Committing any other professionally immoral act;
- 14223 (9) Practicing while suffering from a contagious or infectious disease;
- 14224 (10) Dispensing hearing aids under a false name or alias;
- 14225 (11) Violating any of the provisions of this chapter or the rules and regulations
 14226 promulgated by the licensing board; or
- 14227 (12) Gross incompetence or negligence in dispensing hearing aids.

14228 43-20-17.

14229 ~~Contested cases under this chapter shall be administered in accordance with Chapter 13 of~~
 14230 ~~Title 50, the 'Georgia Administrative Procedure Act'; provided, however, that any person~~
 14231 ~~whose license or permit has been revoked, suspended, or otherwise sanctioned by a final~~
 14232 ~~order of the board or denied or not renewed pursuant to Code Section 43-20-16 may appeal~~
 14233 ~~to the superior court to review the decision of the board to determine its legal correctness;~~
 14234 ~~and provided, further, that the findings of fact rendered by the board will be accepted by~~
 14235 ~~the court if said findings are supported by any evidence. Any order or action of the director~~
 14236 ~~taken pursuant to this chapter shall be made in compliance with Code Section 43-1-3.1.~~

14237 43-20-18.

14238 The ~~board~~ director shall have the power to bring an action to enjoin any person, firm, or
 14239 corporation who, without being licensed or issued a permit by the ~~board~~ director, dispenses
 14240 hearing aids in this state. The action shall be filed in the county in which such person
 14241 resides or practices or in the county where the firm or corporation maintains an office or
 14242 practices. If it shall appear that the person, firm, or corporation is guilty of dispensing
 14243 hearing aids without a license or permit issued by the ~~board~~ director, then such person,
 14244 firm, or corporation shall be enjoined from dispensing hearing aids without a valid license
 14245 or permit throughout the state. It is declared that such unlicensed activities are a menace
 14246 and a nuisance and are dangerous to the public health, safety, and welfare; and, therefore,

14247 it shall not be necessary, in order to obtain relief, as provided in this Code section, for the
 14248 ~~board~~ director to allege or prove that there is no adequate remedy at law.

14249 43-20-19.

14250 (a) This chapter shall not apply to a person who is a physician licensed to practice
 14251 medicine in this state or to a person who is licensed as an audiologist under Chapter 44 of
 14252 this title.

14253 (b) This chapter shall not apply to a person while he or she is working as an employee of
 14254 a federal, state, county, or municipal agency or a duly chartered educational institution or
 14255 a training center, provided that such person does not engage in the sale, rental, or lease of
 14256 hearing aids.

14257 (c) Nothing in this chapter shall be construed to prevent a person licensed under any other
 14258 law of this state from operating within the scope of that license, provided that such person
 14259 does not engage in the sale, rental, or lease of hearing aids.

14260 (d) Nothing in this chapter shall prohibit a corporation, partnership, trust, association, or
 14261 other like organization maintaining an established business address from engaging in the
 14262 business of selling or offering for sale hearing aid devices or instruments at retail, provided
 14263 that it holds a dealer's license issued under this chapter and that it employs only properly
 14264 licensed persons who engage in the sale or dispensing of such products to the purchaser and
 14265 user thereof. Such corporations, partnerships, trusts, associations, or other like
 14266 organizations shall file with the ~~board~~ director a list of all licensed dispensers directly or
 14267 indirectly employed by them, including the addresses and license numbers of such
 14268 dispensers.

14269 43-20-20.

14270 Any person who dispenses or sells hearing aid devices or instruments without a license or
 14271 who otherwise is in violation of this chapter shall be guilty of a misdemeanor. For the
 14272 purposes of this chapter, such misdemeanor shall be considered a crime involving moral
 14273 turpitude."

14274 **SECTION 1-22.**

14275 Said title is further amended by revising Chapter 23, relating to landscape architects, as
 14276 follows:

14277

"CHAPTER 23

14278 43-23-1.

14279 As used in this chapter the term:

14280 (1) 'Board' means the Georgia Board of Landscape Architects, a professional licensing
 14281 policy board pursuant to Chapter 1 of this title with the authority and responsibility set
 14282 forth in such chapter.

14283 (1.1) 'Director' means the director of professional licensing.

14284 (2) 'Landscape architect' means a person who is licensed pursuant to this chapter to
 14285 practice or teach landscape architecture.

14286 (3) 'Landscape architecture' means the performance of professional services, including,
 14287 but not limited to, consultation, investigation, planning, design, preparation of drawings
 14288 and specifications, and responsible supervision, all in connection with the preservation
 14289 or determination of proper land uses, natural land features, esthetics, planting plans, the
 14290 shaping of land to produce the best functional and esthetic effect, and grading plans with
 14291 determination of drainage. This term shall also include the consideration of
 14292 environmental problems involving land areas, as such problems relate to the public
 14293 health, safety, and welfare.

14294 (4) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 14295 Article 2 of Chapter 1 of this title.

14296 43-23-2.

14297 (a) The Georgia Board of Landscape Architects is created as a professional licensing
 14298 policy board as defined in Chapter 1 of this title and shall be under the jurisdiction of the
 14299 Secretary of State and the ~~division~~ director. The board shall be composed of five members,
 14300 each of whom shall be appointed by the Governor. Four of the five members shall be
 14301 licensed landscape architects who shall be residents of this state and actively engaged in
 14302 the practice of landscape architecture. The fifth member of the board shall be a resident
 14303 of this state and shall have no connection whatsoever with the practice of landscape
 14304 architecture. The four members of the board in office on July 1, 1993, shall serve the
 14305 remainder of their terms of office, as provided by the law under which each was appointed.
 14306 The additional member to be added to the board in 1993 shall be appointed for an initial
 14307 term of four years. Upon the expiration of each member's term of office, a successor shall
 14308 be appointed for a term of four years, and all succeeding appointments made under this
 14309 subsection shall be for four-year terms.

14310 (b) Members of the board shall serve until their successors are appointed and qualified.
 14311 Vacancies on the board shall be filled by appointment of the Governor and, in the same

14312 manner as provided in subsection (a) of this Code section, for the unexpired term of the
14313 member creating such vacancy.

14314 (c) The board shall select from its members a ~~chairman~~ chairperson.

14315 (d) The board may do all things necessary and convenient for its own government ~~and for~~
14316 ~~carrying into effect the provisions of this chapter and may promulgate necessary rules and~~
14317 ~~regulations to carry out the provisions of this chapter, not otherwise inconsistent with this~~
14318 ~~chapter, including regulations governing the professional conduct of persons licensed by~~
14319 ~~the board.~~ The board shall be authorized to meet as often as necessary in order to conduct
14320 its business, but in no event shall the board meet less than twice during every calendar year.

14321 (e) Each member of the board ~~shall~~ may be reimbursed as provided for in subsection (f)
14322 of Code Section 43-1-2.

14323 43-23-3.

14324 ~~(a) The board shall adopt a seal, which may be either an engraved or an ink stamped seal,~~
14325 ~~with the words 'Board of Landscape Architects, State of Georgia' or such other device as~~
14326 ~~the board may desire included thereon, by which it shall authenticate the acts of the board.~~

14327 ~~(b) Copies of all records and papers in the office of the board, certified by the signature~~
14328 ~~of the chairman of the board, shall be received in evidence in all cases equally and with like~~
14329 ~~effect as the originals.~~ Reserved.

14330 43-23-4.

14331 The licensing board and the director shall have the full power to regulate the issuance of
14332 licenses;.

14333 43-23-4.1.

14334 The director shall have the power to revoke or suspend licenses issued under this chapter;
14335 and to censure licensees in compliance with Code Section 43-1-3.1.

14336 43-23-5.

14337 (a) No person shall perform or offer, attempt, or agree to perform any act which would
14338 constitute the practice of landscape architecture, ~~as defined in paragraph (3) of Code~~
14339 ~~Section 43-23-1,~~ whether as a part of a transaction or as an entire transaction, unless such
14340 person has received a license as a landscape architect pursuant to this chapter.

14341 (b) The commission of a single act by a person required to be licensed under this chapter
14342 and who is not licensed shall constitute a violation of this chapter.

14343 (c) Notwithstanding any provisions for criminal liability, any person who, without
14344 possessing a valid unsuspended, unrevoked license as provided in this chapter, uses the title

14345 or term 'landscape architect' in any sign, card, listing, advertisement, or in any other manner
14346 that would imply or indicate that he or she is a landscape architect as defined in this chapter
14347 may be enjoined from using such title or term in such manner.

14348 43-23-6.

14349 Any person desiring to act as a landscape architect must file an application for a license
14350 with the ~~board~~ director. The application shall be in such form and detail as the licensing
14351 board shall prescribe.

14352 43-23-7.

14353 (a) Each applicant for initial licensure as a landscape architect shall:

14354 (1) Be at least 18 years of age;

14355 (2) Hold a Bachelor of Landscape Architecture degree or a Bachelor of Science degree
14356 in landscape architecture from a college or school of landscape architecture,
14357 environmental design, or its equivalent approved by the licensing board; and

14358 (3)(A) Have at least 18 months of training in the actual practice of landscape
14359 architecture as may be approved by the licensing board, provided that at least one year
14360 of such actual practice shall be subsequent to receiving such undergraduate degree; or

14361 (B) Have earned a postgraduate degree in landscape architecture from a college or
14362 school of landscape architecture or environmental design approved by the licensing
14363 board.

14364 (b) Persons who, on July 1, 1993, held licenses as landscape architects issued under the
14365 laws of this state shall not be required to obtain additional licenses under this chapter but
14366 shall otherwise be subject to all applicable provisions of this chapter, including those
14367 pertaining to renewal of such license; and such licensee shall be considered licensed for all
14368 purposes under this chapter and subject to the provisions hereof.

14369 (c) The applicant for initial licensure must have passed a written examination generally
14370 covering the matters confronting landscape architects, provided that persons holding a
14371 Bachelor of Landscape Architecture degree or a Bachelor of Science of Landscape
14372 Architecture degree in landscape architecture from approved colleges or schools of
14373 landscape architecture, environmental design, or their equivalent shall be permitted to take
14374 such examination upon furnishing proof of completion of the 18 months' experience
14375 requirement or the educational equivalent and proof of their graduation to the ~~board~~
14376 director. The examination shall cover such matters as are reasonably calculated to test the
14377 knowledge and skill of the applicant in the field of landscape architecture. Failure to pass
14378 the examination shall be grounds for denial of a license without a further hearing.

14379 43-23-7.1.

14380 (a) The licensing board shall be authorized to require persons holding a license under this
14381 chapter to complete licensing board approved continuing education of six hours per year.

14382 The licensing board shall be authorized to approve courses offered by institutions of higher
14383 learning, specialty societies, or professional organizations.

14384 (b) The ~~board~~ director shall be authorized to waive the continuing education requirement
14385 in cases of hardship, disability, or illness or under such other circumstances as the licensing
14386 board deems appropriate.

14387 (c) The licensing board shall be authorized to promulgate rules and regulations to
14388 implement and ensure compliance with the requirements of this Code section.

14389 43-23-8.

14390 (a) Every applicant for licensure as a landscape architect shall submit with his or her
14391 application for such licensure a fee in an amount established by the licensing board. If the
14392 applicant successfully passes the examination and is otherwise qualified for licensure as
14393 a landscape architect, the ~~board~~ director shall thereafter, upon payment of a license fee to
14394 be determined by the licensing board, issue a license to the applicant, which shall be valid
14395 for up to two years and shall be renewable biennially. All licenses shall expire on the
14396 renewal date established by the ~~division~~ director. The biennial license renewal fees shall
14397 be an amount established by the licensing board.

14398 (b) Any check presented to the ~~board~~ director as a fee for either an original or renewal
14399 license which is returned unpaid shall be cause for revocation or denial of the license.

14400 43-23-9.

14401 The ~~board~~ director may certify an applicant for registration without examination if such
14402 applicant is legally registered as a landscape architect in any state, country, or political
14403 entity whose requirements for registration are substantially equivalent to the requirements
14404 provided in this chapter and ~~which state, country, or political entity~~ that extends the same
14405 privilege of reciprocity to landscape architects registered in this state. Such application
14406 shall be accompanied by the same licensing fee as required of other landscape architects,
14407 provided that such fee shall be returned if the license is not granted.

14408 43-23-10.

14409 Any landscape architect who is duly registered in any other state or country may be issued
14410 a temporary license as a landscape architect for a stipulated site and project within this
14411 state, provided that such person:

14412 (1) Requests a temporary license on a form provided by the director ~~board~~;

- 14413 (2) Presents evidence satisfactory to the ~~board~~ director that he or she is competent to
 14414 practice landscape architecture as the term is defined in this state;
 14415 (3) Has attained the age of 18 years; and
 14416 (4) Pays a fee to be determined by the licensing board for such temporary license.

14417 43-23-11.

- 14418 (a) The licensing board shall prescribe the form of licenses issued under this chapter. The
 14419 license of each landscape architect shall be delivered or mailed to the landscape architect.
 14420 (b) The ~~board~~ director shall provide certificates to each licensed landscape architect. The
 14421 licensing board shall prescribe the form of certificates issued. ~~The certificate shall have~~
 14422 ~~placed thereon the seal of the board.~~ The certificate of each landscape architect shall be
 14423 delivered or mailed to the landscape architect. It shall be the duty of the landscape
 14424 architect to display his or her certificate conspicuously in his or her place of business.

14425 43-23-12.

14426 The ~~board~~ director may, upon ~~its~~ his or her own motion, and shall, upon the complaint in
 14427 writing of any person, initiate investigations into the actions of any licensed landscape
 14428 architect and shall have the power to censure the licensee or to revoke or suspend any
 14429 license issued under this chapter whenever the ~~board~~ director concludes that the licensee
 14430 has violated any provision of this chapter or whenever the ~~board~~ director has determined
 14431 that the licensee:

- 14432 (1) Has obtained a license by false or fraudulent representations;
 14433 (2) Has impersonated another landscape architect or former landscape architect with the
 14434 same or similar name, or is practicing under an assumed or misleading name, ~~to include~~
 14435 including practicing under a partnership, limited liability company, or corporate name in
 14436 which any person who is not a landscape architect is named;
 14437 (3) Has aided or abetted an unlicensed person in the practice of landscape architecture;
 14438 (4) Has been convicted of a felony or other crime involving moral turpitude;
 14439 (5) Has, in the practice of landscape architecture, been guilty of fraud, deceit, negligence,
 14440 or incompetence;
 14441 (6) Has affixed his or her signature to plans, drawings, specifications, or other
 14442 instruments of service which have not been prepared by him or her or under his or her
 14443 immediate and responsible direction or has permitted his or her name to be used for the
 14444 purpose of assisting any person who is not a landscape architect to evade the provisions
 14445 of this chapter; or
 14446 (7) Has violated the provisions of subsection (a) of Code Section 43-1-19.

14447 43-23-13.

14448 An action ~~taken by the board~~ of the director with respect to any license issued under this
14449 chapter shall be ~~in accordance with Chapter 13 of Title 50, the 'Georgia Administrative~~
14450 ~~Procedure Act.'~~ taken in compliance with Code Section 43-1-3.1.

14451 43-23-14.

14452 Any partnership, firm, limited liability company, or corporation may engage in the practice
14453 of landscape architecture, ~~as defined in this chapter~~, provided that any service which
14454 constitutes the practice of landscape architecture shall be supervised by a duly licensed
14455 landscape architect who shall be responsible for the services furnished by the partnership,
14456 firm, limited liability company, or corporation which would otherwise fall within the
14457 purview of this chapter. In no event shall the other members of the partnership, limited
14458 liability company, firm, or corporation be designated or described as landscape architects
14459 if they are not so licensed; and the term landscape architect or any abbreviation thereof or
14460 any other designation which conveys the meaning of landscape architect shall not appear
14461 in any partnership, firm, limited liability company, or corporate name in which any person
14462 is identified who is in fact not a licensed landscape architect. Upon approval of the ~~board~~
14463 director, any partnership, limited liability company, firm, or corporation may operate
14464 branch offices in this state to provide landscape architectural services, provided that each
14465 branch office has a resident landscape architect licensed under this chapter. All classified
14466 directory listings, advertisements, signs, and broadcast commercials, except letterheads and
14467 business cards, of corporations, firms, limited liability companies, or partnerships offering
14468 landscape architectural services shall include the name and license number of a duly
14469 licensed landscape architect providing such services.

14470 43-23-15.

14471 Whenever, in the judgment of the ~~board~~ director, any person has engaged in any acts or
14472 practices which constitute or will constitute a violation of this chapter, the Attorney
14473 General may bring an action in the name of the state to abate and temporarily and
14474 permanently enjoin such acts and practices and to enforce compliance with this chapter.
14475 The ~~board~~ director shall not be required to give bond in any such action.

14476 43-23-16.

14477 Nothing in this chapter shall be construed as excluding a qualified registered architect or
14478 professional engineer from such landscape architectural practice as may be incidental to
14479 the practice of his or her profession or as excluding a landscape architect registered under

14480 this chapter from such architectural or engineering practice as may be incidental to the
14481 practice of landscape architecture.

14482 43-23-17.

14483 (a) Except as otherwise provided in this chapter, this chapter shall not apply to:

14484 (1) A contractor engaging in the business of or acting in the capacity of a contractor or
14485 landscape contractor in this state, provided that he or she is the prime contractor for the
14486 installation of his or her design. A contractor or landscape contractor may not perform
14487 design services without also performing the installation of said design;

14488 (2) Any person whose services are offered solely as a gardener or nurseryman;

14489 (3) Any person qualified by training or experience or by both training and experience
14490 whose services are offered solely as a municipal, regional, or urban planner; or

14491 (4) Any person employed by a state agency, county, or municipality who engages in the
14492 business of or acts in the capacity of a landscape architect, insofar as such acts are
14493 performed in the course of employment with the respective governmental entity on lands
14494 owned by the jurisdiction by which employed.

14495 (b) None of the persons mentioned in subsection (a) of this Code section shall use the title
14496 'landscape architect' without complying with this chapter.

14497 43-23-18.

14498 Any person who shall practice the profession of landscape architecture or represent himself
14499 or herself as a landscape architect or act as such, ~~as defined in this chapter~~, without first
14500 obtaining a license to do so as provided in this chapter, or when such license is revoked,
14501 shall be guilty of a misdemeanor.

14502 43-23-19.

14503 Any person who violates any provision of this chapter shall be guilty of a misdemeanor."

14504 **SECTION 1-23.**

14505 Said title is further amended by revising Chapter 24, relating to librarians, as follows:

14506 "CHAPTER 24

14507 43-24-1.

14508 As used in this chapter, the term:

14509 (1) 'Board' means the State Board for the Certification of Librarians, a professional
 14510 licensing policy board pursuant to Chapter 1 of this title with the authority and
 14511 responsibility set forth in such chapter.

14512 (1.1) 'Director' means the director of professional licensing.

14513 (2) 'Librarian' means a person with specialized training as identified in this chapter and
 14514 in the administrative rules and regulations applicable to this chapter and possessing the
 14515 necessary training and qualifications to plan, organize, communicate, and administer
 14516 successfully the use of the library's materials and services.

14517 (3) 'Library' means an organization providing services and informational materials in a
 14518 variety of formatting, including, but not limited to, books, films, tapes, microforms, and
 14519 periodicals and having no fewer than 3,000 items which have been selected, acquired, and
 14520 organized for dissemination.

14521 (4) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 14522 Article 2 of Chapter 1 of this title.

14523 43-24-2.

14524 (a) The State Board for the Certification of Librarians is created as a professional licensing
 14525 policy board, to consist of six persons as follows:

14526 (1) Three librarians certified under this chapter, including one public librarian, one
 14527 special librarian, and one other currently practicing librarian, and one person who shall
 14528 be a trustee of a public library;

14529 (2) A member to be appointed from the public at large who shall have no connection
 14530 whatsoever with the library profession; and

14531 (3) The director of public library services of the Board of Regents of the University
 14532 System of Georgia.

14533 (b) The members referred to in paragraphs (1) and (2) of subsection (a) of this Code
 14534 section shall be appointed by the Governor and shall be confirmed by the Senate.

14535 (c) The terms of the five members appointed pursuant to paragraphs (1) and (2) of
 14536 subsection (a) of this Code section shall be five years. The term of the director of public
 14537 library services of the Board of Regents of the University System of Georgia shall be
 14538 coextensive with the term of office of this position.

14539 (d) Members of the board shall be reimbursed as provided for in subsection (f) of Code
 14540 Section 43-1-2.

14541 (e) If there is a vacancy on the board, the Governor shall appoint a member to serve the
 14542 unexpired term.

14543 43-24-3.

14544 The same jurisdiction, duties, powers, and authority which the ~~division~~ director has with
14545 reference to other professional licensing boards is conferred upon ~~that~~ the director with
14546 respect to the board.

14547 43-24-4.

14548 Any public library serving a political subdivision or subdivisions having a population of
14549 over 5,000 according to the United States decennial census of 1970 or any future such
14550 census and every library operated by the state or its authority, including libraries of
14551 institutions of higher learning, shall not employ in the position of librarian a person who
14552 does not hold a librarian's certificate issued by the ~~board~~ director. No public funds shall
14553 be paid to any library failing to comply with this chapter, provided that nothing in this
14554 chapter shall apply to law libraries of counties and municipalities, to libraries of public
14555 elementary and high schools, or to libraries of the University System of Georgia.

14556 43-24-5.

14557 The licensing board shall have authority to establish grades of certificates for librarians, to
14558 prescribe and hold examinations, and to require submission of credentials to establish the
14559 qualifications of those seeking certificates as librarians, ~~and~~ .

14560 43-24-5.1.

14561 The director shall have authority to issue certificates of librarianship to qualified persons
14562 in accordance with such rules and regulations as ~~it~~ the licensing board may prescribe.

14563 43-24-6.

14564 (a) All applicants for a librarian's certificate shall file an application with the ~~division~~
14565 director, accompanied by a fee which shall be set by the licensing board.

14566 (b) Each certificate issued shall be renewable biennially.

14567 (c) Any certified librarian requesting a duplicate certificate shall be charged a fee as shall
14568 be set by the licensing board.

14569 43-24-7.

14570 (a) The licensing board shall be authorized to require persons holding a certificate under
14571 this chapter to complete licensing board approved continuing education of not less than ten
14572 hours biennially as a condition of certificate renewal. The licensing board shall be
14573 authorized to approve programs offered by professional associations, educational

14574 institutions, government agencies, ~~and~~ bibliographic utilities, and others as it deems
14575 appropriate.

14576 (b) The ~~board~~ director shall be authorized to waive the continuing education requirement
14577 in cases of hardship, disability, or illness or under such other circumstances as the licensing
14578 board deems appropriate.

14579 (c) The licensing board shall be authorized to promulgate rules and regulations to
14580 implement and ensure compliance with the requirements of this Code section.

14581 (d) The ~~board~~ director shall have the authority to appoint a committee or committees
14582 composed of certified librarians, as it he or she deems appropriate, to ~~administer,~~
14583 ~~implement, and otherwise carry out~~ advise in the administration and implementation of the
14584 provisions of this chapter relating to continuing education."

14585 **SECTION 1-24.**

14586 Said title is further amended by revising Chapter 24A, relating to massage therapy practice,
14587 as follows:

14588 "CHAPTER 24A

14589 43-24A-1.

14590 This chapter shall be known and may be cited as the 'Georgia Massage Therapy Practice
14591 Act.'

14592 43-24A-2.

14593 The General Assembly acknowledges that the practice of massage therapy affects the
14594 public health, safety, and welfare. Massage therapists must have a knowledge of anatomy
14595 and physiology and an understanding of the relationship between the structure and function
14596 of the tissue being treated and the total function of the body. Massage is therapeutic and
14597 regulations are necessary to protect the public from unqualified practitioners. It is in the
14598 interest of the public to set standards of qualifications, education, training, and experience
14599 for those who seek to practice massage therapy; to promote high standards of professional
14600 performance for those licensed to practice massage therapy; and to protect the public from
14601 unprofessional conduct by persons licensed to practice massage therapy.

14602 43-24A-3.

14603 As used in this chapter, the term:

14604 (1) 'Advertise' means, but is not limited to, the issuing of or causing to be distributed any
14605 card, sign, or other device or causing or permitting any sign or marking on or in any

14606 building or structure, or in any newspaper, magazine, or directory, or announcement on
 14607 radio, or announcement or display on television, computer network, or electronic or
 14608 telephonic medium.

14609 (2) 'Applicant' means any person seeking a license under this chapter.

14610 (3) 'Board' means the Georgia Board of Massage Therapy established by this chapter, a
 14611 professional licensing policy board pursuant to Chapter 1 of this title with the authority
 14612 and responsibility set forth in such chapter.

14613 (4) ~~'Board recognized massage program' means an educational program which meets the~~
 14614 ~~standards for training and curriculum as set out by the board in its rules which are~~
 14615 ~~consistent with the Nonpublic Postsecondary Education Commission as provided in Code~~
 14616 ~~Section 20-3-250.4. 'Director' means the director of professional licensing.~~

14617 (4.1) 'Entity' means the owner or operator of a business where massage therapy for
 14618 compensation is performed.

14619 (5) 'License' means a valid and current certificate of registration issued by the ~~board~~
 14620 director.

14621 (6) 'Licensee' means any person holding a license.

14622 (6.1) 'Licensing board' means the Georgia Board of Licensing and Registration created
 14623 by Article 2 of Chapter 1 of this title.

14624 (6.2) 'Licensing board recognized massage program' means an educational program
 14625 which meets the standards for training and curriculum as set out by the licensing board
 14626 in its rules which are consistent with the Nonpublic Postsecondary Education
 14627 Commission as provided in Code Section 20-3-250.6.

14628 (7) 'Massage therapist' means a person who administers massage or massage therapy for
 14629 compensation.

14630 (8) 'Massage therapy' means the application of a system of structured touch, pressure,
 14631 movement, and holding to the soft tissue of the body in which the primary intent is to
 14632 enhance or restore health and well-being. The term includes complementary methods,
 14633 including without limitation the external application of water, superficial heat, superficial
 14634 cold, lubricants, salt scrubs, or other topical preparations and the use of commercially
 14635 available electromechanical devices which do not require the use of transcutaneous
 14636 electrodes and which mimic or enhance the actions possible by the hands; the term also
 14637 includes determining whether massage therapy is appropriate or contraindicated, or
 14638 whether referral to another health care provider is appropriate. Massage therapy shall not
 14639 include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal
 14640 modalities.

14641 (9) 'Person' means a natural person only.

14642 (10) 'Provisionally permitted massage therapist' means a person issued a provisional
14643 permit under this chapter.

14644 43-24A-4.

14645 (a) There is created the Georgia Board of Massage Therapy as a professional licensing
14646 policy board which shall consist of five members. The board shall be assigned to the
14647 Secretary of State's office for administrative purposes and shall be under the jurisdiction
14648 of the ~~division~~ director and shall operate in accordance with and pursuant to the provisions
14649 of Chapter 1 of this title, as applicable.

14650 (b) The Governor shall appoint, subject to confirmation by the Senate, all members of the
14651 board for initial terms of office beginning July 1, 2005. The Governor shall appoint two
14652 initial members of the board to serve for terms of two years and three initial members of
14653 the board, including the public member, to serve for terms of four years. After the initial
14654 terms specified in this subsection, members of the board shall take office on the first day
14655 of July immediately following the expired term of that office and shall serve for a term of
14656 four years and until their successors are appointed and qualified. Any person appointed to
14657 the board when the Senate is not in session may serve on the board without Senate
14658 confirmation until the Senate acts on that appointment. No member shall serve on the
14659 board for more than two full consecutive terms. Any vacancy due to death, resignation,
14660 removal, or otherwise shall be filled for the remainder of the unexpired term in the same
14661 manner as regular appointments.

14662 (c) All members of the board shall be reimbursed as provided for in subsection (f) of Code
14663 Section 43-1-2.

14664 (d) An appointee to the board shall qualify by taking an oath of office within 15 days from
14665 the date of his or her appointment. On presentation of the oath, the Secretary of State shall
14666 issue a commission to each appointee as evidence of his or her authority to act as a member
14667 of the board.

14668 43-24A-5.

14669 (a)(1) There shall be four professional members of the board who shall:

14670 (A) Be citizens of the United States and residents of this state for at least three years
14671 prior to the date of appointment;

14672 (B) Have been engaged in massage therapy practice for compensation for at least five
14673 years immediately preceding their appointment; and

14674 (C) Be eligible for licensure under this chapter. Effective July 1, 2006, and thereafter,
14675 all professional members of the board shall be licensed under this chapter.

14676 (2) No more than one professional member of the board may be an owner of or affiliated
14677 with any massage school.

14678 (b) There shall be one consumer member of the board who shall be appointed by the
14679 Governor from the public at large, shall be a citizen of the United States and resident of this
14680 state, and shall be a person to whom neither this state nor any other state or jurisdiction or
14681 organization has ever issued a certificate, registration, license, or permit to engage in the
14682 practice of massage therapy nor be an owner of or affiliated with any massage school.

14683 (c) The Governor, after notice and opportunity for hearing, may remove any member of
14684 the board for incompetence, neglect of duty, unprofessional conduct, conviction of a
14685 felony, failure to meet the qualifications of this chapter, or committing any act prohibited
14686 by this chapter.

14687 43-24A-6.

14688 The board shall meet at least once each year at a time fixed by the board. At its annual
14689 meeting, the board shall elect from its members a chairperson, vice chairperson, and any
14690 other officers as deemed necessary who shall hold office for a term of one year.
14691 Additionally, the board may appoint such committees as it considers necessary to fulfill its
14692 duties. In addition to its annual meeting, the board may hold additional meetings at the call
14693 of the chairperson or at the request of any two members of the board or as approved by the
14694 ~~division~~ director.

14695 43-24A-7.

14696 (a) The ~~board~~ director shall have the power to:

14697 (1) Examine and determine the qualifications and fitness of applicants for licenses to
14698 practice massage therapy in this state;

14699 (2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage
14700 therapy in this state or otherwise discipline licensed massage therapists;

14701 (3) Conduct investigations for the purpose of discovering violations of this chapter or
14702 grounds for disciplining persons or entities acting in violation of this chapter;

14703 (4) ~~Hold hearings on all matters properly brought before the board and, in conjunction~~
14704 ~~therewith, to administer oaths, receive evidence, make the necessary determinations, and~~
14705 ~~enter~~ Enter orders and take other action consistent with the findings. ~~The board may~~
14706 ~~designate one or more of its members as its hearing officer; this chapter which shall be~~
14707 entered in compliance with Code Section 43-1-3.1.

14708 (5) ~~Adopt, revise, and enforce rules concerning advertising by licensees including, but~~
14709 ~~not limited to, rules to prohibit false, misleading, or deceptive practices;~~

14710 (6) ~~Adopt an official seal; and~~

14711 (7) Bring proceedings to the courts for the enforcement of this chapter or any rules and
 14712 regulations promulgated pursuant to this chapter.

14713 (b) ~~In addition to the enumerated powers in subsection (a) of this Code section, the board~~
 14714 ~~has the authority to conduct its business pursuant to the provisions of Code Section 43-1-19~~
 14715 ~~which is incorporated herein and made a part of this chapter by specific reference. The~~
 14716 ~~licensing board shall have the power to:~~

14717 (1) Adopt, revise, and enforce rules concerning advertising by licensees including, but
 14718 not limited to, rules to prohibit false, misleading, or deceptive practices; and

14719 (2) Conduct hearings upon the petition of any person who is aggrieved or adversely
 14720 affected by an order or action of the director, which shall be conducted by the licensing
 14721 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 14722 Act.'

14723 43-24A-8.

14724 (a) No person may practice massage therapy in this state who is not a licensed massage
 14725 therapist or the holder of a valid provisional permit issued by the ~~division~~ director pursuant
 14726 to this chapter.

14727 (b) Prior to July 1, 2007, any applicant for a license as a massage therapist must submit a
 14728 completed application upon a form and in such manner as the board prescribes,
 14729 accompanied by applicable fees, and evidence satisfactory to the board that:

14730 (1) The applicant is at least 18 years of age;

14731 (2) The applicant is of good moral character. For purposes of this paragraph, 'good
 14732 moral character' means professional integrity and a lack of any conviction for acts
 14733 involving moral turpitude where the underlying conduct relates to the applicant's fitness
 14734 to practice massage therapy;

14735 (3) The applicant agrees to provide the board with any and all information necessary to
 14736 perform a criminal background check and expressly consents and authorizes the board
 14737 or its representative to perform such a check; and

14738 (4) The applicant has met at least one of the following requirements:

14739 (A) He or she has completed successfully a board recognized educational program with
 14740 a minimum of 500 hours of course and clinical work;

14741 (B) He or she has passed satisfactorily the National Certification Examination for
 14742 Therapeutic Massage and Bodywork, an equivalent test approved by the board, or an
 14743 examination administered by another state or jurisdiction whose license requirements
 14744 meet or exceed those of this state;

- 14745 (C) He or she meets the qualifications necessary to sit for the National Certification
 14746 Examination for Therapeutic Massage and Bodywork or has substantially similar
 14747 qualifications as determined by the board;
- 14748 (D) He or she holds a license as a massage therapist in another state or jurisdiction
 14749 whose license requirements meet or exceed the licensing requirements of this state;
- 14750 (E) He or she has practiced massage therapy for at least ten hours per week on average
 14751 for at least ten years prior to the date of application and has completed at least 100
 14752 hours of formal training in massage therapy as determined by the board;
- 14753 (F) He or she has practiced massage therapy for at least five years prior to the date of
 14754 application and has completed a minimum of 200 hours of formal training in massage
 14755 therapy as determined by the board;
- 14756 (G) He or she has, to the satisfaction of the board, training in another state or
 14757 jurisdiction that meets or exceeds the requirements for licensing in this state;
- 14758 (H) He or she has been a member, as a massage therapist, for a period of one year prior
 14759 to his or her application for licensure of a professional massage therapy association
 14760 established before 2002 which holds its members to a published code of ethics; or
- 14761 (I) He or she has been legally practicing massage therapy in this state for compensation
 14762 prior to July 1, 2005.
- 14763 (c) On and after July 1, 2007, any applicant for a license as a massage therapist must
 14764 submit a completed application upon a form and in such manner as the licensing board
 14765 prescribes, accompanied by applicable fees, and evidence satisfactory to the board director
 14766 that:
- 14767 (1) The applicant is at least 18 years of age;
 - 14768 (2) The applicant has a high school diploma or its recognized equivalent;
 - 14769 (3) The applicant is a citizen of the United States or a permanent resident of the United
 14770 States;
 - 14771 (4) The applicant is of good moral character. For purposes of this paragraph, 'good
 14772 moral character' means professional integrity and a lack of any conviction for acts
 14773 involving moral turpitude where the underlying conduct relates to the applicant's fitness
 14774 to practice massage therapy;
 - 14775 (5) The applicant agrees to provide the board director with any and all information
 14776 necessary to perform a criminal background check and expressly consents and authorizes
 14777 the board director or its his or her representative to perform such a check;
 - 14778 (6) The applicant has completed successfully a licensing board recognized educational
 14779 program consisting of a minimum of 500 hours of course and clinical work; and
 - 14780 (7) The applicant has passed satisfactorily the National Certification Examination for
 14781 Therapeutic Massage and Bodywork, an equivalent test approved by the licensing board,

14782 or an examination administered by another state or jurisdiction whose license
14783 requirements meet or exceed those of this state.

14784 43-24A-9.

14785 (a) A provisional permit to practice as a provisionally permitted massage therapist may be
14786 issued for a two-year period by the ~~board~~ director to the following applicants:

14787 (1) An applicant licensed in another state with like or similar requirements for licensure;
14788 or

14789 (2) An applicant who is not the holder of any massage therapy license.

14790 (b) Such permit shall authorize the applicant to work under the supervision of a licensed
14791 massage therapist as provided by the licensing board.

14792 (c) The applicant, by submitting an application for a provisional permit, agrees to provide
14793 the ~~board~~ director with any and all information necessary to perform a criminal background
14794 check and expressly consents and authorizes the ~~board~~ director or its his or her
14795 representative to perform such a check.

14796 (d) Such provisional permit shall have the same force and effect as a permanent license
14797 until the time of its expiration.

14798 (e) The provisional permit shall expire on the same date as a permanent license that is
14799 issued to persons who have passed the examination.

14800 43-24A-10.

14801 The licensing board may require that all applications be made under oath.

14802 43-24A-11.

14803 (a) Examinations shall be administered to qualified applicants at least twice each calendar
14804 year.

14805 (b) Applicants may obtain their examination scores in accordance with such rules and
14806 regulations as the licensing board may establish.

14807 43-24A-12.

14808 Reserved.

14809 43-24A-13.

14810 Any applicant for a license by endorsement as a massage therapist must submit a
14811 completed application upon a form and in such manner as the licensing board prescribes,
14812 accompanied by applicable fees, and evidence satisfactory to the ~~board~~ director that:

14813 (1) The applicant is at least 18 years of age;

14814 (2) The applicant is of good moral character. For purposes of this paragraph, 'good
 14815 moral character' means professional integrity and a lack of any conviction for acts
 14816 involving moral turpitude where the underlying conduct relates to the applicant's fitness
 14817 to practice massage therapy;

14818 (3) The applicant agrees to provide the ~~board~~ director with any and all information
 14819 necessary to perform a criminal background check and expressly consents and authorizes
 14820 the ~~board~~ director or its his or her representative to perform such a check; and

14821 (4) The applicant is currently licensed as a massage therapist in another jurisdiction,
 14822 state, or territory of the United States or foreign country which requires standards for
 14823 licensure considered by the licensing board to be equivalent to the requirements for
 14824 licensure under this chapter.

14825 43-24A-14.

14826 (a) The licensee shall display the license certificate or a photocopy thereof in an
 14827 appropriate and public manner at each location at which he or she practices.

14828 (b) All licenses shall expire biennially unless renewed. All applications for renewal of a
 14829 license shall be filed with the ~~division~~ director prior to the expiration date, accompanied
 14830 by the biennial renewal fee prescribed by the licensing board and certifying that all current
 14831 requirements of continuing education as determined by the licensing board have been
 14832 fulfilled. The licensing board shall provide for penalty fees for late registration. The
 14833 failure to renew a license by the end of an established penalty period shall have the same
 14834 effect as a revocation of said license, subject to reinstatement only after application and
 14835 payment of the prescribed reinstatement fee within the time period established by the
 14836 ~~division~~ director, provided that the applicant meets such requirements as the licensing
 14837 board may establish by rule.

14838 (c) The licensee shall inform the ~~board~~ director of any change of address within 30 days.

14839 (d) Each person licensed under this chapter is responsible for renewing his or her license
 14840 before the expiration date.

14841 (e) Under procedures and conditions established by the licensing board, a licensee may
 14842 request that his or her license be declared inactive. The licensee may apply for active status
 14843 at any time and upon meeting the conditions set forth by the licensing board shall be
 14844 declared active.

14845 43-24A-15.

14846 (a) It shall be a violation of this chapter for any person or entity to advertise massage
 14847 therapy services or to advertise the offering of massage therapy services unless such
 14848 services are provided by a person who holds a valid license under this chapter.

14849 (b) It shall be a violation of this chapter for any person to advertise:

14850 (1) As a massage therapist unless the person holds a valid license under this chapter in
14851 the classification so advertised; or

14852 (2) Massage therapy services combined with escort or dating services or adult
14853 entertainment.

14854 (c) It shall be a violation of this chapter for a person or entity, or the employees, agents,
14855 or representatives of such person or entity, to practice massage therapy or to use in
14856 connection with such person's or entity's name or business activity the terms 'massage,'
14857 'massage therapy,' 'massage therapist,' 'massage practitioner,' or the letters 'M.T.,' 'L.M.T.,'
14858 or any other words, letters, abbreviations, or insignia indicating or implying directly or
14859 indirectly that massage therapy is provided or supplied unless such massage therapy is
14860 provided by a massage therapist licensed and practicing in accordance with this chapter.

14861 (d) It shall be a violation of this chapter for any entity to:

14862 (1) Advertise the offering of massage therapy services combined with escort or dating
14863 services or adult entertainment; or

14864 (2) Employ unlicensed massage therapists to perform massage therapy.

14865 (e) It shall be a violation of this chapter for any person to practice massage therapy without
14866 holding a current or provisional license as a massage therapist in accordance with
14867 subsection (a) of Code Section 43-24A-8.

14868 (f) It shall be a violation of this chapter for any person or entity, or the employees, agents,
14869 or representatives of such person or entity, to render or offer massage therapy services for
14870 compensation unless such massage therapy is provided by a licensed massage therapist.

14871 43-24A-16.

14872 The practice of massage therapy is declared to be an activity affecting the public interest
14873 and involving the health, safety, and welfare of the public. Such practice by a person who
14874 is not licensed to practice in this state is declared to be a public nuisance, harmful to the
14875 public health, safety, and welfare. Any citizen of this state, the board, the director, or the
14876 appropriate prosecuting attorney where such practice is carried on by such unlicensed
14877 person may, on behalf of the public, bring an action to restrain and enjoin such unlicensed
14878 practice in the superior court of the county where such unlicensed person resides or works.
14879 It shall not be necessary in order to obtain an injunction under this Code section to allege
14880 or prove that there is no adequate remedy at law or to allege or prove any special injury.

14881 43-24A-17.

14882 (a) The ~~board~~ director may take any one or more of the following actions against a person
14883 or entity found by the ~~board~~ director to have committed a violation of this chapter:

- 14884 (1) Reprimand or place the licensee on probation;
- 14885 (2) Revoke or suspend the license or deny the issuance or renewal of a license;
- 14886 (3) Impose an administrative fine not to exceed \$500.00 for each violation; and
- 14887 (4) Assess costs against the violator for expenses relating to the investigation and
- 14888 administrative action.
- 14889 (b) The ~~board~~ director may assess collection costs and interest for the collection of fines
- 14890 imposed under this chapter against any person or entity that fails to pay a fine ~~as directed~~
- 14891 ~~by the board~~ pursuant to an order entered by the director.
- 14892 43-24A-18.
- 14893 Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the 'Georgia
- 14894 Administrative Procedure Act.'
- 14895 43-24A-19.
- 14896 Nothing in this chapter shall be construed to affect, restrict, or prevent the practice,
- 14897 services, or activities of:
- 14898 (1) A person licensed, registered, or certified under any other chapter or article under
- 14899 Title 43 while engaged in the professional or trade practices properly conducted under
- 14900 authority of such other licensing laws, provided that such person shall not use the title of
- 14901 massage therapist;
- 14902 (2) A person pursuing a course of study leading to a degree or certificate as a massage
- 14903 therapist in an educational program recognized by the licensing board, if such person is
- 14904 designated by title indicating student status and is fulfilling uncompensated work
- 14905 experiences required for the attainment of the degree or certificate;
- 14906 (3) A nonresident person rendering massage therapy up to 60 days during a 12 month
- 14907 period for treatment of a temporary sojourner only, provided that such nonresident
- 14908 massage therapist holds a license, registration, or certification from another state,
- 14909 jurisdiction, or country if the requirements as determined by the ~~board~~ director for
- 14910 licensure are substantially equal to the requirements contained in this chapter or provided
- 14911 that such nonresident massage therapist is currently nationally certified in therapeutic
- 14912 massage and bodywork;
- 14913 (4) A person duly licensed, registered, or certified in another jurisdiction, state, territory,
- 14914 or a foreign country when incidentally in this state to provide service as part of an
- 14915 emergency response team working in conjunction with disaster relief officials or as part
- 14916 of a charity event with which he or she comes into the state;

14917 (5) A person who restricts his or her practice to the manipulation of the soft tissue of the
 14918 human body to hands, feet, or ears who does not have the client disrobe and does not hold
 14919 himself or herself out as a massage therapist;

14920 (6) A person who uses touch, words, and directed movement to deepen awareness of
 14921 existing patterns of movement in the body as well as to suggest new possibilities of
 14922 movement while engaged within the scope of practice of a profession with established
 14923 standards and ethics, provided that his or her services are not designated or implied to be
 14924 massage or massage therapy;

14925 (7) A person who uses touch and movement education to effect change in the structure
 14926 of the body while engaged in the practice of structural integration, provided that he or she
 14927 is a member of, or whose training would qualify for membership in, the International
 14928 Association of Structural Integrators and provided that his or her services are not
 14929 designated or implied to be massage or massage therapy;

14930 (8) A person who uses touch to affect the energy systems, polarity, acupoints, or Qi
 14931 meridians, also known as channels of energy, of the human body while engaged within
 14932 the scope of practice of a profession with established standards and ethics, provided that
 14933 his or her services are not designated or implied to be massage or massage therapy; or

14934 (9) A person who was engaged in massage therapy practice prior to July 1, 2005;
 14935 provided, however, the prohibition of subsection (c) of Code Section 43-24A-15 shall
 14936 apply to such a person on and after July 1, 2007.

14937 43-24A-20.

14938 The licensing board shall establish continuing education requirements not to exceed 25
 14939 hours per biennium. The licensing board shall by rule establish criteria for the approval of
 14940 continuing education programs or courses. The programs or courses approved by the
 14941 licensing board may include correspondence courses that meet the criteria for continuing
 14942 education courses.

14943 43-24A-21.

14944 As cumulative to any other remedy or criminal prosecution, the ~~board~~ director may file a
 14945 proceeding in the name of the state seeking issuance of a restraining order, injunction, or
 14946 writ of mandamus against any person who is or has been violating any of the provisions of
 14947 this chapter or the lawful rules or orders of the licensing board.

14948 43-24A-22.

14949 (a) This chapter shall not be construed to prohibit a county or municipality from enacting
 14950 any regulation of persons not licensed pursuant to this chapter. Any place of business

14951 where massage therapy for compensation is performed shall also be subject to regulation
14952 by local governing authorities.

14953 (b) No provision of any ordinance enacted by a municipality, county, or other jurisdiction
14954 that relates to the practice of massage therapy or requires licensure of a massage therapist
14955 may be enforced against a person who is issued a license ~~by the board~~ under this chapter.

14956 43-24A-23.

14957 Notwithstanding any provision of law to the contrary, the act of a duly licensed massage
14958 therapist in performing a massage shall be deemed to be the act of a health care
14959 professional and shall not be subject to the collection of any form of state or local taxation
14960 regulations not also imposed on other professional health care activities.

14961 43-24A-24.

14962 (a) Any person who acts in violation of Code Section 43-24A-15, upon conviction thereof,
14963 shall be punished as provided in this Code section.

14964 (b) Each act of unlawful practice under this Code section shall constitute a distinct and
14965 separate offense.

14966 (c) Upon being convicted a first time under this Code section, such person or entity shall
14967 be guilty of and shall be punished as for a misdemeanor for each offense. Upon being
14968 convicted a second time under this Code section, such person or entity shall be guilty of
14969 and shall be punished as for a misdemeanor of a high and aggravated nature. Upon being
14970 convicted a third or subsequent time under this Code section, such person or entity shall
14971 be guilty of a felony and shall be punished by a fine of not more than \$25,000.00 for each
14972 offense, imprisonment for not less than one nor more than five years, or both."

14973 **SECTION 1-25.**

14974 Said title is further amended by revising Chapter 26, relating to nurses, as follows:

14975 "CHAPTER 26

14976 ARTICLE 1

14977 43-26-1.

14978 This article shall be known and may be cited as the 'Georgia Registered Professional Nurse
14979 Practice Act.'

14980 43-26-2.

14981 The purpose of this article is to protect, promote, and preserve the public health, safety, and
14982 welfare through legislative regulation and control of registered professional nursing
14983 education and practice. This article ensures that any person practicing or offering to
14984 practice nursing or using the title registered professional nurse, as defined in this article,
14985 within the State of Georgia, shall be licensed as provided in this article.

14986 43-26-3.

14987 As used in this article, the term:

14988 (1) 'Advanced nursing practice' means practice by a registered professional nurse who
14989 meets those educational, practice, certification requirements, or any combination of such
14990 requirements, as specified by the licensing board and includes certified nurse midwives,
14991 nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists in
14992 psychiatric/mental health, and others recognized by the licensing board.

14993 (1.1) 'Advanced practice registered nurse' means a registered professional nurse licensed
14994 under this chapter who is recognized by the licensing board as having met the
14995 requirements established by the licensing board to engage in advanced nursing practice
14996 and who holds a master's degree or other graduate degree from an approved nursing
14997 education program and national board certification in his or her area of specialty, or a
14998 person who was recognized as an advanced practice registered nurse by the board on or
14999 before June 30, 2006. This paragraph shall not be construed to require a certified
15000 registered nurse anesthetist who graduated from an approved nurse anesthetist
15001 educational program prior to January 1, 1999, to hold a master's degree or other graduate
15002 degree.

15003 (1.2) 'Approved nursing education program' located in this state means a nursing
15004 education program approved by the licensing board as meeting criteria established by the
15005 licensing board. An 'approved nursing education program' located outside this state
15006 means a nursing education program that the licensing board has determined to meet
15007 criteria similar to and not less stringent than criteria established by the licensing board.
15008 In order to be approved by the licensing board, a nursing education program must be one
15009 that is offered by:

15010 (A) A unit of the University System of Georgia accredited by the Commission on
15011 Colleges of the Southern Association of Colleges and Schools;

15012 (B) An institution of the Technical College System of Georgia accredited by the
15013 Commission on Colleges of the Southern Association of Colleges and Schools;

15014 (C) A nonprofit postsecondary institution of higher education that is accredited by a
15015 regional accrediting agency recognized by the United States Department of Education;

- 15016 (D) A proprietary institution of higher education that is accredited by a regional
 15017 accrediting agency recognized by the United States Department of Education; or
 15018 (E) A nonprofit postsecondary institution of higher education that is a four-year
 15019 institution that is not accredited in accordance with subparagraph (C) of this paragraph,
 15020 but whose curriculum has been determined by the licensing board to meet criteria
 15021 similar to and not less stringent than criteria established by the licensing board for other
 15022 approved nursing education programs.
- 15023 (2) 'Board' means the Georgia Board of Nursing created in Code Section 43-26-4, a
 15024 professional licensing policy board pursuant to Chapter 1 of this title with the authority
 15025 and responsibility set forth in such chapter.
- 15026 (3) 'Consumer member' means a United States citizen and Georgia resident who is
 15027 knowledgeable about consumer health concerns, does not derive that person's primary
 15028 livelihood from the practice of nursing, and shall neither be, nor ever have been, a health
 15029 care provider or enrolled in any health related educational program.
- 15030 (3.1) 'Director' means the director of professional licensing.
- 15031 (4) 'License' means a current document, issued by the ~~board~~ director, permitting a person
 15032 to practice nursing as a registered professional nurse or a licensed undergraduate nurse.
- 15033 (4.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 15034 Article 2 of Chapter 1 of this title.
- 15035 (5) 'Licensure' means the bestowing of a current license by the ~~board~~ director permitting
 15036 a person to practice nursing as a registered professional nurse or a licensed undergraduate
 15037 nurse.
- 15038 (6) 'Practice nursing' or 'practice of nursing' means to perform for compensation or the
 15039 performance for compensation of any act in the care and counsel of the ill, injured, or
 15040 infirm, and in the promotion and maintenance of health with individuals, groups, or both
 15041 throughout the life span. It requires substantial specialized knowledge of the humanities,
 15042 natural sciences, social sciences, and nursing theory as a basis for assessment, nursing
 15043 diagnosis, planning, intervention, and evaluation. It includes, but is not limited to,
 15044 provision of nursing care; administration, supervision, evaluation, or any combination
 15045 thereof, of nursing practice; teaching; counseling; and the administration of medications
 15046 and treatments as prescribed by a physician practicing medicine in accordance with
 15047 Article 2 of Chapter 34 of this title, ~~or~~ a dentist practicing dentistry in accordance with
 15048 Chapter 11 of this title, or a podiatrist practicing podiatry in accordance with Chapter 35
 15049 of this title.
- 15050 (7) 'Practice nursing as a licensed undergraduate nurse' means to practice nursing by
 15051 performing for compensation selected acts in the care of the ill, injured, or infirm under
 15052 the direction of a registered professional nurse, a physician practicing medicine in

15053 accordance with Article 2 of Chapter 34 of this title, a dentist practicing dentistry in
15054 accordance with Chapter 11 of this title, or a podiatrist practicing podiatry in accordance
15055 with Chapter 35 of this title.

15056 (8) 'Practice nursing as a registered professional nurse' means to practice nursing by
15057 performing for compensation any of the following:

15058 (A) Assessing the health status of individuals, groups, or both throughout the life span;

15059 (B) Establishing a nursing diagnosis;

15060 (C) Establishing nursing goals to meet identified health care needs;

15061 (D) Planning, implementing, and evaluating nursing care;

15062 (E) Providing for safe and effective nursing care rendered directly or indirectly;

15063 (F) Managing and supervising the practice of nursing;

15064 (G) Collaborating with other members of the health care team in the management of
15065 care;

15066 (H) Teaching the theory and practice of nursing;

15067 (I) Administering, ordering, and dispensing medications, diagnostic studies, and
15068 medical treatments authorized by protocol, when such acts are authorized by other
15069 general laws and such acts are in conformity with those laws;

15070 (J) Administering medications and treatments as prescribed by a physician practicing
15071 medicine in accordance with Article 2 of Chapter 34 of this title, a dentist practicing
15072 dentistry in accordance with Chapter 11 of this title, or a podiatrist practicing podiatry
15073 in accordance with Chapter 35 of this title; or

15074 (K) Performing any other nursing act in the care and counsel of the ill, injured, or
15075 infirm, and in the promotion and maintenance of health with individuals, groups, or
15076 both throughout the life span.

15077 (9) 'Registered professional nurse' means a person who is authorized by a license issued
15078 under this article to practice nursing as a registered professional nurse.

15079 43-26-4.

15080 (a) The Georgia Board of Nursing existing immediately prior to April 4, 1990, is continued
15081 in existence as a professional licensing policy board and shall continue to consist of eight
15082 members to be appointed by the Governor with the confirmation of the Senate. Members
15083 shall serve three-year terms and until their successors are duly appointed and qualified.
15084 Those persons serving as members of the board immediately prior to April 4, 1990, shall
15085 continue to serve out their respective terms of office and until their respective successors
15086 are appointed and qualified. No member shall be appointed to more than two consecutive
15087 full terms, and for purposes of this limitation, an appointment to fill a vacancy for an
15088 unexpired term of two or more years shall constitute an appointment for a full term.

15089 (b) A vacancy on the board for any reason other than expiration of the term shall be filled
 15090 for the remainder of the unexpired term by appointment of the Governor with the
 15091 confirmation of the Senate.

15092 (c) Each of seven members appointed to the board shall be a registered professional nurse;
 15093 shall have practiced nursing as a registered professional nurse for at least five years since
 15094 graduation and immediately prior to appointment; shall be engaged in paid employment in
 15095 clinical, educational, or administrative positions, or any combination thereof; shall be a
 15096 citizen of the United States; and a resident of Georgia. The eighth member shall be a
 15097 consumer member appointed by the Governor.

15098 (d) No fewer than two members of the board shall hold master's or doctoral degrees or
 15099 both. No fewer than two members of the board shall be currently employed in nursing
 15100 service administration. No fewer than two members of the board shall be currently
 15101 employed in professional nursing education. No two members of the board shall be
 15102 employed by the same private school, school within the University System of Georgia,
 15103 private employer, agency of state government, or another public employer. In the event
 15104 a board member changes employment which causes a conflict with this subsection, the
 15105 position of the member making such change shall be immediately vacant and a new
 15106 member appointed to fill the vacancy.

15107 (e) The board shall meet annually and shall elect from its members a president, vice
 15108 president, and other officers as deemed necessary. All officers shall serve for terms of one
 15109 year and until their successors have been elected. ~~The~~ Upon approval of the director, the
 15110 board may hold such other meetings during the year as necessary to transact its business.

15111 43-26-5.

15112 (a) The ~~board~~ director shall:

15113 (1) Be responsible for the enforcement of the provisions of this article and shall be
 15114 specifically granted all of the necessary duties, powers, and authority to carry out this
 15115 responsibility;

15116 ~~(2) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems~~
 15117 ~~necessary for the administration and enforcement of this article in the protection of public~~
 15118 ~~health, safety, and welfare;~~

15119 ~~(3)~~ Enforce qualifications for licensure;

15120 ~~(4) Develop and enforce reasonable and uniform standards for nursing education and~~
 15121 ~~nursing practice;~~

15122 ~~(5)~~(3) Periodically evaluate nursing education programs and approve such programs as
 15123 meet the licensing board's requirements;

15124 ~~(6)~~(4) Deny or withdraw approval from noncompliant nursing education programs;

- 15125 ~~(7)(5)~~ License duly qualified applicants by examination, endorsement, or reinstatement;
- 15126 ~~(8)(6)~~ Be authorized to issue temporary permits;
- 15127 ~~(9)(7)~~ Renew licenses of registered professional nurses and licensed undergraduate
- 15128 nurses in accordance with this article;
- 15129 ~~(10)~~ ~~Be authorized to set standards for competency of licensees continuing in or~~
- 15130 ~~returning to practice;~~
- 15131 ~~(11)~~ ~~Set standards for and regulate advanced nursing practice;~~
- 15132 ~~(12)~~ ~~Be authorized to enact rules and regulations for registered professional nurses in~~
- 15133 ~~their performing acts under a nurse protocol as authorized in Code Section 43-34-23 and~~
- 15134 ~~enact rules and regulations for advanced practice registered nurses in performing acts as~~
- 15135 ~~authorized in Code Section 43-34-25;~~
- 15136 ~~(13)(8)~~ Implement the disciplinary process;
- 15137 ~~(14)(9)~~ Be authorized to issue orders when a license is surrendered to the board director
- 15138 while a complaint, investigation, or disciplinary action against such license is pending;
- 15139 ~~(15)(10)~~ Issue a limited license to practice nursing subject to such terms and conditions
- 15140 as the licensing board may impose;
- 15141 ~~(16)(11)~~ Provide consultation and conduct conferences, forums, studies, and research on
- 15142 nursing education and nursing practice;
- 15143 ~~(17)~~ ~~Approve the selection of a qualified person to serve as executive director;~~
- 15144 ~~(18)~~ ~~Be authorized to appoint standing or ad hoc committees as necessary to inform and~~
- 15145 ~~make recommendations to the board about issues and concerns and to facilitate~~
- 15146 ~~communication amongst the board, licensees, and the community;~~
- 15147 ~~(19)~~ ~~Maintain membership in the national organization which develops and regulates the~~
- 15148 ~~nursing licensing examination;~~
- 15149 ~~(20)(12)~~ Be authorized to collect data regarding existing nursing resources in Georgia
- 15150 and coordinate planning for nursing education and nursing practice; and
- 15151 ~~(21)~~ ~~Determine fees; and~~
- 15152 ~~(22)~~ ~~Adopt a seal which shall be in the care of the executive director and shall be affixed~~
- 15153 ~~only in such a manner as prescribed by the board.~~
- 15154 (13) Enter orders or take other action consistent this chapter, which shall be entered in
- 15155 compliance with Code Section 43-1-3.1.
- 15156 (b) The licensing board shall:
- 15157 (1) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems
- 15158 necessary for the administration and enforcement of this article in the protection of public
- 15159 health, safety, and welfare;
- 15160 (2) Develop and enforce reasonable and uniform standards for nursing education and
- 15161 nursing practice;

- 15162 (3) Be authorized to set standards for competency of licensees continuing in or returning
 15163 to practice;
- 15164 (4) Set standards for and regulate advanced nursing practice;
- 15165 (5) Be authorized to enact rules and regulations for registered professional nurses in their
 15166 performing acts under a nurse protocol as authorized in Code Section 43-34-23 and enact
 15167 rules and regulations for advanced practice registered nurses in performing acts as
 15168 authorized in Code Section 43-34-25;
- 15169 (6) Maintain membership in the national organization which develops and regulates the
 15170 nursing licensing examination;
- 15171 (7) Determine fees;
- 15172 (8) Conduct hearings upon the petition of any person who is aggrieved or adversely
 15173 affected by an order or action of the director, which shall be conducted by the licensing
 15174 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 15175 Act'; and
- 15176 (9) Be authorized to appoint standing or ad hoc committees as necessary to inform and
 15177 make recommendations to the licensing board about issues and concerns and to facilitate
 15178 communication amongst the licensing board, licensees, and the community.
- 15179 (c) The licensing board shall be the sole professional licensing board for determining if a
 15180 registered professional nurse or any other person has engaged illegally in the practice of
 15181 nursing. If a registered professional nurse is charged with the unauthorized practice of any
 15182 other health profession by any other board, such board shall notify the ~~Georgia Board of~~
 15183 ~~Nursing~~ director before conducting any hearing. Nothing contained in this article shall be
 15184 construed to limit any powers of any other board or the director.
- 15185 (c)(d) Chapter 1 of this title is expressly adopted and incorporated by reference into this
 15186 article as if all the provisions of such chapter were included in this article.
- 15187 43-26-6.
- 15188 (a) Any person who is licensed as a registered professional nurse shall have the right to use
 15189 the title 'registered professional nurse' and the abbreviation 'R.N.' Any person recognized
 15190 by the ~~board~~ director as an advanced practice registered nurse shall have the right to use
 15191 the title 'advanced practice registered nurse' and the abbreviation 'A.P.R.N.' No other
 15192 person shall assume such titles or use such abbreviations or any other words, letters, signs,
 15193 or symbols to indicate that such person is a registered professional nurse or an advanced
 15194 practice registered nurse in Georgia. Nothing in this subsection shall be construed to repeal
 15195 the right of any person who is licensed as a registered professional nurse or recognized by
 15196 the ~~board~~ director as an advanced practice registered nurse on June 30, 2006, to be licensed

15197 and to use the title 'registered professional nurse' or to use the title 'advanced practice
15198 registered nurse,' respectively.

15199 (b) Any person holding a license to practice nursing as a licensed undergraduate nurse;
15200 which ~~license~~ was issued by the board and valid on July 1, 1975, shall be deemed to be
15201 licensed to practice nursing as a licensed undergraduate nurse under this article and shall
15202 have the right to use the title 'licensed undergraduate nurse' and the abbreviation 'L.U.N.'
15203 No other person shall assume such title or use such abbreviation or any other words, letters,
15204 signs, or symbols to indicate that such person is licensed to practice nursing as a licensed
15205 undergraduate nurse. After July 1, 1975, there shall be no new certificates issued for
15206 licensure to practice nursing as a licensed undergraduate nurse.

15207 (c) Any person who is licensed as a registered professional nurse shall identify that he or
15208 she is so licensed by displaying either the title 'registered professional nurse' or 'registered
15209 nurse,' the abbreviation 'R.N.,' the title 'advanced practice registered nurse,' or the
15210 abbreviation 'A.P.R.N.' on a name tag or other similar form of identification during times
15211 when such person is providing direct patient care. An advanced practice registered nurse
15212 shall meet the identification requirements of this subsection by displaying the title or
15213 abbreviation of his or her area of specialization.

15214 (d) No person shall use the title 'nurse' or any other title or abbreviation that would
15215 represent to the public that a person is authorized to practice nursing unless the person is
15216 licensed or otherwise authorized under this article or Article 2 of this chapter.

15217 43-26-7.

15218 (a) Any applicant who meets the requirements of this Code section shall be eligible for
15219 licensure as a registered professional nurse.

15220 (b) An applicant for licensure by examination shall:

15221 (1) Submit a completed written application and fee;

15222 (2)(A) Have graduated from an approved nursing education program, as defined in
15223 Code Section 43-26-3; or

15224 (B)(i) Notwithstanding subparagraph (A) of this paragraph, have graduated from a
15225 nontraditional nursing education program approved by the licensing board which
15226 meets the requirements in subsection (e) of this Code section; and

15227 (ii)(I) If the applicant entered the nontraditional nursing education program as a
15228 licensed practical nurse and had an academic education as a licensed practical nurse
15229 that included clinical training in pediatrics, obstetrics and gynecology,
15230 medical-surgical, and mental illness, have at least two years of clinical experience
15231 in the five years preceding the date of the application in an acute care inpatient
15232 facility or a long-term acute care facility as a licensed practical nurse, as approved

15233 by the licensing board. Such clinical experience shall be documented in writing by
15234 the applicant's immediate supervisor stating that, in his or her opinion, the applicant
15235 has exhibited the critical thinking abilities, clinical skills, and leadership abilities
15236 that would indicate the ability to work as a beginning registered professional nurse;
15237 (II) If the applicant entered the nontraditional nursing education program as a
15238 licensed practical nurse, had an academic education as a licensed practical nurse that
15239 included clinical training in pediatrics, obstetrics and gynecology, medical-surgical,
15240 and mental illness, and has at least two years of experience as a licensed practical
15241 nurse in any setting, although such experience shall be exclusive of night duty in a
15242 skilled nursing facility, but less than two years of experience in the five years
15243 preceding the date of the application in an acute care inpatient facility or a
15244 long-term acute care facility, as approved by the licensing board, have completed
15245 a 320 hour postgraduate preceptorship. If the applicant can show that he or she
15246 cannot find a preceptorship in an acute care inpatient facility or a long-term acute
15247 care facility, the licensing board may authorize a preceptorship pursuant to this
15248 subdivision in a skilled nursing facility, if such facility has 100 beds or more and
15249 such facility ensures to the licensing board that the applicant will be providing
15250 health care to patients with similar health care needs as those patients in a long-term
15251 acute care facility;

15252 (III) If the applicant entered the nontraditional nursing education program as (1) a
15253 paramedic with at least two years of experience as a paramedic or (2) a licensed
15254 practical nurse with less than two years of clinical experience in the five years
15255 preceding the date of the application in an acute care inpatient facility or a
15256 long-term acute care facility as a licensed practical nurse whose academic training
15257 as a licensed practical nurse did not include clinical training in pediatrics, obstetrics
15258 and gynecology, medical-surgical, and mental illness, have completed a 480 hour
15259 postgraduate preceptorship. Such preceptorship shall be in the area or areas as
15260 determined by the licensing board on a case-by-case basis, which may include
15261 pediatrics, obstetrics and gynecology, medical-surgical, mental illness, and
15262 transition into the role of a registered professional nurse;

15263 (IV) If the applicant entered the nontraditional nursing education program as a
15264 military medical corpsman and has at least two years of experience as a military
15265 medical corpsman, have completed a postgraduate preceptorship of at least 480
15266 hours but not more than 640 hours, as determined by the licensing board; or

15267 (V) If the applicant does not meet the requirements of subdivision (I), (II), (III), or
15268 (IV) of this division and the applicant entered a nontraditional nursing education
15269 program before July 1, 2008, which meets the requirements of subsection (e) of this

15270 Code section and completes such program no later than June 30, 2015, have
15271 completed a 640 hour postgraduate preceptorship arranged by the applicant under
15272 the supervision of a registered professional nurse. The preceptorship shall have
15273 prior approval of the licensing board, and successful completion of the
15274 preceptorship shall be verified in writing by the preceptor. The preceptorship shall
15275 be in an acute care inpatient facility or a long-term acute care facility; provided,
15276 however, that the licensing board may authorize a preceptorship pursuant to this
15277 subdivision in other facilities to obtain specialized experience in certain areas.

15278 All preceptorships required pursuant to this division shall be arranged by the applicant
15279 under the close supervision of a registered professional nurse where such applicant
15280 is transitioned into the role of a registered professional nurse and the applicant
15281 performs duties typically performed by registered professional nurses. Except as
15282 otherwise provided in subdivision (II) of this division, a preceptorship shall be in an
15283 acute care inpatient facility or a long-term acute care facility; provided, however, that
15284 the licensing board may authorize a preceptorship in other facilities to obtain
15285 specialized experience in certain areas. The preceptorship shall have prior approval
15286 of the licensing board, and successful completion of the preceptorship shall be
15287 documented in writing by the preceptor stating that, in his or her opinion, the
15288 applicant has exhibited the critical thinking abilities, clinical skills, and leadership
15289 abilities necessary to practice as a beginning registered professional nurse. No later
15290 than August 1, 2011, the board shall develop and make available one or more standard
15291 forms for use by and assistance to applicants in securing and completing
15292 preceptorships; after July 1, 2012, the licensing board shall be authorized to amend
15293 and make available such forms. Such form or forms shall include information relating
15294 to the specific requirements for preceptorships, including the minimum qualifications
15295 of the preceptor, the type of training required, and the documentation required upon
15296 completion of the preceptorship. The licensing board shall make the determinations
15297 required by this division in accordance with its established guidelines;

15298 (3) Pass a licensing board recognized licensing examination; provided, however, that
15299 such examination may not be taken prior to graduation from the approved nursing
15300 education program. In no way shall the passage of such examination by a graduate of a
15301 nontraditional nursing education program who does not meet the other requirements of
15302 this subsection be construed to authorize such individual to practice nursing, to require
15303 the board director to license such individual as a registered professional nurse other than
15304 to issue in its his or her sole discretion a temporary permit pursuant to Code Section
15305 43-26-8, or to be endorsed from another state as a registered professional nurse;

- 15306 (4) Have satisfactory results from a fingerprint record check report conducted by the
 15307 Georgia Crime Information Center and the Federal Bureau of Investigation, as
 15308 determined by the licensing board. Application for a license under this Code section shall
 15309 constitute express consent and authorization for the ~~board~~ director or ~~its~~ his or her
 15310 representative to perform a criminal background check. Each applicant who submits an
 15311 application to the ~~board~~ director for licensure by examination agrees to provide the ~~board~~
 15312 director with any and all information necessary to run a criminal background check,
 15313 including, but not limited to, classifiable sets of fingerprints. The applicant shall be
 15314 responsible for all fees associated with the performance of such background check; and
 15315 (5) Meet such other criteria as established by the licensing board.
- 15316 (c) An applicant for licensure by endorsement shall:
- 15317 (1) Submit a completed written application and fee;
- 15318 (2)(A) Have passed a licensing board recognized licensing examination following
 15319 graduation from an approved nursing education program, as defined in Code Section
 15320 43-26-3; or
- 15321 (B) Notwithstanding subparagraph (A) of this paragraph, have graduated from a
 15322 nontraditional nursing education program approved by the licensing board which meets
 15323 the requirements in subsection (e) of this Code section;
- 15324 (3) Submit verification of initial and current licensure in any other licensing jurisdiction
 15325 administering a licensing board recognized licensing examination;
- 15326 (4)(A) Have practiced nursing as a registered professional nurse for a period of time
 15327 as determined by the licensing board or have graduated from a nursing education
 15328 program within the four years immediately preceding the date of the application;
- 15329 (B) If the applicant entered a nontraditional nursing education program as a licensed
 15330 practical nurse whose academic education as a licensed practical nurse included clinical
 15331 training in pediatrics, obstetrics and gynecology, medical-surgical, and mental illness,
 15332 have practiced nursing as a registered professional nurse in a health care facility for at
 15333 least one year in the three years preceding the date of the application, and such practice
 15334 is documented by the applicant and approved by the licensing board; provided,
 15335 however, that for an applicant ~~that~~ who does not meet the experience requirement of
 15336 this subparagraph, the licensing board shall require the applicant to complete a 320 hour
 15337 postgraduate preceptorship arranged by the applicant under the oversight of a registered
 15338 nurse where such applicant is transitioned into the role of a registered professional
 15339 nurse. The preceptorship shall have prior approval of the licensing board, and
 15340 successful completion of the preceptorship shall be verified in writing by the preceptor;
 15341 or

15342 (C) If the applicant entered a nontraditional nursing education program as anything
 15343 other than a licensed practical nurse whose academic education as a licensed practical
 15344 nurse included clinical training in pediatrics, obstetrics and gynecology,
 15345 medical-surgical, and mental illness, have graduated from such program and practiced
 15346 nursing as a registered professional nurse in a health care facility for at least two years
 15347 in the five years preceding the date of the application, and such practice is documented
 15348 by the applicant and approved by the licensing board; provided, however, that for an
 15349 applicant ~~that~~ who does not meet the experience requirement of this subparagraph, the
 15350 licensing board shall require the applicant to complete a postgraduate preceptorship of
 15351 at least 480 hours but not more than 640 hours, as determined by the licensing board,
 15352 arranged by the applicant under the oversight of a registered professional nurse where
 15353 such applicant is transitioned into the role of a registered professional nurse. The
 15354 preceptorship shall have prior approval of the licensing board, and successful
 15355 completion of the preceptorship shall be verified in writing by the preceptor.

15356 For purposes of this paragraph, the term 'health care facility' means an acute care
 15357 inpatient facility, a long-term acute care facility, an ambulatory surgical center or
 15358 obstetrical facility as defined in Code Section 31-6-2, and a skilled nursing facility, so
 15359 long as such skilled nursing facility has 100 beds or more and provides health care to
 15360 patients with similar health care needs as those patients in a long-term acute care facility;

15361 (5) Have satisfactory results from a fingerprint record check report conducted by the
 15362 Georgia Crime Information Center and the Federal Bureau of Investigation, as
 15363 determined by the ~~board~~ director. Application for a license under this Code section shall
 15364 constitute express consent and authorization for the ~~board~~ director or ~~its~~ his or her
 15365 representative to perform a criminal background check. Each applicant who submits an
 15366 application to the ~~board~~ director for licensure by examination agrees to provide the ~~board~~
 15367 director with any and all information necessary to run a criminal background check,
 15368 including, but not limited to, classifiable sets of fingerprints. The applicant shall be
 15369 responsible for all fees associated with the performance of such background check; and
 15370 (6) Meet such other criteria as established by the licensing board.

15371 (d) An applicant for reinstatement who has previously held a valid license in Georgia shall:

15372 (1) Submit a completed written application and fee;
 15373 (2) Have practiced nursing as a registered professional nurse for a period of time as
 15374 determined by the licensing board or have graduated from an approved nursing education
 15375 program, as defined in Code Section 43-26-3, within the four years immediately
 15376 preceding the date of the application;
 15377 (3) Have satisfactory results from a fingerprint record check report conducted by the
 15378 Georgia Crime Information Center and the Federal Bureau of Investigation, as

15379 determined by the ~~board~~ director. Application for a license under this Code section shall
 15380 constitute express consent and authorization for the ~~board~~ director or ~~its~~ his or her
 15381 representative to perform a criminal background check. Each applicant who submits an
 15382 application to the ~~board~~ director for licensure by examination agrees to provide the ~~board~~
 15383 director with any and all information necessary to run a criminal background check,
 15384 including, but not limited to, classifiable sets of fingerprints. The applicant shall be
 15385 responsible for all fees associated with the performance of such background check; and
 15386 (4) Meet such other criteria as established by the licensing board.

15387 (e) A nontraditional nursing education program shall meet the following requirements:

15388 (1) Is part of an institution of higher education that is approved by the appropriate
 15389 regulatory authorities of its home state;

15390 (2) Holds regional and specialty accreditation by an accrediting body or bodies
 15391 recognized by the United States Secretary of Education or the Council for Higher
 15392 Education Accreditation;

15393 (3) Requires its students to pass faculty determined program outcomes, including
 15394 competency based assessments of nursing knowledge and a summative performance
 15395 assessment of clinical competency of a minimum of 2 1/2 days developed by faculty
 15396 subject matter experts that follows nationally recognized standards for educational
 15397 testing; and

15398 (4) Its graduates pass a licensing board recognized licensing examination at a rate
 15399 equivalent to the minimum rate required for licensing board approved traditional nursing
 15400 education programs.

15401 43-26-8.

15402 (a) A temporary permit may be issued to an applicant for licensure by examination,
 15403 endorsement, or reinstatement in accordance with criteria established by the licensing
 15404 board.

15405 (b) A six-month temporary permit may be issued to a graduate of a nontraditional nursing
 15406 education program that meets the requirements of subsection (e) of Code Section 43-26-7
 15407 to practice nursing only as a part of his or her licensing board approved preceptorship. A
 15408 temporary permit issued pursuant to this subsection may be renewed only one time for an
 15409 additional six-month period.

15410 43-26-9.

15411 (a) Licenses issued under this article shall be renewed biennially according to schedules
 15412 and fees approved by the licensing board.

15413 (b) A renewed license shall be issued to a registered professional nurse or licensed
 15414 undergraduate nurse who remits the required fee and complies with requirements
 15415 established by the licensing board.

15416 (c) The voluntary surrender of a license or the failure to renew a license by the end of an
 15417 established penalty period shall have the same effect as a revocation of said license, subject
 15418 to reinstatement at the discretion of the licensing board. The ~~board~~ director may restore
 15419 and reissue a license and, as a condition thereof, may impose any disciplinary sanction
 15420 provided by Code Section 43-1-19 or 43-26-11 ~~or Code Section 43-1-19.~~

15421 43-26-10.

15422 It shall be a misdemeanor for any person, including any corporation, association, or
 15423 individual, to:

15424 (1) Practice nursing as a registered professional nurse, without a valid, current license,
 15425 except as otherwise permitted under Code Section 43-26-12;

15426 (2) Practice nursing as a registered professional nurse under cover of any diploma,
 15427 license, or record illegally or fraudulently obtained, signed, or issued;

15428 (3) Practice nursing as a registered professional nurse during the time the license is
 15429 suspended, revoked, surrendered, or administratively revoked for failure to renew;

15430 (4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying that
 15431 such person is a registered professional nurse or advanced practice registered nurse unless
 15432 such person is duly licensed or recognized by the licensing board so to practice under the
 15433 provisions of this article;

15434 (5) Fraudulently furnish a license to practice nursing as a registered professional nurse;

15435 (6) Knowingly employ any person to practice nursing as a registered professional nurse
 15436 who is not a registered professional nurse;

15437 (7) Conduct a nursing education program preparing persons to practice nursing as
 15438 registered professional nurses unless the program has been approved by the licensing
 15439 board; or

15440 (8) Knowingly aid or abet any person to violate this article.

15441 43-26-11.

15442 (a) In addition to the authority granted in Code Section 43-1-19, the ~~board~~ director shall
 15443 have the authority to refuse to grant a license to an applicant, to revoke the license of a
 15444 licensee, or to discipline a licensee upon a finding by the ~~board~~ director that the applicant
 15445 or licensee has:

15446 (1) Been convicted of any felony, crime involving moral turpitude, or crime violating a
 15447 federal or state law relating to controlled substances or dangerous drugs in the courts of

15448 this state, any other state, territory, or country, or in the courts of the United States,
15449 including but not limited to a plea of nolo contendere entered to the charge; or

15450 (2)(A) Displayed an inability to practice nursing as a registered professional nurse or
15451 licensed undergraduate nurse with reasonable skill and safety due to illness, use of
15452 alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any
15453 mental or physical condition.

15454 (B) In enforcement of this paragraph, the ~~board~~ director may, upon reasonable grounds,
15455 require a licensee or applicant to submit to a mental or physical examination by a ~~board~~
15456 ~~approved~~ health care professional approved by the director. The results of such
15457 examination shall be admissible in any hearing before the licensing board,
15458 notwithstanding any claim of privilege under a contrary law or rule. Every person who
15459 is licensed to practice nursing as a registered professional nurse or licensed
15460 undergraduate nurse in this state or who shall file an application shall be deemed to
15461 have given such person's consent to submit to such mental or physical examination and
15462 to have waived all objections to the admissibility of the results in any hearing before
15463 the licensing board upon the grounds that the same constitutes a privileged
15464 communication. If a licensee or applicant fails to submit to such an examination when
15465 properly directed to do so by the licensing board, unless such failure was due to
15466 circumstances beyond that person's control, the ~~board~~ director may enter a final order
15467 ~~upon proper notice, hearing, and proof of such refusal in compliance with Code Section~~
15468 43-1-3.1. Any licensee or applicant who is prohibited from practicing under this
15469 paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the
15470 licensing board that such person can resume or begin to practice with reasonable skill
15471 and safety nursing as a registered professional nurse or licensed undergraduate nurse.

15472 (C) In enforcement of this paragraph the ~~board~~ director may, upon reasonable grounds,
15473 obtain any and all records relating to the mental or physical condition of a licensee or
15474 applicant, including psychiatric records; and such records shall be admissible in any
15475 hearing before the licensing board, notwithstanding any privilege under a contrary rule
15476 of law or statute. Every person who is licensed as a registered professional nurse or
15477 licensed undergraduate nurse in this state or who shall file an application shall be
15478 deemed to have given such person's consent to the ~~board's~~ director obtaining any such
15479 records and to have waived all objections to the admissibility of such records in any
15480 hearing before the licensing board upon the grounds that the same constitute a
15481 privileged communication.

15482 (b) Any action of the director taken pursuant to this Code section shall be made in
15483 compliance with Code Section 43-1-3.1.

15484 43-26-11.1.

15485 In any case where it is lawful for a duly licensed physician practicing medicine under the
15486 laws of this state to administer anesthesia, such anesthesia may be administered by a
15487 certified registered nurse anesthetist, provided that such anesthesia is administered under
15488 the direction and responsibility of a duly licensed physician.

15489 43-26-12.

15490 (a) No provision in this article shall be construed to require licensure in Georgia as a
15491 registered professional nurse in:

15492 (1) The practice of nursing by students that is an integral part of a curriculum in a
15493 licensing board approved nursing education program leading to initial licensure;

15494 (2) The rendering of assistance by anyone in the case of an emergency or disaster;

15495 (3) The incidental care of the sick by members of the family, friends, or persons
15496 primarily utilized as housekeepers, provided that such care does not constitute the
15497 practice of nursing within the meaning of this article;

15498 (4) Caring for the sick in accordance with tenets or practices of any church or religious
15499 denomination which teaches reliance upon spiritual means through prayer for healing;

15500 (5) The performance of auxiliary services in the care of patients when such care and
15501 activities do not require the knowledge and skill required of a person practicing nursing
15502 as a registered professional nurse and when such care and activities are performed under
15503 orders or directions of a licensed physician, licensed dentist, licensed podiatrist, or person
15504 licensed to practice nursing as a registered professional nurse;

15505 (6) The practice of nursing as a registered professional nurse, by a person licensed so to
15506 practice in another state, who is employed by the United States government or any
15507 bureau, division, or agency thereof while in the discharge of that person's official duties;

15508 (7) The practice of nursing as a registered professional nurse, by a person currently
15509 licensed so to practice in another state, who is employed by an individual, agency, or
15510 corporation located in another state and whose employment responsibilities include
15511 transporting patients into, out of, or through this state for a period not to exceed 24 hours;

15512 (8) The practice of nursing as a registered professional nurse by a person currently
15513 licensed so to practice in another state, who is visiting Georgia as a nonresident, in order
15514 to provide specific, nonclinical, short-term, time limited services including, but not
15515 limited to, consultation, accreditation site visits, and the participation in continuing
15516 education programs; and

15517 (9)(A) The performance of health maintenance activities by a proxy caregiver pursuant
15518 to a written plan of care for a disabled individual when:

15519 (i) Such individual or a person legally authorized to act on behalf of such individual
 15520 has executed a written informed consent designating a proxy caregiver and delegating
 15521 responsibility to such proxy caregiver to receive training and to provide health
 15522 maintenance activities to such disabled individual pursuant to the written orders of an
 15523 attending physician, or an advanced practice registered nurse or physician assistant
 15524 working under a nurse protocol agreement or job description, respectively, pursuant
 15525 to Code Section 43-34-25 or 43-34-23;

15526 (ii) Such health maintenance activities are provided outside of a hospital or nursing
 15527 home and are not provided by a medicare-certified home health agency or hospice
 15528 organization and if alternative sources are available, Medicaid is the payor of last
 15529 resort; and

15530 (iii) The written plan of care implements the written orders of the attending
 15531 physician, advanced practice registered nurse, or physician assistant and specifies the
 15532 frequency of training and evaluation requirements for the proxy caregiver, including
 15533 additional training when changes in the written plan of care necessitate added duties
 15534 for which such proxy caregiver has not previously been trained. A written plan of
 15535 care may be established by a registered professional nurse.

15536 ~~Rules, regulations, and policies regarding training for proxy caregivers pursuant to this~~
 15537 ~~paragraph shall be promulgated by the Department of Behavioral Health and~~
 15538 ~~Developmental Disabilities or the Department of Community Health, as applicable.~~

15539 (B) An attending physician, advanced practice registered nurse, or physician assistant
 15540 whose orders or written plan of care provide for the provision of health maintenance
 15541 activities to a disabled person shall not be vicariously liable for a proxy caregiver's
 15542 negligent performance of health maintenance activities unless the proxy caregiver is an
 15543 employee of the physician, advanced practice registered nurse, or physician assistant.
 15544 Any person who trains a proxy caregiver to perform health maintenance activities for
 15545 a disabled individual may be held liable for negligently training that proxy caregiver
 15546 if such training deviated from the applicable standard of care and was a proximate
 15547 cause of injury to the disabled individual.

15548 (C) For purposes of this paragraph, the term:

15549 (i) 'Disabled individual' means an individual who has a physical or mental
 15550 impairment that substantially limits one or more major life activities and who meets
 15551 the criteria for a disability under state or federal law.

15552 (ii) 'Health maintenance activities' are limited to those activities that, but for a
 15553 disability, a person could reasonably be expected to do for himself or herself. Such
 15554 activities are typically taught by a registered professional nurse, but may be taught by
 15555 an attending physician, advanced practice registered nurse, physician assistant, or

15556 directly to a patient and are part of ongoing care. Health maintenance activities are
 15557 those activities that do not include complex care such as administration of intravenous
 15558 medications, central line maintenance, and complex wound care; do not require
 15559 complex observations or critical decisions; can be safely performed and have
 15560 reasonably precise, unchanging directions; and have outcomes or results that are
 15561 reasonably predictable. Health maintenance activities conducted pursuant to this
 15562 paragraph shall not be considered the practice of nursing.

15563 (iii) 'Proxy caregiver' means an unlicensed person who has been selected by a
 15564 disabled individual or a person legally authorized to act on behalf of such individual
 15565 to serve as such individual's proxy caregiver, provided that such person shall receive
 15566 training and shall demonstrate the necessary knowledge and skills to perform
 15567 documented health maintenance activities, including identified specialized
 15568 procedures, for such individual.

15569 (iv) 'Training' means teaching proxy caregivers the necessary knowledge and skills
 15570 to perform health maintenance activities for disabled individuals. Good faith efforts
 15571 by an attending physician, advanced practice registered nurse, physician assistant, or
 15572 registered professional nurse to provide training to a proxy caregiver to perform
 15573 health maintenance activities shall not be construed to be professional delegation.

15574 Rules, regulations, and policies regarding training for proxy caregivers pursuant to this
 15575 paragraph shall be promulgated by the Department of Behavioral Health and
 15576 Developmental Disabilities or the Department of Community Health, as applicable.

15577 (b) In a civil or administrative proceeding under this chapter, a person claiming an
 15578 exemption or an exception pursuant to subsection (a) of this Code section has the burden
 15579 of proving this exemption or exception. In a criminal proceeding, the burden of going
 15580 forward with evidence of a claim of exemption or exception pursuant to subsection (a) of
 15581 this Code section is on the person claiming the exemption or exception.

15582 43-26-13.

15583 A licensee may, in lieu of providing his or her home address, provide the ~~board~~ director a
 15584 legitimate business address for purposes of the public information made available by the
 15585 ~~board~~ director with regard to licensed registered professional nurses.

15586 ARTICLE 2

15587 43-26-30.

15588 This article shall be known and may be cited as the 'Georgia Practical Nurses Practice Act.'

15589 43-26-31.

15590 The purpose of this article is to protect, promote, and preserve the public health, safety, and
 15591 welfare through regulation and control of practical nursing education and practice. This
 15592 article ensures that any person practicing or offering to practice practical nursing or using
 15593 the title 'Licensed Practical Nurse,' as defined in this article, within the State of Georgia,
 15594 shall be licensed as provided in this article.

15595 43-26-32.

15596 As used in this article, the term:

15597 (1) 'Active practice as a licensed practical nurse' means to practice practical nursing as
 15598 a licensed practical nurse by performing for compensation acts authorized by the
 15599 licensing board.

15600 (1.1) 'Approved nursing education program' located in this state means a nursing
 15601 education program approved by the licensing board as meeting criteria established by the
 15602 licensing board. An 'approved nursing education program' located outside this state
 15603 means a nursing education program that the licensing board has determined to meet
 15604 criteria similar to and not less stringent than criteria established by the licensing board.
 15605 In order to be approved by the licensing board, a nursing education program must be one
 15606 that is offered by:

15607 (A) A unit of the University System of Georgia accredited by the Commission on
 15608 Colleges of the Southern Association of Colleges and Schools;

15609 (B) An institution of the Technical College System of Georgia;

15610 (C) A nonprofit postsecondary institution of higher education that is accredited by a
 15611 regional accrediting agency recognized by the United States Department of Education;
 15612 or

15613 (D) A proprietary institution of higher education that is accredited by a regional
 15614 accrediting agency recognized by the United States Department of Education.

15615 (2) 'Board' means the Georgia Board of Examiners of Licensed Practical Nurses created
 15616 in Code Section 43-26-34 as a professional licensing policy board pursuant to Chapter 1
 15617 of this title, with the authority and responsibility set forth in such chapter.

15618 (3) 'Consumer member' means a United States citizen and Georgia resident who is
 15619 knowledgeable about consumer health concerns, does not derive that person's primary
 15620 livelihood from the practice of nursing, and shall neither be nor ever have been a health
 15621 care provider or enrolled in any health related educational program.

15622 (3.1) 'Director' means the director of professional licensing.

15623 (4) 'License' means a current document, issued by the board director, permitting a person
 15624 to practice practical nursing as a licensed practical nurse.

15625 (5) 'Licensed practical nurse' means a person who has completed a licensing board
 15626 approved nursing program necessary to qualify for examination for licensure and who is
 15627 authorized by a license issued under this article to practice practical nursing.

15628 (5.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 15629 Article 2 of Chapter 1 of this title.

15630 (6) 'Licensure' means the bestowing of a current license by the board director permitting
 15631 a person to practice practical nursing as a licensed practical nurse.

15632 (7) 'The practice of licensed practical nursing' means the provision of care for
 15633 compensation, under the supervision of a physician practicing medicine, a dentist
 15634 practicing dentistry, a podiatrist practicing podiatry, or a registered nurse practicing
 15635 nursing in accordance with applicable provisions of law. Such care shall relate to the
 15636 maintenance of health and prevention of illness through acts authorized by the licensing
 15637 board, which shall include, but not be limited to, the following:

15638 (A) Participating in the assessment, planning, implementation, and evaluation of the
 15639 delivery of health care services and other specialized tasks when appropriately trained
 15640 and consistent with licensing board rules and regulations;

15641 (B) Providing direct personal patient observation, care, and assistance in hospitals,
 15642 clinics, nursing homes, or emergency treatment facilities, or other health care facilities
 15643 in areas of practice including, but not limited to: coronary care, intensive care,
 15644 emergency treatment, surgical care and recovery, obstetrics, pediatrics, outpatient
 15645 services, home health care, or other such areas of practice;

15646 (C) Performing comfort and safety measures;

15647 (D) Administering treatments and medication; and

15648 (E) Participating in the management and supervision of unlicensed personnel in the
 15649 delivery of patient care.

15650 43-26-33.

15651 (a) Any person who is licensed as a practical nurse shall have the right to use the title
 15652 'Licensed Practical Nurse' and the abbreviation 'L.P.N.' and shall identify that he or she is
 15653 so licensed by displaying either such title or abbreviation on a name tag or similar form of
 15654 identification during times when such person is providing direct patient care. No other
 15655 person shall assume such title or use such abbreviation or any other words, letters, signs,
 15656 or symbols to indicate that such person is a licensed practical nurse in Georgia.

15657 (b) Any applicant for examination who holds an active temporary permit may use the title
 15658 'Graduate Practical Nurse' and the abbreviation 'G.P.N.' until the license to practice
 15659 practical nursing has been issued except that an applicant who fails the first examination
 15660 may no longer use the title 'Graduate Practical Nurse' or the abbreviation 'G.P.N.' An

15661 individual who is qualified to use the title 'Graduate Practical Nurse' may engage in limited
15662 practice as defined by licensing board rules and must practice under the on-site supervision
15663 of a registered professional nurse or licensed physician.

15664 (c) No person shall use the title 'nurse' or any other title or abbreviation that would
15665 represent to the public that a person is authorized to practice nursing unless the person is
15666 licensed or otherwise authorized under this article or Article 1 of this chapter.

15667 43-26-34.

15668 (a) The Georgia Board of Examiners of Licensed Practical Nurses is created as a
15669 professional licensing policy board as defined in Chapter 1 of this title and shall consist of
15670 seven members appointed by the Governor. The members in office on July 1, 1992, shall
15671 serve out the remainder of their respective terms and until their successors are appointed
15672 and qualified. Members shall serve a three-year term and until their successors are duly
15673 appointed and qualified. No member shall be appointed to more than two consecutive full
15674 terms and, for the purpose of this limitation, an appointment to fill a vacancy for an
15675 unexpired term which exceeds two full years shall constitute an appointment for a full term.

15676 (b) A vacancy on the board for any reason other than expiration of the term shall be filled
15677 for the remainder of the unexpired term by appointment of the Governor. Vacancies shall
15678 be filled in a timely manner.

15679 (c) Each of the seven members appointed to the board shall be a citizen of the United
15680 States and a resident of Georgia. One member shall be a registered professional nurse who
15681 is currently engaged in practical nurse education and has been a graduate of an accredited
15682 or approved school of nursing for a minimum of five years. One member shall be a nurse
15683 currently serving in an administrative position in a hospital or nursing home and who is a
15684 graduate of an accredited or approved nursing program. One member shall be a consumer.
15685 The remaining four members shall be licensed practical nurses and graduates of an
15686 accredited or approved school of practical nursing. All members except the consumer shall
15687 have a current license in good standing, at least three years' experience in nursing, and shall
15688 be currently employed in the health care delivery system. In order to have equal
15689 representation of the board members, consideration in selection should be given for
15690 geographical location and areas of specialty.

15691 (d) No two members of the current board shall be employed by the same private school,
15692 school within the Technical College System of Georgia, private employer, agency of state
15693 government, or other public employer. In the event a board member changes employment
15694 which causes a conflict defined by this subsection, the position of the member making the
15695 change shall be immediately vacant and a new member appointed to fill the vacancy.

15696 (e) The board shall meet a minimum of six times a year and may have called meetings
 15697 upon notice issued by its ~~chairman~~ chairperson and approved by the director.

15698 (f) The members of the board shall be reimbursed as provided for in subsection (f) of Code
 15699 Section 43-1-2.

15700 43-26-35.

15701 (a) The ~~board~~ director shall:

15702 (1) Be responsible for the enforcement of the provisions of this article and shall be
 15703 specifically granted all of the necessary duties, powers, and authority to carry out this
 15704 responsibility;

15705 ~~(2) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems~~
 15706 ~~necessary for the administration and enforcement of this article in the protection of the~~
 15707 ~~public health, safety, and welfare;~~

15708 ~~(3)~~(2) License duly qualified applicants by examination, endorsement, or reinstatement;

15709 ~~(4)~~(3) Enforce qualifications for licensure;

15710 ~~(5) Be authorized to set standards for competency of licensees continuing in or returning~~
 15711 ~~to practice;~~

15712 ~~(6) Be authorized to enact rules and regulations for licensed practical nurses as they~~
 15713 ~~apply to the practice of practical nursing;~~

15714 ~~(7)~~(4) Be authorized to issue temporary permits;

15715 ~~(8)~~(5) Renew licenses of licensed practical nurses in accordance with this article;

15716 ~~(9) Develop and enforce reasonable and uniform standards for practical nurse education~~
 15717 ~~and practical nurse practice;~~

15718 ~~(10)~~(6) Periodically evaluate practical nurse education programs and approve such
 15719 programs as meeting the licensing board's requirements;

15720 ~~(11)~~(7) Deny or withdraw approval from noncompliant practical nurse education
 15721 programs;

15722 ~~(12)~~(8) Implement the disciplinary process;

15723 ~~(13)~~(9) Be authorized to issue orders when a license is surrendered to the ~~board~~ director
 15724 while a complaint, investigation, or disciplinary act against such license is pending;

15725 ~~(14)~~(10) Issue a limited license to practice practical nursing subject to such terms and
 15726 conditions as the licensing board may impose;

15727 ~~(15)~~(11) Provide consultation and conduct conferences, forums, studies, and research on
 15728 practical nurse education and practical nurse practice;

15729 ~~(16) Be authorized to appoint standing or ad hoc committees as necessary to inform and~~
 15730 ~~make recommendations to the board about issues and concerns and to facilitate~~
 15731 ~~communication among the board, licensees, and the community;~~

- 15732 ~~(17) Maintain membership in the national organization which develops and regulates the~~
 15733 ~~practical nursing licensing examination;~~
- 15734 ~~(18)~~(12) Be authorized to collect data regarding existing licensed practical nursing
 15735 resources in Georgia and coordinate planning for practical nursing education and
 15736 practical nursing practice; and
- 15737 ~~(19) Determine fees; and~~
- 15738 ~~(20) Adopt a seal which shall be in the care of the executive director and shall be affixed~~
 15739 ~~only in such a manner as prescribed by the board.~~
- 15740 (13) Enter orders or take other action consistent this chapter, which shall be entered in
 15741 compliance with Code Section 43-1-3.1.
- 15742 (b) The licensing board shall:
- 15743 (1) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems
 15744 necessary for the administration and enforcement of this article in the protection of the
 15745 public health, safety, and welfare;
- 15746 (2) Be authorized to set standards for competency of licensees continuing in or returning
 15747 to practice;
- 15748 (3) Be authorized to enact rules and regulations for licensed practical nurses as they
 15749 apply to the practice of practical nursing;
- 15750 (4) Develop and enforce reasonable and uniform standards for practical nurse education
 15751 and practical nurse practice;
- 15752 (5) Maintain membership in the national organization which develops and regulates the
 15753 practical nursing licensing examination;
- 15754 (6) Determine fees;
- 15755 (7) Conduct hearings upon the petition of any person who is aggrieved or adversely
 15756 affected by an order or action of the director, which shall be conducted by the licensing
 15757 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 15758 Act'; and
- 15759 (8) Be authorized to appoint standing or ad hoc committees as necessary to inform and
 15760 make recommendations to the licensing board about issues and concerns and to facilitate
 15761 communication among the licensing board, licensees, and the community.

15762 43-26-36.

- 15763 (a)(1) All applicants for a license to practice as a licensed practical nurse shall make
 15764 application ~~through~~ to the ~~board~~ director. An applicant for licensure who has not been
 15765 duly examined according to the prescribed examination approved by the licensing board
 15766 and who does not otherwise qualify for licensure under this article must apply by

15767 examination. Such applicants shall submit to the ~~board~~ director a designated fee and
 15768 written evidence verifying that the applicant:

15769 (A) Is at least 18 years of age;

15770 (B) Has graduated from high school or the equivalent thereof;

15771 (C) Has graduated from an approved nursing education program, as defined in Code
 15772 Section 43-26-32;

15773 (D) Is in good physical and mental health; and

15774 (E) In the case of an applicant who has graduated from a program conducted in a
 15775 foreign country, has demonstrated the ability to speak, write, and understand the
 15776 English language.

15777 (2) A person who is at least 17 years of age and meets all of the criteria set forth in
 15778 paragraph (1) of this subsection may apply to the ~~board~~ director for special consideration
 15779 to take the examination for licensure.

15780 (b)(1) The ~~board~~ director may issue a temporary permit to applicants for licensure by
 15781 examination ~~pursuant to paragraph (7) of Code Section 43-26-35~~. A temporary permit
 15782 issued to an applicant for licensure by examination shall be valid from the date of
 15783 issuance until the first examination scheduled for the applicant is graded and a license is
 15784 issued. If the applicant does not appear for the examination, the temporary permit is
 15785 automatically invalid the day of the examination. If the applicant fails the examination,
 15786 the permit shall automatically become invalid when the examination is graded and may
 15787 not be reissued.

15788 (2) An applicant who fails to appear at the first examination and can show proper cause
 15789 for failure to appear may receive a second temporary permit upon reapplying to take the
 15790 examination. Such second permit shall be governed by the same validity provisions as
 15791 the first permit. Upon failure to appear at a second examination, the applicant shall not
 15792 be eligible to receive another temporary permit.

15793 43-26-36.1.

15794 Any applicant for licensure under this article shall have satisfactory results from a
 15795 fingerprint record check report conducted by the Georgia Crime Information Center and
 15796 the Federal Bureau of Investigation, as determined by the ~~board~~ director. Application for
 15797 a license under this article shall constitute express consent and authorization for the ~~board~~
 15798 director or its his or her representative to perform a criminal background check. Each
 15799 applicant who submits an application to the ~~board~~ director for licensure agrees to provide
 15800 the ~~board~~ director with any and all information necessary to run a criminal background
 15801 check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be
 15802 responsible for all fees associated with the performance of such background check.

15803 43-26-37.

15804 (a) Any applicant who meets the license requirements stated in Code Section 43-26-36 or
15805 subsection (b) of Code Section 43-26-38 and passes the required exam may be issued a
15806 license to practice as a licensed practical nurse.

15807 (b) Effective July 1, 1995, an applicant who has not passed the examination within five
15808 years from the date of eligibility of such applicant to take the licensure examination as
15809 determined by the licensing board shall be required to complete successfully a regular
15810 full-time licensing board approved practical nursing program before such applicant is
15811 admitted to another examination. Upon completion of the program, an application may be
15812 made for licensure as a new applicant.

15813 43-26-38.

15814 (a) The board director, at its his or her discretion, may issue a license to practice as a
15815 licensed practical nurse, without examination, to any person who has a high school diploma
15816 or general educational development (GED) diploma and has been duly licensed or
15817 registered as a practical or vocational nurse or who is entitled to perform similar service
15818 under a different designation under the laws of another state or territory of the United
15819 States if the license or registration in that other state or territory is current and in good
15820 standing and was issued based upon completion of an approved nursing education program,
15821 as defined in Code Section 43-26-32, and passage of an examination, ~~which~~ examination
15822 has been determined by the board director to be substantially equal to or greater than the
15823 requirements for licensure as a licensed practical nurse in this state and if such person has
15824 engaged in the active practice of practical nursing as a licensed practical nurse within five
15825 years immediately preceding the application; provided, however, that the requirement for
15826 active practice shall not apply to an applicant who has graduated from an approved nursing
15827 education program within one year of the date of application or who was initially licensed
15828 within one year of the date of application.

15829 (b) The board director, at its his or her discretion, may issue a license to practice as a
15830 licensed practical nurse, with examination, to any person who has a high school diploma
15831 or general educational development (GED) diploma and has been duly licensed or
15832 registered as a practical or vocational nurse or who is entitled to perform similar service
15833 under a different designation under the laws of another state or territory of the United
15834 States if the license or registration in that other state or territory is current and in good
15835 standing and was issued based upon completion of an approved nursing education program,
15836 as defined in Code Section 43-26-32, except however, such applicant has not been duly
15837 examined according to the prescribed examination approved by ~~this~~ the licensing board and

15838 if such person has engaged in active practice of practical nursing as a licensed practical
15839 nurse within five years immediately preceding the application.

15840 (c) Applicants for endorsement who have not been engaged in the active practice of
15841 practical nursing as licensed practical nurses for a period which exceeds five years shall be
15842 required to complete additional education and training as provided in the rules and
15843 regulations of the licensing board, which may include but not be limited to returning to
15844 school for full training and taking the licensing examination.

15845 (d) The approval or denial of a license by endorsement under this Code section shall be
15846 in the sole discretion of the board director, and a denial thereof shall not be considered to
15847 be a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia
15848 Administrative Procedure Act.' The applicant shall be allowed to appear before the
15849 licensing board if the applicant so desires.

15850 (e) Nothing in this Code section shall be construed to prevent an applicant who is denied
15851 a license by endorsement from taking the examination for licensure, provided that such
15852 applicant is otherwise eligible to take the examination and meets the requirements
15853 specified.

15854 (f) The board director may issue a temporary permit to qualified applicants under such
15855 terms and conditions as specified in the rules and regulations of the licensing board, but in
15856 no event shall such a temporary permit be issued to an applicant who has failed to pass the
15857 required examination.

15858 43-26-39.

15859 (a) Licenses issued under this article shall be renewed biennially prior to the expiration of
15860 the license according to schedules and fees decided by the licensing board and approved
15861 by the ~~division~~ director.

15862 (b) A license shall be renewed for any licensed practical nurse who remits the required fee
15863 and complies with the requirements established by the licensing board.

15864 (c) The voluntary surrender of a license or the failure to renew a license by the end of an
15865 established renewal period shall have the same effect as revocation of said license, subject
15866 to reinstatement at the discretion of the board director. The board director may restore and
15867 reissue a license, and, as a condition thereof, may impose any disciplinary sanction
15868 provided by Code Section 43-1-19 upon such grounds as specified in Code Sections
15869 43-1-19 and 43-26-40.

15870 (d) Any license that is not renewed by the end of the renewal period may not thereafter be
15871 renewed, and the licensee must apply for reinstatement. Applicants for reinstatement who
15872 have not been engaged in the active practice of practical nursing as licensed practical
15873 nurses for a period which exceeds five years shall be required to obtain such additional

15874 education and training as provided in the rules and regulations of the licensing board,
 15875 which may include but not be limited to returning to school for full training and taking the
 15876 licensing examination. Upon completion of the program, an application may be made for
 15877 licensure as a new applicant.

15878 (e) The ~~board~~ director may issue a temporary permit to qualified applicants under such
 15879 terms and conditions as specified in the rules and regulations of the licensing board, but in
 15880 no event shall such a temporary permit be issued to an applicant who has failed to pass the
 15881 required examination.

15882 (f) Other criteria for reinstatement may be determined by the rules of the licensing board,
 15883 including, but not limited to, the following: additional coursework, a refresher course,
 15884 supervised clinical practice, or examination by the ~~board~~ director.

15885 43-26-40.

15886 (a) In addition to the authority granted in Code Section 43-1-19, the ~~board~~ director shall
 15887 have the authority to refuse to grant a license to an applicant, to revoke the license of a
 15888 licensee, or to discipline a licensee upon a finding by the ~~board~~ director that the applicant
 15889 or licensee has:

15890 (1) Been convicted of a felony, a crime involving moral turpitude, or any crime violating
 15891 a federal or state law relating to controlled substances or dangerous drugs or marijuana
 15892 in the courts of this state, any other state, territory, or country, or in the courts of the
 15893 United States, including, but not limited to, a plea of nolo contendere entered to the
 15894 charge;

15895 (2) Had a license to practice nursing revoked, suspended, or annulled by any lawful
 15896 licensing authority, had other disciplinary action taken by any lawful licensing authority,
 15897 or was denied a license by any lawful licensing authority;

15898 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
 15899 practice harmful to the public; which ~~conduct or practice~~ need not have resulted in actual
 15900 injury to any person. As used in this paragraph, the term 'unprofessional conduct'
 15901 includes the improper charting of medication and any departure from, or the failure to
 15902 conform to, the minimal standards of acceptable and prevailing nursing practice;

15903 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
 15904 of this state, any other state, the licensing board, the United States, or any other lawful
 15905 authority, without regard to whether the violation is criminally punishable, ~~which when~~
 15906 such statute, law, or rule or regulation relates to or in part regulates the practice of
 15907 nursing; when the licensee or applicant knows or should know that such action is
 15908 ~~violative of~~ violates such law or rule;

- 15909 (5) Violated a lawful order of previously entered by the licensing board or the director
 15910 previously entered by the board in a disciplinary hearing; or
- 15911 (6)(A) Displayed an inability to practice nursing as a licensed practical nurse or graduate
 15912 practical nurse with reasonable skill and safety due to illness, use of alcohol, drugs,
 15913 narcotics, chemicals, or any other types of material, or as a result of any mental or
 15914 physical condition;
- 15915 (A)(B) In enforcement of this paragraph, the board director may, upon reasonable
 15916 grounds, require a licensee or applicant to submit to a mental or physical examination
 15917 by a board director approved health care professional. The expense of such mental or
 15918 physical examination shall be borne by the licensee or applicant. The results of such
 15919 examination shall be admissible in any hearing before the licensing board,
 15920 notwithstanding any claim of privilege under contrary law or rule. Every person who
 15921 is licensed to practice practical nursing as a licensed practical nurse or graduate
 15922 practical nurse in this state, or an applicant for examination, endorsement, or
 15923 reinstatement, shall be deemed to have given such person's consent to submit to such
 15924 mental or physical examination and to have waived all objections to the admissibility
 15925 of the results in any hearing before the licensing board upon the grounds that the same
 15926 constitutes a privileged communication. If a licensee or applicant fails to submit to
 15927 such an examination when properly directed to do so by the board director, unless such
 15928 failure was due to circumstances beyond that person's control, the board director may
 15929 enter a final order upon proper notice, hearing, and proof of such refusal in compliance
 15930 with Code Section 43-1-3.1. Any licensee or applicant who is prohibited from
 15931 practicing under this paragraph shall at reasonable intervals be afforded an opportunity
 15932 to demonstrate to the licensing board that such person can resume or begin to practice
 15933 practical nursing as a licensed practical nurse or graduate practical nurse with
 15934 reasonable skill and safety; ~~and~~.
- 15935 (B)(C) In enforcement of this paragraph, the board director may, upon reasonable
 15936 grounds, obtain any and all records relating to the mental or physical condition of a
 15937 licensee or applicant, including psychiatric records; such records shall be admissible in
 15938 any hearing before the licensing board, notwithstanding any privilege under a contrary
 15939 rule, law, or statute. Every person who is licensed in this state or who shall file an
 15940 application for said license shall be deemed to have given such person's consent to the
 15941 board's director obtaining such records and to have waived all objections to the
 15942 admissibility of such records in any hearing before the licensing board upon the
 15943 grounds that the same constitute a privileged communication.
- 15944 (b) Neither denial of an initial license, the issuance of a private reprimand, the denial of
 15945 a license by endorsement under Code Section 43-26-38, nor the denial of a request for

15946 reinstatement of a license on the grounds that the applicant or licensee has failed to meet
 15947 the minimum requirements shall be considered a contested case within the meaning of
 15948 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing
 15949 within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or
 15950 licensee shall be allowed to appear before the licensing board if he or she so requests.

15951 (c) An action of the director taken pursuant to this Code section shall be made in
 15952 compliance with Code Section 43-1-3.1.

15953 43-26-41.

15954 (a) No provision in this article shall be construed to require licensure in Georgia as a
 15955 licensed practical nurse in:

15956 (1) The practice of practical nursing by students when such practice is an integral part
 15957 of a curriculum in a licensing board approved practical nursing education program
 15958 leading to initial licensure;

15959 (2) The rendering of assistance by anyone in the case of an emergency or disaster;

15960 (3) The incidental care of the sick by members of the family, friends, or persons
 15961 primarily utilized as housekeepers, provided that such care does not constitute the
 15962 practice of practical nursing within the meaning of this article and individuals do not hold
 15963 themselves out as being licensed practical nurses;

15964 (4) Caring for the sick in accordance with tenets or practices of any church or religious
 15965 denomination which teaches reliance upon spiritual means through prayer for healing;

15966 (5) The performance of auxiliary services in the care of patients when such care and
 15967 activities do not require the knowledge and skill required of a person practicing practical
 15968 nursing as a licensed practical nurse and when such care and activities are performed
 15969 under orders or directions of a licensed physician, licensed dentist, licensed podiatrist, or
 15970 person licensed to practice nursing as a registered professional nurse;

15971 (6) The practice of practical nursing as a licensed practical nurse by a person so licensed
 15972 to practice in another state who is employed by the United States government or any
 15973 bureau, division, or agency thereof while in the discharge of that person's official duties;
 15974 and

15975 (7) The practice of practical nursing as a licensed practical nurse by a person currently
 15976 licensed to practice in another state who is employed by an individual, agency, or
 15977 corporation located in another state, whose employment responsibilities include
 15978 transporting patients into, out of, or through this state for a period not to exceed 24 hours.

15979 (b) In a civil or administrative proceeding under this article, a person claiming an
 15980 exemption or an exception pursuant to subsection (a) of this Code section has the burden
 15981 of proving this exemption or exception. In a criminal proceeding, the burden of going

15982 forward with evidence of a claim of exemption or exception pursuant to subsection (a) of
 15983 this Code section is on the person claiming the exemption or exception.

15984 43-26-42.

15985 It shall be a misdemeanor for any person, including any corporation, association, or
 15986 individual, to:

15987 (1) Practice practical nursing as a licensed practical nurse without a valid current license,
 15988 except as otherwise permitted under Code Section 43-26-41;

15989 (2) Practice practical nursing as a licensed practical nurse under cover of any diploma,
 15990 license, or record illegally or fraudulently obtained, signed, or issued;

15991 (3) Practice practical nursing as a licensed practical nurse during the time the license is
 15992 suspended, revoked, surrendered, or administratively revoked for failure to renew;

15993 (4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying that
 15994 such person is a licensed practical nurse or graduate practical nurse unless such person
 15995 is duly licensed to practice under the provisions of this article;

15996 (5) Fraudulently furnish a license to practice nursing as a licensed practical nurse;

15997 (6) Knowingly employ any person to practice practical nursing as a licensed practical
 15998 nurse who is not a licensed practical nurse;

15999 (7) Conduct a nursing education program in this state unless the program has been
 16000 approved by the ~~board~~ director; or

16001 (8) Knowingly aid or abet any person to violate this article."

16002 **SECTION 1-26.**

16003 Said title is further amended by revising Chapter 27, relating to nursing home administrators,
 16004 as follows:

16005 "CHAPTER 27

16006 43-27-1.

16007 As used in this chapter, the term:

16008 (1) 'Board' means the State Board of Nursing Home Administrators, a professional
 16009 licensing policy board pursuant to Chapter 1 of this title with the authority and
 16010 responsibility set forth in such chapter.

16011 (1.1) 'Director' means the director of professional licensing.

16012 (1.2) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 16013 Article 2 of Chapter 1 of this title.

16014 (2) 'Nursing home' has the same meaning as prescribed by the Department of
16015 Community Health in the rules and regulations for nursing homes.

16016 (3) 'Nursing home administrator' means a person who operates, manages, or supervises
16017 or is in charge of a nursing home.

16018 43-27-2.

16019 (a) There is created the State Board of Nursing Home Administrators as a professional
16020 licensing policy board, which shall consist of 13 members, none of whom may be
16021 employees of the United States government or of this state, and the commissioner of human
16022 services or his or her designee, who shall serve as ex officio member of the board, and the
16023 commissioner of community health or his or her designee, who shall serve as ex officio
16024 member of the board. The members of the board shall be appointed by the Governor and
16025 confirmed by the Senate, as follows:

16026 (1) One member who is a licensed medical doctor in this state and who is not a nursing
16027 home administrator or pecuniarily interested in any nursing home;

16028 (2) One member who is a registered nurse in this state and who is not a nursing home
16029 administrator or pecuniarily interested in any nursing home;

16030 (3) One member who is an educator with a graduate degree and specializing in the field
16031 of gerontology and who is not a nursing home administrator or pecuniarily interested in
16032 any nursing home;

16033 (4) Three members of the public at large who are not nursing home administrators or
16034 pecuniarily interested in any nursing home or have any connection with the nursing home
16035 industry whatsoever. Two of these three public, at-large positions shall be appointed
16036 from a list of three persons for each of these two positions submitted by the Board of
16037 Community Health. The Governor is vested with complete discretion in appointing the
16038 third member for one of these three public, at-large positions;

16039 (5) One member who is a hospital administrator in this state, who is the holder of a
16040 master's degree in hospital administration, and who is not a nursing home administrator
16041 or pecuniarily interested in any nursing home; and

16042 (6) Six members, at least one of whom shall represent nonproprietary nursing homes,
16043 who are licensed nursing home administrators in this state.

16044 (b) The term for all members shall be three years from the date of appointment. A member
16045 may be removed as provided in Code Section 43-1-17. All vacancies shall be filled by the
16046 Governor for the unexpired terms in accordance with the requirements for appointment to
16047 the vacant position.

16048 43-27-3.

16049 The board shall elect a ~~chairman~~ chairperson and ~~vice-chairman~~ vice chairperson from its
 16050 membership and such other officers as it shall deem necessary ~~and shall adopt rules and~~
 16051 ~~regulations to govern its proceedings~~. Each member of the board shall be reimbursed as
 16052 provided for in subsection (f) of Code Section 43-1-2. The ~~division~~ director shall be the
 16053 executive secretary of the board.

16054 43-27-4.

16055 The licensing board and the director shall have sole and exclusive authority to determine
 16056 the qualifications, skill, and fitness of any person to serve as an administrator of a nursing
 16057 home under this chapter; and the holder of a license under this chapter shall be deemed
 16058 qualified to serve as the administrator of a nursing home.

16059 43-27-5.

16060 (a) The ~~board~~ director shall have the following powers and duties:

16061 (1) To issue, renew, and reinstate the licenses of duly qualified applicants for licensure;

16062 (2) To deny, suspend, revoke, or otherwise sanction licenses to practice as a nursing
 16063 home administrator;

16064 (3) To initiate investigations for the purpose of discovering violations of this chapter;

16065 (4) To initiate investigations for the purpose of discovering violations by a nursing home
 16066 administrator of the rules, regulations, or statutes of the Department of Community
 16067 Health or the Department of Human Services, provided that the ~~board~~ director shall
 16068 investigate those violations only after revocation, limitation, or restriction of participation
 16069 of the nursing home of which such individual is the administrator in the medical
 16070 assistance program or the license issued by the Department of Community Health and
 16071 make written findings as to the causes of the alleged violations;

16072 (5) To ~~conduct hearings upon charges into alleged violations of this~~ enter orders or take
 16073 other actions consistent with this chapter, which shall be entered in compliance with Code
 16074 Section 43-1-3.1; and

16075 (6) To ~~prepare or approve all examinations for licensure as a nursing home administrator;~~

16076 (7) To ~~develop, impose, and enforce standards which must be met by individuals in order~~
 16077 ~~to receive or maintain a license as a nursing home administrator;~~

16078 (8)(6) To conduct a continuing study and investigation of nursing homes and
 16079 administrators of nursing homes within the state for the purpose of improving the
 16080 standards imposed for the licensing of such administrators; ~~and~~.

16081 (9) ~~To adopt such rules and regulations as shall be reasonably necessary for the~~
 16082 ~~implementation and enforcement of this chapter. The board shall have the authority to~~

16083 ~~establish, provide, or approve various education programs or courses for nursing home~~
 16084 ~~administrators and to prescribe rules and regulations requiring applicants for licenses as~~
 16085 ~~nursing home administrators to attend such programs or courses as a prerequisite to their~~
 16086 ~~being admitted to the examination or issued a license and requiring licensed nursing~~
 16087 ~~home administrators to attend such programs or courses as a prerequisite to their being~~
 16088 ~~issued any license renewal.~~

16089 (b) The licensing board shall have the following powers and duties:

16090 (1) To prepare or approve all examinations for licensure as a nursing home administrator;

16091 (2) To develop, impose, and enforce standards which must be met by individuals in order
 16092 to receive or maintain a license as a nursing home administrator;

16093 (3) To adopt such rules and regulations as shall be reasonably necessary for the
 16094 implementation and enforcement of this chapter. The licensing board shall have the
 16095 authority to establish, provide, or approve various education programs or courses for
 16096 nursing home administrators and to prescribe rules and regulations requiring applicants
 16097 for licenses as nursing home administrators to attend such programs or courses as a
 16098 prerequisite to their being admitted to the examination or issued a license and requiring
 16099 licensed nursing home administrators to attend such programs or courses as a prerequisite
 16100 to their being issued any license renewal; and

16101 (4) To conduct hearings upon the petition of any person who is aggrieved or adversely
 16102 affected by an order or action of the director, which shall be conducted by the licensing
 16103 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 16104 Act.'

16105 (c) Nothing in this chapter or in the rules and regulations adopted under this chapter shall
 16106 be construed to require an applicant for a license as a nursing home administrator who is
 16107 certified by a recognized church or religious denomination which teaches reliance on
 16108 spiritual means alone for healing as having been approved to administer institutions
 16109 certified by such church or denomination for the care and treatment of the sick in
 16110 accordance with its teachings to demonstrate proficiency in any medical techniques or to
 16111 meet any medical educational qualifications or medical standards not in accord with the
 16112 remedial care and treatment provided in such institutions.

16113 43-27-6.

16114 (a) No person shall serve as a nursing home administrator until first obtaining a license
 16115 from the ~~board~~ director.

16116 (b) The ~~board~~ director shall issue licenses as nursing home administrators only to persons
 16117 who:

16118 (1) Are at least 21 years of age;

16119 (2) Are of reputable and responsible character;
 16120 ~~(3) Reserved;~~
 16121 ~~(4)~~(3) Meet the standards and the criteria established by the licensing board to evidence
 16122 the applicant's qualifications by training and experience to operate a nursing home,
 16123 provided that two years of experience working in a nursing home shall be equivalent to
 16124 one year of any academic education and training requirements established by the
 16125 licensing board; and such experience may be substituted without limitation for such
 16126 education and training requirements; and
 16127 ~~(5)~~(4) Satisfactorily pass a written or oral examination, or both, approved by the
 16128 licensing board to determine the qualifications of the applicant to operate a nursing home.

16129 43-27-7.

16130 (a) The ~~board~~ director, in ~~its~~ his or her discretion and otherwise subject to this chapter and
 16131 the rules and regulations of the licensing board promulgated under this chapter prescribing
 16132 the qualifications for a nursing home administrator license, may issue a license to a nursing
 16133 home administrator who has been issued a license by the proper authorities of any state or
 16134 issued a certificate of qualification by any national organization, upon payment of a fee to
 16135 be fixed by the licensing board and upon submission of evidence satisfactory to the ~~board~~
 16136 director that such other state or national organization maintains a system and standard of
 16137 qualifications and examinations for a nursing home administrator license or certificate
 16138 which is substantially equivalent to those required in this state.

16139 (b) An applicant for licensure who meets the qualifications of subsection (a) of this Code
 16140 section may be issued a provisional license by the ~~board~~ director to practice as a nursing
 16141 home administrator which shall be valid until the results of any examination required by
 16142 the ~~board~~ director and for which the applicant is scheduled to take are released. An
 16143 applicant who has been issued a provisional license will be scheduled by the ~~board~~ director
 16144 to take the first available examination. If the applicant passes the examination, the
 16145 provisional license shall be valid until the permanent license is issued. If the applicant fails
 16146 to appear for the examination or if the applicant fails the examination, the provisional
 16147 license shall become invalid immediately. The ~~board~~ director may ~~authorize the issuance~~
 16148 ~~of issue~~ a second provisional license only to an applicant who provides just cause to the
 16149 ~~board~~ director as to why the applicant was unable to appear for the examination.

16150 43-27-8.

16151 Each person licensed as a nursing home administrator shall be required to pay a biennial
 16152 license fee in an amount to be fixed by the licensing board. Such license shall expire on
 16153 the renewal date established by the ~~division~~ director and shall be renewable for two years

16154 upon payment of the biennial license fee. No license fee shall be required of any
 16155 superintendent of a state hospital or facility during such time as the superintendent is acting
 16156 or serving in the capacity as a nursing home administrator in a state institution and as an
 16157 employee of the state.

16158 43-27-9.

16159 The ~~board~~ director may, for good cause shown and under such conditions as ~~it~~ the director
 16160 may prescribe, restore a license to any person whose license has been suspended or
 16161 revoked.

16162 43-27-10.

16163 No provision of this chapter shall be construed as prohibiting or preventing a municipality
 16164 or county from fixing, charging, assessing, or collecting any license fee, registration fee,
 16165 tax, or gross receipt tax on any profession covered by this chapter or upon any related
 16166 profession or any one engaged in any related profession governed by this chapter.

16167 43-27-11.

16168 (a) Any person who acts or serves in the capacity of a nursing home administrator without
 16169 holding a license as a nursing home administrator issued in accordance with this chapter
 16170 shall be guilty of a misdemeanor.

16171 (b) Any person not licensed under this chapter who holds himself or herself out to be a
 16172 licensed nursing home administrator or uses the initials N.H.A. after his or her name shall
 16173 be guilty of a misdemeanor."

16174 **SECTION 1-27.**

16175 Said title is further amended by revising Chapter 28, relating to occupational therapists, as
 16176 follows:

16177 **"CHAPTER 28**

16178 43-28-1.

16179 This chapter shall be known and may be cited as the 'Georgia State Occupational Therapy
 16180 Licensing Act.'

16181 43-28-2.

16182 This chapter was enacted to safeguard the public health, safety, and welfare and to assure
 16183 the availability of occupational therapy services of high quality to persons in need of such

16184 services. It is the purpose of this chapter to provide for the regulation of persons offering
 16185 occupational therapy services to the public.

16186 43-28-3.

16187 As used in this chapter, the term:

16188 (1) 'Association' means the Georgia Occupational Therapy Association.

16189 (2) 'Board' means the State Board of Occupational Therapy, a professional licensing
 16190 policy board pursuant to Chapter 1 of this title with the authority and responsibility set
 16191 forth in such chapter.

16192 (2.1) 'Director' means the director of professional licensing.

16193 (3) 'License' means a valid and current certificate of registration issued by the ~~division~~
 16194 director.

16195 (3.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 16196 Article 2 of Chapter 1 of this title.

16197 (4) 'Occupational therapist' means a person licensed to practice occupational therapy as
 16198 defined in this chapter and whose license is in good standing.

16199 (5) 'Occupational therapy' includes but is not limited to the following:

16200 (A) Evaluation and treatment of individuals whose abilities to cope with the tasks of
 16201 living are threatened or impaired by developmental deficiencies, the aging process,
 16202 learning disabilities, poverty and cultural differences, physical injury or disease,
 16203 psychological and social disabilities, or anticipated dysfunction. The treatment utilizes
 16204 task oriented activities to prevent or correct physical, cognitive, or emotional
 16205 deficiencies or to minimize the disabling effect of these deficiencies in the life of the
 16206 individual;

16207 (B) Such evaluation techniques as assessment of sensory motor abilities, assessment
 16208 of the development of self-care activities and capacity for independence, assessment of
 16209 the physical capacity for prevocational and work tasks, assessment of play and leisure
 16210 performance, and appraisal of living areas for persons with disabilities; and

16211 (C) Specific occupational therapy techniques, such as activity analysis, activities of
 16212 daily living skills, the fabrication and application of splints and adaptive devices,
 16213 sensory motor activities, the use of specifically designed manual and creative activities,
 16214 guidance in the selection and use of adaptive equipment, specific exercises and physical
 16215 agent modalities to enhance physical functional performance, work capacities, and
 16216 treatment techniques for physical capabilities and cognitive retraining. Such techniques
 16217 are applied in the treatment of individual patients or clients, in groups, or through social
 16218 systems.

16219 (6) 'Occupational therapy aide' means a person who assists the occupational therapist and
 16220 the occupational therapy assistant in the practice of occupational therapy and who works
 16221 under the direct supervision of the occupational therapist.

16222 (7) 'Occupational therapy assistant' means a person licensed to assist the occupational
 16223 therapist in the practice of occupational therapy under the supervision of or with the
 16224 consultation of the licensed occupational therapist and whose license is in good standing.

16225 (8) 'Person' means a natural person only, not a legal entity.

16226 (9) 'Physical agent modalities' means treatment techniques which utilize heat, light,
 16227 sound, cold, electricity, or mechanical devices ~~and also means~~; electrical therapeutic
 16228 modalities which induce heat or electrical current beneath the skin, including but not
 16229 limited to therapeutic ultrasound, galvanism, microwave, diathermy, and electromuscular
 16230 stimulation; ~~and also means~~ hydrotherapy.

16231 43-28-4.

16232 (a) There is established the State Board of Occupational Therapy as a professional
 16233 licensing policy board.

16234 (b) The board shall consist of six members who shall be appointed by the Governor and
 16235 confirmed by the Senate. The members of the board shall be citizens of the United States
 16236 and residents of this state for at least one year prior to their appointment. Five members
 16237 of the board shall have been engaged in rendering services to the public, teaching, or
 16238 research in occupational therapy for at least three years immediately preceding their
 16239 appointment and may be occupational therapists or occupational therapy assistants and
 16240 shall at all times be holders of valid licenses for the practice of occupational therapy in this
 16241 state. All of such members shall fulfill the requirements for licensure of this chapter. The
 16242 sixth member shall be appointed from the public at large and shall have no connection
 16243 whatsoever with the profession or practice of occupational therapy.

16244 (c) The board shall, within 90 days after July 1, 1976, be selected as provided in
 16245 subsection (b) of this Code section. The members of the first board shall serve the
 16246 following terms: two members for a term of one year, two members for a term of two
 16247 years, and one member for a term of three years. At the expiration of the above terms,
 16248 board members shall be appointed in the same manner as the initial appointment for a
 16249 period of four years; but no person shall be appointed to serve more than two consecutive
 16250 terms. Terms shall begin on the first day of the calendar year and end on the last day of the
 16251 calendar year or until successors are appointed, except for the first members who shall
 16252 serve through the last calendar day of the year in which they are appointed before
 16253 commencing the terms prescribed by this Code section.

16254 (d) The initial term of the member appointed from the public at large shall expire on June
16255 30, 1984; thereafter, successors shall be appointed for a term of four years.

16256 (e) When a vacancy occurs on the board, the Governor shall appoint a member to fill the
16257 unexpired term.

16258 (f) The Governor, after notice and opportunity for hearing by the board, may remove any
16259 member of the board for neglect of duty, incompetence, revocation or suspension of his
16260 license, or other dishonorable conduct. After such removal or vacancy due to other
16261 reasons, the Governor shall appoint a successor to the unexpired term.

16262 43-28-5.

16263 (a) The ~~division~~ director shall be secretary of the board and in addition to his or her powers
16264 and duties prescribed by Chapter 1 of this title shall perform such other administrative
16265 duties as may be prescribed by the licensing board.

16266 (b) ~~In a contested case, the division~~ The director ~~on behalf of the board~~ shall have the
16267 power to subpoena throughout the state witnesses, designated documents, papers, books,
16268 accounts, letters, photographs, and objects or other tangible things.

16269 (c) The ~~division~~ director, guided by the ~~recommendations~~ rules and regulations of the
16270 licensing board, shall act in all matters relating to this chapter.

16271 43-28-6.

16272 (a) All legal process and all documents required by law to be served upon or filed with the
16273 licensing board shall be served upon or filed with the ~~division~~ director at his or her office.

16274 (b) All official records of the licensing board or affidavits by the ~~division~~ director
16275 certifying the content of such records shall be prima-facie evidence of all matters required
16276 to be kept therein.

16277 43-28-7.

16278 (a) The ~~board~~ director shall administer, coordinate, and enforce this chapter, and enter
16279 orders or take other action for the enforcement of this chapter, which shall be taken in
16280 compliance with Code Section 43-1-3.1.

16281 (b) The ~~board~~ director shall have the responsibility of evaluating the qualifications and
16282 providing for the examination of applicants for licensure under this chapter ~~and shall assist~~
16283 ~~the division director in carrying out this chapter.~~ The ~~division~~ director shall have the
16284 authority to contract with an outside agency for services providing for the supervision and
16285 administration of the examination as needed.

16286 (c) The ~~board~~ director may issue subpoenas, examine witnesses, and administer oaths and
16287 may investigate allegations of practices violating this chapter.

16288 (d) The licensing board shall adopt rules and regulations relating to professional conduct
 16289 to carry out the policy of this chapter, including, but not limited to, regulations relating to
 16290 professional licensure and the establishment of ethical standards of practice for persons
 16291 holding a license to practice occupational therapy in this state and may amend or repeal the
 16292 same in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 16293 Act.'

16294 (e) The licensing board shall conduct such hearings upon the petition of any person who
 16295 is aggrieved or adversely affected by an order or action of the director, which shall be
 16296 conducted by the licensing board in accordance with Chapter 13 of Title 50, the 'Georgia
 16297 Administrative Procedure Act,' and keep such records and minutes as are necessary to carry
 16298 out its functioning. He or she ~~It~~ shall provide reasonable public notice to the appropriate
 16299 persons of the time and place of all hearings authorized under this chapter in such a manner
 16300 and at such times as it may determine by ~~its~~ rules and regulations of the licensing board.

16301 (f) The licensing board shall prepare or approve all examinations of applicants for license
 16302 at least twice a year; The director shall determine the qualifications and ~~authorize the~~
 16303 ~~issuance of issue~~ licenses to qualified occupational therapists and occupational therapy
 16304 assistants, issue and renew licenses, and suspend or revoke licenses in the manner
 16305 provided; The licensing board shall ~~and~~ determine the qualifications and approved
 16306 qualified occupational therapy schools and courses in occupational therapy for the purpose
 16307 of determining qualifications of applicants for licensure.

16308 (g) The licensing board may provide for the continuing professional education of persons
 16309 subject to this chapter by appropriate regulation.

16310 43-28-8.

16311 No person shall:

16312 (1) Practice occupational therapy; or

16313 (2) Hold himself or herself out as an occupational therapist or an occupational therapy
 16314 assistant or as being able to render occupational therapy services in this state unless that
 16315 person is licensed in accordance with this chapter.

16316 43-28-8.1.

16317 (a) No person shall utilize occupational therapy techniques involving physical agent
 16318 modalities unless such person:

16319 (1) Is licensed according to this chapter; and

16320 (2) Has utilized such modalities before July 1, 1991, furnishes to the board prior to July
 16321 1, 1992, sufficient proof of such prior use, and demonstrates to the ~~board~~ director

16322 competence in the use of such modalities determined by the licensing board to have been
 16323 so used prior to July 1, 1991; or

16324 (3) Has successfully completed a minimum of 90 hours of instruction or training
 16325 approved by the licensing board which covers the following subjects:

16326 (A) Principles of physics related to specific properties of light, water, temperature,
 16327 sound, or electricity, as indicated by selected modality;

16328 (B) Physiological, neurophysiological, and electrophysiological, as indicated, changes
 16329 which occur as a result of the application of the selected modality;

16330 (C) The response of normal and abnormal tissue to the application of the modality;

16331 (D) Indications and contraindications related to the selection and application of the
 16332 modality;

16333 (E) Guidelines for treatment or administration of the modality within the philosophical
 16334 framework of occupational therapy;

16335 (F) Guidelines for educating the patient including instructing the patient as to the
 16336 process and possible outcomes of treatment, including risks and benefits;

16337 (G) Safety rules and precautions related to the selected modality;

16338 (H) Methods for documenting the effectiveness of immediate and long-term effects of
 16339 treatment; and

16340 (I) Characteristics of the equipment including safe operation, adjustment, and care of
 16341 the equipment.

16342 (b) The licensing board shall promulgate rules and regulations specifically pertaining to
 16343 the use of physical agent modalities by a person licensed under this chapter.

16344 43-28-9.

16345 (a) An applicant applying for a license as an occupational therapist or as an occupational
 16346 therapy assistant shall file an application, on forms approved by the licensing board and
 16347 provided by the board director, showing to the satisfaction of the board director that such
 16348 applicant:

16349 (1) Is of good moral character;

16350 (2) Has successfully completed the academic requirements of an educational program
 16351 in occupational therapy recognized by the licensing board, with concentration in
 16352 biological or physical science, psychology, and sociology and with education in selected
 16353 manual skills For an occupational therapist or occupational therapy assistant, such a
 16354 program shall be accredited by a recognized accrediting agency acceptable to the
 16355 licensing board. Other comparable educational programs such as those approved by the
 16356 World Federation of Occupational Therapists may be recognized by the licensing board
 16357 upon evaluation of detailed program and course content;

16358 (3) Has successfully completed a period of supervised field work experience at a
 16359 recognized educational institution or a training program accredited as provided in
 16360 paragraph (2) of this subsection. For an occupational therapist, a minimum of six months
 16361 of supervised field work experience is required. For an occupational therapy assistant,
 16362 a minimum of two months of supervised field work experience is required; and

16363 (4) Has passed an examination as provided for in Code Section 43-28-10.

16364 (b) An applicant not meeting the requirements of subsection (a) of this Code section must
 16365 indicate to the ~~board~~ director that he or she has obtained a waiver of such requirements
 16366 pursuant to Code Section 43-28-11.

16367 43-28-10.

16368 (a) A person applying for licensure shall demonstrate ~~his~~ eligibility in accordance with the
 16369 requirements of Code Section 43-28-9 and shall make application for examination upon a
 16370 form and in such a manner as the licensing board shall prescribe. Such application shall
 16371 be accompanied by the fee prescribed by the licensing board. A person who fails an
 16372 examination may make reapplication for reexamination accompanied by the prescribed fee.

16373 (b) Each applicant for licensure under this chapter shall be examined by the ~~board~~ director
 16374 in written examination to test his or her knowledge of the basic and clinical sciences
 16375 relating to occupational therapy and occupational therapy theory and practice, including
 16376 the applicant's professional skills and judgment in the utilization of occupational therapy
 16377 techniques and methods and such other subjects as the licensing board may deem useful
 16378 to determine the applicant's fitness to practice. The licensing board shall establish the
 16379 standards for acceptable performance by the applicant.

16380 (c) Examinations shall be given at least twice a year.

16381 (d) Applicants may obtain their examination scores and may review their papers in
 16382 accordance with such rules and regulations as the licensing board may establish.

16383 43-28-11.

16384 The ~~board~~ director may waive the examination and grant a license to any applicant who
 16385 ~~shall present~~ presents proof of current licensure as an occupational therapist or an
 16386 occupational therapy assistant in another state, the District of Columbia, or territory of the
 16387 United States; which requires standards for licensure considered by the ~~board~~ director to
 16388 be equivalent to the requirements for licensure of this chapter.

16389 43-28-12.

16390 (a) The ~~board~~ director shall issue a license to any person who meets the requirements of
 16391 this chapter upon payment of the license fee prescribed.

16392 (b) The ~~board~~ director shall issue a limited permit to persons who have completed the
 16393 education and experience requirements of this chapter. This permit shall allow the person
 16394 to practice occupational therapy under the supervision of an occupational therapist who
 16395 holds a current license in this state and shall be valid until the date on which the results of
 16396 the next qualifying examination have been made public. This limited permit shall not be
 16397 renewed if the applicant has failed the examination.

16398 (c) The ~~board~~ director may issue a limited permit to persons who have successfully
 16399 completed a certification examination approved by the licensing board. This permit shall
 16400 allow the person to practice occupational therapy for a period not to exceed 90 days under
 16401 the supervision of an occupational therapist who holds a current license in this state.

16402 (d) Any person who is issued a license as an occupational therapist under the terms of this
 16403 chapter may use the words 'occupational therapist registered,' 'licensed occupational
 16404 therapist,' or 'occupational therapist;' or ~~he~~ may use the letters 'O.T.R.,' 'L.O.T.,' 'O.T.,' or
 16405 'O.T.R./L.' in connection with his or her name or place of business to denote registration
 16406 under this chapter.

16407 (e) Any person who is issued a license as an occupational therapy assistant under the terms
 16408 of this chapter may use the words 'occupational therapy assistant,' 'licensed occupational
 16409 therapy assistant,' or 'certified occupational therapy assistant' or may use the letters
 16410 'O.T.A.,' 'L.O.T.A.,' 'C.O.T.A.,' or 'C.O.T.A./L.' in connection with his name or place of
 16411 business.

16412 43-28-13.

16413 (a) The ~~board~~ director shall, ~~after notice and opportunity for hearing in compliance with~~
 16414 Code Section 43-1-3.1, have the power to deny or refuse to renew, suspend, or revoke the
 16415 license of, or impose a fine or probationary conditions upon, any licensee who has been
 16416 guilty of unprofessional conduct which has endangered or is likely to endanger the health,
 16417 welfare, or safety of the public. Such unprofessional conduct includes:

16418 (1) Obtaining or attempting to obtain a license by fraud, misrepresentation, or
 16419 concealment of material facts;

16420 (2) Being guilty of unprofessional conduct as defined by the rules and regulations
 16421 established by the licensing board; or

16422 (3) Being convicted of a crime other than minor offenses defined as 'minor
 16423 misdemeanors,' 'violations,' or 'offenses' in any court if the acts for which he or she was
 16424 convicted are found by the ~~board~~ director to have a direct bearing on whether he should
 16425 be entrusted to serve the public in the capacity of an occupational therapist or
 16426 occupational therapy assistant.

16427 (b) Such denial, refusal to renew, suspension, revocation, or imposition of a fine or
 16428 probationary conditions upon a licensee may be ordered by the ~~board in a decision made~~
 16429 ~~after a hearing~~ director in the manner provided by ~~the rules and regulations adopted by the~~
 16430 ~~board~~ Code Section 43-1-3.1. One year from the date of revocation of a license,
 16431 application may be made to the ~~board~~ director for reinstatement. The ~~board~~ director shall
 16432 have the discretion to accept or reject an application for reinstatement ~~and may, but shall~~
 16433 ~~not be required to, hold a hearing to consider such reinstatement.~~

16434 43-28-14.

16435 (a) All licenses shall expire biennially. Each person licensed under this chapter is
 16436 responsible for renewing his or her license before the expiration date. Application for
 16437 renewal shall be completed in the manner prescribed in the rules and regulations of the
 16438 ~~division director~~ licensing board and shall include the payment of a renewal fee. The
 16439 licensing board may set and require a specific number of continuing education hours for
 16440 license renewal.

16441 (b) The licensing board may provide for late renewal of a license upon payment of a late
 16442 renewal fee, proof of continuing education as set by the licensing board, and completion
 16443 of an appropriate form. Any license which is not renewed during the specified renewal
 16444 period will be revoked for failure to renew. The holder of such a canceled license may
 16445 apply for and obtain a valid license only upon compliance with all relevant requirements
 16446 for reinstatement.

16447 (c) A suspended license is subject to expiration and may be renewed as provided in this
 16448 Code section, but such renewal shall not entitle the licensee, while the license remains
 16449 suspended and until it is reinstated, to engage in the licensed activity or in other conduct
 16450 or activity in violation of the order or judgment by which the license was suspended. If a
 16451 license revoked on disciplinary grounds is reinstated, the licensee, as a condition of
 16452 reinstatement, shall pay the renewal fee and any late fee that may be applicable.

16453 43-28-15.

16454 Nothing in this chapter shall be construed as preventing or restricting the practice, services,
 16455 or activities of:

16456 (1) Any person licensed under any other law of the state, including but not limited to
 16457 physicians; and persons working under the supervision of physicians, nurses, clinical
 16458 psychologists, speech pathologists and audiologists, dentists, and physical therapists,
 16459 from engaging in the profession or occupation for which he or she is licensed;

16460 (2) Any person employed as an occupational therapist or an occupational therapy
 16461 assistant by the government of the United States if such a person provides occupational

16462 therapy solely under the direction or control of the organization by which he or she is
 16463 employed;

16464 (3) Any person pursuing a course of study leading to a degree or certificate in
 16465 occupational therapy in an educational program which is accredited by a recognized
 16466 accrediting agency acceptable to the licensing board and if such person is designated by
 16467 a title which clearly indicates such person's status as a student or trainee;

16468 (4) Any person fulfilling the supervised field work experience requirements of Code
 16469 Section 43-28-9 if such activities and services constitute a part of the experience
 16470 necessary to meet the requirement of that Code section;

16471 (5) Any person enrolled in a course of study designed to develop advanced occupational
 16472 therapy skills when the occupational therapy activities are required as part of an
 16473 educational program sponsored by an educational institution approved by the licensing
 16474 board and conducted under the supervision of an occupational therapist licensed under
 16475 this chapter. If such person provides occupational therapy services outside the scope of
 16476 the educational program, he or she shall then be required to be licensed in accordance
 16477 with this chapter;

16478 (6) Any occupational therapist or occupational therapy assistant licensed or certified by
 16479 an agency recognized by the licensing board providing consultation, as defined by rule,
 16480 related to direct patient care if such services are performed for not more than 30 days in
 16481 a calendar year;

16482 (7) Any person employed as an occupational therapy aide and working under the direct
 16483 supervision of an occupational therapist licensed in this state; or

16484 (8) Persons registered as rehabilitation suppliers by the Georgia State Board of Workers'
 16485 Compensation, including those registered before July 1, 1992, but only when practicing
 16486 rehabilitation counseling as a designated principal rehabilitation supplier pursuant to
 16487 Chapter 9 of Title 34 and only so long as they do not use any titles other than titles
 16488 describing the certifications or licenses they are required to hold under Code Section
 16489 34-9-200.1.

16490 43-28-16.

16491 (a) Any person who violates this chapter shall be guilty of a misdemeanor and, upon
 16492 conviction thereof, shall be punished by a fine of not less than \$250.00 and not more than
 16493 \$1,000.00, or imprisonment for a period not exceeding six months, or both. A license held
 16494 by any person convicted under this Code section shall be forfeited and revoked
 16495 immediately for one year from the date of such conviction.

16496 (b) It is unlawful for any person who is not registered under this chapter as an occupational
 16497 therapist or as an occupational therapy assistant or whose registration has been suspended

16498 or revoked to use, in connection with his or her name or place of business, the words
 16499 'occupational therapist,' 'licensed occupational therapist,' 'occupational therapist registered,'
 16500 'occupational therapy assistant,' 'licensed occupational therapy assistant,' 'certified
 16501 occupational therapy assistant'; or the letters 'O.T.,' 'L.O.T.,' 'O.T.R.,' 'O.T.A.,' 'L.O.T.A.,'
 16502 or 'C.O.T.A.'; or any other words, letters, abbreviations, or insignia indicating or implying
 16503 that he or she is an occupational therapist or an occupational therapy assistant or to show
 16504 in any way, orally, in writing, in print, or by sign, directly or by implication, or to represent
 16505 himself or herself as an occupational therapist or an occupational therapy assistant."

16506 **SECTION 1-28.**

16507 Said title is further amended by revising Chapter 29, relating to dispensing opticians, as
 16508 follows:

16509 "CHAPTER 29

16510 43-29-1.

16511 This chapter is enacted in the exercise of the police powers of the state. Its purposes
 16512 generally are to protect the public health, welfare, and safety by providing for the
 16513 regulation of the sale, dispensing, and supplying of all ophthalmic appliances, eyeglasses,
 16514 and all aids to human vision.

16515 43-29-2.

16516 As used in this chapter, the term:

16517 (1) 'Board' means the State Board of Dispensing Opticians, a professional licensing
 16518 policy board pursuant to Chapter 1 of this title with the authority and responsibility set
 16519 forth in such chapter.

16520 (1.2) 'Director' means the director of professional licensing.

16521 (2) 'Dispensing optician' means, subject to Code Section 43-29-18, an individual who is
 16522 duly licensed to prepare and dispense lenses, spectacles, eyeglasses, contact lenses, and
 16523 optical devices to the intended user thereof as specifically directed or authorized on the
 16524 written prescription of a physician skilled in diseases of the eye or an optometrist duly
 16525 licensed to practice his or her profession.

16526 (3) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 16527 Article 2 of Chapter 1 of this title.

16528 43-29-3.

16529 (a) There is created the State Board of Dispensing Opticians; as a professional licensing
 16530 policy board which ~~board shall supervise the practice of dispensing opticians and enforce~~
 16531 ~~this chapter, which board shall~~ be composed of five licensed dispensing opticians, each of
 16532 whom shall be a resident of ~~the~~ this state who has been engaged in the occupation of
 16533 dispensing optician in ~~the~~ this state for not less than five years preceding the time of his or
 16534 her appointment, and one additional member who shall have no connection whatsoever
 16535 with the trade or occupation of dispensing optician.

16536 (b) The members of the board shall be appointed by the Governor, and each such
 16537 appointee shall hold office for a period of four years or until his or her successor is
 16538 appointed and qualified.

16539 (c) The Governor is also authorized to fill vacancies that may occur from time to time on
 16540 said board with persons duly qualified.

16541 (d)(1) The board shall select from among its own number a chairperson and a vice
 16542 chairperson, ~~shall adopt rules and regulations governing the examination of applicants~~
 16543 ~~and the enforcement of this chapter, and.~~

16544 (2) The licensing board shall establish a code of ethics and standards of practice for
 16545 dispensing opticians and such other rules and regulations governing procedure as shall
 16546 be necessary and proper for the carrying out of the objectives of this chapter.

16547 (e) The board shall provide for meetings at least twice each year ~~for the purpose of~~
 16548 ~~receiving applications and giving examinations as above provided~~ and may meet at other
 16549 times and at such places as the board shall designate from time to time ~~or fix by regulations~~
 16550 upon the approval of the director.

16551 (f) The board may administer oaths, summon witnesses, and take testimony in all matters
 16552 relating to its duties.

16553 (g) The licensing board and the director shall issue a license to practice the trade or
 16554 occupation of dispensing optician to all persons who shall furnish satisfactory evidence of
 16555 attainments and qualifications under this chapter and the rules and regulations of the
 16556 licensing board. Such license shall be signed ~~by the chairperson~~ and attested by the
 16557 ~~division~~ director, and it shall give the person to whom it is issued the absolute authority to
 16558 practice the trade or occupation of dispensing optician in this state.

16559 (h) Each member of the board shall be reimbursed as provided in subsection (f) of Code
 16560 Section 43-1-2.

16561 43-29-4.

16562 (a) ~~The board shall have an official seal and shall keep a record of its proceedings and a~~
 16563 ~~register of persons whose licenses have been revoked.~~

16564 ~~(b) The records of the board shall be open to public inspection, and it shall keep on file all~~
 16565 ~~examination papers for a period of 90 days after each examination. A transcript of an entry~~
 16566 ~~in such records, certified by the division director under the seal of the board, shall be~~
 16567 ~~evidence of the facts stated therein. Reserved.~~

16568 43-29-5.

16569 The licensing board and the director shall have exclusive jurisdiction in the enforcement
 16570 of this chapter over all persons engaged in business as dispensing opticians, whether
 16571 licensed or unlicensed, provided that nothing contained in this chapter shall be construed
 16572 as limiting or abrogating the power or authority of any board or commission created under
 16573 any of the laws of this state defining and regulating any profession to enforce such
 16574 respective laws or exercising any of the powers contained in such laws against violators
 16575 thereof, even though engaged in the business of dispensing optician.

16576 43-29-6.

16577 The licensing board is authorized to adopt rules and regulations pursuant to this chapter for
 16578 the carrying out of the purposes of this chapter. The violation of such rules and regulations
 16579 shall be grounds for the revocation of any license issued under this chapter by the director
 16580 or the licensing board.

16581 43-29-7.

16582 (a) Any person wishing to obtain the right to practice the trade or occupation of dispensing
 16583 optician, as defined in this chapter, shall, before it shall be lawful for him or her to do so
 16584 in this state, make application to the ~~board~~ director, upon such form and in such manner as
 16585 shall be adopted and prescribed by the licensing board, and obtain a license from the ~~board~~
 16586 director. Unless such person shall have obtained a license as provided in this subsection,
 16587 it shall be unlawful for him or her to practice the trade or occupation of dispensing optician
 16588 in this state; and he or she shall be subject to the penalties prescribed in Code Section
 16589 43-29-21.

16590 (b) The ~~board~~ director shall admit to examination any candidate who pays the fee provided
 16591 for in this chapter and submits evidence satisfactory to the ~~board~~ director, verified on oath,
 16592 that:

16593 (1) The applicant is over 18 years of age;

16594 (2) The applicant has completed a high school education or its equivalent, as defined by
 16595 the State Board of Education;

16596 (3) The applicant is of good moral character; and

16597 (4) The applicant has satisfactorily completed one school year of not less than an 850
16598 hour course of study in a recognized school of optical dispensing or has had practical
16599 training and experience of a grade and character satisfactory to the licensing board for not
16600 less than two years under the supervision of a licensed dispensing optician, a licensed
16601 physician, or a licensed optometrist, provided that any time spent in a recognized school
16602 shall be considered as part of the apprenticeship period. The practical training and
16603 experience required under this paragraph for an apprenticeship shall include, at a
16604 minimum, 3,000 hours of experience engaged in apprenticeship functions and shall
16605 include instruction in ophthalmic optics, optical laboratory materials and techniques, eye
16606 anatomy and physiology, related laws and regulations, ophthalmic dispensing theory and
16607 application, and basic contact lens theory. Prior to beginning an apprenticeship, the
16608 applicant shall register with the board director. The registration shall identify the
16609 supervising licensed physician, licensed optometrist, or licensed dispensing optician and
16610 the mailing address and telephone number of the primary location where the
16611 apprenticeship training shall occur; provided, however, that in addition to the primary
16612 location, such training may be furnished at other locations under proper supervision. The
16613 licensing board shall develop a list of textbooks and instructional materials to guide the
16614 apprentice and supervisors in providing the appropriate apprenticeship instruction. Upon
16615 completion by the applicant, such training and experience shall be certified by the
16616 supervising licensed dispensing optician, licensed physician, or licensed optometrist to
16617 the board director.

16618 (c) Applicants who have received practical training and experience in the trade or
16619 occupation of dispensing optician prior to July 1, 2008, shall receive credit toward the
16620 practical training and experience requirements of paragraph (4) of subsection (b) of this
16621 Code section if they register with the board director in accordance with the provisions of
16622 said paragraph no later than August 31, 2008.

16623 (d) Applicants may also meet the educational requirements of this Code section by
16624 receiving a certificate from recognized schools of opticianry with the Technical College
16625 System of Georgia or formal home study programs through the Career Progression
16626 Program with the National Academy of Opticianry or other programs approved by the
16627 licensing board.

16628 (e) Applicants for examination may be examined upon matters pertaining to mathematics
16629 and physics, ophthalmic materials and laboratory technique, ophthalmic optics, ophthalmic
16630 dispensing, and practical subjects. When any applicant passes the necessary examination
16631 and meets the qualifications set out, the board director shall issue a license to such person
16632 to practice the trade or occupation of dispensing optician.

16633 (f) Such license shall be conspicuously displayed in the office or place of business of the
16634 dispensing optician; and it shall not be necessary to remove the same so long as such
16635 dispensing optician continues to practice his or her trade or occupation in this state and so
16636 long as the license is not revoked or suspended by the director or the licensing board.

16637 43-29-8.

16638 (a) An applicant applying for a license to practice the trade or occupation of dispensing
16639 optician shall be required to pass a licensing board approved examination.

16640 (b) Failure to pass a satisfactory examination shall not prevent any applicant from
16641 participating in subsequent examinations upon complying with this chapter, but any
16642 applicant who has failed two examinations shall not be permitted to take any further
16643 examination for licensure under this chapter until such applicant has furnished sufficient
16644 proof of having taken such additional education and training as shall be required by the
16645 licensing board.

16646 43-29-9.

16647 Any person who has been duly licensed to practice as a dispensing optician in any state of
16648 the United States which has a standard of qualifications and examination for such practice
16649 at least as high as that provided for in this state by this chapter and who has been
16650 principally engaged in such practice pursuant to such license for a period of not less than
16651 two years preceding may, upon proper application to the ~~board~~ director and upon payment
16652 of a fee in an amount established by the licensing board in lieu of examination and
16653 registration fees, be issued a certificate of registration without examination and shall
16654 thereupon be authorized to practice as a registered dispensing optician in this state subject
16655 to this chapter and the rules and regulations of the licensing board, provided that the state
16656 of residence of a dispensing optician seeking registration under this Code section accords
16657 a similar privilege to dispensing opticians licensed by Georgia and seeking to practice as
16658 dispensing opticians in such other state; provided, further, that an applicant for registration
16659 under this Code section shall not, within the five years preceding his application, have
16660 failed any examination which is required in this state.

16661 43-29-10.

16662 All persons practicing as dispensing opticians shall register with the ~~division~~ director and
16663 shall pay a biennial registration fee in an amount determined by the licensing board, on or
16664 before the renewal date established by the ~~division~~ director. Failure to register and pay this
16665 fee shall forfeit the certificate of such delinquent, but he or she may be reinstated by paying

16666 all registration dues and an additional penalty fee in an amount established by the licensing
16667 board.

16668 43-29-11.

16669 (a) Each person who holds a license as a dispensing optician shall be required to complete
16670 ten hours of continuing education prior to each renewal of such license.

16671 (b) With his or her application for license renewal, each licensed dispensing optician shall
16672 submit an affidavit of course hours completed as proof that his or her education
16673 requirements have been satisfied. The board director shall give credit for any course given
16674 by any recognized national, regional, or state dispensing society or association if such
16675 course increases the education of a dispensing optician and is made available to all licensed
16676 opticians on a reasonably nondiscriminatory fee basis. The board director may also
16677 approve, in accordance with the objectives of this chapter, other courses held within or
16678 outside of this state which are available to all persons on a reasonably nondiscriminatory
16679 fee basis. Any group of ten or more licensed opticians may arrange for an educational
16680 course and request board director approval thereof. Any such request shall be made at least
16681 90 days prior to the proposed date of the course and shall include full details as to the
16682 contents of the course, the instructors, and the charge to be made for attendance, as well
16683 as any other information which the board director may require. The board director shall
16684 endeavor to act upon any request for approval at least 45 days prior to the proposed date
16685 therefor and shall thereupon notify all licensed opticians of the time, place, contents, and
16686 charges for any such approved course. The certificate of attendance required under this
16687 Code section shall be issued to the optician upon completion of the approved course.
16688 Credit shall be allowed on the basis of an hour for an hour. To receive one hour of credit,
16689 one must attend one full hour. No fractional hour credits shall be allowed.

16690 (c) The board director may waive the requirements of this Code section for any license
16691 period for any dispensing optician upon proof of such optician's hardship or disability,
16692 provided that such optician's license may be revoked upon failure of the licensee to
16693 complete the required number of hours, not to exceed 20 hours, of continuing education
16694 within 12 months immediately following renewal.

16695 (d) A dispensing optician failing to complete the course hours required under this Code
16696 section shall have his or her license restored upon proof of subsequent completion of
16697 required course hours and, except in the case of a waiver granted under subsection (c) of
16698 this Code section, upon payment of a penalty fee in an amount established by the licensing
16699 board.

16700 43-29-12.

16701 The ~~board~~ director shall refuse to issue ~~it's~~ a certificate of registration and may revoke ~~its~~
 16702 his or her certificate of registration issued to any person who is not of good moral
 16703 character, who commits an act involving moral turpitude, who is guilty of highly
 16704 unprofessional conduct, or whose certificate was issued through error, fraud, or perjury;
 16705 ~~provided that in all such cases the board shall serve written notice of the charges on such~~
 16706 ~~accused person at least ten days prior to the date set for hearing, and such person shall be~~
 16707 ~~notified to appear before the board to answer the charges at such time and place as the~~
 16708 ~~board may direct. Such notice~~ The refusal to issue a certificate of registration or the
 16709 revocation of a certificate of registration pursuant to this Code section shall be done in
 16710 compliance with Code Section 43-1-3.1. The notice required by Code Section 43-1-3.1
 16711 shall plainly set forth the charges made and shall notify the accused person to appear to
 16712 answer the same. On such hearing, if the charges are found true, the accused having the
 16713 right to produce witnesses in his or her behalf and cross-examine those testifying against
 16714 him or her, the licensing board shall render judgment against ~~him~~ the accused.

16715 43-29-13.

16716 An order of the director revoking or suspending a license shall be made in compliance with
 16717 Code Section 43-1-3.1. Any person whose license has been revoked or suspended by the
 16718 ~~board~~ may, after a hearing before the licensing board, appeal to the superior court of the
 16719 ~~county of domicile of the board~~ Superior Court of Bibb County for a trial de novo by filing
 16720 with the clerk a certified copy of the charge heard by the licensing board and his or her
 16721 petition requesting a trial. Upon demand by the applicant, the licensing board shall make
 16722 certified copies of any charges. When the copy of the charge is lodged with the clerk of
 16723 the ~~superior court of the county of domicile of the board~~ Superior Court of Bibb County
 16724 and the required deposit of court cost is paid within ten days after the licensing board's
 16725 findings, the appeal shall be considered perfected and shall be docketed and stand for trial.
 16726 No such appeal shall operate as a supersedeas to such revocation or suspension.

16727 43-29-14.

16728 (a) Dispensing opticians who dispense contact lenses shall instruct the wearer at the time
 16729 the lenses are delivered to return to the prescribing and responsible optometrist or physician
 16730 skilled in diseases of the eye for evaluation, approval, and follow-up care.

16731 (b) A dispensing optician may duplicate lenses without prescription, provided that a
 16732 dispensing optician shall not substitute contact lenses for spectacles, eyeglasses, or other
 16733 optical devices except as otherwise authorized in this chapter or engage in the diagnosis of
 16734 diseases of the human eye or attempt to determine the refractive powers of the human eye

16735 or in any manner attempt to prescribe remedies for or treat diseases or ailments of human
16736 beings.

16737 (c) A dispensing optician who qualifies under this chapter shall be determined and
16738 recognized as engaging in a lawful trade or occupation in this state.

16739 43-29-15.

16740 It shall be lawful for a dispensing optician to advertise, provided that such dispensing
16741 optician does not advertise in any manner that would tend to mislead or deceive the public
16742 or that would in any manner discredit others in the eye care field.

16743 43-29-16.

16744 It shall be unlawful for any dispensing optician, either directly or indirectly, to participate
16745 in any manner in the division, assignment, rebate, splitting, or refunding of service fees or
16746 costs of completed eyeglasses or parts thereof with a physician, optometrist, or other person
16747 or persons.

16748 43-29-17.

16749 Nothing in this chapter shall be construed to prevent the sale of spectacles for reading
16750 purposes, toy glasses, goggles, or sunglasses consisting of plano white, plano colored, or
16751 plano tinted glasses or ready-made nonprescription glasses; nor shall anything in this
16752 chapter be construed to affect in any way the manufacturing and sale of plastic or glass
16753 artificial eyes or any persons engaged in the manufacturing or sale of plastic or glass
16754 artificial eyes.

16755 43-29-18.

16756 (a) Nothing in this chapter shall be construed to authorize or permit any person to hold
16757 himself or herself out as being able, or to offer, undertake, or attempt, by any means or
16758 method, to examine eyes or to diagnose, treat, correct, relieve, operate, or prescribe for any
16759 human ailment, deficiency, deformity, disease, injury, pain, or physical condition.

16760 (b) Nothing in this chapter shall be construed to limit or restrict, in any respect, the
16761 practice of medicine by duly licensed physicians authorized to practice under Article 2 of
16762 Chapter 34 of this title or the practice of optometry by duly licensed optometrists
16763 authorized to practice under Chapter 30 of this title. Nothing in this chapter shall be
16764 construed to limit or restrict a duly licensed physician or optometrist from the practices
16765 enumerated and defined in this chapter; and such licensed physician or optometrist shall
16766 have all the rights and privileges which may accrue under this chapter to dispensing
16767 opticians licensed under this chapter.

16768 (c) Nothing in this chapter shall be construed to impede, limit, prevent, or restrict the
 16769 furnishing, selling, or supplying of any commodities or services by any manufacturer,
 16770 wholesaler, jobber, vendor, or distributor of any commodities or services to any
 16771 manufacturer, wholesaler, jobber, vendor, or distributor thereof or to or as agent for any
 16772 physician, optometrist, or dispensing optician or to any clinic, infirmary, or hospital or to
 16773 any school, college, or university.

16774 (d) Nothing in this chapter shall be construed to prohibit an unlicensed person from
 16775 performing merely mechanical work upon inert materials in an optical office or laboratory.

16776 (e) The services and appliances relating to optical dispensing shall be dispensed, furnished,
 16777 or supplied to the intended wearer or user thereof only upon prescription issued by a
 16778 physician or an optometrist; but duplications, replacements, reproductions, or repetitions
 16779 may be done without prescription, in which event any such act shall be construed to be
 16780 optical dispensing the same as if performed on the basis of an original written prescription.

16781 (f) Nothing contained in this chapter shall be construed to require an employee of a
 16782 licensed physician or a licensed optometrist to secure a license under this chapter or be
 16783 otherwise subject to this chapter, so long as such employee is working exclusively for and
 16784 under the direct supervision of such licensed physician or optometrist or licensed optician
 16785 and does not hold himself or herself out to the public generally as a dispensing optician.

16786 43-29-19.

16787 All fees provided for in this chapter shall be paid in advance to the ~~division~~ director. No
 16788 funds shall be paid out unless authorized by the ~~chairperson of the board and the division~~
 16789 director, and no expense shall be created in excess of the fees provided in this chapter.

16790 43-29-20.

16791 The practice of the profession of dispensing optician is declared to involve activities
 16792 affecting the public interest and involving the health and safety and welfare of the public.
 16793 Such activities, when engaged in by a person who is not licensed, are declared to be a
 16794 public nuisance and harmful to the public health, safety, and welfare. The ~~board~~ director
 16795 or the appropriate prosecuting attorney where such nuisance exists may bring an action to
 16796 restrain and enjoin such unlicensed practice in the superior court of the county where such
 16797 unlicensed person resides. It shall not be necessary in order to obtain the equitable relief
 16798 provided in this Code section to allege or prove that there is no adequate remedy at law.

16799 43-29-21.

16800 Any person who shall practice the trade or occupation of dispensing optician, as defined
 16801 in this chapter, without first complying with this chapter or who shall violate any of the

16802 Code sections of this chapter shall be deemed guilty of a misdemeanor and, upon
 16803 conviction thereof, shall be punished by a fine of not more than \$500.00 or by
 16804 imprisonment of not more than six months in the county jail, or both."

16805 **SECTION 1-29.**

16806 Said title is further amended by revising Chapter 30, relating to optometrists, as follows:

16807 "CHAPTER 30

16808 43-30-1.

16809 As used in this chapter, the term:

16810 (1) 'Board' means the State Board of Optometry, a professional licensing policy board
 16811 pursuant to Chapter 1 of this title with the authority and responsibility set forth in such
 16812 chapter.

16813 (1.1) 'Director' means the director of professional licensing.

16814 (1.2) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 16815 Article 2 of Chapter 1 of this title.

16816 (2)(A) 'Optometry' means the art and science of visual care and is declared to be a
 16817 learned profession. The practice of optometry consists of the diagnosis and
 16818 interpretation of the visual behavior of the human organism by the employment of any
 16819 means other than surgery. The practice of optometry further consists of the correction
 16820 of visual anomalies through the prescribing, employment, and use of lenses, prisms,
 16821 frames, mountings, contact lenses, orthoptic exercises, and visual training, light
 16822 frequencies, and any other means or methods for the relief, correction, or remedy of any
 16823 insufficiencies or abnormal conditions of the human visual organism, other than
 16824 surgery. Optometrists are prohibited from using nondiagnostic lasers. Nothing in this
 16825 chapter shall prohibit the use, administration, or prescription of pharmaceutical agents
 16826 for diagnostic purposes and treatment of ocular disease in the practice of optometry by
 16827 optometrists who have received pharmacological training and certification from a
 16828 properly accredited institution of higher learning and who are certified by the licensing
 16829 board to use pharmaceutical agents for diagnostic and treatment purposes. Only a
 16830 doctor of optometry who:

- 16831 (i) Is already certified for using pharmaceutical agents for diagnostic purposes;
 16832 (ii) Has passed or passes an examination approved by the licensing board which tests
 16833 knowledge of pharmacology for treatment and management of ocular diseases;
 16834 (iii) Is certified in coronary pulmonary resuscitation (CPR); and
 16835 (iv) Maintains at least \$1 million in malpractice insurance coverage

- 16836 shall be certified to use pharmaceutical agents for treatment purposes.
- 16837 (B) The licensing board shall establish by rule a list, which may be modified from time
16838 to time, of pharmaceutical agents which optometrists shall be allowed to use for
16839 treatment purposes.
- 16840 (C) A doctor of optometry shall not administer any pharmaceutical agent by injection.
- 16841 (D) Pharmaceutical agents which are used by a doctor of optometry for treatment
16842 purposes and administered orally may only be:
- 16843 (i)(I) Nonnarcotic oral analgesics and Schedule III or Schedule IV controlled
16844 substances which are oral analgesics;
- 16845 (II) Used for ocular pain; and
- 16846 (III) Used for no more than 72 hours without consultation with the patient's
16847 physician; or
- 16848 (ii) Oral and topical antibiotics, antivirals, topical steroids, antifungals,
16849 antihistamines, or antiglaucoma agents related to the diagnosis or treatment of
16850 diseases and conditions of the eye and adnexa oculi except Schedule I or Schedule II
16851 controlled substances. Doctors of optometry using such oral and topical
16852 pharmaceutical agents shall be held to the same standard of care imposed by Code
16853 Section 51-1-27 as would be applied to a physician licensed under Chapter 34 of this
16854 title performing similar acts; provided, however, that a doctor of optometry shall not
16855 be authorized to treat systemic diseases.
- 16856 (E) Pharmaceutical agents which are used by a doctor of optometry for treatment
16857 purposes and administered topically shall be subject to the following conditions only
16858 when used for the treatment of glaucoma:
- 16859 (i) If the pharmaceutical agent is a beta blocker, an optometrist certified to use
16860 pharmaceutical agents for treatment purposes must take a complete case history and
16861 determine whether the patient has had a physical examination within the past year.
16862 If the patient has not had such a physical examination or if the patient has any history
16863 of congestive heart failure, bradycardia, heart block, asthma, or chronic obstructive
16864 pulmonary disease, that patient must be referred to a person licensed under Chapter
16865 34 of this title for examination prior to initiating beta blocker therapy;
- 16866 (ii) If the glaucoma patient does not respond to the topically administered
16867 pharmaceutical agents after 60 days of treatment, that patient must be referred to an
16868 ophthalmologist; and
- 16869 (iii) If the patient is diagnosed as having closed angle glaucoma, the patient shall be
16870 immediately referred to an ophthalmologist.

16871 (F) Doctors of optometry using pharmaceutical agents for treatment purposes shall be
 16872 held to the same standard of care imposed by Code Section 51-1-27 as would be applied
 16873 to a physician licensed under Chapter 34 of this title performing similar acts.

16874 (G) Any doctor of optometry who uses a pharmaceutical agent, except under the
 16875 conditions specified therefor by this chapter and any other law, shall be guilty of a
 16876 misdemeanor unless a greater penalty is otherwise provided by law.

16877 (H) Nothing in this chapter shall be construed to allow a doctor of optometry to
 16878 dispense pharmaceutical agents to patients.

16879 43-30-2.

16880 (a) It shall be the duty of the Governor to appoint a State Board of Optometry as a
 16881 professional licensing policy board, to consist of six members. This board shall be
 16882 appointed by the Governor and styled the 'State Board of Optometry.' All appointments to
 16883 the board shall be subject to the confirmation of the Senate. One of the members shall be
 16884 appointed from the public at large and shall have no connection whatsoever with the
 16885 profession or practice of optometry. The remaining five members shall be persons who
 16886 have been actively engaged in the practice of optometry in the state for five years
 16887 immediately preceding such appointment, shall be registered as optometrists under this
 16888 chapter, and shall be qualified to use pharmaceutical agents for diagnostic and treatment
 16889 purposes as authorized under this chapter.

16890 (b) No person shall be eligible for appointment to the board who is connected in any way
 16891 with a school teaching optometry or who sells optical goods at wholesale.

16892 43-30-3.

16893 Two members of the board shall be appointed for one year, two for two years, and one for
 16894 three years; and after the expiration of the terms of office of the members so first
 16895 appointed, subsequent appointments shall be for a term of three years. Any vacancy that
 16896 may occur from any cause shall be filled by the Governor for the unexpired term.

16897 43-30-4.

16898 The board shall annually elect a president and a ~~vice-president~~ vice president who shall
 16899 hold their offices until their successors are elected and qualified. The licensing board shall
 16900 prescribe such rules, regulations, and bylaws for its proceedings and governance ~~as will put~~
 16901 ~~this chapter into effect~~. There shall be at least two regular meetings of the board held every
 16902 year. Special meetings may be held on the call of the president and two other members
 16903 upon the approval of the director.

16904 43-30-5.

16905 The licensing board shall have the authority and power to adopt, establish, enforce, and
16906 maintain rules and regulations applicable to the practice of optometry adequate to put this
16907 chapter into effect and to regulate the practice of optometry as a profession in conformity
16908 with and in compliance with accepted professional standards; provided, however, the
16909 licensing board shall not provide by rule to restrict the location of the practice of a licensed
16910 doctor of optometry, and any such rule now in effect shall be null and void.

16911 43-30-5.1.

16912 Any truthful written or broadcast advertising for eye exam services whether regional or
16913 national by any optical firm with more than seven locations in the State of Georgia shall
16914 not be required to list the name of the optometrist in the advertisement provided those
16915 optometrists practicing under a trade name at a specific location shall be identified to any
16916 person inquiring by telephone.

16917 43-30-6.

16918 It shall be unlawful for any person to practice optometry in this state unless he or she shall
16919 have first obtained a certificate of registration from the ~~board~~ director and filed same with
16920 the clerk of the superior court of the county in which such practice is conducted.

16921 43-30-6.1.

16922 Persons holding a license or certificate of registration issued by the ~~board~~ director shall
16923 display that license or certificate in a conspicuous place in that person's principal place of
16924 practice.

16925 43-30-7.

16926 (a) All persons engaged in the practice of optometry or who wish to begin the practice of
16927 optometry shall apply ~~through~~ to the ~~division~~ director ~~to the board~~ for a certificate of
16928 registration. Such certificate of registration shall be granted to such applicants upon
16929 compliance with the conditions contained in subsections (b), (c), and (d) of this Code
16930 section.

16931 (b) The applicant shall be registered and given a certificate of registration if he or she
16932 holds a valid license from such other state boards of optometry as may be, under the rules
16933 of comity, recognized by the licensing board. The fee for registering such applicant shall
16934 be in an amount determined by the licensing board. A person practicing optometry who
16935 has been registered and given a certificate of registration under the rules of comity and who
16936 fails to pay the biennial registration fee, as established by the licensing board, on or before

16937 the renewal date established by the ~~division~~ director shall forfeit his or her certificate of
16938 registration. Such person may be reinstated by paying all past due registration fees and an
16939 additional fee in an amount established by the licensing board.

16940 (c) Any other applicant for registration under this chapter shall be required to pass an
16941 examination approved by the licensing board. In addition, each such applicant shall:

16942 (1) Be 21 years of age and of good moral character;

16943 (2) Possess a high school education of not less than 16 Carnegie units or the equivalent
16944 thereof to be determined by the ~~board~~ director;

16945 (3) Have completed not less than two years of preoptometry college work in a college
16946 of arts and sciences approved by the licensing board or the equivalent thereof to be
16947 determined by the ~~board~~ director; and

16948 (4) Hold a certificate of graduation from an accredited college or university teaching
16949 optometry, acceptable to the licensing board, requiring a course of study therein of at
16950 least four school years.

16951 (d) Any applicant seeking a certificate of registration after July 1, 1994, must be qualified
16952 to use pharmaceutical agents for diagnostic and treatment purposes in accordance with
16953 subparagraph (A) of paragraph (2) of Code Section 43-30-1. Qualification to use
16954 pharmaceutical agents for diagnostic and treatment purposes shall be met by evidence of:

16955 (1) Successful completion of pharmacological training and certification from a properly
16956 accredited institution of higher learning, or the equivalent thereof to be determined by the
16957 licensing board; and

16958 (2) Successful passage of an examination approved by the licensing board which tests
16959 knowledge of pharmacology for treatment and management of ocular diseases.

16960 43-30-8.

16961 (a) Each person practicing optometry shall register biennially with the ~~division~~ director by
16962 completing and filing a form to be furnished by the ~~board~~ director.

16963 (b) The licensing board may approve educational programs to be held within or outside
16964 this state. The licensing board shall approve only such educational programs as are
16965 available to all persons practicing optometry in the state on a reasonable nondiscriminatory
16966 fee basis. Any request for licensing board approval of an educational program shall be
16967 submitted in a timely manner with due regard for the necessity of investigation and
16968 consideration by the licensing board. The ~~board~~ director may contract with institutions of
16969 higher learning, professional organizations, or qualified individuals for the providing of
16970 programs that meet this requirement; and such programs shall be self-sustaining by the
16971 individual fees set and collected by the provider of the program. The minimum number of
16972 hours of continuing education required shall be fixed by the licensing board by February 1

16973 of each calendar year. In no instance may the licensing board require a greater number of
 16974 hours of study than are available at approved courses held within the state; and the ~~board~~
 16975 director is authorized to waive this requirement in cases of certified illness or undue
 16976 hardship. Continuing education requirements fixed by the licensing board pursuant to this
 16977 chapter shall not apply to persons practicing optometry who are 65 or more years of age.
 16978 (c) Failure to register, to pay the registration fee, or to submit satisfactory proof of training
 16979 shall forfeit the certificate of the delinquent optometrist; but a practitioner's certificate may
 16980 be restored upon payment of all delinquent registration fees, a penalty as established by the
 16981 licensing board, and the submission of satisfactory proof of training to the director.

16982 43-30-9.

16983 (a) The ~~board~~ director shall refuse to issue ~~it's a~~ certificate of registration and may revoke
 16984 ~~it's a~~ certificate of registration issued to any person who is not of good moral character, ~~or~~
 16985 who commits an act involving moral turpitude, ~~or~~ who is guilty of unprofessional conduct,
 16986 ~~or~~ whose certificate was issued through error, fraud, or perjury, ~~or~~ who knowingly makes
 16987 any fraudulent, misleading, or deceptive statement in any form of advertising, or who
 16988 makes any statement in any advertising concerning the quality of optometric services
 16989 rendered by the registrant or licensee or any optometrist associated with him or her.

16990 (b) ~~The~~ The refusal to issue a certificate of registration or the revocation of a certificate
 16991 of registration pursuant to this Code section shall be done in compliance with Code Section
 16992 43-1-3.1 ~~board shall serve written notice of the charges on such accused person at least ten~~
 16993 ~~days prior to the date set for hearing, and said person shall be notified to appear before the~~
 16994 ~~board to answer the charges at such time and place as the board may direct. Such~~ The
 16995 notice required by Code Section 43-1-3.1 shall plainly set forth the charges made and
 16996 notify the accused person to appear to answer the same. On such hearing, if the charges
 16997 are found true, the accused having the right to produce witnesses in his or her behalf and
 16998 cross-examine those testifying against him or her, the licensing board shall render judgment
 16999 after such hearing; and the person accused may enter an appeal to the ~~next superior court~~
 17000 ~~of the county in which the hearing is held. If he is dissatisfied with the finding, such appeal~~
 17001 ~~is to be governed by the law relating to appeals in other cases~~ Superior Court of Bibb
 17002 County.

17003 43-30-10.

17004 Actions of the ~~board~~ director in granting, refusing to grant, or refusing to renew a license
 17005 issued under this chapter or in revoking or suspending or refusing to revoke or suspend any
 17006 such license shall be ~~subject to appeal to the superior court in accordance with Chapter 13~~

17007 of Title 50, the 'Georgia Administrative Procedure Act.' made in compliance with Code
 17008 Section 43-1-3.1.

17009 43-30-11.

17010 (a) Upon the written request of the licensing board, the ~~division~~ director shall have the
 17011 power under paragraph (5) of subsection (a) of Code Section 50-13-13 to select and appoint
 17012 an agency representative to determine a contested case pending before the licensing board
 17013 to the extent and in the manner provided by law.

17014 ~~(b) In any contested case brought under authority of this chapter to enforce this chapter,~~
 17015 ~~a party aggrieved by an initial decision of the agency representative may immediately seek~~
 17016 ~~judicial review thereof within the time and in the manner provided by Code Section~~
 17017 ~~50-13-19 if board review of the initial decision of the agency representative in accordance~~
 17018 ~~with Code Section 50-13-17 would not provide an adequate remedy or if such board review~~
 17019 ~~is unlawful. Upon such appeal, the court shall first determine the claim supporting the~~
 17020 ~~intermediate appeal. If the court determines the claim adversely to the petitioner, it shall~~
 17021 ~~remand the case to the board which shall then proceed in accordance with Code Section~~
 17022 ~~50-13-17, except that the board shall consider the initial decision of the hearing~~
 17023 ~~representative as having been filed with it on the date of remand from the court. If the~~
 17024 ~~court determines the claim adversely to the board, it shall treat the initial decision of the~~
 17025 ~~agency representative as a final decision of the board and determine all other issues in the~~
 17026 ~~case in accordance with Code Section 50-13-19.~~

17027 43-30-12.

17028 The practice of optometry by any unregistered or unlicensed optometrist is declared to be
 17029 a menace and a nuisance and dangerous to the public health and safety; and the ~~board~~
 17030 director shall promptly abate such practice by filing an action for an injunction in the
 17031 county in which such practice is conducted. The practice shall be enjoined unless it shall
 17032 be made to appear that such practitioner is licensed and registered. The ~~board~~ director is
 17033 authorized to file and prosecute such action, and it shall be it's the director's duty to do so.

17034 43-30-13.

17035 (a) Nothing in this chapter shall be construed to apply to physicians and surgeons duly
 17036 licensed to practice medicine; ~~nor~~; to prevent persons from selling spectacles or eyeglasses
 17037 on prescription from any duly qualified optometrist or physician; ~~nor~~; to prevent any person
 17038 from selling glasses as articles of merchandise or from using test cards in connection with
 17039 the sale of such glasses at a permanently located place when not trafficking or attempting
 17040 to traffic upon assumed skill in optometry; ~~nor shall anything in this chapter be construed~~

17041 to authorize any registered optometrist to prescribe or administer drugs except as permitted
 17042 by law or practice medicine or surgery in any manner as defined by the laws of this state;
 17043 nor ~~shall this chapter be construed~~ to authorize any such person to use the title of 'M.D.' or
 17044 any other title mentioned in Code Section 43-34-21 or 43-34-22.

17045 (b) Nothing in this chapter shall be construed to imply liability, either civil or criminal, on
 17046 the part of a pharmacist who is duly licensed under Title 26 and who in good faith fills a
 17047 prescription presented by a patient pursuant to this chapter. The pharmacist shall presume
 17048 that the prescription was issued by a duly licensed optometrist under this chapter who has
 17049 qualified under this Code section to prescribe pharmaceutical agents. The pharmacist shall
 17050 also presume that the pharmaceutical agent prescribed by the optometrist is an approved
 17051 pharmaceutical agent, unless the pharmacist has actual or constructive knowledge to the
 17052 contrary.

17053 43-30-14.

17054 Any person who practices optometry or who offers or pretends to practice or holds himself
 17055 or herself out as eligible to practice optometry and who is not legally registered and
 17056 licensed shall be guilty of a felony."

17057 **SECTION 1-30.**

17058 Said title is further amended by revising Chapter 33, relating to physical therapists, as
 17059 follows:

17060 "CHAPTER 33

17061 43-33-1.

17062 This chapter shall be known and may be cited as the 'Georgia Physical Therapy Act.'

17063 43-33-2.

17064 This chapter is enacted for the purpose of safeguarding the public health, safety, and
 17065 welfare by providing for state administrative control, supervision, and regulation of the
 17066 practice of physical therapy. The practice of physical therapy is declared to be affected
 17067 with the public interest; and this chapter shall be liberally construed so as to accomplish
 17068 the purpose stated in this Code section.

17069 43-33-3.

17070 As used in this chapter, the term:

- 17071 (1) 'Board' means the State Board of Physical Therapy, a professional licensing policy
17072 board pursuant to Chapter 1 of this title with the authority and responsibility set forth in
17073 such chapter.
- 17074 (1.1) 'Director' means the director of professional licensing.
- 17075 (2) 'License' means a valid and current certificate of registration issued by the ~~board~~
17076 director; which shall give the person to whom it is issued authority to engage in the
17077 practice prescribed thereon.
- 17078 (2.2) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
17079 Article 2 of Chapter 1 of this title.
- 17080 (3) 'Licensee' means any person holding a license under this chapter.
- 17081 (4) 'Person' means a human being only, not a legal entity.
- 17082 (5) 'Physical therapist' means a person licensed to practice physical therapy as defined
17083 in this chapter and whose license is in good standing. A physical therapist shall be
17084 designated by the initials 'P.T.'
- 17085 (6) 'Physical therapist assistant' or 'physical therapy assistant' means a person who is
17086 licensed by the ~~board~~ director to assist a physical therapist, whose activities are
17087 supervised and directed by a physical therapist, and whose license is in good standing.
17088 A physical therapist assistant shall be designated by the initials 'P.T.A.'
- 17089 (7) 'Physical therapy' means the examination, treatment, and instruction of human beings
17090 to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily
17091 malfunction and pain from injury, disease, and any other bodily and mental conditions
17092 and includes the administration, interpretation, documentation, and evaluation of tests and
17093 measurements of bodily functions and structures; the planning, administration,
17094 evaluation, and modification of treatment and instruction, including the use of physical
17095 measures, activities, and devices, for preventative and therapeutic purposes, including but
17096 not limited to dry needling; and the provision of consultative, educational, and other
17097 advisory services for the purpose of preventing or reducing the incidence and severity of
17098 physical disability, bodily malfunction, and pain.
- 17099 (8) 'Physical therapy aide' means a person who only performs designated and supervised
17100 physical therapy tasks. The physical therapy aide must receive direct supervision and
17101 must be directed on the premises at all times by a licensee. Physical therapy aides are not
17102 licensed under this chapter.
- 17103 (9) 'Trainee' means an individual who is approved for a traineeship.
- 17104 (10) 'Traineeship' means a period of activity during which a trainee works under the
17105 direct supervision of a licensed physical therapist who has practiced for not less than one
17106 year prior to assuming the supervisory role.

17107 (11) 'Training permit' means a valid and current certificate of registration issued by the
 17108 ~~board director~~, which gives the person to whom it is issued authority to engage in practice
 17109 through a traineeship prescribed thereon.

17110 43-33-4.

17111 There is created a State Board of Physical Therapy as a professional licensing policy board.

17112 43-33-5.

17113 The board shall consist of eight members, as provided in Code Section 43-33-6, each of
 17114 whom shall be appointed by the Governor and confirmed by the Senate for a term of three
 17115 years and until a successor is appointed and qualified. Vacancies on the board shall be
 17116 filled by the Governor's appointment of a successor to serve out the unexpired term. The
 17117 Governor, after notice and opportunity for hearing, may remove any member of the board
 17118 for neglect of duty, incompetence, revocation or suspension of license of those licensee
 17119 members, or other dishonorable conduct. No person shall serve consecutively more than
 17120 two full terms as a member of the board.

17121 43-33-6.

17122 To be eligible for appointment to the board, a person must be a resident of this state. Six
 17123 members of the board shall be licensed as physical therapists under this chapter who have
 17124 practiced or taught physical therapy for at least three years. At least one member shall be
 17125 licensed and practicing as a physical therapist assistant for at least three years. The eighth
 17126 member shall be appointed from the public at large and shall have no business connection
 17127 whatsoever with the practice or profession of physical therapy.

17128 43-33-7.

17129 ~~With the exception of hearings in contested cases, the~~ The board may conduct business in
 17130 conference by telephone, provided that members of the board shall not receive
 17131 compensation for business conducted in conference by telephone.

17132 43-33-8.

17133 Each member of the board shall be reimbursed as provided for in subsection (f) of Code
 17134 Section 43-1-2.

17135 43-33-9.

17136 The ~~division~~ director shall be secretary of the board and shall perform such other
 17137 administrative duties as may be prescribed by the licensing board. ~~In a contested case, the~~

17138 ~~division director on behalf of the board shall have the power to subpoena, throughout the~~
 17139 ~~state, witnesses, designated documents, papers, books, accounts, letters, photographs,~~
 17140 ~~objects, or other tangible things. All legal process and all documents required by law to~~
 17141 ~~be served upon or filed with the board shall be served upon or filed with the division~~
 17142 ~~director at his or her office. All official records of the board or affidavits by the division~~
 17143 ~~director certifying the content of such records shall be prima-facie evidence of all matters~~
 17144 ~~required to be kept therein.~~

17145 43-33-10.

17146 (a) In carrying out the provisions of this chapter, the licensing board shall, ~~in addition to~~
 17147 ~~the other powers conferred upon it under this chapter,~~ have the power to:

17148 (1) Prepare or approve all examinations ~~or applicants~~ for licenses;

17149 ~~(2) Determine the qualifications of and authorize the issuance of licenses to qualified~~
 17150 ~~physical therapists and physical therapist assistants;~~

17151 ~~(3)~~(2) Determine the qualifications for and approve educational programs that prepare
 17152 physical therapists and physical therapist assistants for the purpose of determining
 17153 qualifications of applicants for licensure;

17154 ~~(4) Initiate investigations of alleged or suspected violations of the provisions of this~~
 17155 ~~chapter or other laws of this state pertaining to physical therapy and any rules and~~
 17156 ~~regulations adopted by the board. For this purpose, any board member or authorized~~
 17157 ~~agent of the board shall have the power and right to enter and make reasonable inspection~~
 17158 ~~of any place where physical therapy is practiced;~~

17159 ~~(5) Conduct all hearings in contested cases according to Chapter 13 of Title 50, known~~
 17160 ~~as the 'Georgia Administrative Procedure Act';~~

17161 ~~(6) Discipline any person licensed under this chapter, or refuse to grant, renew, or restore~~
 17162 ~~a license to any person upon any ground specified in this chapter;~~

17163 ~~(7) Adopt a seal, the imprint of which together with the authorized signature of either the~~
 17164 ~~division director or other member authorized by the board shall be effective to evidence~~
 17165 ~~its official acts;~~

17166 ~~(8)~~(3) Establish licensing fees and maintain in the office of the ~~division~~ director a
 17167 register of all persons holding a license and a record of all inspections made;

17168 ~~(9)~~(4) Adopt and publish in print or electronically a code of ethics;

17169 ~~(10) Issue training permits; and~~

17170 ~~(11)~~(5) Adopt such rules and regulations as shall be reasonably necessary for the
 17171 enforcement and implementation of the provisions and purposes of this chapter and other
 17172 laws of this state insofar as they relate to physical therapy; and

17173 (6) Conduct hearings upon the petition of any person who is aggrieved or adversely
 17174 affected by an order or action of the director, which shall be conducted by the licensing
 17175 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 17176 Act.'

17177 (b) The director shall have the power to:

17178 (1) Determine the qualifications of and authorize the issuance of licenses to qualified
 17179 physical therapists and physical therapist assistants;

17180 (2) Initiate investigations of alleged or suspected violations of the provisions of this
 17181 chapter or other laws of this state pertaining to physical therapy and any rules and
 17182 regulations adopted by the licensing board. For this purpose, the director or authorized
 17183 agent of the director shall have the power and right to enter and make reasonable
 17184 inspection of any place where physical therapy is practiced;

17185 (3) Enter orders or take other action consistent with this chapter, which shall be entered
 17186 in compliance with Code Section 43-1-3.1;

17187 (4) Discipline any person licensed under this chapter, or refuse to grant, renew, or restore
 17188 a license to any person upon any ground specified in this chapter; and

17189 (5) Issue training permits.

17190 43-33-11.

17191 A physical therapist shall display either the title 'physical therapist' or the abbreviation
 17192 'P.T.' on a name tag or other similar form of identification during times when such person
 17193 is providing direct patient care. A physical therapist assistant shall display either the title
 17194 'physical therapist assistant' or the abbreviation 'P.T.A.' on a name tag or other similar form
 17195 of identification during times when such person is providing direct patient care. A physical
 17196 therapy aide shall be required to display the title 'physical therapy aide' on a name tag or
 17197 other similar form of identification during times when such person is assisting a licensee.

17198 No person shall practice as a physical therapist or as a physical therapist assistant nor hold
 17199 himself or herself out as being able to practice as a physical therapist or as a physical
 17200 therapist assistant or as providing physical therapy or use the initials P.T. or P.T.A. in
 17201 conjunction therewith or use any word or title to induce the belief that he or she is engaged
 17202 in the practice of physical therapy unless he or she holds a license and otherwise complies
 17203 with the provisions of this chapter and the rules and regulations adopted by the licensing
 17204 board. Nothing in this Code section shall be construed as preventing or restricting the
 17205 practice, services, or activities of:

17206 (1) Any person licensed under any other law of this state who is engaged in the
 17207 professional or trade practices properly conducted under the authority of such other
 17208 licensing laws;

- 17209 (2) Any person pursuing a course of study leading to a degree or certificate as a physical
 17210 therapist or as a physical therapist assistant in an entry level educational program
 17211 approved by the licensing board, if such person is designated by a title indicating student
 17212 status, is fulfilling work experiences required for the attainment of the degree or
 17213 certificate, and is under the supervision of a licensed physical therapist;
- 17214 (3) Any person enrolled in a course of study designed to develop advanced physical
 17215 therapy skills when the physical therapy activities are required as part of an educational
 17216 program sponsored by an educational institution approved by the licensing board and are
 17217 conducted under the supervision of a physical therapist licensed under this chapter. If
 17218 such person provides physical therapy services outside the scope of the educational
 17219 program, he or she shall then be required to be licensed in accordance with this chapter;
- 17220 (4) A physical therapist licensed in another state or country or employed by the United
 17221 States government conducting a teaching or clinical demonstration in connection with an
 17222 academic or continuing education program;
- 17223 (5) Any person employed as a physical therapist or as a physical therapist assistant by
 17224 the United States government if such person provides physical therapy services solely
 17225 under the direction or control of the employing organization. If such person shall engage
 17226 in the practice of physical therapy or as a physical therapist assistant outside the course
 17227 and scope of such employment, he or she shall then be required to be licensed in
 17228 accordance with this chapter; or
- 17229 (6) A person currently licensed in another state who is present in this state for treatment
 17230 of a temporary sojourner only, said treatment in this state not to exceed a total of 60 days
 17231 during any 12 month period.

17232 43-33-12.

17233 A license to practice physical therapy shall be issued to any person who:

- 17234 (1) Is a graduate of an educational program that prepares physical therapists and which
 17235 is accredited by a recognized accrediting agency and approved by the licensing board or,
 17236 in the case of an applicant who has graduated from an educational program which
 17237 prepares physical therapists conducted in a foreign country, has submitted, in a manner
 17238 prescribed by the licensing board, credentials approved by the licensing board and who
 17239 has further demonstrated the ability to speak, write, and understand the English language
 17240 and has satisfactorily completed a three-month ~~board~~ director approved traineeship under
 17241 the supervision of a physical therapist licensed under this chapter;
- 17242 (2) Has satisfactorily passed an examination prepared or approved by the licensing board
 17243 and has acquired any additional education and training required by the licensing board;
 17244 and

17245 (3) Is not disqualified to receive a license under the provisions of Code Section 43-33-18
17246 or subsection (a) of Code Section 43-1-19.

17247 43-33-13.

17248 A license to practice as a physical therapist assistant shall be issued to any person who:

17249 (1) Is a graduate of an educational program that prepares physical therapist assistants and
17250 which is accredited by a recognized accrediting agency and approved by the licensing
17251 board or, in the case of an applicant who has graduated from an educational program
17252 which prepares physical therapist assistants conducted in a foreign country, has
17253 submitted, in a manner prescribed by the licensing board, credentials approved by the
17254 licensing board and who has further demonstrated the ability to speak, write, and
17255 understand the English language and has satisfactorily completed a three-month ~~board~~
17256 director approved traineeship under the supervision of a physical therapist licensed under
17257 this chapter;

17258 (2) Has satisfactorily passed an examination prepared or approved by the licensing
17259 board; and

17260 (3) Is not disqualified to receive a license under the provisions of Code Section 43-33-18
17261 or subsection (a) of Code Section 43-1-19.

17262 43-33-13.1.

17263 A physical therapy aide is one, other than a physical therapist or physical therapist
17264 assistant, who is employed to assist a physical therapist or a physical therapist assistant by
17265 performing only designated physical therapy tasks under direct supervision of a licensee
17266 as approved by the licensing board by rule or regulation.

17267 43-33-14.

17268 The ~~board~~ director shall determine the competence of applicants to practice as physical
17269 therapists or as physical therapist assistants by any method or procedure which the
17270 licensing board deems necessary to test the applicant's qualifications.

17271 43-33-15.

17272 The ~~board~~ director may, in ~~its~~ his or her discretion, waive the examination provided for in
17273 paragraph (2) of Code Section 43-33-12 and may, subject to the provisions under Code
17274 Sections 43-33-18 and 43-33-19, grant to a person licensed in another state or territory of
17275 the United States full privileges to engage in an equivalent practice authorized by this
17276 chapter to any person who has qualifications the ~~board~~ director determines to be the
17277 substantial equivalent of the qualifications described under paragraph (1) of Code Section

17278 43-33-12 and who is properly licensed under the laws of another state or territory of the
 17279 United States; provided, however, that the license held by such person was issued after an
 17280 examination which, in the judgment of the ~~board~~ director, is the equivalent of the standards
 17281 established by the licensing board. In waiving the examination requirement, the ~~board~~
 17282 director may require additional education or training.

17283 43-33-16.

17284 All licenses shall expire biennially unless renewed. All applications for renewal of a
 17285 license shall be filed with the ~~division~~ director prior to the expiration date, accompanied
 17286 by the biennial renewal fee prescribed by the licensing board. A license which has expired
 17287 for failure of the holder to renew may only be restored after application and payment of the
 17288 prescribed restoration fee within the time period established by the ~~division~~ director and
 17289 provided the applicant meets such requirements as the licensing board may establish by
 17290 rule. Any license which has not been restored within such period following its expiration
 17291 may not be renewed, restored, or reissued thereafter. The holder of such a canceled license
 17292 may apply for and obtain a valid license only upon compliance with all relevant
 17293 requirements for issuance of a new license. The licensing board shall require no less than
 17294 four hours of continuing education in order to renew any license issued pursuant to this
 17295 chapter.

17296 43-33-17.

17297 (a) The ~~board~~ director may issue a training permit to an applicant who is a graduate of an
 17298 approved physical therapy program who is approved to take the physical therapy licensing
 17299 examination or who has taken the examination but not yet received the examination results.

17300 (b) The ~~board~~ director may issue a training permit to a foreign trained applicant who is a
 17301 graduate from a physical therapy program outside the United States and its territories and
 17302 who is approved to take the physical therapy licensing examination.

17303 (c) The ~~board~~ director may issue a training permit to a reinstatement applicant whose
 17304 license to practice as a physical therapist or license to practice as a physical therapist
 17305 assistant has been expired for more than two years.

17306 (d) The training permit shall allow the holder thereof to work only under the direct
 17307 supervision of a physical therapist who has been approved by the ~~board~~ director and has
 17308 practiced for not less than one year prior to assuming the supervisory role.

17309 (e) Training permits are governed by rules and regulations authorized under this chapter
 17310 ~~and approved by the board.~~

17311 43-33-18.

17312 (a) The ~~board~~ director shall have authority to refuse to grant or restore a license to an
 17313 applicant or to discipline a physical therapist or physical therapist assistant licensed under
 17314 this chapter or any antecedent law upon a finding by the ~~board~~ director that the licensee or
 17315 applicant has:

17316 (1)(A) Implemented or continued a program of physical therapy treatment without
 17317 consultation with an appropriate licensed practitioner of the healing arts; except that a
 17318 physical therapist may implement a program of physical therapy treatment without
 17319 consultation with an appropriately licensed practitioner of the healing arts when:

17320 (i) Services are provided for the purpose of fitness, wellness, or prevention that is not
 17321 related to the treatment of an injury or ailment; or

17322 (ii)(I) The patient was previously diagnosed and received treatment or services for
 17323 that diagnosis and the patient returns to physical therapy within 60 days of discharge
 17324 from physical therapy for problems and symptoms that are related to the initial
 17325 referral to the physical therapist. In such a situation the physical therapist shall
 17326 notify the original referral source of the return to physical therapy within five
 17327 business days; and

17328 (II) The physical therapist holds a master's or doctorate degree from a professional
 17329 physical therapy program that is accredited by a national accreditation agency
 17330 recognized by the United States Department of Education and approved by the
 17331 ~~Georgia State Board of Physical Therapy~~ licensing board or the physical therapist
 17332 has completed at least two years of practical experience as a licensed physical
 17333 therapist.

17334 If after 90 days of initiating physical therapy services the physical therapist determines
 17335 that no substantial progress has been made with respect to the primary complaints of
 17336 the patient, the physical therapist shall refer the patient to an appropriately licensed
 17337 practitioner of the healing arts. If at any time the physical therapist has reason to
 17338 believe that the patient has symptoms or conditions that require treatment or services
 17339 beyond the scope of practice of the physical therapist, the physical therapist shall refer
 17340 the patient to an appropriately licensed practitioner of the healing arts; or

17341 (B) In the case of practice as a physical therapist assistant, practiced other than under
 17342 the supervision and direction of a licensed physical therapist;

17343 (2) Displayed an inability or has become unable to practice as a physical therapist or as
 17344 a physical therapist assistant with reasonable skill and safety to patients by reason of
 17345 illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a
 17346 result of any mental or physical condition:

17347 (A) In enforcing this paragraph the ~~board~~ director may, upon reasonable grounds,
17348 require a licensee or applicant to submit to a mental or physical examination by an
17349 appropriate practitioner of the healing arts designated by the ~~board~~ director. The
17350 expense of such mental or physical examination shall be borne by the licensee or
17351 applicant. The results of such examination shall be admissible in any hearing before
17352 the licensing board, notwithstanding any claim of privilege under a contrary rule of law
17353 or statute, including, but not limited to Code Section 24-9-21. Every person who ~~shall~~
17354 ~~accept~~ accepts the privilege of practicing physical therapy in this state or who shall file
17355 an application for a license to practice physical therapy in this state shall be deemed to
17356 have given his or her consent to submit to such mental or physical examination and to
17357 have waived all objections to the admissibility of the results in any hearing before the
17358 licensing board upon the grounds that the same constitutes a privileged communication.
17359 If a licensee or applicant fails to submit to such an examination when properly directed
17360 to do so by the ~~board~~ director, unless such failure was due to circumstances beyond his
17361 or her control, the ~~board~~ director may enter a final order ~~upon proper notice, hearing,~~
17362 ~~and proof of such refusal~~ in compliance with Code Section 43-1-3.1. Any licensee or
17363 applicant who is prohibited from practicing physical therapy under this paragraph shall
17364 at reasonable intervals be afforded an opportunity to demonstrate to the ~~board~~ director
17365 that he or she can resume or begin the practice of physical therapy with reasonable skill
17366 and safety to patients;

17367 (B) For the purposes of this paragraph, the ~~board~~ director may, upon reasonable
17368 grounds, obtain any and all records relating to the mental or physical condition of a
17369 licensee or applicant, including psychiatric records; and such records shall be
17370 admissible in any hearing before the licensing board, notwithstanding any privilege
17371 under a contrary rule of law or statute, including, but not limited to, Code Section
17372 24-9-21. Every person who shall accept the privilege of practicing physical therapy in
17373 this state or who shall file an application to practice physical therapy in this state shall
17374 be deemed to have given his or her consent to the ~~board's~~ director obtaining any such
17375 records and to have waived all objections to the admissibility of such records in any
17376 hearing before the licensing board upon the grounds that the same constitute a
17377 privileged communication; and

17378 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a
17379 privilege to prevent the disclosure of the results of the examination provided for in
17380 subparagraph (A) of this paragraph or the records relating to the mental or physical
17381 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
17382 paragraph, all such information shall be received by the licensing board in camera and

17383 shall not be disclosed to the public, nor shall any part of the record containing such
 17384 information be used against any licensee or applicant in any other type of proceeding;

17385 (3) Been convicted of a felony or crime involving moral turpitude in the courts of this
 17386 state, the United States, or the conviction of an offense in another jurisdiction which if
 17387 committed in this state would be deemed a felony. For the purpose of this Code section,
 17388 a 'conviction' shall include a finding or verdict of guilty, a plea of guilty, or a plea of nolo
 17389 contendere in a criminal proceeding regardless of whether the adjudication of guilt or
 17390 sentence is withheld or not entered thereon pursuant to the provisions of Code Sections
 17391 42-8-60 through 42-8-64, relating to first offenders, or any comparable rule or statute;

17392 (4) Knowingly made misleading, deceptive, untrue, or fraudulent representations to a
 17393 patient, consumer, or other person or entity in connection with the practice of physical
 17394 therapy or in any document connected therewith; practiced fraud or deceit or intentionally
 17395 made any false statement in obtaining or attempting to obtain a license to practice
 17396 physical therapy or as a physical therapist assistant; or made a false or deceptive biennial
 17397 registration with the board director;

17398 (5) Practiced physical therapy contrary to this Code section or to the rules and
 17399 regulations of the licensing board; knowingly aided, assisted, procured, or advised any
 17400 person to practice physical therapy contrary to this Code section or to the rules and
 17401 regulations of the licensing board; or knowingly performed any act which in any way
 17402 aids, assists, procures, advises, or encourages any unlicensed person to practice physical
 17403 therapy;

17404 (6) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
 17405 practice harmful to the public; ~~which conduct or practice that~~ need not have resulted in
 17406 actual injury to any person; unprofessional conduct shall also include any departure from,
 17407 or the failure to conform to, the minimal standards of acceptable and prevailing physical
 17408 therapy practice or the failure to comply with the code of ethics of the licensing board;

17409 (7) Failed to report to the board director any act or omission of a licensee or applicant
 17410 or any other person which violates the provisions of this subsection; or

17411 (8) Divided fees or agreed to divide fees received for professional services with any
 17412 person, firm, association, corporation, or other entity for bringing or referring a patient.

17413 (b)(1) When the board director finds that any person is unqualified to be granted a
 17414 license or finds that any person should be disciplined pursuant to subsection (a) of this
 17415 Code section, the board director may take any one or more of the following actions:

17416 (A) Refuse to grant or restore a license to an applicant;

17417 (B) Administer a public or private reprimand, but a private reprimand shall not be
 17418 disclosed to any person except the licensee;

17419 (C) Suspend any license for a definite period;

- 17420 (D) Limit or restrict any license;
- 17421 (E) Revoke any license;
- 17422 (F) Condition the penalty or withhold formal disposition, upon the physical therapist's,
17423 physical therapist assistant's, or other person's submission to the care, counseling, or
17424 treatment of physicians or other professional persons, and the completion of such care,
17425 counseling, or treatment, as directed by the board director; or
- 17426 (G) Impose a fine not to exceed \$500.00 for each violation of law, rule, or regulation
17427 of the licensing board.
- 17428 (2) In addition to or in conjunction with the actions enumerated pursuant to paragraph (1)
17429 of this subsection, the board director may make a finding adverse to the licensee or
17430 applicant but withhold imposition of judgment and penalty, or ~~it~~ the director may impose
17431 the judgment and penalty but suspend enforcement thereof and place the licensee or
17432 applicant on probation; which ~~probation~~ may be vacated upon noncompliance with such
17433 reasonable terms as the board director may impose.
- 17434 (c) In ~~its~~ his or her discretion, the board director may restore and reissue a license issued
17435 under this chapter or any antecedent law and, as a condition thereof, ~~it~~ the director may
17436 impose any disciplinary or corrective measure provided in this chapter.
- 17437 (d) A person, firm, corporation, association, authority, or other entity shall be immune
17438 from civil and criminal liability for reporting the acts or omissions of a licensee or
17439 applicant which violate the provisions of subsection (a) of this Code section or any other
17440 provision of law relating to a licensee's or applicant's fitness to practice as a physical
17441 therapist or as a physical therapist assistant, if such report is made in good faith without
17442 fraud or malice. Any person who testifies without fraud or malice before the licensing
17443 board in any proceeding involving a violation of the provisions of subsection (a) of this
17444 Code section or any other law relating to a licensee's or applicant's fitness to practice as a
17445 physical therapist or as a physical therapist assistant shall be immune from civil and
17446 criminal liability for so testifying.
- 17447 (e) An action of the director taken pursuant to this Code section shall be made in
17448 compliance with Code Section 43-1-3.1.
- 17449 43-33-19.
- 17450 The practice of physical therapy is declared to be an activity affecting the public interest
17451 and involving the health, safety, and welfare of the public. Such practice when engaged
17452 in by a person who is not licensed is declared to be harmful to the public health, safety, and
17453 welfare. The board director or the district attorney of the circuit where such unlicensed
17454 practice exists, or any person or organization having an interest therein, may bring a
17455 petition to restrain and enjoin such unlicensed practice in the superior court of the county

17456 where such unlicensed person resides. It shall not be necessary in order to obtain an
 17457 injunction under this Code section to allege or prove that there is no adequate remedy at
 17458 law, or to allege or prove any special injury.

17459 43-33-20.

17460 Any person convicted of violating this chapter shall be guilty of a misdemeanor."

17461 **SECTION 1-31.**

17462 Said title is further amended by revising subsection (b) of Code Section 43-34-23, relating
 17463 to delegation of authority to nurse pr physician assistant, as follows:

17464 "(b)(1)(A) A physician may delegate the authority contained in subparagraph (B) of
 17465 this paragraph to:

17466 (i) A physician assistant in accordance with a job description; or

17467 (ii) A nurse recognized by the Georgia Board of Nursing as a certified nurse midwife,
 17468 certified registered nurse anesthetist, certified nurse practitioner, or clinical nurse
 17469 specialist, psychiatric/mental health in accordance with a nurse protocol.

17470 (B) A physician may delegate to those health care professionals identified in
 17471 subparagraph (A) of this paragraph:

17472 (i) The authority to order controlled substances selected from a formulary of such
 17473 drugs established by the board and the authority to order dangerous drugs, medical
 17474 treatments, and diagnostic studies;

17475 (ii) The authority to request, receive, and sign for professional samples and to
 17476 distribute professional samples to patients. The office or facility at which the health
 17477 care professional identified in subparagraph (A) of this paragraph is working shall
 17478 maintain a general list of the professional samples approved by the delegating
 17479 physician for request, receipt, and distribution by the health care professional
 17480 identified in subparagraph (A) of this paragraph as well as a complete list of the
 17481 specific number and dosage of each professional sample and medication voucher
 17482 received. Professional samples that are distributed by a health care professional
 17483 identified in subparagraph (A) of this paragraph shall be so noted in the patient's
 17484 medical record. In addition to the requirements of this Code section, all professional
 17485 samples shall be maintained as required by applicable state and federal laws and
 17486 regulations; and

17487 (iii) The authority to sign, certify, and endorse all documents relating to health care
 17488 provided to a patient within his or her scope of authorized practice, including, but not
 17489 limited to, documents relating to physical examination forms of all state agencies and
 17490 verification and evaluation forms of the Department of Human Services, the State

17491 Board of Education, local boards of education, the Department of Community Health,
 17492 and the Department of Corrections; provided, however, that a health care professional
 17493 identified in subparagraph (A) of this paragraph shall not have the authority to sign
 17494 death certificates or assign a percentage of a disability rating.

17495 (2) A physician may delegate to a nurse or physician assistant the authority to order
 17496 dangerous drugs, medical treatments, or diagnostic studies and a nurse or physician
 17497 assistant is authorized to dispense dangerous drugs, in accordance with a dispensing
 17498 procedure and under the authority of an order issued in conformity with a nurse protocol
 17499 or job description, if that nurse or physician assistant orders or dispenses those dangerous
 17500 drugs, medical treatments, or diagnostic studies:

17501 (A) As an agent or employee of:

17502 (i) The Department of Public Health;

17503 (ii) Any county board of health; or

17504 (iii) Any organization:

17505 (I) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal
 17506 Revenue Code, as defined in Code Section 48-1-2, other than an organization which
 17507 is a hospital, preferred provider organization, health maintenance organization, or
 17508 similar organization; or

17509 (II) Established under the authority of or receiving funds pursuant to 42 U.S.C.
 17510 Section 254b or 254c of the United States Public Health Service Act;

17511 ~~which and that~~ organization provides that those medical services and dangerous drugs
 17512 which are ordered or dispensed by its physician assistants and nurses will be provided
 17513 at no cost to the patient or at a cost based solely upon the patient's ability to pay; and

17514 (B) In conformity with subsection (b) of Code Section 26-4-130 and the rules and
 17515 regulations established pursuant thereto by the ~~State Board of Pharmacy~~ Georgia Board
 17516 of Licensing and Regulation.

17517 (3) In addition, a physician may delegate to a nurse or physician assistant the authority
 17518 to order dangerous drugs, medical treatments, or diagnostic studies and a nurse or
 17519 physician assistant is authorized to dispense dangerous drugs, in accordance with a
 17520 dispensing procedure and under the authority of an order issued in conformity with a
 17521 nurse protocol or job description, if that nurse or physician assistant orders or dispenses
 17522 such drugs, treatments, or studies to a patient of an outpatient clinic:

17523 (A) Which is owned or operated by a licensed hospital;

17524 (B) Which provides such drugs, treatments, or studies free or at a charge to the patient
 17525 based solely upon the patient's ability to pay; provided, however, that such charge shall
 17526 not exceed the actual cost to the outpatient clinic; and

17527 (C) Whose services are primarily provided to the medically disadvantaged

17528 and that nurse or physician assistant orders or dispenses such drugs in conformity with
 17529 subsection (b) of Code Section 26-4-130 and the rules and regulations established
 17530 pursuant thereto by the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 17531 Regulation.

17532 (4) Delegation of authority to a physician assistant pursuant to this subsection shall be
 17533 authorized only if that delegation is contained in the job description approved for that
 17534 physician assistant by the board.

17535 (5) Delegation of authority to a nurse pursuant to this subsection shall be authorized only
 17536 if that delegation is contained in a nurse protocol for that nurse.

17537 43-34-26.1."

17538 **SECTION 1-32.**

17539 Said title is further amended by revising subsection (b) of Code Section 43-34-26.1, relating
 17540 to influenza vaccine protocol agreements, as follows:

17541 "(b) A physician engaged in the active practice of medicine may prescribe influenza
 17542 vaccine for a group of patients via an influenza vaccine order contained in an influenza
 17543 vaccine protocol agreement to be administered by a pharmacist, provided the physician is
 17544 registered with the vaccination registry established by the Department of Public Health
 17545 pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of
 17546 Immunization Transactions and Services, the pharmacist is located within the county of the
 17547 physician's place of registration with the vaccination registry or a county contiguous
 17548 thereto, and the pharmacist holds current certification in Basic Cardiac Life Support and
 17549 has completed a course of training accredited by the Accreditation Council for Pharmacy
 17550 Education or similar health authority or professional body approved by the ~~State Board of~~
 17551 ~~Pharmacy~~ Georgia Board of Licensing and Regulation. A physician who is a party to an
 17552 influenza vaccine protocol agreement may also prescribe epinephrine via an influenza
 17553 vaccine order contained in an influenza vaccine protocol agreement for administration by
 17554 a pharmacist upon the occurrence of an actual or perceived anaphylactic adverse reaction
 17555 to the administered influenza vaccine provided that the influenza vaccine protocol
 17556 agreement sets forth the signs and symptoms that warrant the administration of
 17557 epinephrine."

17558 **SECTION 1-33.**

17559 Said title is further amended by revising Chapter 35, relating to podiatry practice, as follows:

17560 "CHAPTER 35

17561 43-35-1.

17562 This chapter shall be known and may be cited as the 'Georgia Podiatry Practice Act.'

17563 43-35-2.

17564 This chapter is enacted for the purpose of safeguarding the public health, safety, and
 17565 welfare by providing for administrative control, supervision, and regulation of the practice
 17566 of podiatric medicine in this state. The practice of podiatric medicine is declared to be
 17567 affected with the public interest.

17568 43-35-3.

17569 As used in this chapter, the term:

17570 (1) 'Board' means the State Board of Podiatry Examiners, a professional licensing policy
 17571 board pursuant to Chapter 1 of this title with the authority and responsibility set forth in
 17572 such chapter.

17573 (1.1) 'Director' means the director of professional licensing.

17574 (2) 'License' means a valid and current certificate of registration issued by the ~~division~~
 17575 director ~~on behalf of the board~~ which shall give the person to whom it is issued authority
 17576 to engage in the practice prescribed thereon.

17577 (3) 'Licensee' means one who holds a license under this chapter.

17578 (3.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 17579 Article 2 of Chapter 1 of this title.

17580 (4) 'Person' means a human person only.

17581 (5) 'Podiatric medicine,' which includes chiropody, podiatry, and podiatric medicine and
 17582 surgery, means that portion of the practice of medicine identified by the acts described
 17583 in any one or more of the following:

17584 (A) Charging a fee or other compensation, either directly or indirectly, for any history
 17585 or physical examination of a patient in a person's office or in a hospital, clinic, or other
 17586 similar facility prior to, incident to, and necessary for the diagnosis and treatment, by
 17587 primary medical care, surgical or other means, of diseases, ailments, injuries, or
 17588 abnormal conditions of the human foot and leg;

17589 (B) Holding oneself out to the public, either directly or indirectly, as being engaged in
 17590 the practice of podiatric medicine;

17591 (C) Displaying or using a title or abbreviation such as 'Doctor of Podiatric Medicine,'
 17592 'D.P.M.,' 'Foot Doctor,' 'Foot Specialist,' 'Foot Surgeon,' 'Foot and Ankle Surgeon,' or
 17593 other letters, designations, or symbols or signs of any type which expressly or implicitly

17594 indicate to the general public that the user renders treatment to the foot, ankle, and leg
17595 under the provisions of this chapter;

17596 (D) Performing surgery on the foot or leg of a patient, except that when such surgery
17597 is performed under general anesthesia it shall be permissible only when ~~said~~ such
17598 surgery is performed at a facility permitted and regulated as a hospital or ambulatory
17599 surgical treatment center under Article 1 of Chapter 7 of Title 31 and when ~~said~~ such
17600 general anesthesia is administered under the direction of a duly licensed physician;

17601 (E) Performing amputations of the toe; or

17602 (F) Performing amputations distal to and including the tarsometatarsal joint but only
17603 when performed in a facility permitted and regulated as a hospital or ambulatory
17604 surgical treatment center under Article 1 of Chapter 7 of Title 31 and when performed
17605 by a podiatrist who is certified by the ~~board~~ director in meeting the requirements which
17606 shall be established by regulations of the licensing board which have been jointly
17607 approved by the licensing board and the Georgia Composite Medical Board.

17608 (6) 'Podiatric resident' means a person who is engaged in a postgraduate program of
17609 study or practice within this state approved by the licensing board.

17610 (7) 'Podiatrist' means a physician and surgeon of the human foot and leg who is subject
17611 to this chapter.

17612 43-35-4.

17613 The State Board of Podiatry Examiners which existed on January 1, 1994, is continued in
17614 existence on and after that date as a professional licensing policy board. The members
17615 serving on the board on January 1, 1994, and any person appointed to fill a vacancy in such
17616 office shall continue to serve out their respective terms of office and until their successors
17617 are appointed and qualified. Their successors shall be appointed as provided by this
17618 chapter.

17619 43-35-5.

17620 The State Board of Podiatry Examiners continued pursuant to Code Section 43-35-4 shall
17621 consist of four members. Any vacancy in office of such board resulting from expiration
17622 of term after this chapter becomes effective on July 1, 1994, shall be filled by appointment
17623 by the Governor and approval by the Senate for a term of three years. Three members shall
17624 be podiatrists and may be appointed from a list of at least three persons submitted to the
17625 Governor by the Georgia Podiatric Medical Association. The fourth member shall be
17626 appointed from the public at large and shall have no connection to the practice of podiatric
17627 medicine. All appointees to the board shall, immediately following their appointment, take
17628 and subscribe to a written oath or affirmation required by law for public officers. The

17629 Governor, after notice and opportunity for hearing, may remove any member for neglect
 17630 of duty, incompetence, revocation or suspension of license, or other dishonorable conduct.
 17631 After such removal, or after a vacancy due to other reasons, the Governor shall appoint a
 17632 successor to serve the unexpired term.

17633 43-35-6.

17634 To be eligible for appointment to the board, a person must be a citizen of the United States
 17635 and a resident of this state and, except for the person appointed from the public at large,
 17636 must:

- 17637 (1) Hold a license issued under the provisions of this chapter; and
 17638 (2) Have actively practiced or taught podiatry for at least five years.

17639 43-35-7.

17640 A majority of the board members shall constitute a quorum for all board business and, ~~with~~
 17641 ~~the exception of hearings in contested cases,~~ may conduct business in conference by
 17642 telephone.

17643 43-35-8.

17644 The ~~division~~ director shall perform such administrative duties as may be prescribed by the
 17645 board.

17646 43-35-9.

17647 (a) The licensing board shall:

- 17648 (1) Approve all examinations of applicants for licensure;
 17649 ~~(2) Determine the qualifications of and authorize the issuance of licenses to qualified~~
 17650 ~~podiatrists and podiatric residents;~~
 17651 ~~(2)~~⁽³⁾ Determine the qualifications and approve qualified colleges of podiatric medicine
 17652 and courses in podiatry for the purpose of determining the qualifications of applicants for
 17653 licensure;
 17654 ~~(3)~~⁽⁴⁾ Prescribe and enforce minimum standards of professional conduct for the practice
 17655 of podiatric medicine in this state;
 17656 ~~(5) Initiate investigations into alleged or suspected violations of the provisions of this~~
 17657 ~~chapter or any other law of this state pertaining to podiatry and any rules and regulations~~
 17658 ~~adopted by the board;~~
 17659 ~~(6) Conduct all hearings in contested cases according to state law;~~
 17660 ~~(7) Suspend, revoke, or cancel the license of, or refuse to grant, renew, or restore a~~
 17661 ~~license to any person upon any ground specified in this chapter;~~

17662 ~~(8) Adopt a seal, the imprint of which, together with the authorized signature of the~~
 17663 ~~division director or other member authorized by the board, shall be effective to evidence~~
 17664 ~~its official acts;~~

17665 ~~(9) Maintain in the office of the division director a register of all persons holding a~~
 17666 ~~license; and~~

17667 ~~(4)(10) Adopt such rules and regulations as shall be reasonably necessary for the~~
 17668 ~~enforcement and implementation of the provisions and purposes of this chapter and other~~
 17669 ~~laws of this state insofar as they relate to the practice of podiatric medicine; and~~

17670 (5) Conduct hearings upon the petition of any person who is aggrieved or adversely
 17671 affected by an order or action of the director, which shall be conducted by the licensing
 17672 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 17673 Act.'

17674 (b) The director shall:

17675 (1) Determine the qualifications of and authorize the issuance of licenses to qualified
 17676 podiatrists and podiatric residents;

17677 (2) Initiate investigations into alleged or suspected violations of the provisions of this
 17678 chapter or any other law of this state pertaining to podiatry and any rules and regulations
 17679 adopted by the licensing board;

17680 (3) Enter orders or take other action consistent with this chapter which shall be entered
 17681 in compliance with Code Section 43-1-3.1; and

17682 (4) Suspend, revoke, or cancel the license of, or refuse to grant, renew, or restore a
 17683 license to any person upon any ground specified in this chapter.

17684 43-35-10.

17685 ~~All rules and regulations adopted by the board as it existed prior to January 1, 1994, shall~~
 17686 ~~continue in effect until modified or repealed.~~ Reserved.

17687 43-35-11.

17688 (a) No person shall practice podiatric medicine unless he or she holds a license and
 17689 otherwise complies with the provisions of this chapter and the rules and regulations
 17690 adopted by the licensing board; provided, however, that this chapter shall not apply to any
 17691 person licensed to practice medicine, as defined in Chapter 34 of this title; nor shall it apply
 17692 to the recommending, fitting, or sale of corrective shoes or orthomechanical supports or
 17693 similar appliances by retail dealers or manufacturers; provided, however, that such dealers
 17694 or manufacturers shall not otherwise be entitled to practice podiatric medicine as defined
 17695 in this chapter unless duly licensed to do so.

17696 (b)(1) Nothing in this chapter or any other law of this state shall prohibit the training and
 17697 practice, for a period of one year or for such additional periods as the licensing board may
 17698 determine, by persons appointed as podiatric residents in programs utilizing training
 17699 protocols approved by the licensing board.

17700 (2) Residents in podiatric medicine and surgery may perform such duties, tasks, or
 17701 functions as considered appropriate for their educational advancement under the
 17702 supervision of the appropriate health care practitioner.

17703 (3) While serving in an approved postgraduate training program, residents in podiatric
 17704 medicine and surgery shall not be subject to the continuing education requirements as set
 17705 forth in Code Section 43-35-15.

17706 (c)(1) Licensed podiatrists of other states and foreign countries may be permitted to enter
 17707 this state for consultation with any licensed podiatric physician of this state. Such
 17708 podiatrist from another state or foreign country shall not be permitted to establish offices
 17709 in this state for the practice of podiatric medicine, either temporary or permanent, unless
 17710 he or she obtains a license as elsewhere set forth in this chapter.

17711 (2) A limited temporary license may, upon the approval of the board director, be issued
 17712 to a podiatrist from another state or country for the purpose of advancing medical
 17713 education and enhancing the individual's training provided such podiatrist is fully
 17714 licensed and a member in good standing in that state or country, and provided such
 17715 podiatrist is under the supervision of a licensed podiatric physician of this state.

17716 (3) A podiatrist from another state or foreign country issued a limited temporary license
 17717 shall not be subject to the continuing education requirements as set forth in Code Section
 17718 43-35-15.

17719 (d) Nothing in this chapter or other laws of this state shall prohibit the delegation by a
 17720 podiatric physician to a podiatric assistant or other qualified person of any acts, duties, or
 17721 functions which are otherwise permitted by law or established by custom, nor shall the state
 17722 prohibit the performance of such acts, duties, or functions by such person.

17723 43-35-12.

17724 A license to practice podiatric medicine shall be issued to any person who:

17725 (1) Is a graduate of an accredited college of podiatric medicine approved by the licensing
 17726 board;

17727 (2) Holds a doctoral degree or its equivalent;

17728 (3) Satisfactorily passes a licensing board approved examination, if an examination is
 17729 required by the licensing board;

17730 (4) Successfully completes postdoctoral training of no less than 12 months as a resident
 17731 in podiatric medicine and surgery in a program or institution approved by, and in good
 17732 standing with, the licensing board;

17733 (5) Has attained the age of 21 years;

17734 (6) Is not disqualified to receive a license under the provisions of Code Section
 17735 43-35-16; and

17736 (7) Pays to the director the required fee set by ~~to~~ the licensing board.

17737 43-35-13.

17738 A license may, at the discretion of the ~~board~~ director, be issued without examination to any
 17739 person who:

17740 (1) Holds a current license authorizing him or her to practice podiatric medicine in
 17741 another state or country; provided, however, the state or country has statutory
 17742 requirements substantially equal to or exceeding those of this chapter;

17743 (2) Otherwise substantially meets all requirements for a license ~~issued~~ established by the
 17744 licensing board;

17745 (3) Is not disqualified to receive a license under the provisions of Code Section
 17746 43-35-16; and

17747 (4) Pays the required fee to the ~~board~~ director.

17748 43-35-14.

17749 The licensing board may require applicants to be examined upon the subjects required for
 17750 the practice of podiatric medicine. Any standardized examination which the licensing
 17751 board shall approve may be administered to all applicants in lieu of or in conjunction with
 17752 any other examination which the licensing board may require.

17753 43-35-15.

17754 (a) Licenses shall expire biennially. All applications for renewal of a license shall be filed
 17755 with the ~~division~~ director prior to the expiration date, accompanied by the renewal fee
 17756 prescribed by the licensing board.

17757 (b)(1) In order to maintain and enhance the professional competence of podiatrists
 17758 licensed under the provisions of this chapter and for the protection of the health and
 17759 welfare of the people of this state:

17760 (A) As a requirement for the biennial renewal of his or her license, a podiatric
 17761 physician must submit proof to the ~~board~~ director of the completion of not less than 50
 17762 hours of approved continuing education in the preceding two years;

17763 (B) A podiatrist licensed by reciprocity under Code Section 43-35-13 or by
 17764 examination during the first six months of the biennial licensing cycle, September
 17765 through February, shall be required to obtain the full 50 hours of continuing education;
 17766 if licensed during the following 12 months, March through February, the podiatrist shall
 17767 be required to obtain 30 hours of continuing education; if licensed during the last six
 17768 months, March through August, the podiatrist shall be exempt from continuing
 17769 education requirements for that biennial licensing cycle.

17770 (2) In lieu of individual state regulations, the ~~board will~~ director shall recognize for
 17771 continuing education purposes all providers and sponsors of programs approved by the
 17772 Council on Podiatric Medical Education of the American Podiatric Medical Association.

17773 43-35-16.

17774 (a) The ~~board~~ director shall, ~~after notice and opportunity for hearing,~~ in compliance with
 17775 Code Section 43-1-3.1, have the power to suspend, revoke, or cancel the license of, or
 17776 refuse to grant, renew, or restore a license to, any licensee or applicant for a license upon
 17777 proof of any one of the following grounds:

17778 (1) Employment of fraud or deception or cheating in applying for a license or in taking
 17779 an examination for a license;

17780 (2) Failing to demonstrate the qualifications or standards for a license as provided by this
 17781 chapter;

17782 (3) Knowingly making a misleading, deceptive, false, or fraudulent representation
 17783 concerning the practice of podiatry or in any document connected therewith, or practicing
 17784 fraud or deceit or cheating or intentionally making any false statement in taking an
 17785 examination or in obtaining a license to practice podiatry or intentionally making any
 17786 false statement in any document submitted to the ~~board~~ director;

17787 (4) Conviction of a felony in this state or any other state, territory, or country which, if
 17788 committed in this state, would be deemed a felony without regard to its designation
 17789 elsewhere. For this purpose, a conviction shall include a finding or verdict of guilt, a plea
 17790 of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether an
 17791 adjudication of guilt or sentence is entered thereon;

17792 (5) Commission of a crime involving moral turpitude within this state or within any other
 17793 state, territory, or country which, if committed in this state, would be deemed a crime
 17794 involving moral turpitude without regard to its designation elsewhere where:

17795 (A) A plea of nolo contendere was entered to the charge;

17796 (B) First offender treatment was granted pursuant to the charge, without adjudication
 17797 of guilt; or

17798 (C) An adjudication or sentence was otherwise withheld or not entered on the charge;

- 17799 (6) Revocation, suspension, or annulment of a license to practice podiatric medicine by
17800 any lawful licensing authority in any state, territory, or country, or any other disciplinary
17801 action taken against a licensee by any lawful licensing authority, or having been denied
17802 a license by any other licensing authority;
- 17803 (7) Advertising for or soliciting patients by any means other than as provided by the rules
17804 and regulations of the licensing board;
- 17805 (8) The displaying of an inability to practice podiatric medicine with reasonable skill and
17806 safety to patients or having become unable to practice podiatric medicine with reasonable
17807 skill and safety to patients by reason of illness, the use of alcohol or drugs, narcotics,
17808 chemicals, or any other substance, or as a result of any mental or physical condition. In
17809 enforcing this paragraph, the board director may, upon reasonable grounds, require a
17810 licensee or applicant to submit to a mental or physical examination by physicians
17811 designated by the board director. The results of such examination shall be admissible in
17812 any hearing before the licensing board, notwithstanding any claim of privilege under a
17813 contrary rule of law or statute. Every person who shall accept the privilege of practicing
17814 podiatric medicine in this state or who shall file an application for a license to practice
17815 podiatric medicine in this state shall be deemed to have given his or her consent to submit
17816 to such mental or physical examination and to have waived all objections to the
17817 admissibility of the results in any hearing before the licensing board upon the grounds
17818 that the same constitutes a privileged communication. If the licensee or applicant fails
17819 to submit to such an examination when properly directed to do so by the board director,
17820 unless such failure was due to circumstances beyond his or her control, the board director
17821 may enter a final order ~~upon proper notice, hearing, and proof of such refusal in~~ in
17822 compliance with Code Section 43-1-3.1;
- 17823 (9) Flagrant immorality;
- 17824 (10) Practicing under a false name or the impersonation of another person except as may
17825 be permitted by the laws of this state and rules and regulations of the licensing board
17826 concerning professional corporations or associations;
- 17827 (11) In light of the condition of the patient at the time of prescription, knowingly
17828 prescribing controlled substances or any other medication without a legitimate medical
17829 purpose or knowingly overprescribing controlled substances or other medications or
17830 chemicals;
- 17831 (12) Division of fees for professional services with any person, firm, association, or
17832 corporation for bringing or referring a patient;
- 17833 (13) Engaging in any unprofessional, unethical, deceptive, or deleterious conduct or
17834 practice harmful to the public, which need not have resulted in actual injury to any

- 17835 person, and shall also include departure from, or the failure to conform to, the minimum
 17836 prevailing standards for the practice of podiatric medicine in this state; or
 17837 (14) Violating any other standard of professional conduct as may be prescribed by the
 17838 licensing board.
- 17839 (b) Upon a finding of the ~~board~~ director that the public health, safety, or welfare
 17840 imperatively requires emergency action and incorporating a finding to that effect in an
 17841 order, summary suspension of a license may be ordered pending proceedings for revocation
 17842 or other action; which ~~proceedings~~ shall be promptly instituted and determined.
- 17843 (c) Upon a finding by the ~~board~~ director that a license should be denied or sanctioned
 17844 pursuant to subsection (a) of this Code section, the ~~board~~ director may take any one or
 17845 more of the following actions:
- 17846 (1) Deny a license to an applicant or refuse to renew a license;
 - 17847 (2) Administer a public reprimand;
 - 17848 (3) Suspend any license for a definite period or for an indefinite period in connection
 17849 with any condition which may be attached to the restoration of said license;
 - 17850 (4) Limit or restrict any license as the ~~board~~ director deems necessary for the protection
 17851 of the public;
 - 17852 (5) Revoke any license;
 - 17853 (6) Condition the penalty or withhold formal disposition upon applicant's or licensee's
 17854 submission to such care, counseling, or treatment as the ~~board~~ director may direct; or
 - 17855 (7) In addition to and in conjunction with the actions provided for in this subsection, may
 17856 make a finding adverse to the licensee or applicant but withhold imposition of judgment
 17857 and penalty or may impose the judgment and penalty but suspend the enforcement thereof
 17858 and place a licensee on probation, which ~~probation~~ may be vacated upon noncompliance
 17859 with such reasonable terms as the ~~board~~ director may impose.
- 17860 (d) An order or finding of the director taken pursuant to this Code section shall be made
 17861 in compliance with Code Section 43-1-3.1. Initial judicial review of a final decision of the
 17862 licensing board shall be had solely in the ~~superior court of the county of domicile of the~~
 17863 ~~board~~ Superior Court of Bibb County.
- 17864 (e) In ~~its~~ his or her discretion, the ~~board~~ director may reinstate a license which has been
 17865 revoked or issue a license which has been denied or refused, following such procedures as
 17866 the licensing board may adopt by rule; and, as a condition thereof, the ~~board~~ director may
 17867 impose any disciplinary or corrective measure authorized by this chapter.
- 17868 (f) The ~~board~~ director shall have the authority to exclude all persons during ~~its~~
 17869 deliberations on disciplinary ~~proceedings~~ actions and to discuss any disciplinary matter in
 17870 private with a licensee or applicant.

17871 (g) A person, partnership, firm, corporation, association, authority, or other entity shall be
 17872 immune from civil or criminal liability for reporting or investigating the acts or omissions
 17873 of a licensee or applicant or for initiating or conducting proceedings against such licensee
 17874 or applicant pursuant to the provisions of this chapter or any other provision of law relating
 17875 to the licensee's or applicant's fitness to practice podiatric medicine, if such action is taken
 17876 in good faith, without fraud or malice. Any person who testifies in good faith or who
 17877 makes a recommendation to the ~~board~~ director in the nature of peer review, in good faith,
 17878 without fraud or malice, before the licensing board in any proceeding concerning a
 17879 violation of this chapter or any other law relating to the licensee's or applicant's fitness to
 17880 practice podiatric medicine shall be immune from civil and criminal liability for so
 17881 testifying, participating, or recommending.

17882 (h) ~~Neither a~~ A denial of a license on grounds other than those enumerated in subsection
 17883 (a) of this Code section ~~nor~~, the issuance of a private reprimand ~~nor~~, the denial of a license
 17884 by reciprocity ~~nor~~, and the denial of a request for reinstatement of a revoked license shall
 17885 be ~~considered a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia~~
 17886 ~~Administrative Procedure Act.'~~ Notice and hearing ~~within the meaning of Chapter 13 of~~
 17887 ~~Title 50 shall not be required, but the licensee or applicant shall be allowed to appear~~
 17888 ~~before the board if he or she so requests~~ done in compliance with Code Section 43-1-3.1.

17889 (i) ~~If any licensee fails to appear at any hearing after reasonable notice, the board may~~
 17890 ~~proceed to hear evidence against such licensee and take action as if such licensee had been~~
 17891 ~~present. A notice of hearing, initial or recommended decision, or final decision of the~~
 17892 ~~board in a disciplinary proceeding shall be served upon the licensee or applicant by~~
 17893 ~~certified mail or statutory overnight delivery, return receipt requested, to the last known~~
 17894 ~~address of record with the board. If such material is returned marked 'unclaimed' or~~
 17895 ~~'refused' or is otherwise undeliverable and if the licensee or applicant cannot, after diligent~~
 17896 ~~effort, be located, the division director shall be deemed to be the agent for such service for~~
 17897 ~~such licensee or applicant for the purposes of this Code section; and service upon the~~
 17898 ~~division director shall be deemed to be service upon the licensee or applicant.~~

17899 (j) The voluntary surrender of license shall have the same effect as a revocation of said
 17900 such license, subject to reinstatement in the discretion of the board director.

17901 43-35-17.

17902 The practice of podiatric medicine is declared to be an activity affecting the public interest
 17903 and involving the health, safety, and welfare of the public. Such practice when engaged
 17904 in by a person who is not licensed under the provisions of this chapter is declared to be a
 17905 public nuisance, harmful to the public health, safety, and welfare. The board director, or
 17906 the district attorney of the district where such nuisance exists, may bring a petition to

- 17938 (A) Crimes or wrongs done or threatened against the United States of America or any
 17939 state or territory thereof;
- 17940 (B) The background, identity, habits, conduct, business, employment, occupation,
 17941 assets, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
 17942 activity, movement, whereabouts, affiliations, associations, transactions, acts,
 17943 reputation, or character of any person;
- 17944 (C) The location, disposition, or recovery of lost or stolen property;
- 17945 (D) The cause or responsibility for fires, libels, losses, accidents, damage, or injury to
 17946 persons or property;
- 17947 (E) The securing of evidence in the course of the private detective business to be used
 17948 before any court, board, officer, or investigating committee; or
- 17949 (F) The protection of individuals from serious bodily harm or death.
- 17950 (4) 'Private security business' means engaging in the business of, or accepting
 17951 employment to provide, any or all of the following:
- 17952 (A) Private patrol service;
- 17953 (B) Watchman service;
- 17954 (C) Guard service;
- 17955 (D) Armored car service; or
- 17956 (E) The protection of persons from death or serious bodily harm.

17957 43-38-4.

17958 (a) There is created the Georgia Board of Private Detective and Security Agencies as a
 17959 professional licensing policy board. The board shall consist of seven members, each of
 17960 whom shall be appointed by the Governor. Each member shall serve for a term of four
 17961 years. Four members shall be engaged in the contract private detective or contract private
 17962 security business and shall have at least four years of experience in such business
 17963 immediately preceding their appointment; provided, however, that on and after October 1,
 17964 1987, at least two members shall be engaged in the contract private security business. Two
 17965 members shall be engaged in state, county, or municipal law enforcement and shall have
 17966 at least four years of experience in governmental law enforcement immediately preceding
 17967 their appointment. One member shall be appointed from the public at large. At the first
 17968 meeting of the board held each year, the members shall elect a ~~chairman~~ chairperson to
 17969 serve for one year. The Governor may remove any member of the board for neglect of
 17970 duty, incompetence, or other unethical or dishonorable conduct. After such removal or
 17971 after the creation of a vacancy due to death, resignation, or ineligibility, the Governor shall
 17972 appoint a successor to serve the unexpired term. Appointees to the board shall,

17973 immediately after their appointment, take and subscribe to a written oath or affirmation
17974 required by law for all public officers.

17975 (b) The members of the board shall be reimbursed as provided for in subsection (f) of
17976 Code Section 43-1-2.

17977 (c) The ~~division~~ director shall be the secretary of the board and shall perform such
17978 administrative duties as may be prescribed by the board. ~~All official records of the board~~
17979 ~~or affidavits by the division director as to the content of such records shall be prima-facie~~
17980 ~~evidence of all matters required to be kept therein.~~

17981 (d)(1) In addition to any authority otherwise granted by this chapter, ~~and subject to the~~
17982 ~~laws relating to the division director, the board~~ the director shall have the following
17983 powers and duties:

17984 ~~(1)(A)~~ (A) To determine the qualifications of applicants for licenses or registration under
17985 this chapter;

17986 ~~(2)(B)~~ (B) To investigate alleged violations of this chapter or any rules and regulations
17987 adopted by the licensing board, including the power to conduct inspections of a
17988 licensee's employee lists and training records;

17989 ~~(3) To promulgate all rules and regulations necessary to carry out this chapter;~~

17990 ~~(4) To establish and enforce standards governing the conduct of persons licensed and~~
17991 ~~registered under this chapter;~~

17992 ~~(5)(C)~~ (C) To maintain in it's the director's name an action for injunctive or other
17993 appropriate legal or equitable relief to remedy violations of this chapter. In pursuing
17994 equitable remedies, it shall not be necessary that the ~~board~~ director allege or prove that
17995 ~~it has~~ there is no adequate remedy at law. It is declared that violations of this chapter
17996 are a menace and a nuisance and are dangerous to the public health, safety, and welfare;

17997 ~~(6) To recommend to the division director the employment or appointment of such~~
17998 ~~personnel, including, but not limited to, inspectors, as may be necessary to assist the~~
17999 ~~board in exercising and performing any and all the powers, duties, and obligations set~~
18000 ~~forth in this chapter;~~

18001 ~~(7)(D)~~ (D) To require a licensee to maintain and keep such records as are subject to
18002 inspection under this chapter;

18003 ~~(8)(E)~~ (E) To issue, renew, deny, suspend, or revoke licenses, certificates, registrations, or
18004 permits in a manner consistent with this chapter; and

18005 ~~(9)(F)~~ (F) To ~~hold hearings on all matters properly brought before it~~ enter orders or take
18006 other action consistent with this chapter, which shall be entered in compliance with
18007 Code Section 43-1-3.1 and, in connection therewith, to administer oaths, receive
18008 evidence, make the necessary determinations, and enter orders consistent with the
18009 findings; and.

18010 ~~(10) To develop and apply such techniques which may include examinations as may be~~
 18011 ~~deemed necessary to assure that applicants licensed, registered, or issued weapons~~
 18012 ~~permits have the requisite skills and qualifications.~~

18013 (2) The licensing board shall have the following powers and duties:

18014 (A) To promulgate all rules and regulations necessary to carry out this chapter;

18015 (B) To establish and enforce standards governing the conduct of persons licensed and
 18016 registered under this chapter;

18017 (C) To develop and apply such techniques which may include examinations as may be
 18018 deemed necessary to assure that applicants licensed, registered, or issued weapons
 18019 permits have the requisite skills and qualifications; and

18020 (D) To conduct hearings upon the timely petition of any person who is aggrieved or
 18021 adversely affected by an order or action of the director, which shall be conducted by the
 18022 licensing board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
 18023 Procedure Act.'

18024 43-38-5.

18025 Reserved.

18026 43-38-6.

18027 (a) Any individual, firm, association, company, partnership, limited liability company, or
 18028 corporation desiring to engage in the private detective or private security business in this
 18029 state shall make a verified application to the ~~division~~ director for a license therefor. If the
 18030 applicant is a firm, association, company, partnership, limited liability company, or
 18031 corporation, the person filing the application on behalf of such firm, association, company,
 18032 partnership, limited liability company, or corporation shall be a corporate officer of such
 18033 corporation or an officer of such firm, association, partnership, or limited liability
 18034 company; and such individual shall meet the qualifications set out in this Code section.

18035 (b) Upon being satisfied of the good character, competency, and integrity of an applicant
 18036 for licensure under this chapter or, if the applicant is a firm, association, company,
 18037 partnership, limited liability company, or corporation, upon being satisfied of the good
 18038 character, competency, and integrity of the corporate officer of such corporation or officer
 18039 of such firm, association, partnership, or limited liability company, the ~~board~~ director may
 18040 grant a license to conduct a private detective or private security business to such individual,
 18041 firm, association, company, partnership, limited liability company, or corporation if:

18042 (1) The applicant is at least 18 years of age;

18043 (2) The applicant is a citizen of the United States or a registered resident alien;

18044 (3) The applicant is of good moral character;

- 18045 (4) The applicant has not been convicted of a felony or any crime involving the illegal
18046 use, carrying, or possession of a dangerous weapon or any crime involving moral
18047 turpitude; provided, however, that, if the applicant has been convicted of such crime, or
18048 has entered a plea of nolo contendere, or has entered a plea pursuant to Article 3 of
18049 Chapter 8 of Title 42 or otherwise been granted first offender treatment, the ~~board~~
18050 director may inquire into the nature of the crime, the date of conviction or plea, and other
18051 underlying facts and circumstances surrounding such criminal proceedings and, in ~~its~~ his
18052 or her discretion, may grant a license to such applicant;
- 18053 (5) The applicant has not committed an act constituting dishonesty or fraud;
- 18054 (6) The applicant has satisfied the ~~board~~ director that his or her private detective or
18055 private security business has a competent training officer and adequate training program
18056 with a curriculum approved by the ~~board~~ director or that adequate training will be
18057 obtained from such other source as the ~~board~~ director may approve;
- 18058 (7) The applicant for a private detective company license has had at least two years'
18059 experience as an agent registered with a licensed detective agency, ~~or~~ has had at least two
18060 years' experience in law enforcement, or has a four-year degree in criminal justice or a
18061 related field from an accredited university or college; and the applicant for a security
18062 company license has had at least two years' experience as a supervisor or administrator
18063 in in-house security operations or with a licensed security agency, ~~or~~ has had at least two
18064 years' experience in law enforcement, or has a four-year degree in criminal justice or a
18065 related field from an accredited university or college;
- 18066 (8) The applicants for private detective company licenses and security company licenses
18067 may be required to pass successfully a written examination as the licensing board may
18068 prescribe; and
- 18069 (9) The applicant meets such other qualifications as the licensing board may prescribe
18070 by rule.
- 18071 (c) The application for a license shall be made under oath on a form to be furnished by the
18072 ~~division~~ director. The application shall state the applicant's full name, age, date and place
18073 of birth; residences and employment within the past five years, with the names and
18074 addresses of employers; present occupation; date and place of conviction or arrest for any
18075 crime, including the plea of nolo contendere or a plea entered pursuant to Article 3 of
18076 Chapter 8 of Title 42 or other first offender treatment; and such additional information as
18077 the ~~board~~ director may require to investigate the qualifications, character, competency, and
18078 integrity of the applicant. Each applicant shall submit with the application two complete
18079 sets of fingerprints on forms specified and furnished by the ~~board~~ director and one
18080 photograph, two inches wide by three inches high, full face, taken within six months prior
18081 to the application; provided, however, that the ~~board~~ director may waive the submission

18082 of fingerprints and photograph for any employee who has been employed by a person
 18083 licensed under this chapter within the previous 12 months. The application shall contain
 18084 such additional documentation as the licensing board may prescribe by rule. The ~~board~~
 18085 director shall have the discretion to deny a license to an applicant who fails to provide the
 18086 information and supporting documentation required by this subsection.

18087 (d)(1) In addition to the requirements enumerated in this Code section, each applicant
 18088 for a license under this chapter shall provide satisfactory evidence to the ~~board~~ director
 18089 that the prospective licensee has posted or has made provision for the posting of a bond.
 18090 The required bond shall be executed in favor of the state, in the amount of \$25,000.00,
 18091 with a surety company authorized to do business in this state and conditioned to pay
 18092 damages not to exceed the amount of such bond to any person aggrieved by any act of
 18093 the principal named in such bond, ~~which when such~~ act is in violation of this chapter and
 18094 would be grounds for denial, suspension, or revocation of a license under Code Section
 18095 43-38-11. Immediately upon the granting of a license, such bond shall be filed with the
 18096 ~~division~~ director by the licensee and shall be approved by the ~~division~~ director as to form
 18097 and as to the solvency of the surety. The prospective licensee may file the required bond
 18098 with the ~~division~~ director prior to the granting of a license for the ~~division~~ director's
 18099 approval as provided in this Code section. In lieu of the required bond, a prospective
 18100 licensee may submit to the ~~board~~ director evidence of a policy of liability insurance in an
 18101 amount of not less than \$1 million insuring such prospective licensee against personal
 18102 liability for damages arising out of acts of the insured or his employees. No licensee shall
 18103 cancel or cause to be canceled a bond or liability insurance policy issued pursuant to this
 18104 Code section unless the ~~board~~ director is so informed in writing by certified mail or
 18105 statutory overnight delivery at least 30 days prior to the proposed cancellation. In lieu
 18106 of the required bond or liability insurance policy, the prospective licensee may submit a
 18107 net worth affidavit, prepared using standard accounting procedures, which ~~affidavit~~
 18108 indicates that the prospective licensee has a net worth of more than \$50,000.00. The
 18109 ~~board~~ director, in its his or her discretion, may accept a financial affidavit in lieu of the
 18110 bond or liability insurance policy required by this subsection. The ~~board~~ director, in its
 18111 his or her discretion, may require licensees under this Code section to submit periodic
 18112 financial updates to ensure continued financial responsibility. If the surety or licensee
 18113 fails to submit, within ten days of the effective date of cancellation, a new bond or
 18114 liability insurance policy or a net worth statement as outlined in this subsection, the ~~board~~
 18115 director shall have the authority to revoke any license issued under this chapter.

18116 (2) Licensees who have previously posted bonds or submitted net worth affidavits to
 18117 comply with the provisions of this subsection may hereafter prove continued financial

18118 responsibility through the use of liability insurance policies in accordance with paragraph
18119 (1) of this subsection.

18120 (e) Immediately upon receipt of a license certificate issued by the ~~board~~ director pursuant
18121 to this chapter, the licensee shall post and at all times display such license in a conspicuous
18122 place at his or her place of business. A copy of the duplicate of the license certificate shall
18123 be conspicuously posted at each branch office.

18124 (f) Notwithstanding any other provisions of this Code section, an applicant for a license
18125 shall agree that if such applicant makes a false statement in the application or if such
18126 applicant has been found to have been convicted of a felony and has not had all his or her
18127 civil rights restored pursuant to law, then the ~~board~~ director shall be authorized to suspend
18128 any license granted to such applicant in compliance with Code Section 43-1-3.1. ~~without~~
18129 ~~a prior hearing as required in Code Section 43-38-11. Upon request, any such person shall~~
18130 ~~be entitled to a hearing on such matter subsequent to the suspension.~~

18131 (g) The ~~board~~ director may grant a license provided in this Code section to a person who
18132 is licensed in another state or territory of the United States which has licensing
18133 requirements substantially similar to the licensing requirements provided in this Code
18134 section.

18135 (h) The ~~board~~ director may issue a temporary permit for not longer than 30 days to any
18136 person who is licensed in another state or territory of the United States which has licensing
18137 requirements substantially similar to the licensing requirements provided in this Code
18138 section if such person, in the course of an investigation which arose in the state in which
18139 he or she is licensed, finds it necessary to conduct an investigation in this state. Such
18140 temporary permit shall be limited to the scope of such investigation. No more than one
18141 temporary permit shall be issued in any 12 month period.

18142 (i) The ~~board~~ director may, in its his or her discretion and in accordance with regulations
18143 adopted by the licensing board, enter into limited license recognition agreements with any
18144 other state or the District of Columbia having licensure requirements substantially equal
18145 to the requirements provided by this chapter pursuant to which a person so licensed in such
18146 state or district may conduct an investigation in this state directly related to an investigation
18147 which was initiated outside of this state; provided, however, that such privilege shall be
18148 limited to 30 days for each agency for each such investigation.

18149 43-38-7.

18150 (a) Any employer may employ as many agents, guards, watchmen, or patrolmen as he or
18151 she deems necessary for the conduct of his or her business, provided that such employees
18152 meet the requirements and qualifications for licensure under this chapter.

18153 (b)(1) Except as provided in paragraph (2) of this subsection, within 180 days of
 18154 completing licensing board mandated prelicensure training, potential licensees shall make
 18155 application to be licensed with the ~~board~~ director.

18156 (2) Any guard, watchman, or patrolman who will be unarmed and who will be employed
 18157 in the private security business shall not be required to be licensed by the ~~board~~ director
 18158 but shall be governed by Code Section 43-38-7.1.

18159 (c)(1) Except as otherwise provided in paragraph (2) of subsection (b) of this Code
 18160 section, upon being satisfied of the applicant's character, competency, and eligibility for
 18161 licensure, the ~~board~~ director may license such applicant if he or she:

18162 (A) Is at least 18 years of age;

18163 (B) Is a citizen of the United States or a registered resident alien;

18164 (C) Is of good moral character;

18165 (D) Has not been convicted of a felony or any crime involving the illegal use, carrying,
 18166 or possession of a dangerous weapon or any crime involving moral turpitude; provided,
 18167 however, that, if the applicant has been convicted of such crime, ~~or~~ has entered a plea
 18168 of nolo contendere to such crime, or has entered a plea pursuant to Article 3 of Chapter
 18169 8 of Title 42 or otherwise been granted first offender treatment, the ~~board~~ director may
 18170 inquire into the nature of the crime, the date of conviction or plea, and other underlying
 18171 facts and circumstances surrounding such criminal proceedings and, in it's the director's
 18172 discretion, may allow the applicant to be licensed;

18173 (E) Has not committed an act constituting dishonesty or fraud; and

18174 (F) Meets such other qualifications as the licensing board may prescribe by rule.

18175 (2) The licensing board shall be authorized to require continuing education as a condition
 18176 of renewal for all persons required to be licensed or registered with the ~~board~~ director
 18177 under this chapter. The licensing board shall be authorized to promulgate rules and
 18178 regulations addressing the requirement for continuing education and circumstances for
 18179 which a waiver of this requirement may be granted.

18180 (d) The license application shall be made under oath and on a form to be furnished by the
 18181 ~~division~~ director. The application shall state the applicant's full name, age, and date and
 18182 place of birth; residences and employment within the past five years; experience in the
 18183 position applied for or held; the date and place of conviction or arrest for any crime,
 18184 including the entry of a plea of nolo contendere or the entry of a plea entered pursuant to
 18185 Article 3 of Chapter 8 of Title 42 or other first offender treatment; and such other
 18186 information as the ~~board~~ director may require. The license application shall be
 18187 accompanied by two sets of fingerprints of the applicant and one photograph of the
 18188 applicant, two inches wide by three inches high, full face, and taken within six months
 18189 prior to the application. The ~~board~~ director shall have discretion to deny a license to any

18190 individual when the information and supporting documentation required by this subsection
18191 are not provided.

18192 (e) Upon granting a license pursuant to this Code section, the board director shall so notify
18193 the licensee. An employer shall notify the board director within 30 days of the hiring or
18194 termination of employment of any employee licensed under this Code section.

18195 (f) Upon receipt of a license card issued by the board director pursuant to this chapter, the
18196 licensee shall maintain ~~said~~ such card on his or her person at all times while on his or her
18197 post or at his or her place of employment and at all times when the licensee wears a
18198 uniform in the course of his or her employment in the private detective or private security
18199 business.

18200 (g) Notwithstanding any other provisions of this Code section, any person who is to be
18201 licensed under this Code section shall agree that if such person makes a false statement in
18202 the application or if such person is found to have been convicted of a felony and has not
18203 had all his or her civil rights restored pursuant to law, then the board director shall be
18204 authorized to suspend any license granted to such person in compliance with Code Section
18205 43-1-3.1. without a prior hearing as required in Code Section 43-38-11. Upon request, any
18206 ~~such person shall be entitled to a hearing on such matter subsequent to the suspension.~~

18207 43-38-7.1.

18208 (a) Any individual, firm, association, company, partnership, limited liability company, or
18209 corporation engaged in the private security business and licensed pursuant to Code Section
18210 43-38-6 shall be required to maintain registration records of all guards, watchmen, or
18211 patrolmen who are unarmed pursuant to rules and regulations of the licensing board. A
18212 licensee shall not be required to register such unarmed employees with the board director.
18213 Unarmed employees shall be required to complete a certain number of hours of training as
18214 prescribed by the board director, and a record of such training shall be maintained with the
18215 registration records of such employees.

18216 (b) The licensee shall forward fingerprints received from each prospective registrant to the
18217 Georgia Crime Information Center of the Georgia Bureau of Investigation for the purpose
18218 of criminal identification through the fingerprint system of identification established by the
18219 Georgia Bureau of Investigation and the fingerprint system of investigation established by
18220 the Federal Bureau of Investigation.

18221 (c) It shall be the duty of the licensee to keep a record of all information received from the
18222 Georgia Bureau of Investigation and the Federal Bureau of Investigation with respect to
18223 criminal identification and to cooperate with the Georgia Bureau of Investigation, similar
18224 departments in other states, and the United States Department of Justice in any criminal
18225 identification system.

18226 (d) At such times as the ~~board~~ director may require, fingerprint cards of registrants may
18227 be periodically reprocessed by a licensee to identify criminal convictions subsequent to
18228 registration.

18229 43-38-8.

18230 Notwithstanding any other provisions of this chapter, any person or corporation may use
18231 temporary employees for special events, provided that such temporary employment does
18232 not exceed 30 days in a calendar year and such employees do not carry firearms in
18233 connection with such employment.

18234 43-38-9.

18235 (a) The ~~board~~ director shall forward the necessary fingerprints received from each
18236 prospective licensee and registrant required to be licensed or registered by the ~~board~~
18237 director under this chapter to the Georgia Crime Information Center or the Georgia Bureau
18238 of Investigation for the purpose of criminal identification through the fingerprint system
18239 of identification established by such bureau and the fingerprint system of investigation
18240 established by the Federal Bureau of Investigation.

18241 (b) It shall be the duty of the ~~division~~ director to keep a record of all information received
18242 from the Georgia Bureau of Investigation and the Federal Bureau of Investigation with
18243 respect to criminal identification and to cooperate with the Georgia Bureau of
18244 Investigation, similar departments in other states, and the United States Department of
18245 Justice in any criminal identification system.

18246 (c) At such times as the ~~board~~ director may require, fingerprint cards of licensees and
18247 registrants may be periodically reprocessed to identify criminal convictions subsequent to
18248 licensure or registration.

18249 43-38-10.

18250 (a) The ~~board~~ director may grant a permit to carry a pistol, revolver, or other firearm to
18251 any person who is at least 21 years of age and who is licensed or registered in accordance
18252 with this chapter and who meets the qualifications and training requirements set forth in
18253 this Code section and such other qualifications and training requirements as the licensing
18254 board by rule may establish. The licensing board shall have the authority to establish limits
18255 on type and caliber of such weapons by rule. Application for such permit and for renewal
18256 thereof shall be made on forms provided by the ~~division~~ director. No weapons permit
18257 issued under this Code section shall be transferable to another individual.

18258 (b) No permit under this Code section shall be issued or renewed until the applicant has
18259 presented proof to the ~~board~~ director that he or she is proficient in the use of firearms. The

18260 licensing board shall have the authority to require periodic recertification of proficiency
 18261 in the use of firearms and to refuse to renew a permit upon failure to comply with such
 18262 requirement. The applicant shall present proof to the ~~board~~ director that:

18263 (1) He or she has demonstrated on the firearms range proficiency in the use of firearms
 18264 by meeting such minimum qualifications on pistol and shotgun (if so armed) courses as
 18265 the licensing board may prescribe by rule; and

18266 (2) He or she has received such other training and instruction in the use of firearms as
 18267 the licensing board may require by rule.

18268 (c) All licensees and registrants under this chapter shall be required to obtain from the
 18269 ~~board~~ director a weapons permit under this Code section if a firearm is carried, or is to be
 18270 carried, by such licensee or registrant while at or en route directly to and from his or her
 18271 post or place of employment.

18272 (d) Any licensee or registrant under this chapter meeting the qualifications and training
 18273 requirements set out in this Code section may be issued an exposed weapons permit in
 18274 accordance with this Code section and shall be authorized to carry such firearm in an open
 18275 and fully exposed manner. Such carrying of a firearm shall be limited to the time the
 18276 licensee or registrant is on duty or en route directly to and from his or her post or place of
 18277 employment. No stopover en route to and from such post or place of employment is
 18278 permitted under the terms of this Code section.

18279 (e) Licensees or registrants under this chapter may apply to the ~~board~~ director for a
 18280 concealed weapons permit. Qualifications and training requirements for such permits and
 18281 restrictions on such permits shall be established by appropriate rules of the licensing board.
 18282 The ~~board~~ director shall, in ~~its~~ his or her discretion, consider and approve each application
 18283 for a concealed weapons permit on an individual basis.

18284 (f) An individual issued a permit in accordance with this Code section shall be exempt
 18285 from the following laws of this state:

18286 (1) Code Section 16-11-126, relating to carrying a weapon;

18287 (2) Code Section 16-11-127, relating to carrying a weapon or long gun in an unauthorized
 18288 location; and

18289 (3) Code Section 16-11-129, relating to licenses to carry weapons generally.

18290 (g) The ~~board~~ director shall have the power to deny a weapons permit to any applicant who
 18291 fails to provide the information and supporting documentation required by this Code
 18292 section or to refuse to renew a permit upon failure to comply with such weapons
 18293 proficiency recertification requirements as the licensing board may prescribe.

18294 (h) The ~~board~~ director shall have the authority to order the summary suspension of any
 18295 weapons permit issued under this Code section, pending proceedings for revocation or
 18296 other sanction by the licensing board, upon finding that the public health, safety, or welfare

18297 imperatively requires such emergency action, ~~which~~ and the finding shall be incorporated
18298 in its order.

18299 (i) The ~~board~~ director shall have the same power and authority to deny and sanction
18300 weapons permits under this Code section as that enumerated in Code Section 43-38-11,
18301 based on the same grounds as those enumerated in that Code section.

18302 (j) A weapons permit issued under this Code section to any person whose license is
18303 suspended pursuant to subsection (f) of Code Section 43-38-6 or whose registration is
18304 suspended pursuant to subsection (g) of Code Section 43-38-7 shall be suspended at the
18305 same time as the suspension of the license or registration without a prior hearing as
18306 required in Code Section 43-38-11. A weapons permit shall be restored to a person upon
18307 the restoration of the person's license or registration.

18308 43-38-10.1.

18309 (a) The licensing board shall provide by rule and regulation for the registration of all
18310 training instructors or training programs so as to regulate all training requirements for
18311 licensure, registration, or weapons permits required by this chapter.

18312 (b) The licensing board shall have the authority to promulgate rules and regulations
18313 governing minimum training standards for licensure, registration, or weapons permits.
18314 Such training shall be conducted by a ~~board~~ director registered training instructor or
18315 through a licensing board approved training program.

18316 (c) Any ~~board~~ director registered training instructor or licensing board approved training
18317 program shall be required to submit to appropriate inspection of facilities and review of
18318 curriculum.

18319 (d) The ~~board~~ director may suspend, revoke, or deny any application for registration for
18320 any training instructor or suspend, revoke, or deny approval of any training program as
18321 provided in Code Section 43-38-11.

18322 43-38-11.

18323 (a) The ~~board~~ director shall have the authority to refuse to grant a license or registration
18324 to an applicant therefor or to revoke the license or registration of a person licensed or
18325 registered by the ~~board~~ director or to discipline a person licensed or registered by the ~~board~~
18326 director upon a finding by ~~a majority of the entire board~~ the director that the licensee,
18327 registrant, or applicant has:

18328 (1) Failed to demonstrate the qualifications or standards for a license or registration
18329 contained in this chapter or the rules or regulations under which licensure is sought or
18330 held. It shall be incumbent upon the applicant to demonstrate to the satisfaction of the
18331 ~~board~~ director that he or she meets all the requirements for the issuance of a license or

18332 registration and, if the ~~board~~ director is not satisfied as to the applicant's qualifications,
 18333 it the director may deny a license or registration without a prior hearing; provided,
 18334 however, that the applicant shall be allowed to appear before the licensing board if he or
 18335 she so desires;

18336 (2) Made any false statement or given any false information in connection with an
 18337 application for license or registration, including an application for renewal or
 18338 reinstatement thereof;

18339 (3) Knowingly violated this chapter or violated any rule or regulation promulgated by
 18340 the licensing board pursuant to the authority contained in this chapter;

18341 (4) Been convicted, in the courts of this state or of the United States, or in the courts of
 18342 any other state, territory, or country, of a felony, or any crime involving the illegal use,
 18343 carrying, or possession of a dangerous weapon, or any crime involving moral turpitude.
 18344 As used in this subsection, the term 'felony' shall include any offense which if committed
 18345 in this state would be deemed a felony, without regard to its designation elsewhere. For
 18346 purposes of this subsection, a 'conviction' shall be deemed to include a finding or verdict
 18347 of guilty or plea of guilty, regardless of whether an appeal of the conviction has been
 18348 sought;

18349 (5) Been arrested, charged, and sentenced for the commission of a felony, any crime
 18350 involving the illegal use, carrying, or possession of a dangerous weapon, or any crime
 18351 involving moral turpitude, where:

18352 (A) A plea of nolo contendere was entered to the charge;

18353 (B) First offender treatment was granted without adjudication of guilt pursuant to the
 18354 charge; or

18355 (C) An adjudication or sentence was otherwise withheld or not entered on the charge.
 18356 The plea of nolo contendere or the order entered pursuant to Article 3 of Chapter 8 of
 18357 Title 42 or other first offender treatment shall be conclusive evidence of arrest and
 18358 sentencing for such crime;

18359 (6) Become unable to engage in the private detective or private security business with
 18360 reasonable skill and safety to the public by reason of illness; use of alcohol, drugs,
 18361 narcotics, chemicals, or any other type of material; or any other mental or physical
 18362 condition. The ~~board~~ director may, however, after investigation of the circumstances
 18363 surrounding each application, approve for licensure and registration those individuals
 18364 who produce certified medical evidence of having been successfully treated and cured of
 18365 alcoholism, drug addiction, or mental illness;

18366 (7) Committed any act in the practice of the private detective or private security business
 18367 constituting dishonesty or fraud;

- 18368 (8) Been convicted of impersonating, or permitting or aiding and abetting any other
18369 person to impersonate, a law enforcement officer or employee of the United States or of
18370 this state or of any political subdivision thereof in the practice of the private detective or
18371 private security business;
- 18372 (9) Engaged in, or permitted any employee to engage in, the private detective or private
18373 security business without a valid license or registration issued under this chapter;
- 18374 (10) Willfully failed or refused to render a service or to tender a report to a client in
18375 connection with the private detective or private security business as agreed between the
18376 parties and for which compensation was paid or tendered in accordance with the
18377 agreement of the parties;
- 18378 (11) Committed a felony, any crime involving the illegal use, carrying, or possession of
18379 a dangerous weapon, or any crime involving moral turpitude;
- 18380 (12) Knowingly violated, or advised, encouraged, or assisted in the violation of, any
18381 court order or injunction in the course of the private detective or private security business
18382 or knowingly advised, encouraged, or assisted in the violation of any lawful order issued
18383 by the licensing board or the director;
- 18384 (13) Failed to renew a canceled bond or liability insurance policy in accordance with
18385 subsection (d) of Code Section 43-38-6 or failed to supply the financial affidavit required
18386 in lieu thereof;
- 18387 (14) Undertaken to give legal advice or counsel; misrepresented that he or she is
18388 representing an attorney or is appearing or will appear in any legal proceeding; or issued,
18389 delivered, or uttered any simulation of process of any nature which might lead a person
18390 to believe that such simulation, whether written, printed, or typed, may be a summons,
18391 warrant, writ, or other court process or pleading in any court proceeding;
- 18392 (15) Failed to demonstrate the qualifications or standards for licensure or registration
18393 contained in this chapter or in the rules and regulations of the licensing board. It shall be
18394 incumbent upon the applicant to demonstrate to the satisfaction of the ~~board~~ director that
18395 he or she meets all the requirements for licensure or registration; and, if the ~~board~~ director
18396 is not satisfied as to the applicant's qualifications, ~~it~~ the director shall have the power to
18397 deny such licensure or registration; or
- 18398 (16) Purchased, acquired, sold, or released the telephone records, as such term is defined
18399 in Code Section 46-5-210, of any third party who is a Georgia resident.
- 18400 (b)(1) If the ~~board~~ director finds that any applicant for licensure or any prospective
18401 registrant is unqualified to be granted such license or to be registered, the ~~board~~ director
18402 may:
- 18403 (A) Deny the application for licensure or registration; or
- 18404 (B) Limit or restrict any license or registration for a definite period of time.

18405 (2) If, after notice and opportunity for a hearing, the ~~board~~ director finds that the license
 18406 or registration of any holder thereof should be revoked or otherwise sanctioned, the ~~board~~
 18407 director may take any one or more of the following actions:

18408 (A) Administer a public reprimand;

18409 (B) Suspend any license or registration for a definite period of time;

18410 (C) Limit or restrict any license or registration for a definite period of time;

18411 (D) Revoke or suspend a license or registration;

18412 (E) Fine any licensee or registrant in an amount not to exceed \$500.00 for each
 18413 violation of a law or rule or regulation; or

18414 (F) Place a licensee or registrant on probation for a definite period of time and impose
 18415 such conditions of probation as will adequately protect the public during that period.

18416 In ~~its~~ his or her discretion, the ~~board~~ director may restore or reinstate a license or
 18417 registration which has been sanctioned and, in conjunction therewith, may impose any
 18418 disciplinary or corrective action provided for in this chapter.

18419 (c) An order or finding of the director made pursuant to this chapter shall be made in
 18420 compliance with Code Section 43-1-3.1. Initial judicial review of a final decision of the
 18421 licensing board shall be had solely in the ~~superior court of the county of domicile of the~~
 18422 ~~board~~ Superior Court of Bibb County.

18423 43-38-11.1.

18424 (a) After proper notification, the ~~board~~ director may suspend the license, registration, or
 18425 weapons permit of any licensee, registrant, or weapons permit holder without a prior
 18426 hearing as required in Code Section 43-38-11, provided that said licensee, registrant, or
 18427 weapons permit holder is determined by the ~~board~~ director to present a clear and present
 18428 danger to the public safety on the grounds outlined in Code Section 43-38-11, is found to
 18429 have had a prior felony conviction, or is currently under a first offender sentence for a
 18430 felony crime that was not reported on the application for licensure or registration.

18431 (b) ~~After proper notification the board~~ In accordance with Code Section 43-1-3.1, the
 18432 ~~director~~ may suspend without a prior hearing as required in Code Section 43-38-11 the
 18433 license of any licensee pursuant to subsection (f) of Code Section 43-38-6 ~~or~~, the
 18434 registration of any registrant pursuant to subsection (g) of Code Section 43-38-7, or the
 18435 weapons permit of any weapons permit holder pursuant to subsection (j) of Code Section
 18436 43-38-10.

18437 43-38-12.

18438 All hearings required to be conducted by the licensing board shall be conducted in
 18439 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

18440 all rules and regulations of the licensing board shall be adopted and promulgated in
 18441 accordance with Chapter 13 of Title 50.

18442 43-38-13.

18443 Licensees or registrants under this chapter shall have the same power of arrest as that
 18444 granted to a private person by Code Section 17-4-60.

18445 43-38-14.

18446 (a) This chapter shall not apply to:

18447 (1) An officer or employee of the United States of America or of this state or a political
 18448 subdivision thereof while the employee or officer is engaged in the performance of
 18449 official duties;

18450 (2) A person engaged in the business of furnishing information in connection with credit
 18451 or marketing and a person or firm engaged as a consumer reporting agency, as defined
 18452 by the federal Fair Credit Reporting Act;

18453 (3) An attorney at law or a bona fide legal assistant in performing his or her duties;

18454 (4) Admitted insurers, agents, and insurance brokers licensed by the state while
 18455 performing duties in connection with insurance transacted by them;

18456 (5) A firm engaged in the business of independent insurance claims adjusting whose
 18457 employees hold a valid Georgia adjuster's license; or

18458 (6) The employees of a firm identified in paragraph (5) of this subsection.

18459 (b) Any person with a valid peace officer certification issued pursuant to Chapter 8 of Title
 18460 35, the 'Georgia Peace Officer Standards and Training Act,' who is employed by or works
 18461 as an independent contractor for a licensed:

18462 (1) Private security business shall be exempt from any training provisions required by
 18463 this chapter for such business and shall be deemed to have satisfied all licensing board
 18464 rules and regulations relative to training; and

18465 (2) Private detective business or private security business shall be exempt from further
 18466 licensure under this chapter and shall be permitted to carry a firearm without obtaining
 18467 any weapons permit from the ~~board~~ director; provided, however, that such licensed
 18468 private detective business or private security business shall be required to register such
 18469 employee or independent contractor with the ~~board~~ director.

18470 (c) This chapter shall not prevent the local authorities of any municipality or county, by
 18471 ordinance and within the exercise of the police power of such municipality or county, from
 18472 imposing local regulations upon any street patrol, special officer, or person furnishing
 18473 street patrol service, including regulations requiring registration with an agency to be
 18474 designated by such municipality or county.

18475 (d) This chapter shall not apply to a person or corporation which employs persons who do
 18476 private security work in connection with the affairs of such employer only and who have
 18477 an employer-employee relationship with such employer. Neither such persons or
 18478 corporations nor their employees shall be required to register or be licensed under this
 18479 chapter, although such persons or corporations or their employees may elect to be licensed
 18480 under this chapter.

18481 43-38-14.1.

18482 (a) No municipality, county, or other political subdivision of this state shall grant a
 18483 business license to any person required to be licensed under this chapter until such person
 18484 has made bona fide application to the board director to be licensed under this chapter and
 18485 the board director has taken action under the application other than refusal, cancellation,
 18486 revocation, or failure to renew the applicant's license.

18487 (b) As used in this Code section, the term 'person' shall mean any individual, firm,
 18488 association, partnership, limited liability company, or corporation.

18489 43-38-15.

18490 No individual, firm, association, company, partnership, limited liability company, or
 18491 corporation shall engage in any activity covered by this chapter unless such individual,
 18492 firm, association, company, partnership, limited liability company, or corporation is in
 18493 compliance with this chapter.

18494 43-38-16.

18495 Any person who engages in the private detective business or private security business or
 18496 offers, pretends, or holds himself or herself out as eligible to engage in the private detective
 18497 business or private security business and who is not legally licensed or registered under this
 18498 chapter shall be guilty of a misdemeanor. Each day or fraction of a day that he or she
 18499 practices in violation of this chapter shall constitute a separate offense."

18500 **SECTION 1-35.**

18501 Said title is further amended by revising Chapter 39, relating to psychologists, as follows:

18502 "CHAPTER 39

18503 43-39-1.

18504 As used in this chapter, the term:

18505 (1) 'Board' means the State Board of Examiners of Psychologists, a professional
 18506 licensing policy board pursuant to Chapter 1 of this title with the authority and
 18507 responsibilities at set forth in such chapter.

18508 (1.1) 'Director' means the director of professional licensing.

18509 (1.2) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 18510 Article 2 of Chapter 1 of this title.

18511 (2) 'Neuropsychology' means the subspecialty of psychology concerned with the
 18512 relationship between the brain and behavior, including the diagnosis of brain pathology
 18513 through the use of psychological tests and assessment techniques.

18514 (3) 'To practice psychology' means to render or offer to render to individuals, groups,
 18515 organizations, or the public for a fee or any remuneration, monetary or otherwise, any
 18516 service involving the application of recognized principles, methods, and procedures of
 18517 the science and profession of psychology, such as, but not limited to, diagnosing and
 18518 treating mental and nervous disorders and illnesses, rendering opinions concerning
 18519 diagnoses of mental disorders, including organic brain disorders and brain damage,
 18520 engaging in neuropsychology, engaging in psychotherapy, interviewing, administering,
 18521 and interpreting tests of mental abilities, aptitudes, interests, and personality
 18522 characteristics for such purposes as psychological classification or evaluation, or for
 18523 education or vocational placement, or for such purposes as psychological counseling,
 18524 guidance, or readjustment. Nothing in this paragraph shall be construed as permitting the
 18525 administration or prescription of drugs or in any way infringing upon the practice of
 18526 medicine as defined in the laws of this state.

18527 43-39-2.

18528 There is created a State Board of Examiners of Psychologists as a professional licensing
 18529 advisory board, to consist of six members who shall be appointed by the Governor under
 18530 conditions set forth in this chapter. No member of the board shall be liable to civil action
 18531 for any act performed in good faith in the performance of that member's duties as
 18532 prescribed by law.

18533 43-39-3.

18534 (a) The Governor shall appoint members to serve on the board so that the board shall at
 18535 all times be composed of five members who are persons licensed as psychologists under
 18536 this chapter and one consumer member who is not licensed as a psychologist under this
 18537 chapter and who has no connection whatsoever with the practice or profession of
 18538 psychology.

18539 (b) All six members of the board shall serve for terms of five years and until their
 18540 successors are appointed and qualified. Vacancies on the board shall be filled by the
 18541 Governor for the unexpired term in the same manner as the original appointment, and
 18542 members shall serve until their successors are appointed and qualified. Any board member
 18543 may be removed after notice and hearing for incompetence, neglect of duty, malfeasance
 18544 in office, or commission of a crime involving moral turpitude.

18545 43-39-4.

18546 Immediately and before entering upon the duties of their office, the members of the board
 18547 shall take the constitutional oath of office and shall file the same in the office of the
 18548 Governor who, upon receiving ~~said~~ such oath of office, shall issue to each member a
 18549 certificate of appointment.

18550 43-39-5.

18551 (a) The board shall elect annually a president and a ~~vice-president~~ vice president. The
 18552 ~~board shall operate under the terms of Chapter 1 of this title, providing for a division~~
 18553 ~~director for the professional licensing boards division; and the division~~ director shall serve
 18554 the board as provided by law.

18555 (b) The board shall hold at least one regular meeting each year. Called meetings may be
 18556 held at the discretion of the president or at the written request of any two members of the
 18557 board.

18558 (c) ~~The board shall adopt a seal, which must be affixed to all licenses issued by the board.~~

18559 ~~(d)~~ The licensing board shall from time to time adopt such rules and regulations as it may
 18560 deem necessary for the performance of its duties and shall provide for examinations and
 18561 pass upon the qualifications of the applicants for the practice of psychology.

18562 ~~(e)~~(d) Each member of the board shall be reimbursed as provided for in subsection (f) of
 18563 Code Section 43-1-2.

18564 43-39-6.

18565 The licensing board shall have authority to establish a code of conduct and of ethics, to
 18566 administer oaths, to summon witnesses, and to take testimony in all matters relating to its
 18567 duties. The ~~board~~ director shall issue licenses to practice psychology to all persons who
 18568 shall present satisfactory evidence of attainments and qualifications under this chapter and
 18569 the rules and regulations of the licensing board. Such licenses shall be ~~attested~~ issued by
 18570 the ~~division~~ director ~~under the board's adopted seal~~, and it shall give absolute authority to
 18571 the person to whom it is issued to practice psychology in this state. It shall be the duty of
 18572 the ~~division~~ director, ~~under the direction of the board~~, to aid the prosecuting attorneys in

18573 the enforcement of this chapter and the prosecution of all persons charged with the
18574 violation of its provisions.

18575 43-39-7.

18576 A person who is not licensed under this chapter shall not practice psychology, shall not use
18577 the title 'psychologist,' and shall not imply that he or she is a psychologist. If any person
18578 shall practice psychology or hold himself or herself out as being engaged in the practice
18579 of psychology and shall not then possess in full force a valid license to practice psychology
18580 under the laws of this state, such person shall be in violation of this chapter. The following
18581 are exceptions:

18582 (1) Nothing in this chapter shall require licensure for a person who is certified as a
18583 school psychologist by the Professional Standards Commission while that person is
18584 working as an employee in an educational institution recognized by the ~~State Board of~~
18585 ~~Examiners of Psychologists~~ licensing board as meeting satisfactory accreditation
18586 standards, provided that no fees are charged directly to clients or through a third party;

18587 (2) Nothing in this chapter shall be construed to prevent the teaching of psychology or
18588 the conduct of psychological research, provided that such teaching or research does not
18589 involve the delivery or supervision of direct psychological services to individuals or
18590 groups of individuals by an unlicensed person. Any person holding a doctoral degree in
18591 psychology while working as an employee in a research laboratory, college, or university
18592 recognized by the licensing board as meeting satisfactory accreditation standards may use
18593 the title 'psychologist' in conjunction with activities permitted by this paragraph, provided
18594 that no fees are charged directly to clients or through a third party;

18595 (3) Nothing in this chapter shall require licensure for a person who was engaged in the
18596 practice of psychology as an employee of an agency or department of the state
18597 government, any of its political subdivisions, or community service boards as defined in
18598 Code Section 37-2-2 either prior to July 1, 1996, at a state intermediate care or skilled
18599 care facility for persons with mental retardation or prior to July 1, 1997, at any other
18600 facilities or offices of the entities previously mentioned, but only when that person is
18601 engaged in that practice as an employee of such entities;

18602 (4) Nothing in this chapter shall be construed to limit the activities and services of a
18603 person in the employ of or serving for an established and recognized religious
18604 organization, provided that the title 'psychologist' is not used by a person not licensed and
18605 that the person does not imply that he or she is a psychologist;

18606 (5) Persons who hold a doctoral degree in psychology may practice under the supervision
18607 of a licensed psychologist in order to obtain the experience required for licensure;

18608 (6) Nothing in this chapter shall be construed to prohibit any person from engaging in
 18609 the lawful practice of medicine, nursing, professional counseling, social work, and
 18610 marriage and family therapy, as provided for under other state law, provided that such
 18611 person shall not use the title 'psychologist' nor imply that he or she is a psychologist;

18612 (7) Nothing in this chapter shall be construed to prevent students, trainees, or assistants
 18613 from engaging in activities defined as the practice of psychology, provided such persons
 18614 are under the direct supervision and responsibility of a licensed psychologist and the
 18615 student, trainee, or assistant does not represent himself or herself to be a psychologist.
 18616 The licensing board shall establish rules and regulations for the supervision of persons
 18617 exempted under this paragraph; and

18618 (8) An individual licensed to practice psychology in another jurisdiction may practice
 18619 psychology in Georgia without applying for a license, so long as the requirements for a
 18620 license in the other jurisdiction are equal to or exceed the requirements for licensure in
 18621 Georgia, and the psychologist limits that person's practice in Georgia to no more than 30
 18622 days per year, as defined in the rules and regulations of the licensing board.

18623 43-39-8.

18624 (a) Any person wishing to practice psychology in this state shall make application to the
 18625 ~~board through the division~~ director upon such form and in such manner as shall be adopted
 18626 and prescribed by the licensing board and obtain from the ~~board~~ director a license so to do.
 18627 Unless such a person has obtained such a license it shall be unlawful for that person to
 18628 practice; and if that person shall practice psychology without first having obtained such a
 18629 license, that person shall be deemed to have violated this chapter.

18630 (b) A candidate for such license shall furnish the ~~board~~ director with satisfactory evidence
 18631 that the candidate:

18632 (1) Is of good moral character;

18633 (2) Has completed the requirements of a doctoral degree from a professional training
 18634 program in applied psychology, including but not limited to clinical psychology,
 18635 counseling psychology, industrial or organizational psychology, or school psychology
 18636 from an accredited educational institution recognized by the licensing board as
 18637 maintaining satisfactory standards. Any person who has received a doctoral degree in
 18638 psychology from an accredited educational institution recognized by the licensing board
 18639 as maintaining satisfactory standards and who has also completed an organized retraining
 18640 program in applied psychology acceptable to the licensing board shall also meet the
 18641 degree requirements of this paragraph;

18642 (3) Has had at least two years of experience in psychology of a type considered by the
 18643 licensing board to be qualifying in nature;

- 18644 (4) Is competent in psychology, as shown by passing such examinations, written or oral,
 18645 or both, as the licensing board deems necessary; and
 18646 (5) Has not within the preceding six months failed ~~an~~ a licensing board approved
 18647 examination given by the board director.

18648 43-39-9.

18649 Applicants shall take a licensing board approved examination to test the applicant's
 18650 qualifications. The examination shall be written or oral or both.

18651 43-39-10.

18652 The board director may grant a license to any person who at the time of application is
 18653 licensed by a similar board director of another state whose standards, in the opinion of the
 18654 board director, are not lower than those required by this chapter. The board director may
 18655 require the applicant to pass such written and oral examinations as the licensing board may
 18656 deem necessary.

18657 43-39-11.

18658 Reserved.

18659 43-39-12.

18660 Licenses issued by the board director shall be renewable biennially.

18661 43-39-13.

18662 (a) The board director shall have the authority, in compliance with Code Section 43-1-3.1,
 18663 to refuse to grant or renew a license to an applicant therefor or to suspend or revoke a
 18664 license issued by the board director or to discipline a person licensed by the board director
 18665 based upon any of the following: the employment of fraud or deception in applying for a
 18666 license or in passing the examination provided for in this chapter; conviction of a felony;
 18667 the practice of psychology under a false or assumed name or the impersonation of another
 18668 practitioner of a like or different name; habitual intemperance in the use of alcoholic
 18669 beverages, narcotics, or stimulants to such an extent as to incapacitate one in the
 18670 performance of one's duties; negligence or wrongful actions in the performance of one's
 18671 duties; or ~~for~~ any violation of subsection (a) of Code Section 43-1-19. Any license revoked
 18672 by the board director shall be subject to reinstatement at the discretion of the board
 18673 director:

18674 (1) In enforcing this subsection, the board director may, if it he or she has reasonable
 18675 basis to believe that the psychologist is practicing while incapacitated in the performance

18676 of his or her duties by reason of substance abuse or mental or physical illness, require a
 18677 licensee or applicant to submit to a mental, physical, or mental and physical examination
 18678 by an appropriate licensed practitioner designated by the licensing board. The results of
 18679 such examination shall be admissible in any hearing before the licensing board,
 18680 notwithstanding any claim of privilege under a contrary rule of law or statute. If a
 18681 licensee fails to submit to each examination when properly directed to do so by the board
 18682 director, the board director may summarily suspend such license, if the public health,
 18683 safety, and welfare imperatively requires such action, and thereafter enter a final order
 18684 upon proper notice, hearing, and proof of such refusal; and

18685 (2) For the purpose of this subsection, if the board director, ~~if it~~ has a reasonable basis
 18686 to believe that the psychologist is incapacitated in the performance of his or her duties by
 18687 reason of substance abuse or mental or physical illness, the director may require the
 18688 psychologist to produce or give the board director permission to obtain any and all
 18689 records relating to the alleged incapacitating mental or physical condition of a licensee
 18690 or applicant, including that individual's personal psychiatric and psychological records;
 18691 and such records shall be admissible in any hearing before the licensing board. If a
 18692 licensee fails to provide such records when properly directed to do so by the board
 18693 director, the board director may summarily suspend such license, if the public health,
 18694 safety, and welfare imperatively requires such action, and thereafter enter a final order
 18695 upon proper notice, hearing, and proof of such refusal.

18696 (b) The board director may ~~not~~ suspend or revoke or refuse to renew any license for cause
 18697 or refuse to issue a license for lack of good moral character in accordance with Code
 18698 Section 43-1-3.1, ~~unless the person accused has been afforded an opportunity for a hearing~~
 18699 ~~by the board before either the board or its hearing officer. The hearing shall be held in~~
 18700 ~~accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and~~
 18701 ~~the board or its hearing officer shall have all the powers and authority granted to tribunals~~
 18702 ~~and their hearing officers under Chapter 13 of Title 50.~~

18703 (c) The action of the licensing board in granting or refusing to grant or renew a license
 18704 under this chapter, or in revoking or suspending or refusing to revoke or suspend such a
 18705 license, may be appealed in accordance with Chapter 13 of Title 50, the 'Georgia
 18706 Administrative Procedure Act,' to the ~~superior court in the county where the division~~
 18707 ~~director maintains his offices~~ Superior Court of Bibb County, provided that, if the findings
 18708 of the licensing board are supported by any evidence, then such findings shall be accepted
 18709 by the court.

18710 43-39-14.

18711 (a) The board director may issue a temporary license to an applicant for a permanent
18712 license. Such license shall have the same force and effect as a permanent license. The
18713 temporary license will expire 12 months from the date of its issuance and shall not be
18714 renewable. Upon a finding by the board director that the applicant has failed either the
18715 written or oral examination, the board director shall revoke such temporary license.

18716 (b) The board director may issue a provisional license to an applicant for a permanent
18717 license. The provisional license may be granted to an individual who has passed all written
18718 examinations and completed all other requirements for permanent license except for the
18719 postdoctoral supervised work experience requirement and the oral examination.
18720 Provisional licensure will expire in 24 months unless the board director grants an
18721 exception, or in the event of the granting of a permanent license, whichever occurs first.
18722 The provisional license shall not be renewable. An individual who is licensed under this
18723 subsection is restricted to the stipulations of the supervised work experience requirement.
18724 Provisional licensure will be granted only to an individual who is in the process of
18725 completing the postdoctoral supervised work experience requirement and is subject to
18726 revocation if the board director determines that the requirements of the supervised work
18727 experience are not being satisfactorily met. The revocation of a provisional license shall
18728 not be considered a contested case within the meaning of Chapter 13 of Title 50, the
18729 'Georgia Administrative Procedure Act,' but ~~a holder of a provisional license shall have a~~
18730 ~~right to appear before the board~~ shall be governed by Code Section 43-1-3.1.

18731 43-39-15.

18732 The licensing board is authorized to establish requirements of continuing education as a
18733 condition for the renewal of licensure of psychologists; however, rules and regulations
18734 concerning accreditation of continuing education programs and other educational
18735 experience and the assignment of credit for participation therein must be promulgated by
18736 the licensing board at least one year prior to implementation of continuing education
18737 requirements for renewal of licensure. The board director shall be authorized to waive
18738 continuing education requirements in cases of hardship, disability, illness, or under such
18739 other circumstances as the licensing board deems appropriate.

18740 43-39-16.

18741 The confidential relations and communications between a licensed psychologist and client
18742 are placed upon the same basis as those provided by law between attorney and client; and
18743 nothing in this chapter shall be construed to require any such privileged communication to
18744 be disclosed.

18745 43-39-17.

18746 Except as provided in Code Section 43-39-7, a person shall not practice psychology and
18747 shall not use the title 'psychologist' unless he or she is licensed as provided in this chapter.

18748 A person who is not licensed as provided in this chapter shall not designate his or her
18749 occupation as a psychologist and shall not designate himself or herself by any other term
18750 or title which implies that he or she is practicing psychology.

18751 43-39-18.

18752 The ~~board~~ director is authorized to bring an action to enjoin any person, firm, or
18753 corporation who, without being licensed to practice psychology by the ~~board~~ director,
18754 engages in the practice of psychology as regulated by this chapter. The proceeding shall
18755 be filed in the county in which such person resides or in the county where the firm or
18756 corporation maintains a principal office. If it shall be made to appear that such person,
18757 firm, or corporation is practicing psychology without a license, the injunction shall be
18758 issued and such person, firm, or corporation shall be permanently enjoined from practicing
18759 psychology throughout the state. It shall not be necessary, in order to obtain the equitable
18760 relief described in this Code section, for the ~~board~~ director to allege and prove there is no
18761 adequate remedy at law. It is declared that such unlicensed activities are a menace and a
18762 nuisance and are dangerous to public health, safety, and welfare.

18763 43-39-19.

18764 Any person who violates this chapter shall be guilty of a misdemeanor and, upon
18765 conviction thereof, shall be fined no less than \$100.00 nor more than \$1,000.00 and may
18766 be imprisoned for a term not to exceed 12 months for such violation.

18767 43-39-20.

18768 Any psychologist licensed under this chapter who testifies in good faith without fraud or
18769 malice in any proceeding relating to a licensee's or applicant's fitness to practice
18770 psychology, or who in good faith and without fraud or malice makes a report or
18771 recommendation to the ~~board~~ director in the nature of peer review, shall be immune from
18772 civil and criminal liability for such actions. No psychologist licensed under this chapter
18773 who serves as a supervising or monitoring psychologist pursuant to a public or private
18774 order of the ~~board~~ director shall be liable for any damages in an action brought by the
18775 supervised or monitored psychologist, provided that the supervising or monitoring
18776 psychologist was acting in good faith without fraud or malice."

18777

SECTION 1-36.

18778 Said title is further amended by revising Chapter 41, relating to residential and general
18779 contractors, as follows:

18780

"CHAPTER 41

18781 43-41-1.

18782 It is the intent of the General Assembly, in the interest of public health, safety, and welfare,
18783 to safeguard homeowners, other property owners, tenants, and the general public against
18784 faulty, inadequate, inefficient, and unsafe residential and general contractors. The practice
18785 of residential and general contracting is declared to be a business or profession affecting
18786 the public interest and this chapter shall be liberally construed so as to accomplish the
18787 intent and purposes stated in this Code section.

18788 43-41-2.

18789 As used in this chapter, the term:

18790 (1) 'Board' means the State Licensing Board for Residential and General Contractors, a
18791 professional licensing policy board pursuant to Chapter 1 of this title with the authority
18792 and responsibilities set forth in such chapter.

18793 (2) 'Business organization' means any partnership, corporation, limited liability entity,
18794 business trust, joint venture, or other legal entity, other than an individual person, doing
18795 business or seeking, offering, or contracting to do business as a contractor or otherwise
18796 performing or acting as a contractor as defined in this Code section.

18797 (3) 'Contracting' means performing or causing to be performed any of the activities set
18798 forth in paragraphs (4), (5), (9), (10), and (11) of this Code section which define the types
18799 of contractors. The offering of contracting services and the negotiation of or bid or
18800 proposal for engagement or a contract requiring performance of these services also
18801 constitutes contracting.

18802 (4) 'Contractor,' except as specifically exempted by this chapter, means a person who is
18803 qualified, or required to be qualified, under this chapter and who, for compensation,
18804 contracts to, offers to undertake or undertakes to, submits a bid or a proposal to, or
18805 personally or by others performs the construction or the management of the construction
18806 for an owner of any building, bridge, or other structure, including a person who installs
18807 industrialized buildings as defined in paragraphs (3) and (4) of Code Section 8-2-111, for
18808 the construction or improvement of, addition to, or the repair, alteration, or remodeling
18809 of any such building, bridge, or structure for use by the owner or by others or for resale
18810 to others. The term 'contractor' for purposes of this chapter shall include a person who

18811 contracts to, undertakes to, or submits a bid or proposal to perform, or otherwise does
18812 himself or herself perform, for an owner:

18813 (A) Construction management services relative to the performance by others of such
18814 construction activities where the person performing such construction management
18815 services is at risk contractually to the owner for the performance and cost of the
18816 construction; and

18817 (B) Services of a contractor as part of performance of design-build services, whether
18818 as a prime contractor, joint venture partner, or as a subcontractor to a design
18819 professional acting as prime contractor as part of a design-build entity or combination.

18820 Both residential and general contractors, in addition to contractors licensed under Chapter
18821 14 of this title to perform such work or any component thereof, shall be permitted to
18822 construct storm-water management systems comprising any storm-water conveyance or
18823 storm-water detention facility that moves storm or surface water from a specific point on
18824 a wholly contained construction project site to another specific point on the same project
18825 site and which are wholly contained within the project site and are not part of or
18826 connected to any public or private water treatment system, waste-water treatment system,
18827 or storm-water system.

18828 (4.1) 'Director' means the director of professional licensing.

18829 (5) 'General contractor' means a contractor whose services are unlimited as to the type
18830 of work which he or she may do, subject to the financial limitations as may be imposed
18831 by a subclassification created pursuant to paragraph ~~(8)~~ (7) of subsection (b) of Code
18832 Section 43-41-5, and who may contract for, undertake to perform, submit a bid or a
18833 proposal or otherwise offer to perform, and perform any activity or work as a contractor
18834 requiring licensure under this chapter including within its scope any work requiring
18835 licensure under Chapter 14 of this title; provided, however, that any work contractually
18836 undertaken by a general contractor in the nature of electrical contracting, plumbing,
18837 conditioned air contracting, low voltage contracting, or utility contracting which falls
18838 within the licensing requirements of Chapter 14 of this title may not be performed by the
18839 general contractor but shall only be performed by a person who is duly licensed to
18840 perform such work under Chapter 14 of this title. The construction of all private,
18841 commercial, institutional, industrial, public, and other buildings and structures under
18842 contract with or engagement directly by an owner shall be undertaken by a general
18843 contractor, except as otherwise expressly set forth in or excluded from operation of this
18844 chapter.

18845 (5.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
18846 Article 2 of Chapter 1 of this title.

18847 (6) An 'owner' of real property means a person or entity that has a majority ownership
18848 interest in the real property to be improved and for whom an improvement is made or
18849 who contracts with or engages, directly or through an agent, the contractor to perform the
18850 construction work or services.

18851 (7) 'Qualifying agent' means a person who possesses the requisite skill, knowledge, and
18852 experience and has the responsibility to supervise, direct, manage, and control all of the
18853 contracting activities within the State of Georgia of a contractor doing business in the
18854 form of a business organization, with which he or she is affiliated by employment or
18855 ownership; who has the responsibility to supervise, direct, manage, and control
18856 construction activities on any project for which he or she has obtained the building permit
18857 pursuant to Code Section 43-41-14; and whose technical and personal qualifications have
18858 been determined by investigation and examination as provided in this chapter, except as
18859 exempted under Code Section 43-41-8, as attested by the ~~division~~ director.

18860 (8) 'Real property' means the real estate, or an interest therein, that is improved,
18861 including leaseholds, tenements, and easements, and improvements constructed or placed
18862 thereon.

18863 (9) 'Residential contractor' means any contractor who may contract for, undertake to
18864 perform, submit a bid or a proposal or otherwise offer to perform, and perform any
18865 activity or work as a contractor requiring licensure under this chapter for a fixed price,
18866 commission, fee, wage, or other compensation or who undertakes any activity or work
18867 on his or her own behalf or for any person or business organization that is not licensed
18868 as a licensed residential contractor pursuant to this chapter where such activity or work
18869 falls into the category of residential-basic contractor or residential-light commercial
18870 contractor as defined in this Code section and where the total value of the work or activity
18871 or of the compensation to be received by the contractor for such activity or work,
18872 whichever is the higher, exceeds \$2,500.00. The term 'residential contractor' shall
18873 include both a residential-basic contractor and a residential-light commercial contractor,
18874 except where otherwise expressly stated. The work or activity performed by a residential
18875 contractor may include within its scope any work requiring licensure under Chapter 14
18876 of this title; provided, however, that any work contractually undertaken by a residential
18877 contractor in the nature of electrical contracting, plumbing, conditioned air contracting,
18878 low voltage contracting, or utility contracting which falls within the licensing
18879 requirements of Chapter 14 of this title may not be performed by the residential
18880 contractor but shall only be performed by a person who is duly licensed to perform such
18881 work under Chapter 14 of this title.

18882 (10) 'Residential-basic contractor' means and encompasses a person who performs
18883 contractor work or activity relative to detached one-family and two-family residences and

18884 one-family townhouses not over three stories in height and their accessory buildings and
 18885 structures;

18886 (11) 'Residential-light commercial contractor' means and encompasses a person who
 18887 performs any contractor work or activity performed by a residential-basic contractor and,
 18888 additionally, shall include such contractor work or activity related to multifamily and
 18889 multiuse light commercial buildings and structures, and their related accessory buildings
 18890 and structures, which are less than four stories in height; less than 25,000 square feet in
 18891 aggregate interior floor space, except as otherwise provided in this chapter; and are
 18892 constructed of wood or light gauge metal frame, brick veneer, prefabricated, or
 18893 manufactured type of construction; or are preengineered steel buildings not exceeding
 18894 50,000 square feet of interior floor space; provided that such buildings or structures are
 18895 not of the type of building or structure that would constitute a special hazard to property
 18896 or to life and safety of persons as defined in subparagraphs (A), (C), (D), (E), (F), (G),
 18897 (G.1), (H), (I), and (J) and subparagraph (B), as it applies to a building of four or more
 18898 stories, of paragraph (1) of subsection (b) of Code Section 25-2-13.

18899 (12) 'Specialty contractor' means a contractor whose scope of work and responsibility is
 18900 of limited scope dealing with only a specific trade and directly related and ancillary work
 18901 and whose performance is limited to such specialty construction work requiring special
 18902 skill and requiring specialized building trades or crafts, including, but not limited to, such
 18903 activities, work, or services requiring licensure under Chapter 14 of this title.

18904 43-41-3.

18905 (a) There is created the State Licensing Board for Residential and General Contractors as
 18906 a professional licensing policy board consisting of 15 members appointed by the Governor
 18907 for five-year terms. The board shall be assigned to the Secretary of State's office for
 18908 administrative purposes and shall be under the jurisdiction of the ~~division~~ director and shall
 18909 operate in accordance with and pursuant to the provisions of Chapter 1 of this title, as
 18910 applicable. The board shall be ~~comprised~~ composed of two divisions: the residential
 18911 contractor division, having jurisdiction of and authority over the two subcategories of
 18912 residential contracting, residential-basic contractors and residential-light commercial
 18913 contractors, and the general contractor division. Eight members shall be appointed and
 18914 serve as members of the residential contractor division of the board and seven members
 18915 shall be appointed and serve as members of the general contractor division of the board.
 18916 Members shall serve until the expiration of their respective terms and until their successors
 18917 are appointed and qualified. Vacancies occurring during a term shall be filled by
 18918 appointment of the Governor for the remainder of the unexpired term and such replacement
 18919 shall meet the requirements and criteria of selection of the person previously holding the

18920 vacant position. To be eligible to serve on the respective divisions of the board, each
18921 contractor member shall be and remain actively involved in the construction contracting
18922 business and shall have been so engaged for a period of not less than five consecutive years
18923 before the date of appointment in the particular contracting business, as a residential
18924 contractor or general contractor, corresponding to the division for which such person is
18925 appointed. Any contractor members whose term continues after or who are appointed to
18926 terms commencing two years from the date that this chapter becomes effective must also
18927 have been licensed and certified by the respective division of the board to operate as a
18928 contractor in the category to which the member is appointed. The position of any
18929 ~~appointive~~ appointed member of the board who, during his or her term of appointment,
18930 shall cease to meet the qualifications for original appointment shall be immediately
18931 vacated. No member of the board shall be appointed to serve more than two full terms.

18932 (b) The residential contractor division shall consist of eight members and, except as
18933 otherwise expressly stated in this chapter, shall have jurisdiction ~~of and authority~~ over the
18934 practice of the two subcategories of residential contracting, residential-basic contractors
18935 and residential-light commercial contractors. Six members shall be residential contractors
18936 eligible for licensure under this chapter; provided, however, that effective January 1, 2008,
18937 all residential contractor members shall be required to be licensed under this chapter. At
18938 least two of the residential contractor members shall be qualified to perform
18939 residential-light commercial type projects; three shall be qualified and shall predominantly
18940 perform residential-basic type projects; one shall be a residential contractor whose business
18941 predominantly involves remodeling projects; one shall be a residential contractor who
18942 constructs at least an average of 20 residences per year; and all must be geographically
18943 diverse. One member shall be a public building official and one member shall be a public
18944 member. The public member shall have no ties with the residential construction industry
18945 and shall represent the interests of the public at large. The initial member terms on the
18946 residential contractor division shall be staggered so that all terms do not expire
18947 simultaneously. Three members shall serve initial terms of five years, three members shall
18948 serve initial terms of four years, one member shall serve an initial term of three years, and
18949 one member shall serve an initial term of one year. The residential contractor division shall
18950 meet at least six times each year for the purpose of transacting such business as may
18951 properly come before it.

18952 (c) The general contractor division shall consist of seven members and, except as
18953 otherwise expressly stated in this chapter, shall have jurisdiction ~~of and authority~~ over the
18954 practice of general contracting. Five members shall be general contractors eligible for
18955 licensure under this chapter. Effective January 1, 2008, all general contractor members
18956 shall be required to be licensed under this chapter. At least two of the general contractor

18957 members shall be small-volume builders with an annual contracting volume of less than
 18958 \$5 million and all of whom must be geographically diverse. One member shall be a
 18959 currently licensed or registered architect or engineer and one member shall be a public
 18960 building official. The initial member terms on the general contractor division shall be
 18961 staggered so that all terms do not expire simultaneously. Three members, including at least
 18962 two contractor members, shall serve initial terms of five years; three members, including
 18963 at least two contractor members, shall serve initial terms of four years; and one member
 18964 shall serve an initial term of three years. The general contractor division shall meet at least
 18965 six times each year for the purpose of transacting such business as may properly come
 18966 before it.

18967 43-41-4.

18968 (a) The initial members of the board shall be appointed no later than July 1, 2005. The
 18969 fifteenth member of the board shall be appointed not later than July 1, 2007. The board
 18970 shall meet within 30 days after its appointment at a time and place to be designated by the
 18971 Governor and organize by electing a chairperson and a vice chairperson, each to serve for
 18972 a one-year term.

18973 (b) The office of chairperson of the board shall be rotated between the two divisions
 18974 enumerated in this chapter, with the office of vice chairperson to be held by a member of
 18975 the division other than that in which the chairperson serves. Any vacancy in the office of
 18976 chairperson shall be filled by the members for the unexpired term. The person selected to
 18977 fill the vacancy shall be a member of the same division as the chairperson whose departure
 18978 has created the vacancy.

18979 (c) The board shall meet at the call of the chairperson or upon the recommendation of a
 18980 majority of its members. Eight members of the board, including at least three members
 18981 from each of its divisions, shall constitute a quorum for transaction of business by the
 18982 board.

18983 (d) Each division within the board shall also elect from its membership a chairperson and
 18984 a vice chairperson who shall each serve for a term of two years. Any vacancy in the office
 18985 of either the chairperson or vice chairperson shall be filled by one of the members of the
 18986 respective division for the unexpired term.

18987 (e) Any member elected chairperson of a division may not serve more than two
 18988 consecutive full terms of office.

18989 (f) Each division shall carry out its powers and duties as provided for in this chapter with
 18990 the assistance of the ~~division~~ director and staff of the professional licensing ~~boards~~ division
 18991 of the Secretary of State's office ~~and the officers and staff of the board~~. Each division of
 18992 the board shall operate and transact its business independently of the other division and of

18993 the board at large, except as required by this chapter and to the extent of common interests
 18994 and functions, including staffing and administration. ~~Each division of the board shall have~~
 18995 ~~delegated from the board the power and authority to take all appropriate actions in the~~
 18996 ~~organization and administration of each respective division and the effectuation and~~
 18997 ~~implementation of the licensing and enforcement processes required under this chapter,~~
 18998 ~~subject to ultimate oversight and review by the board.~~

18999 (g) The divisions of the board shall meet at the call of the chairperson of the division.

19000 (h) The board shall not take action on any matter specifically delegated to and under the
 19001 authority and control of the one of its divisions unless at least four of its members from the
 19002 affected division are present and participating in such action or decision.

19003 (i) The ~~division~~ director, or his or her designee, shall keep a record of the proceedings of
 19004 the board and its respective divisions.

19005 43-41-5.

19006 (a) The board shall meet at least twice each year for the purpose of transacting such
 19007 business as may properly come before it and of overseeing the operation of its divisions.

19008 (b) The licensing board ~~and its divisions~~ shall have the power to:

19009 (1) Request from the various departments, agencies, and authorities of the state and its
 19010 political subdivisions and their agencies and authorities such available information as
 19011 ~~they~~ it may require in ~~their~~ its work; and all such departments, agencies, and authorities
 19012 shall furnish such requested available information to the licensing board ~~and its divisions~~
 19013 within a reasonable time;

19014 (2) Provide by regulation for reciprocity with other states or territories of the United
 19015 States in the licensing of residential and general contractors, provided that such other
 19016 states have requirements substantially equal to the requirements in force in this state for
 19017 registration, licensure, or certification and that any such contractor holding a current and
 19018 valid license, certificate, or registration from another state or territory seeking licensure
 19019 by way of reciprocity shall demonstrate that such applicant meets, in the discretion of the
 19020 ~~respective division~~ director, the qualifications, requirements, and criteria set forth in Code
 19021 Section 43-41-6, other than the requirement to take and pass an examination as set forth
 19022 in subsection (d) of Code Section 43-41-6, and that such applicant is otherwise in
 19023 compliance with all requirements of the State of Georgia for transaction of such business
 19024 within this state; provided, further, that a similar privilege is offered to residents of this
 19025 state by the other state or territory;

19026 (3) Establish and adjust fees as necessary within the limits set forth in Chapter 1 of this
 19027 title;

19028 ~~(4) Adopt official seals for their use and change them at pleasure;~~

19029 ~~(5)~~(4) Establish the policies and procedures for regulating the businesses of residential
 19030 contracting and general contracting and provide interpretation and guidance regarding the
 19031 implementation and application of such policies and procedures;

19032 ~~(6)~~(5) Determine qualifications for licensure or certification, including such experience
 19033 requirements as the licensing board deems necessary;

19034 ~~(7)~~(6) Promulgate and adopt rules and regulations necessary to carry out this chapter;

19035 ~~(8)~~(7) Establish and define appropriate categories of general contractor licensure based
 19036 upon financial criteria; and

19037 ~~(9)~~(8) Allow for inactive status pursuant to Code Section 43-1-22.

19038 (c) ~~Regarding the powers and authorities conferred by this Code section relative to the~~
 19039 ~~residential-light commercial contractor subcategory of the residential contractor~~
 19040 ~~classification under this chapter, due to the characteristics of such subcategory, such~~
 19041 ~~powers and authorities shall be delegated to and conferred upon, in the first instance, a~~
 19042 ~~combined and overlapping subdivision comprising four members of both of the divisions,~~
 19043 ~~two of whom shall be the residential-light commercial qualified members of the residential~~
 19044 ~~contractor division and two of whom shall be the small volume qualified members of the~~
 19045 ~~general contractor division, with neither division having sole oversight and control of such~~
 19046 ~~powers and authorities. The chairperson of such combined subdivision shall be rotated~~
 19047 ~~annually between the chairperson of the residential contractor division and the chairperson~~
 19048 ~~of the general contractor division, with the residential contractor chairperson initially~~
 19049 ~~servicing as chairperson. The combined subdivision shall meet at the call of such~~
 19050 ~~chairperson. However, regarding the actual issuance of licenses under this chapter for~~
 19051 ~~residential-light commercial contracting and any powers and authorities relative to~~
 19052 ~~administration, oversight, control, or disciplinary action of persons issued such licenses,~~
 19053 ~~pursuant to Code Sections 43-41-10, 43-41-11, 43-41-13, 43-41-15, and 43-41-16, the~~
 19054 ~~residential contractor division shall have full power and authority. Any determinations~~
 19055 ~~made or actions taken by this subdivision shall be subject to the ultimate review, oversight,~~
 19056 ~~control, power, and authority of the board.~~

19057 ~~(d)~~(1) The ~~division~~ director is authorized to make, ~~or cause to be made through~~
 19058 ~~employees or contract agents of the board,~~ such investigations as he or she or the
 19059 licensing board ~~may deem~~ deems necessary or proper for the enforcement of the
 19060 provisions of this chapter. Any person properly conducting an investigation on behalf of
 19061 the ~~board~~ director shall have access to and may examine any writing, document, or other
 19062 material relating to the fitness of any licensee or applicant. The ~~division~~ director or his
 19063 or her appointed representative may issue subpoenas to compel such access upon a
 19064 determination that reasonable grounds exist for the belief that a violation of this chapter

19065 or any other law relating to the practice of residential or general contracting may have
19066 taken place.

19067 (2) The results of all investigations initiated by the ~~board~~ director shall be reported solely
19068 to the licensing board, and the records of such investigations shall be kept ~~for the board~~
19069 by the ~~division~~ director, with the licensing board retaining the right to have access at any
19070 time to such records. No part of any such records shall be released, except to the
19071 licensing board, for any purpose other than a hearing before the licensing board, nor shall
19072 such records be subject to subpoena; provided, however, that the ~~board~~ director shall be
19073 authorized to release such records to another enforcement agency or lawful licensing
19074 authority.

19075 (3) The licensing board shall have the authority to exclude all persons during its
19076 deliberations on disciplinary proceedings and to discuss any disciplinary matter in private
19077 with a licensee or applicant and the legal counsel of that licensee or applicant.

19078 ~~(e)~~(d) A person, firm, corporation, association, authority, or other entity shall be immune
19079 from civil and criminal liability for reporting or investigating the acts or omissions of a
19080 licensee or applicant which violate the provisions of this chapter or any other provision of
19081 law relating to a licensee's or applicant's fitness to practice as a licensed residential or
19082 general contractor or for initiating or conducting proceedings against such licensee or
19083 applicant, if such report is made or action is taken in good faith, without fraud or malice.

19084 ~~(f)~~(e) The denial of a license on grounds other than those enumerated in this chapter, the
19085 issuance of a private reprimand, the denial of a license by reciprocity, the denial of a
19086 request for reinstatement of a revoked license, or the refusal to issue a previously denied
19087 license shall not be considered to be a contested case within the meaning of Chapter 13 of
19088 Title 50, the 'Georgia Administrative Procedure Act.' Notice and hearing within the
19089 meaning of Chapter 13 of Title 50 shall not be required, but the applicant or licensee shall
19090 be allowed to appear before the ~~appropriate division~~ director if he or she so requests.

19091 ~~(g) If any licensee or applicant fails to appear at any hearing after reasonable notice, the~~
19092 ~~board may proceed to hear the evidence against such licensee or applicant and take action~~
19093 ~~as if such licensee or applicant had been present. A notice of hearing, initial or~~
19094 ~~recommended decision, or final decision of the board in a disciplinary proceeding shall be~~
19095 ~~served upon the licensee or applicant by certified mail or statutory overnight delivery,~~
19096 ~~return receipt requested, to the last known address of record with the board. If such~~
19097 ~~material is returned marked 'unclaimed' or 'refused' or is otherwise undeliverable and if the~~
19098 ~~licensee or applicant cannot, after diligent effort, be located, the division director shall be~~
19099 ~~deemed to be the agent for service for such licensee or applicant for purposes of this Code~~
19100 ~~section, and service upon the division director shall be deemed to be service upon the~~
19101 ~~licensee or applicant.~~

19102 ~~(h)~~(f) The voluntary surrender of a license shall have the same effect as a revocation of the
 19103 license, subject to reinstatement in the discretion of the ~~board~~ director.

19104 ~~(i)~~(g) This Code section shall apply equally to all licensees or applicants whether
 19105 individuals, partners, or members of any other incorporated or unincorporated associations,
 19106 corporations, business organizations, or other associations of any kind whatsoever.

19107 ~~(j)~~(h) All subpoenas issued pursuant to the authority granted in this chapter shall be subject
 19108 to the general rules of law with respect to distance, tender of fees and expenses, and
 19109 protective orders; and any motion made with respect thereto shall be made to and passed
 19110 on by a judge of the superior court of the county of residence of the person to whom the
 19111 subpoena is directed.

19112 43-41-6.

19113 (a) Anyone seeking to be licensed as a residential contractor or as a general contractor in
 19114 this state shall file an application on a form provided by the ~~residential contractor or~~
 19115 ~~general contractor division, respectively,~~ director accompanied by an application fee as
 19116 provided by the licensing board. Such an application may be submitted either by:

19117 (1) An individual person seeking issuance of a license in his or her own name for
 19118 purposes of engaging in the profession of residential or general contracting in his or her
 19119 own name or doing business as an individual in a trade name as a sole proprietorship; or

19120 (2) An individual person affiliated by ownership or employment with and acting as a
 19121 qualifying agent for a business organization seeking to engage in the profession of
 19122 residential or general contracting in the name of the business organization in accordance
 19123 with and pursuant to Code Section 43-41-9.

19124 Additionally, all applicants must submit to and successfully pass an examination ~~prepared~~
 19125 ~~by, prepared for, or approved by the appropriate division,~~ approved by the licensing board
 19126 except where an applicant is otherwise qualified for licensure and has satisfied the
 19127 ~~appropriate division~~ licensing board's requirements and regulations for licensure pursuant
 19128 to Code Section 43-41-8 exempting such applicant from the examination requirement or
 19129 where the applicant is an individual acting as a qualifying agent for a business organization
 19130 and has previously obtained and maintained continuously a license issued by the
 19131 ~~appropriate division~~ director, either as an individual doing business in his or her own name
 19132 or doing business as an individual in a trade name as a sole proprietor or as a qualifying
 19133 agent for another business organization.

19134 (b) A person shall be eligible for licensure as a residential-basic contractor by the
 19135 ~~residential contractor division~~ director if the person:

19136 (1) Is at least 21 years of age;

- 19137 (2) Is of a good character and is otherwise qualified as to competency, ability, and
 19138 integrity;
- 19139 (3) Has at least two years of proven experience working as or in the employment of a
 19140 residential contractor, predominantly in the residential-basic category, or other proven
 19141 experience deemed substantially similar by the ~~division~~ licensing board; and
- 19142 (4) Has had significant responsibility for the successful performance and completion of
 19143 at least two projects falling within the residential-basic category in the two years
 19144 immediately preceding application.
- 19145 (c) A person shall be eligible for licensure as a residential-light commercial contractor by
 19146 the residential-light commercial subdivision if the person:
- 19147 (1) Is at least 21 years of age;
- 19148 (2) Is of a good character and is otherwise qualified as to competency, ability, and
 19149 integrity;
- 19150 (3) Meets eligibility requirements according to one of the following criteria:
- 19151 (A) Has received a baccalaureate degree from an accredited four-year college or
 19152 university in the field of engineering, architecture, construction management, building
 19153 construction, or other field acceptable to the ~~division~~ licensing board and has at least
 19154 one year of proven experience working as or in the employment of a residential
 19155 contractor, general contractor, or other proven experience deemed substantially similar
 19156 by the ~~division~~ director;
- 19157 (B) Has a combination acceptable to the ~~division~~ licensing board of academic credits
 19158 from any accredited college-level courses and proven practical experience working as
 19159 or in the employment of a residential contractor, general contractor, or other proven
 19160 experience deemed substantially similar by the ~~division~~ director equaling at least four
 19161 years in the aggregate. For purposes of this subparagraph, all university, college, junior
 19162 college, or community college-level courses shall be considered accredited
 19163 college-level courses; or
- 19164 (C) Has a total of at least four years of proven active experience working in a
 19165 construction industry related field, at least two of which shall have been as or in the
 19166 employment of a residential contractor, or other proven experience deemed acceptable
 19167 by the ~~division~~ licensing board; and
- 19168 (4) Has had significant responsibility for the successful performance and completion of
 19169 at least two projects falling within the residence-light commercial category in the four
 19170 years immediately preceding application.
- 19171 (d) A person shall be eligible for licensure as a general contractor by the ~~general contractor~~
 19172 ~~division~~ director if the person:
- 19173 (1) Is at least 21 years of age;

- 19174 (2) Is of a good character and is otherwise qualified as to competency, ability, integrity,
 19175 and financial responsibility; and
- 19176 (3) Meets eligibility requirements according to one of the following criteria:
- 19177 (A) Has received a baccalaureate degree from an accredited four-year college or
 19178 university in the field of engineering, architecture, construction management, building
 19179 construction, or other field acceptable to the ~~division~~ licensing board and has at least
 19180 one year of proven experience working as or in the employment of a general contractor
 19181 or other proven experience deemed substantially similar by the ~~division~~ director;
- 19182 (B) Has a combination acceptable to the ~~division~~ licensing board of academic credits
 19183 from any accredited college-level courses and proven practical experience working as
 19184 or in the employment of a general contractor or other proven experience deemed
 19185 substantially similar by the ~~division~~ director equaling at least four years in the
 19186 aggregate. For purposes of this subparagraph, all university, college, junior college, or
 19187 community college-level courses shall be considered accredited college-level courses;
 19188 or
- 19189 (C) Has a total of at least four years of proven active experience working in a
 19190 construction industry related field, at least two of which shall have been as or in the
 19191 employment of a general contractor, or other proven experience deemed acceptable by
 19192 the ~~division~~ licensing board and at least one of which shall have been in or relating to
 19193 administration, marketing, accounting, estimating, drafting, engineering, supervision,
 19194 or project management, or functions deemed substantially similar by the ~~division~~
 19195 director.
- 19196 (e) Before being entitled to take an examination or otherwise qualify for issuance of a
 19197 license, an applicant must show to the satisfaction of the ~~residential contractor division or~~
 19198 ~~general contractor division~~ director from the application and proofs furnished that the
 19199 applicant is possessed of a good character and is otherwise qualified as to competency,
 19200 ability, integrity, and financial responsibility. The application shall include a list of all
 19201 persons, entities, and business organizations that the applicant will be affiliated with as a
 19202 licensed residential contractor or general contractor, whether by way of employment,
 19203 ownership, serving as an owner or director, partnership, or membership or by serving as
 19204 a qualifying agent under this chapter. Applicants for a general contractor license shall
 19205 provide proof of a minimum net worth in an amount which is specified by the ~~general~~
 19206 ~~contractor division~~ licensing board. Additionally, all applicants shall provide proof of
 19207 general liability insurance and of workers' compensation insurance as required by the laws
 19208 of this state in their name. However, if and to the extent the applicant is submitted as a
 19209 person seeking to act as a qualifying agent of a particular business organization, such
 19210 proofs and information shall relate and pertain to such business organization rather than the

19211 individual applicant, subject to the limitations set forth in subsection (d) of Code Section
 19212 43-41-9. All applicants shall also provide their social security numbers, if applying as an
 19213 individual, or the federal taxpayer identification numbers of any business organization for
 19214 which the applicant is seeking licensure as a qualifying agent. Applicants for a general
 19215 contractor's license shall also provide suitable verification of tax payments in a form and
 19216 manner and for the duration prescribed by the ~~general contractor division~~ licensing board;
 19217 provided, however, that where the application is seeking license as a qualifying agent of
 19218 a business organization, such tax verification and information shall relate and pertain to
 19219 that business organization. The decision of the ~~appropriate division~~ director as to the
 19220 qualifications of applicants shall, in the absence of fraud, be conclusive. A certificate by
 19221 the insurer or other appropriate evidence of such coverages shall be maintained with the
 19222 ~~appropriate division~~ director and shall be a condition of renewal. A licensee, on his or her
 19223 own behalf or where acting as a qualifying agent on behalf of the business organization so
 19224 qualified, must notify the ~~appropriate division~~ director in writing within 30 days of any
 19225 changes in the information required to be on file with ~~such division~~ director, including, but
 19226 not limited to, the licensee's and, if the licensee is acting as a qualifying agent for any
 19227 business organization, such business organization's current mailing address, insurance
 19228 coverages, and affiliated entities.

19229 (f)(1) The ~~residential contractor division and the general contractor division~~ shall each
 19230 director shall conduct or cause to be conducted an examination of all qualified applicants,
 19231 except those exempted from the examination requirement pursuant to Code Section
 19232 43-41-8.

19233 (2) The ~~residential contractor division~~ director shall conduct or cause to be conducted
 19234 separate examinations for applicants for residential-basic and residential-light commercial
 19235 licenses for the purpose of determining a particular applicant's ability to make a practical
 19236 application of his or her knowledge of the profession of residential contracting in the
 19237 particular subcategory for which a license is sought; the applicant's qualifications in
 19238 reading plans and specifications; his or her knowledge of building codes, estimating
 19239 costs, construction, ethics, contracting, and other similar matters pertaining to such
 19240 residential contracting business; his or her knowledge as to the responsibilities of a
 19241 residential contractor to the public and to owners, subcontractors, and suppliers; and his
 19242 or her knowledge of the requirements of the laws of this state relating to residential-basic
 19243 and residential light-commercial contractors, construction, workers' compensation,
 19244 insurance, and liens.

19245 (3) The ~~general contractor division~~ director shall conduct or cause to be conducted an
 19246 examination to ascertain the particular applicant's ability to make a practical application
 19247 of his or her knowledge of the profession of commercial general contracting; the

19248 applicant's qualifications in reading plans and specifications; his or her knowledge of
 19249 building codes, estimating costs, construction, ethics, contracting, and other similar
 19250 matters pertaining to the general contracting business; his or her knowledge as to the
 19251 responsibilities of a general contractor to the public and to owners, subcontractors, and
 19252 suppliers; and his or her knowledge of the requirements of the laws of this state relating
 19253 to general contractors, construction, workers' compensation, insurance, surety bonding,
 19254 and liens.

19255 (4) If the results of the applicant's examination are satisfactory to the ~~appropriate division~~
 19256 director, or ~~he or she~~ the applicant is exempted from the examination requirement under
 19257 Code Section 43-41-8, and if ~~he or she~~ the applicant and any affiliated business
 19258 organization has met the other qualifications and requirements set forth in this Code
 19259 section, then the ~~appropriate division~~ director shall issue to the applicant a license to
 19260 engage in business as a residential or general contractor in this state, as provided in such
 19261 license, in his or her own name as a sole proprietor or as a qualifying agent for the
 19262 affiliated business organization and in the name of such business organization, pursuant
 19263 to and in accordance with the requirements set forth in Code Section 43-41-9. A
 19264 residential contracting license shall indicate for which of the two subcategories,
 19265 residential-basic or residential-light commercial, the licensee is qualified.

19266 (g) Any otherwise qualified applicant failing this examination may be reexamined at any
 19267 regularly scheduled examination within one year of the date of original application upon
 19268 payment of a reexamination fee, in an amount to be set by the licensing board, without
 19269 need to resubmit an application, unless any information set forth in the previously
 19270 submitted application is no longer accurate or complete. Anyone requesting to take the
 19271 examination a third or subsequent time shall wait at least one calendar year after the taking
 19272 of the last examination and shall submit an application with the appropriate examination
 19273 fees.

19274 (h) A residential contractor license, indicating whether relating to the residential-basic or
 19275 residential-light commercial category, or general contractor license shall be issued to an
 19276 applicant who successfully completes the respective requirements therefor upon the
 19277 payment of fees prescribed by the licensing board.

19278 (i) Such licenses shall be renewable biennially. Licenses may be renewed subsequent to
 19279 their expiration within six months of the date of expiration by submitting a renewal as
 19280 prescribed by the licensing board and paying a late renewal fee as determined by the
 19281 licensing board. After six months has elapsed from the date of expiration, such license may
 19282 be reinstated in accordance with the rules and regulations of the licensing board.

19283 (j) The ~~division~~ director shall give advance notice to each person holding a license under
 19284 this chapter of the date of the expiration of the certificate of registration and the amount of

19285 the fee required for renewal at least one month prior to the expiration date, but the failure
 19286 to receive such notice shall not avoid the expiration of any license not renewed in
 19287 accordance with this Code section.

19288 (k) As a condition of renewal, the ~~appropriate division~~ licensing board may require
 19289 licensees to complete ~~division~~ licensing board approved continuing education of not more
 19290 than three hours annually for a residential-basic license, six hours annually for a
 19291 residential-light commercial license, and eight hours annually for a general contractor
 19292 license.

19293 43-41-7.

19294 A licensed residential contractor and any affiliated entities shall offer a written warranty
 19295 in connection with each contract to construct, or superintend or manage the construction
 19296 of, any single-family residence where the total value of the work or activity or the
 19297 compensation to be received by the contractor for such activity or work exceeds \$2,500.00.
 19298 The ~~residential contractor division~~ licensing board shall establish the minimum
 19299 requirements of such warranty. The parties to the warranty may agree to submit any or all
 19300 disputes arising under the warranty to arbitration. Such agreement to arbitrate shall be
 19301 enforceable as provided in Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia
 19302 Arbitration Code.'

19303 43-41-8.

19304 (a) Notwithstanding any other provision of this chapter to the contrary, the following
 19305 persons desiring to qualify for a residential contractor license or a general contractor
 19306 license under the provisions of this chapter, either individually or as a qualifying agent,
 19307 shall be eligible for issuance of such a license by the ~~appropriate division~~ director without
 19308 examination, provided that such person submits a proper application and proofs, pays or
 19309 has paid the required fees, otherwise meets the requirements of Code Section 43-41-6 for
 19310 licensure, and is not otherwise in violation of this chapter:

19311 (1) Any person who holds a current and valid license to engage in the comparable
 19312 category of residential or general contracting issued to him or her by any governing
 19313 authority of any political subdivision of this state which requires passing an examination
 19314 which is substantially similar to the state examination for residential or general
 19315 contractors, provided that such person is a Georgia resident and citizen, if an individual
 19316 applying in his or her own behalf, or is seeking licensure as a qualifying agent for a
 19317 business organization incorporated in Georgia or otherwise authorized and certified to
 19318 transact business in Georgia with a regular office and place of business in Georgia
 19319 currently and having had such office and place of business continuously for the five years

19320 immediately preceding such application; provided, further, that the examination results
 19321 are made available to the ~~appropriate division~~ director. Such application and request for
 19322 exemption must be submitted within the time limits set forth in subsection (a) of Code
 19323 Section 43-41-17;

19324 (2) Any person who has successfully and efficiently engaged in the comparable category
 19325 of residential or general contracting in this state as provided in this Code section;
 19326 provided, however, that such person shall be either a resident and citizen of the State of
 19327 Georgia or, if applying as a qualifying agent for a business organization, such business
 19328 organization shall be either incorporated in Georgia or is a business organization
 19329 otherwise authorized and certified to transact business in Georgia with a regular office
 19330 and place of business in Georgia currently and having had such office and place of
 19331 business continuously for the five years immediately preceding such application;
 19332 provided, further, that such application and request for exemption is submitted within the
 19333 time limits set forth in subsection (a) of Code Section 43-41-17. To prove that he or she
 19334 has successfully engaged in residential-basic or residential-light commercial projects, the
 19335 person shall be required to give evidence of three successful projects located in Georgia
 19336 which were successfully completed over the period of five years immediately prior to the
 19337 time of application; evidence of ten successfully completed residential-basic or
 19338 residential-light commercial projects located in Georgia over the period of ten years
 19339 immediately prior to the time of application; or evidence that he or she has participated
 19340 in or been engaged in residential-basic or residential-light commercial construction in a
 19341 supervisory or management capacity for seven of the ten years immediately prior to the
 19342 time of application. To prove that he or she has successfully engaged in commercial
 19343 general contracting, the person submitting the application shall be required to give
 19344 evidence of five successful general contracting projects located in Georgia which were
 19345 successfully completed over the period of five years immediately prior to the time of
 19346 application or evidence of ten successful general contracting projects located in Georgia
 19347 which were successfully completed over the period of ten years immediately prior to the
 19348 time of application, such projects having been performed either by such person acting as
 19349 an individual or by a business organization in which such individual person was affiliated
 19350 by employment or ownership and over which such person had general oversight and
 19351 management responsibilities;

19352 (3) Any person who holds a current and valid license to practice a comparable category
 19353 of residential or general contracting issued by another state or territory of the United
 19354 States, where either such state or territory has entered into a reciprocal agreement with
 19355 the licensing board ~~and divisions~~ for the recognition of contractor licenses issued in that
 19356 state or territory, or such application is pursuant to and in accordance with the regulations

19357 and requirements for reciprocity promulgated by the ~~divisions~~ licensing board in
 19358 accordance with subsection (b) of Code Section 43-41-5. Additionally, such application
 19359 shall meet the following requirements:

19360 (A) The criteria for issuance of such license or certification by such other state or
 19361 territory, including the requirement to successfully complete an examination, were
 19362 substantially equivalent to Georgia's current license criteria;

19363 (B) The application requirements and application form submitted to the other state or
 19364 territory upon which such license was issued are available for review by the ~~appropriate~~
 19365 ~~division~~ director and the examination results are made available to the ~~appropriate~~
 19366 ~~division~~ director;

19367 (C) The applicant shall demonstrate that he or she meets the qualifications,
 19368 requirements, and criteria set forth in subsections (a), (b), (c), and (d) of Code Section
 19369 43-41-6; and

19370 (D) The applicant is otherwise in compliance with all requirements of this state for
 19371 transaction of such business within this state; provided, however, that such application
 19372 and request for exemption shall be submitted in accordance with subsection (a) of Code
 19373 Section 43-41-17; and

19374 (4) Any person who holds a current and valid license issued under this chapter to engage
 19375 in the comparable category of residential or general contracting ~~which and the~~ license
 19376 was issued ~~to him or her~~ in ~~their~~ his or her capacity either as an individual licensee or as
 19377 a qualifying agent for a business organization.

19378 (b) Any applicant for issuance of a residential contractor or general contractor license
 19379 under this title who shall seek exemption from the examination requirement under this
 19380 Code section, ~~on any basis set forth above~~, shall have the burden of establishing to the
 19381 satisfaction and within the discretion of the ~~appropriate division~~ director that the
 19382 requirements for such exemption have been satisfied. The decision of ~~such division~~ the
 19383 director as to the satisfaction of the requirements for such exemption from taking the
 19384 examination shall, in the absence of fraud, be conclusive.

19385 (c) Any business organization that had an applicant submit a complete and satisfactory
 19386 application pursuant to this Code section, but was not issued a license due to the death of
 19387 the qualifying agent applicant prior to the issuance of the license, shall remain eligible for
 19388 consideration under this Code section with the submission of a new qualifying agent
 19389 applicant for such business entity.

19390 43-41-9.

19391 (a) If an individual applicant proposes to engage in residential or general contracting in the
 19392 individual's own name or a trade name where the individual is doing business as a sole

19393 proprietorship, the license shall be issued only to that individual. Where an applicant under
19394 this chapter is seeking issuance of a residential or general contractor license on behalf and
19395 for the benefit of a business organization seeking to engage in residential or general
19396 contracting as a business organization, the application for a license under this chapter must
19397 be submitted by and through an individual qualifying agent for such business organization
19398 or entity and expressly on behalf of such business organization or entity. In such case, the
19399 license shall be issued to the individual qualifying agent and to the affiliated business
19400 organization or entity on whose behalf the application was made. It shall be unlawful for
19401 any person, firm, corporation, or association to operate a business organization or entity
19402 engaged in the business of residential or general contracting without first obtaining a
19403 license from the ~~appropriate division~~ director after the effective date of the licensing
19404 requirements as specified in subsection (a) of Code Section 43-41-17. The ~~appropriate~~
19405 ~~division~~ director shall not issue a license to any business organization or entity to engage
19406 in residential or general contracting unless such business organization or entity employs
19407 at least one currently licensed individual residential or general contractor serving as its
19408 qualifying agent who is actually engaged by ownership or employment in the practice of
19409 residential or general contracting for such business organization or entity and provides
19410 adequate supervision and is responsible for the projects of such business organization or
19411 entity. A business organization may allow more than one person to act as a qualifying
19412 agent for such organization, subject to each such individual qualifying agent having
19413 successfully satisfied the requirements for issuance of a license under this chapter and
19414 having obtained issuance of such a license by the ~~appropriate division~~ director. Each such
19415 business organization shall have at least one qualifying agent in order to be considered
19416 authorized to engage in such contracting business.

19417 (b) The application for a license by a qualifying agent must include an affidavit on a form
19418 provided by the licensing board attesting that the individual applicant has final approval
19419 authority for all construction work performed by the business organization or entity within
19420 the State of Georgia and that the individual applicant has final approval authority on all
19421 construction matters, including contracts and contract performance and financial affairs
19422 related to such construction matters, for each construction job for which his or her license
19423 was used to obtain the building permit.

19424 (c) A joint venture is considered a separate and distinct organization for licensing purposes
19425 under this chapter and must be qualified and licensed in accordance with the ~~appropriate~~
19426 ~~division's~~ licensing board's rules and regulations either:

- 19427 (1) In its own name as a separate business organization; or
- 19428 (2) By each of the members of the joint venture doing business as a residential contractor
19429 or general contractor holding, as an individual or as a business organization acting

19430 through its qualifying agent, a valid and current residential or general contractor's license
 19431 issued by the ~~appropriate division~~ director.

19432 Each such licensed individual or qualifying agent shall be considered a qualifying agent
 19433 of such joint venture.

19434 (d) If, during the period encompassed by a license issued to a qualifying agent acting for
 19435 and on behalf of an affiliated business organization, there is a change in any information
 19436 that is required to be stated on the application, the business organization shall, within 45
 19437 days after such change occurs, furnish the correct information to the ~~appropriate division~~
 19438 director.

19439 (e)(1) At least one qualifying agent shall be licensed under this chapter in order for the
 19440 business organization to obtain a license as a residential or general contractor. If any
 19441 qualifying agent ceases to be affiliated with such business organization, for any reason,
 19442 he or she shall so inform the ~~division having jurisdiction~~ director. In addition, if such
 19443 qualifying agent is the only qualifying agent licensed ~~hereunder~~ under this chapter
 19444 affiliated with the business organization, the business organization shall promptly notify
 19445 the ~~appropriate division~~ director of the termination of the relationship with that qualifying
 19446 agent and shall have 120 days from the termination of the qualifying agent's affiliation
 19447 with the business organization to employ another qualifying agent and submit an
 19448 application for licensure under the new qualifying agent. The submission of such
 19449 application shall serve to maintain the licensed status of the business organization
 19450 pending and subject to approval of such application by the ~~appropriate division~~ director;
 19451 provided, however, that, should such application be denied by ~~that division~~ the director,
 19452 then, after passage of the 120 day period, the business organization shall cease to be
 19453 considered licensed as a residential or a general contractor unless and until a new
 19454 application is submitted and approved by the ~~appropriate division~~ director. In such
 19455 circumstance, the affected business organization may not thereafter engage in residential
 19456 or general contracting until a new qualifying agent is employed, unless the ~~appropriate~~
 19457 ~~division~~ director has granted a temporary nonrenewable license to the financially
 19458 responsible officer, the president or chief executive officer, a partner, or, in the case of
 19459 a limited partnership, the general partner, who thereafter shall assume all responsibilities
 19460 of a qualifying agent for the business organization or entity. This temporary license shall
 19461 only allow the entity to proceed with incomplete contracts already in progress. For the
 19462 purposes of this paragraph, an incomplete contract is one which has been awarded to, or
 19463 entered into by, the business organization prior to the cessation of affiliation of the
 19464 qualifying agent with the business organization or one on which the business organization
 19465 was the low bidder and the contract is subsequently awarded, regardless of whether any

19466 actual work has commenced under the contract prior to the qualifying agent ceasing to
19467 be affiliated with the business organization.

19468 (2) A person licensed under this chapter either as an individual doing business in his or
19469 her name or doing business in a trade name as a sole proprietor may serve as a qualifying
19470 agent for a business organization upon application and demonstration of satisfaction by
19471 such business organization of all financial and insurance requirements pursuant to Code
19472 Section 43-41-6. A qualifying agent may serve in such capacity for more than one
19473 business organization, provided that he or she shall satisfy the criteria for serving in such
19474 capacity with regard to each such business organization. A qualifying agent shall inform
19475 the ~~division having jurisdiction~~ director in writing when he or she proposes to engage in
19476 contracting in his or her own name or in affiliation as a qualifying agent with another
19477 business organization, and he or she or such new business organization shall supply the
19478 same information to the ~~division~~ director as required of applicants under this chapter.
19479 Such person shall be deemed to be a licensed residential or general contractor for the
19480 original term of his or her license for the purpose of engaging in contracting as an
19481 individual in his or her own name, provided that he or she qualified for such license based
19482 on his or her own personal qualifications as to financial responsibility and insurance.
19483 Otherwise, such individual shall be required to submit a new application demonstrating
19484 satisfaction of such financial and insurance requirements in order to engage in the
19485 business of contracting under this chapter as an individual in his or her own name or
19486 doing business as an individual in a trade name as a sole proprietor or by the business
19487 organization he or she desires to qualify in order to obtain a license for such other
19488 business organization, but such person shall be entitled to continue engaging in the
19489 business of residential or general contracting in accordance with and under his or her
19490 previously issued license unless and until the ~~appropriate division~~ director determines that
19491 the person seeking issuance of the license no longer meets these requirements.

19492 (3) Upon a favorable determination by the ~~division having jurisdiction~~ director, after
19493 investigation of the financial responsibility, if applicable, and insurance of the applicant,
19494 the ~~division~~ director shall notify the applicant, whether the applicant was previously
19495 approved as an individual or a qualifying agent, that the applicant is approved, without
19496 an examination, for a new license.

19497 (f) Disciplinary action and other sanctions provided in this chapter may be administered
19498 against a business organization operating under a license issued through its licensed
19499 qualifying agent or agents in the same manner and on the same grounds as disciplinary
19500 actions or sanctions against an individual or license holder acting as its qualifying agent
19501 under this chapter. The ~~divisions or the board~~ director may deny the license to a qualifying
19502 agent for any business organization if the qualifying agent or business organization has

19503 been involved in past disciplinary actions or on any grounds for which individual licenses
19504 can be denied.

19505 (g) Each qualifying agent shall pay the ~~appropriate division~~ director an amount equal to
19506 the original fee for a license applied for on behalf of a new business organization. If the
19507 qualifying agent for a business organization desires to qualify additional business
19508 organizations, the ~~division~~ director shall require him or her to present evidence of the
19509 financial responsibility, if applicable, and insurance of each such organization.

19510 (h) All qualifying agents for a business organization are jointly and equally responsible for
19511 supervision of all construction related operations of the business organization, for all field
19512 work at all sites, and for financial matters within the State of Georgia for each construction
19513 job for which his or her license was used to obtain the building permit.

19514 (i) Any change in the status of a qualifying agent is prospective only. A qualifying agent
19515 shall for purposes of application ~~of this chapter and the~~ enforcement, and disciplinary
19516 mechanisms ~~thereunder~~ under this chapter be and remain responsible for his or her actions
19517 or omissions as well as those of the business organization for which such person had acted
19518 as a qualifying agent occurring during his or her period of service as such qualifying agent
19519 as and to the extent set forth in this chapter. A qualifying agent is not responsible for his
19520 or her predecessor's actions, but is responsible, even after a change in status, for matters
19521 for which he or she was responsible while in a particular status. Further, nothing in this
19522 chapter shall be interpreted as a basis for imposition of civil liability against an individual
19523 qualifying agent by any owner or other third party claimant beyond the liability that would
19524 otherwise exist legally or contractually apart from and independent of the individual's
19525 status as a qualifying agent.

19526 43-41-10.

19527 (a) In addition to the powers and authorities conferred upon the licensing board ~~and its~~
19528 ~~divisions~~ the director pursuant to Chapter 1 of this title, the ~~residential contractor division~~
19529 ~~and the general contractor division~~ director shall have the power, ~~respectively~~, to reprimand
19530 any person or licensee, or to suspend, revoke, or refuse to grant, renew, or restore a license
19531 to any person or licensee if such person or licensee is found by the ~~appropriate division~~
19532 director to have engaged in any fraud or deceit in obtaining a license or otherwise to have
19533 engaged in gross negligence, repeated or persistent incompetence, intentional misconduct
19534 in the practice of his or her profession, or willful violation of any provisions of this chapter.

19535 (b) For purposes of this Code section, a person or business organization operating on an
19536 expired, revoked, lapsed, or suspended license shall be considered unlicensed.

19537 (c) The ~~separate divisions~~ director may issue a stop-work order for all unlicensed work
19538 ~~falling within their respective jurisdictions~~ upon finding probable cause to believe that

19539 construction work which requires a license under this chapter is being performed by a
 19540 person without such a current, valid license. Such an order may be enforced by injunctive
 19541 relief, cease and desist orders, or other related actions within the power and authority of the
 19542 licensing board and its respective divisions ~~the director~~.

19543 (d) ~~The division having jurisdiction~~ director shall investigate and sanction any license
 19544 holder found to have engaged in fraud, deceit, gross negligence, repeated or persistent
 19545 incompetence, or intentional misconduct in the practice of residential or general
 19546 contracting; and sanctions shall be assessed against any such residential or general
 19547 contractor licensed under this chapter either individually or as a business organization
 19548 acting through a qualifying agent in compliance with Code Section 43-1-3.1. ~~Such~~
 19549 ~~charges, unless dismissed without hearing by the division as unfounded, shall be heard and~~
 19550 ~~determined by that division in accordance with the provisions of Chapter 13 of Title 50, the~~
 19551 ~~'Georgia Administrative Procedure Act.'~~

19552 (e) ~~The divisions~~ licensing board shall ~~each~~ adopt rules and regulations and the director
 19553 shall publish such rules and regulations in print or electronically ~~rules and regulations~~,
 19554 consistent with the provisions of this chapter, governing the suspension and revocation of
 19555 licenses.

19556 (f) ~~Each division~~ The director may reissue a license to any person whose license has been
 19557 revoked or lift a suspension of a license to such person ~~provided that four or more members~~
 19558 ~~of the division vote in favor of such reissuance or lifting for reasons that division deems~~
 19559 ~~sufficient~~.

19560 43-41-11.

19561 The issuance of a license by the ~~residential contractor or the general contractor division~~
 19562 director shall be evidence that the person named therein, including both the individual
 19563 licensee and any business organization for whom such licensee is a qualifying agent, is
 19564 entitled to all the rights and privileges of a licensed residential or general contractor while
 19565 such license remains unrevoked or unexpired.

19566 43-41-12.

19567 (a) Any person, whether an individual or a business organization, who:

19568 (1) Contracts for or bids upon or engages in the construction of any of the projects or
 19569 works enumerated in the definitions of residential contractor or general contractor in
 19570 Code Section 43-41-2 without having first complied with the appropriate provisions of
 19571 this chapter or who shall attempt to practice residential contracting or general contracting
 19572 in this state except as provided for in this chapter;

- 19573 (2) Falsely represents, advertises, or holds himself or herself or an affiliated business
 19574 organization out as a residential contractor or general contractor licensee duly authorized
 19575 to perform work under such classification of licensure pursuant to this chapter;
- 19576 (3) Represents or attempts to use or presents as his or her own the license of another
 19577 person or, in the case of a business organization, a person other than its qualifying agent;
- 19578 (4) Gives false or forged evidence of any kind to the licensing board or ~~its divisions or~~
 19579 ~~to any member of the board~~ the director in maintaining a license;
- 19580 (5) Uses an expired, suspended, or revoked license to continue engaging in residential
 19581 contracting or general contracting;
- 19582 (6) Operates a business organization engaged in contracting after 120 days following the
 19583 termination of its only qualifying agent without designating another primary qualifying
 19584 agent, except as provided in Code Section 43-41-9; or
- 19585 (7) Intentionally and repeatedly misrepresents or manipulates the value or percentage of
 19586 work at the time of contract under subsections (e) and (f) of Code Section 43-41-17 to
 19587 avoid the licensing requirements of this chapter,
 19588 shall be guilty of a misdemeanor and shall, upon conviction, be punished for each such
 19589 offense by a fine of not less than \$500.00 or imprisonment of three months, or both fine
 19590 and imprisonment in the discretion of the court.
- 19591 (b) Any architect or engineer who recommends to any project owner the award of a
 19592 contract to anyone known by such architect or engineer not to be properly licensed under
 19593 this chapter shall be subject to such penalties as provided in subsection (a) of this Code
 19594 section and also to any appropriate disciplinary action by the ~~appropriate division~~ director.
- 19595 (c) Except as otherwise provided in this Code section, any person who violates any
 19596 provision of this chapter shall be guilty of a misdemeanor.

19597 43-41-13.

19598 Whenever it appears to the ~~board or either division of the board~~ director that any person,
 19599 whether an individual or a business organization, or both, is violating any of the provisions
 19600 of this chapter or of the rules and regulations of the licensing board or ~~either division~~
 19601 promulgated under this chapter, the ~~board or division~~ director may apply to the superior
 19602 court of the county in which such individual resides or business is located for a restraining
 19603 order and injunction to restrain the violation, and the superior court shall have jurisdiction
 19604 to grant the requested relief, irrespective of whether criminal prosecution has been
 19605 instituted or administrative sanctions have been imposed by reason of the violation.

19606 43-41-14.

19607 (a) Any person, whether an individual or a business organization acting through a
19608 qualifying agent, intending to perform work as a residential or general contractor, upon
19609 making application to the building inspector or such other authority of any incorporated
19610 municipality or county in this state charged with the duty of issuing building or other
19611 permits for contemplated construction work requiring performance by either a licensed
19612 residential contractor or a licensed general contractor shall, before being entitled to the
19613 issuance of such permit, furnish to such inspector or authority, personally or through his
19614 or her authorized agent specifically designated to act on his or her behalf in a sworn written
19615 document submitted contemporaneously or previously submitted and maintained by such
19616 inspector or authority, his or her residential contractor or general contractor license number
19617 and the identity of any business organization for which such applicant is serving as
19618 qualifying agent that is undertaking or contracting as a residential contractor or a general
19619 contractor to construct or manage the construction. It shall be unlawful for any such
19620 building inspector or other authority to issue or allow the issuance of such building permit
19621 unless the applicant has furnished his or her residential contractor or general contractor
19622 license number and the identity of any such business organization relative to performance
19623 of the work for which a permit has been applied. A building inspector or other authority
19624 shall issue such building permit under the terms of this Code section to any person,
19625 including an individual licensee acting on his or her own behalf or a licensee acting as a
19626 qualifying agent for a business organization and such business organization, upon evidence
19627 reasonably establishing that such person is duly licensed as a residential or general
19628 contractor under this chapter, either individually or as a business organization acting under
19629 a duly licensed qualifying agent. Any building inspector or other such authority that issues
19630 a building permit to a person known by such building inspector or authority not to be
19631 properly licensed under this chapter shall be guilty of a misdemeanor and, upon conviction,
19632 shall be subject to a fine of not more than \$500.00.

19633 (b) The licensing requirements imposed by this chapter and the effective dates of such
19634 licensing requirements must be posted by any county or municipality in this state charged
19635 with the duty of issuing building or other permits for construction work requiring
19636 performance by either a licensed residential contractor or a licensed general contractor in
19637 the same location in which such building or other permits are issued.

19638 43-41-15.

19639 If an incomplete contract exists at the time of death of a residential or general contractor,
19640 where the licensed contractor performing the work under such contract is an individual
19641 person and not a business organization acting through a qualifying agent for such

19642 organization, the contract may be completed by any person affiliated with the contractor
 19643 as a co-owner, partner, employee, relative, heir, successor, or assign, even though not
 19644 licensed under this chapter, subject to the terms of this Code section. Such person shall
 19645 notify the ~~appropriate division of the board~~ director within 30 days after the death of such
 19646 contractor of such death and of his or her name and address, knowledge of the contract, and
 19647 ability technically and financially to complete it. Such person may continue with
 19648 performance of the contract pending approval by the ~~division~~ director. If the ~~division~~
 19649 director approves, ~~he or she may~~ such person proceed with the contract to completion. If
 19650 the ~~division~~ director does not approve completion by such person, due to a determination
 19651 that he or she does not have sufficient knowledge, expertise, or financial or other required
 19652 resources, the ~~division~~ director shall give prompt written notice to the person, including the
 19653 reasons for such rejection, and such person shall promptly upon receipt of such notice cease
 19654 further performance of the contract. If the owner engages another person under a new
 19655 contract to complete the remaining work under the original contract, such other party must
 19656 be a contractor duly licensed under this chapter to perform such work. For purposes of this
 19657 Code section, an incomplete contract is one which has been awarded to or entered into by
 19658 the contractor before his or her death or on which he or she was the low bidder and the
 19659 contract is subsequently awarded to him or her, regardless of whether any actual work has
 19660 commenced under the contract before the contractor's death. If an incomplete contract
 19661 exists at the time of death of a sole qualifying agent of a residential contractor or a general
 19662 contractor, where the contractor is a business organization licensed only under such
 19663 individual as its qualifying agent, then the contractor shall proceed as provided under
 19664 paragraph (1) of subsection (e) of Code Section 43-41-9.

19665 43-41-16.

19666 (a) The ~~board~~ director shall have the authority, subject to Code Section 43-1-3.1, to refuse
 19667 to grant a license to an applicant or to revoke the license of a person licensed by the ~~board~~
 19668 director or to discipline a person licensed by the ~~board~~ director upon a finding ~~by a~~
 19669 ~~majority of the board~~ that the applicant or licensee has committed any of the following acts:

19670 (1) Obtaining a license by fraud or misrepresentation or otherwise knowingly giving
 19671 false or forged evidence to the licensing board or ~~its divisions~~ the director;

19672 (2) Being convicted or found guilty of or entering a plea of guilty or nolo contendere to
 19673 a criminal act constituting a felony in any jurisdiction which directly relates to the
 19674 practice of residential or general contracting or the ability to practice contracting;

19675 (3) Performing any act which assists a person or entity in the prohibited unlicensed
 19676 practice of contracting if the licensee knows or has reasonable grounds to know that the
 19677 person or entity is unlicensed;

- 19678 (4) Knowingly combining or conspiring with an unlicensed person by allowing his or her
19679 license to be used with the intent to evade the provisions of this chapter. When an
19680 individual license holder allows his or her license to be used to qualify one or more
19681 business organizations, including where such qualifying agent for a person engaged in
19682 general contracting does not actually possess and exercise the power and authority
19683 required of a qualifying agent under paragraph (7) of Code Section 43-41-2 and Code
19684 Section 43-41-9, such act constitutes prima-facie evidence of an intent to evade the
19685 provisions of this chapter;
- 19686 (5) Failing in any material respect to comply with the provisions of this chapter or
19687 violating a rule, regulation, or lawful order of the licensing board or ~~its divisions~~ the
19688 director;
- 19689 (6) Abandoning a construction project in which the contractor who is the individual
19690 license holder or a business organization for whom the license holder is a qualifying
19691 agent is engaged or under contract as a residential or general contractor. A project may
19692 be presumed abandoned after 90 days if the contractor has ceased work on or terminated
19693 performance on the project without just cause and without proper notification to the
19694 owner, including the reason for the termination, cessation, or abandonment;
- 19695 (7) Signing a statement with respect to a project or contract falsely indicating that the
19696 work is bonded; knowingly and falsely indicating by written statement issued to the
19697 owner that payment has been made for all subcontracted work, labor, and materials and
19698 for all materials furnished and installed which statement is reasonably relied upon and
19699 actually results in a financial loss to the owner; or falsely indicating that workers'
19700 compensation and general liability insurance are provided;
- 19701 (8) Committing fraud or deceit in the practice of contracting, including falsely
19702 advertising, representing, or holding himself or herself or an affiliated business
19703 organization out as having a valid and current license under this chapter;
- 19704 (9) Committing gross negligence, repeated or persistent negligence, or negligence
19705 resulting in a significant danger to life or property;
- 19706 (10) Proceeding on any job without obtaining applicable local building permits and
19707 inspections;
- 19708 (11) Using or attempting to use a license that has expired or has been suspended or
19709 revoked;
- 19710 (12) Knowingly or intentionally engaging any subcontractor to perform work within the
19711 scope of the general or residential construction contract which requires a license under
19712 Chapter 14 of this title who does not possess a current and valid license for such work;
19713 or

19714 (13) Failing to satisfy within a reasonable time the terms of a final civil judgment
 19715 obtained against the licensee or the business organization qualified by the licensee
 19716 relating to the practice of the licensee's profession.

19717 (b) The ~~appropriate division~~ director may take any one or more of the following actions
 19718 against any license holder found by the ~~division~~ director to have committed any one or
 19719 more of the acts listed in subsection (a) of this Code section:

19720 (1) Place the license holder on probation or reprimand the license holder;

19721 (2) Revoke a license, including the license of a person as an individual as well as that of
 19722 a qualifying agent of a business organization together with the interest of the business
 19723 organization qualified thereby in such license; suspend such a license for a stated period
 19724 of time not exceeding one year; or deny the issuance or renewal of the license;

19725 (3) Require financial restitution to a consumer for financial harm directly related to a
 19726 violation of a provision of this chapter;

19727 (4) Impose an administrative fine not to exceed \$5,000.00 for each violation;

19728 (5) Require continuing education; or

19729 (6) Assess costs associated with the investigation and prosecution.

19730 (c) In determining penalties in any final order of the ~~board or a division~~ director, the ~~board~~
 19731 ~~or division~~ director shall follow the penalty guidelines established by the licensing board's
 19732 ~~or division's~~ rules and regulations.

19733 (d) The ~~board or a division~~ director may assess interest or penalties on all fines imposed
 19734 under this chapter against any person or business organization which has not paid the
 19735 imposed fine by the due date established by rule, regulation, or final order.

19736 (e) If the ~~board or a division~~ director finds any contractor has violated the provisions of
 19737 this chapter, the ~~board or division~~ director may as a part of its disciplinary action require
 19738 such contractor to obtain continuing education in the areas of contracting affected by such
 19739 violation.

19740 43-41-17.

19741 (a) The licensing requirements imposed by this chapter and the sanctions and
 19742 consequences relating thereto shall not become effective and enforceable until July 1, 2008.

19743 On and after such date, no person, whether an individual or a business organization, shall
 19744 have the right to engage in the business of residential contracting or general contracting
 19745 without a current, valid residential contractor license or general contractor license,
 19746 respectively, issued by the ~~division~~ director under this chapter or, in the case of a business
 19747 organization, unless such business organization shall have a qualifying agent as provided
 19748 in this chapter holding such a current, valid residential contractor or general contractor
 19749 license on behalf of such organization issued to such qualifying agent as provided in this

19750 chapter. Notwithstanding the foregoing, persons seeking licensure under this chapter and
19751 exemption from examination under paragraphs (1) and (2) of subsection (a) of Code
19752 Section 43-41-8 shall submit their applications, including all necessary proof of the basis
19753 of exemption from examination for such license, starting January 1, 2006. The period for
19754 submission of such applications and requests for exemption from the examination
19755 requirements shall extend thereafter for a period of 18 months. Furthermore,
19756 notwithstanding the foregoing, any person seeking licensure under this chapter and
19757 exemption from examination under paragraph (3) of subsection (a) of Code Section
19758 43-41-8 may submit his or her application, including all necessary proof of the basis of
19759 such exemption starting January 1, 2007, and continuing thereafter.

19760 (b) As a matter of public policy, any contract entered into on or after July 1, 2008, for the
19761 performance of work for which a residential contractor or general contractor license is
19762 required by this chapter and not otherwise exempted under this chapter and which is
19763 between an owner and a contractor who does not have a valid and current license required
19764 for such work in accordance with this chapter shall be unenforceable in law or in equity by
19765 the unlicensed contractor. For purposes of this subsection, a contractor shall be considered
19766 unlicensed only if the contractor was unlicensed on the effective date of the original
19767 contract for the work, if stated therein, or, if not stated, the date the last party to the contract
19768 executed such contract, if stated therein. If the contract does not establish such a date, the
19769 contractor shall be considered unlicensed only if the contractor was unlicensed on the first
19770 date upon which the contractor provided labor, services, or materials under the contract.
19771 Notwithstanding any other provision of law to the contrary, if a contract is rendered
19772 unenforceable under this subsection, no lien or bond claim shall exist in favor of the
19773 unlicensed contractor for any labor, services, or materials provided under the contract or
19774 any amendment thereto. This subsection shall not affect the rights of parties other than the
19775 unlicensed contractor to enforce contract, lien, or bond remedies. This subsection shall not
19776 affect the obligations of a surety that has provided a bond on behalf of an unlicensed
19777 contractor. It shall not be a defense to any claim on a bond or indemnity agreement that
19778 the principal or indemnitor is unlicensed for purposes of this subsection.

19779 (c) Any person who holds a license issued under this chapter may engage in the business
19780 of residential or general contracting, but only as prescribed by the license, throughout the
19781 state and no municipality or county may require any such person licensed under this
19782 chapter to comply with any additional licensing requirements imposed by such
19783 municipality or county relative to the performance of construction work subject to the
19784 licensing requirements under this chapter. However, nothing in this chapter shall preclude
19785 the implementation and enforcement by any municipality or county of a local rule,
19786 regulation, ordinance, order, or other requirement in effect and operation as of July 1, 2004,

19787 that requires a person to obtain a locally issued license, registration, or certification in order
19788 to:

19789 (1) Engage in the construction of improvements to real property to the extent such
19790 activities are not encompassed by this chapter or by Chapter 14 of this title; or

19791 (2) Engage in residential or general contracting within such jurisdiction; provided,
19792 however, that:

19793 (A) The requirements and criteria for issuance of such local license, registration, or
19794 certification shall have been at least as strict and stringent, ~~in the sole judgment of the~~
19795 ~~board~~, as those for the issuance of a corresponding state-wide license issued under this
19796 chapter;

19797 (B) Such local license, registration, or certification shall only apply to activities
19798 performed within the geographical limits of such municipality or county; and

19799 (C) Such requirement shall not prevent or foreclose any contractor not holding such
19800 local license, registration, or certification but holding a valid and current state-wide
19801 license issued under this chapter or Chapter 14 of this title from the transaction of
19802 contracting business in such local jurisdiction within the scope of his or her state-wide
19803 license.

19804 (d) Any person qualified by the Department of Transportation to perform construction
19805 work on roads, streets, bridges, highways, sidewalks, or other grading, paving, or repaving
19806 projects; airport runways or taxiways; or railroads, and services incidental thereto, for the
19807 department shall not be required to be licensed under this chapter in order to perform any
19808 such work for the department or for any other owner requiring similar work to be
19809 performed. The ~~general contractor division of the~~ licensing board, in agreement with the
19810 Department of Transportation, shall, by rule, define 'services incidental thereto' for the
19811 purposes of this subsection only and shall likewise define any other necessary terms as to
19812 the scope of the exemption provided by this subsection.

19813 (e) Nothing in this chapter shall prevent any person holding a valid license issued by the
19814 ~~State Construction Industry Licensing Board, or any division thereof~~ director, pursuant to
19815 Chapter 14 of this title from performing any work defined in the Code sections under which
19816 the license held by ~~said~~ such person was issued. Furthermore, nothing in this chapter shall
19817 preclude a person licensed under Chapter 14 of this title to perform plumbing, conditioned
19818 air contracting, utility contracting, electrical contracting, or low-voltage contracting from
19819 offering to perform, performing, engaging in, or contracting to engage in the performance
19820 of construction work or services directly with an owner; which ~~work~~ would otherwise
19821 require a license under this chapter, where the total scope of the work to be performed is
19822 predominantly of the type for which such contractor is duly licensed to perform under
19823 Chapter 14 of this title such that any other work involved is incidental to and an integral

19824 part of the work performed within the scope of such license under said chapter and does
19825 not exceed the greater of \$10,000.00 or 25 percent of the total value at the time of
19826 contracting of the work to be performed; provided, however, that such contractor may not
19827 delegate or assign the responsibility to directly supervise and manage the performance of
19828 such other work to a person unless such person is licensed under this chapter and the work
19829 being performed by such person is within the scope of that person's license.

19830 (f) Nothing in this chapter shall preclude a specialty contractor from offering or
19831 contracting to perform or undertaking or performing for an owner limited, specialty, or
19832 specific trade contractor work. However, nothing in this chapter shall permit a specialty
19833 contractor to perform work falling within the licensing requirements of Chapter 14 of this
19834 title where such specialty contractor is not duly licensed under such chapter to perform
19835 such work. The licensing board shall by rule or policy ~~by January 1, 2008~~, identify
19836 specialty contractors or other criteria to determine eligibility under the exemption of this
19837 subsection. The specialty contractor otherwise exempted from license requirements under
19838 this chapter may perform work for an owner that would otherwise require a license under
19839 this chapter where the total scope of the work to be performed is predominantly of the type
19840 for which such specialty contractor is duly recognized as exempt under this subsection by
19841 the licensing board, provided that such other work involved is incidental to and an integral
19842 part of the exempt work performed by the specialty contractor and does not exceed the
19843 greater of \$10,000.00 or 25 percent of the total value at the time of contracting of the work
19844 to be performed.

19845 (g) Nothing in this chapter shall preclude a person from offering or contracting to perform
19846 or undertaking or performing for an owner repair work, provided that the person
19847 performing the repair work discloses to the owner that such person does not hold a license
19848 under this chapter and provided, further, that such work does not affect the structural
19849 integrity of the real property. The licensing board shall by rule or regulation further define
19850 the term 'repair' as used in this subsection and any other necessary terms as to the scope of
19851 this exemption.

19852 (h) Nothing in this chapter shall preclude any person from constructing a building or
19853 structure on real property owned by such person which is intended upon completion for use
19854 or occupancy solely by that person and his or her family, firm, or corporation and its
19855 employees, and not for use by the general public and not offered for sale or lease. In so
19856 doing, such person may act as his or her own contractor personally providing direct
19857 supervision and management of all work not performed by licensed contractors. However,
19858 if, under this subsection, the person or his or her family, firm, or corporation has previously
19859 sold or transferred a building or structure which had been constructed by such person
19860 acting without a licensed residential or general contractor within the prior 24 month period,

19861 starting from the date on which a certificate of occupancy was issued for such building or
19862 structure, then such person may not, under this subsection, construct another separate
19863 building or structure without having first obtained on his or her own behalf an appropriate
19864 residential or general contractor license or having engaged such a duly licensed contractor
19865 to perform such work to the extent required under this chapter, or it shall be presumed that
19866 the person, firm, or corporation did not intend such building solely for occupancy by that
19867 person and his or her family, firm, or corporation. Further, such person may not delegate
19868 the responsibility to directly supervise and manage all or any part of the work relating
19869 thereto to any other person unless that person is licensed under this chapter and the work
19870 being performed is within the scope of that person's license. In any event, however, all
19871 such work must be done in conformity with all other applicable provisions of this title, the
19872 rules and regulations of the licensing board ~~and division involved~~, and any applicable
19873 county or municipal resolutions, ordinances, codes, permitting, or inspection requirements.

19874 (i) Nothing in this chapter shall preclude an architect ~~licensed~~ registered pursuant to
19875 Chapter 4 of this title, an interior designer registered pursuant to Chapter 4 of this title, or
19876 an engineer registered pursuant to Chapter 15 of this title from performing work or
19877 providing services within the scope of his or her registration for the practice of architecture,
19878 ~~or interior design, or license for practicing engineering.~~

19879 (j) Nothing in this chapter shall preclude an architect ~~licensed~~ registered pursuant to
19880 Chapter 4 of this title, an interior designer registered pursuant to Chapter 4 of this title, or
19881 an engineer registered pursuant to Chapter 15 of this title from offering to perform or
19882 offering or rendering design-build services to an owner; provided, however, that such offer
19883 or contract shall clearly indicate at the time of such offer or contract that all services of a
19884 general contractor incident to the design-build performance shall be performed by a duly
19885 licensed general contractor in compliance with other provisions of this chapter and that all
19886 services so offered or provided falling within the scope of the licensing requirements of this
19887 chapter are offered and rendered by a licensed general contractor in accordance with this
19888 chapter.

19889 (k) Nothing in this chapter shall apply to the construction, alteration, or repair of buildings
19890 classified as an agricultural occupancy or that are used for agricultural storage or
19891 agricultural purposes.

19892 (l) A contractor licensed under this chapter shall not be required to list on the face of a bid
19893 or proposal envelope the license number of any contractor licensed under Chapter 14 of
19894 this title that may or will be engaged to perform any work within the licensing requirements
19895 of Chapter 14 of this title which comprises part of the work for which such bid or proposal
19896 is submitted.

19897 (m) Dams, including both earth dams and concrete dams, designed for electrical
 19898 generation, water storage, or any other purpose may be constructed by either a general
 19899 contractor licensed under this chapter or by a utility contractor licensed pursuant to Chapter
 19900 14 of this title.

19901 (n) Nothing in this chapter shall apply to the construction or installation of manufactured
 19902 homes as defined in paragraph (4) of Code Section 8-2-131."

19903 **SECTION 1-37.**

19904 Said title is further amended by revising Chapter 44, relating to speech-language pathologists
 19905 and audiologists, as follows:

19906 "CHAPTER 44

19907 43-44-1.

19908 This chapter shall be known and may be cited as the 'Georgia State Speech-Language
 19909 Pathology and Audiology Licensing Act.'

19910 43-44-2.

19911 It is declared to be a policy of this state that in order to safeguard the public health, safety,
 19912 and welfare and to protect the public from being misled by incompetent, unscrupulous, and
 19913 unauthorized persons, it is necessary to provide regulatory authority over persons offering
 19914 speech-language pathology and audiology services to the public.

19915 43-44-3.

19916 As used in this chapter, the term:

19917 (1) 'Accredited program' means a program leading to the award of a degree in
 19918 speech-language pathology or audiology that is accredited by an organization recognized
 19919 for that purpose by the United States Department of Education or its successor and
 19920 adopted by rule or regulation of the licensing board.

19921 (2) 'Audiogram' means a graphic or tabular summary of the measurements of hearing,
 19922 showing a person's hearing threshold levels for pure tones.

19923 (3) 'Audiologist' means a person who has a degree in audiology, who is licensed to
 19924 practice audiology, or both and who presents himself or herself to the public by any title
 19925 or description of services incorporating the words audiologist, hearing clinician, hearing
 19926 therapist, or any variation or synonym which expresses, employs, or implies these terms
 19927 or functions.

- 19928 (4) 'Audiology assistant' means any person who assists in the providing of those
 19929 audiology services authorized by the ~~board~~ director, who meets the minimum
 19930 requirements established by the ~~State Board of Examiners for Speech-Language~~
 19931 ~~Pathology and Audiology~~ licensing board, and who works under the supervision of a
 19932 licensed audiologist.
- 19933 (5) 'Board' means the State Board of Examiners for Speech-Language Pathology and
 19934 Audiology, a professional licensing policy board pursuant to Chapter 1 of this title with
 19935 the authority and responsibility set forth in such chapter.
- 19936 (5.1) 'Director' means the director of professional licensing.
- 19937 (6) 'Dispensing hearing aids' means providing hearing aids to a consumer by sale, rental,
 19938 lease, or otherwise, and includes without being limited to conducting testing and other
 19939 procedures to determine suitability for use of a hearing aid, to determine hearing aid
 19940 characteristics which properly compensate the hearing condition, to select suitable
 19941 hearing aids, to fit hearing aids to the subject, and to counsel and instruct in the use
 19942 thereof.
- 19943 (7) 'Hearing aid' means any wearable electronic instrument or device, including an
 19944 assistive hearing device, designed for or represented or offered for the purpose of
 19945 compensating for defective human hearing, including parts, attachments, ear molds, and
 19946 accessories, except batteries.
- 19947 (8) 'License' means any license issued by the ~~board~~ director to practice speech-language
 19948 pathology or audiology.
- 19949 (9) 'Licensee' means any person licensed to practice speech-language pathology,
 19950 audiology, or both pursuant to this chapter, but does not include the holder of a
 19951 provisional license.
- 19952 (9.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 19953 Article 2 of Chapter 1 of this title.
- 19954 (10) 'Person' means a natural person.
- 19955 (11) 'Preceptor' means any person who is licensed and has the responsibility of
 19956 supervising or overseeing the training or activities of assistants, students, externs,
 19957 provisional license holders, and others providing speech-language pathology or audiology
 19958 services without full licenses.
- 19959 (12) 'Provisional license' means any temporary license issued by the ~~board~~ director
 19960 pursuant to standards and procedures determined by the licensing board. Except for a
 19961 provisional license granted pursuant to paragraph ~~(8)~~(3) of subsection ~~(a)~~(b) of Code
 19962 Section 43-44-6, a provisional license shall not be granted for a total period of time to
 19963 exceed one year.

19964 (13) 'Speech-language pathologist' means a person who practices speech-language
 19965 pathology and who presents himself or herself to the public by any title or description of
 19966 services incorporating the words speech-language pathologist, speech therapist, speech
 19967 correctionist, speech clinician, language pathologist, language therapist, logopedist,
 19968 communicologist, voice therapist, voice pathologist, or any similar title or description of
 19969 service.

19970 (14) 'Speech-language pathology aide' means any person who aids in the providing of
 19971 those speech-language pathology services authorized by the ~~board~~ director, who meets
 19972 the minimum requirements established by the ~~State Board of Examiners for~~
 19973 ~~Speech-Language Pathology and Audiology~~ licensing board, and who works directly
 19974 under the supervision of a licensed speech-language pathologist.

19975 (15) 'The practice of audiology' means the application of principles, methods, and
 19976 procedures of identification of hearing loss, measurement, testing, evaluation, case
 19977 management, prediction, prevention, consultation, counseling, instruction, and research
 19978 related to hearing, hearing disorders, and auditory and vestibular function and
 19979 dysfunction; intervention as related to such principles, methods, and procedures;
 19980 interpretation of the results of such principles, methods, and procedures; the evaluation,
 19981 recommendations, fitting, and dispensing of hearing aids, frequency modulation
 19982 technologies, and other assistive devices designed to ameliorate the effects of a hearing
 19983 disorder; the programming of cochlear implants and other implantable devices; and the
 19984 planning, directing, conducting, and participating in hearing conservation programs and
 19985 programs of habilitation, rehabilitation, and intervention for disorders of hearing, auditory
 19986 function and processing, and vestibular function, including but not limited to auditory
 19987 training, speechreading, and vestibular rehabilitation, which vestibular function and
 19988 rehabilitation the audiologist is qualified to perform by virtue of education, training, and
 19989 experience.

19990 (16) 'The practice of speech-language pathology' means the application of principles,
 19991 methods, and procedures for the measurement, testing, evaluation, prediction,
 19992 consultation, counseling, instruction, intervention, research, habilitation, or rehabilitation
 19993 related to the development and disorders of speech or language including but not limited
 19994 to voice, resonance, fluency, cognition, and swallowing for the purpose of evaluating,
 19995 preventing, ameliorating, modifying, or otherwise treating such disorders and conditions
 19996 in individuals or groups of individuals.

19997 43-44-4.

19998 (a) The State Board of Examiners for Speech Pathology and Audiology existing on June
 19999 30, 1987, is abolished and there is created beginning July 1, 1987, and continuing thereafter

20000 the State Board of Examiners for Speech-Language Pathology and Audiology as a
 20001 professional licensing policy board which shall succeed to all of that abolished board's
 20002 powers, duties, and responsibilities which are not inconsistent with this chapter and which
 20003 ~~new board~~ shall be composed of those members of the abolished board serving as such on
 20004 June 30, 1987, ~~which members~~ who shall serve out their respective terms of office and until
 20005 their respective successors are appointed and qualified pursuant to this Code section. ~~The~~
 20006 ~~board created by this Code section shall administer this chapter.~~ The board shall consist
 20007 of eight members who shall be appointed by the Governor and shall be confirmed by the
 20008 Senate. Three of the members shall be licensed speech-language pathologists and three
 20009 shall be licensed audiologists, all of whom shall have been engaged in rendering services
 20010 to the public, teaching, or research in speech-language pathology or audiology for a period
 20011 of at least three years immediately preceding their appointments. One member shall be a
 20012 board certified otolaryngologist of this state. One member shall be a lay person
 20013 representing the public. All members shall be residents of this state and shall have been
 20014 residents of this state for at least one year prior to their appointments.

20015 (b) Appointments by the Governor may be made from lists of names submitted by the
 20016 Georgia Speech-Language-Hearing Association, Georgia Organization for School-Based
 20017 Speech-Language Pathologists, Georgia Academy of Audiology, and the Georgia Society
 20018 of Otolaryngology Head and Neck Surgery or other interested persons. Board members
 20019 shall be appointed for a period of three years and until their respective successors are
 20020 appointed and qualified. No member of the board may serve more than two consecutive
 20021 full terms.

20022 (c) Members of the board shall serve until the expiration of the terms for which they have
 20023 been appointed and until their respective successors are appointed and qualified. When a
 20024 vacancy upon the board occurs, the Governor shall appoint, pursuant to this Code section,
 20025 a successor to fill the unexpired term.

20026 (d) The Governor may remove any member of the board for dishonorable conduct,
 20027 incompetency, or neglect of duty.

20028 (e) No member of the board shall be liable to civil action for any act performed in good
 20029 faith in performance of the member's duties as prescribed by law.

20030 43-44-5.

20031 The board shall hold a regular annual meeting at which it shall elect from its membership
 20032 a chairperson and vice chairperson. In addition to its annual meeting, the board shall hold
 20033 such other meetings as are necessary for the performance of its duties under this chapter
 20034 as approved by the director. The members of the board shall be reimbursed as provided
 20035 for in subsection (f) of Code Section 43-1-2.

20036 43-44-6.

20037 (a) The licensing board shall:

20038 (1) ~~Have the responsibility and duty of administering and enforcing this chapter and shall~~
 20039 ~~assist the division director in carrying out this chapter;~~

20040 ~~(2)~~ Have the power to establish and to revise the requirements for obtaining licensure or
 20041 the renewal of licensure;

20042 ~~(3)~~(2) Make all rules, not inconsistent with this chapter, that are reasonably necessary for
 20043 the conduct of its duties and proceedings;

20044 (3) Establish fees;

20045 (4) Establish requirements for continuing professional education of persons subject to
 20046 this chapter by appropriate regulation;

20047 (5) Conduct hearings upon the petition of any person who is aggrieved or adversely
 20048 affected by an order or action of the director, which shall be conducted by the licensing
 20049 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 20050 Act'; and

20051 ~~(4)~~(6) Adopt rules and regulations relating to professional conduct commensurate with
 20052 the policy of this chapter, including, but not limited to, regulations which establish ethical
 20053 standards of practice and for other purposes. Following their adoption, such rules and
 20054 regulations consistent with this chapter shall govern and control the professional conduct
 20055 of every person who holds a license to practice under this chapter;

20056 (b) The director shall:

20057 ~~(5)~~(1) ~~Conduct hearings and keep~~ Keep records and minutes as are necessary to the
 20058 orderly dispatch of its functions;

20059 ~~(6)~~ ~~Adopt a common seal;~~

20060 ~~(7)~~(2) Register and otherwise regulate qualified speech-language pathology aides and
 20061 audiology assistants. The provisions of this paragraph shall not apply to any student,
 20062 intern, or trainee performing speech-language pathology or audiology services while
 20063 completing the supervised clinical experience;

20064 ~~(8)~~(3) Issue provisional licenses to speech-language pathologists during the paid clinical
 20065 experience;

20066 ~~(9)~~(4) Issue, renew, and reinstate licenses;

20067 ~~(10)~~(5) Deny, suspend, revoke, or otherwise sanction licenses;

20068 ~~(11)~~(6) Accept results of qualifying examinations, administer examinations, or contract
 20069 with qualified testing services to conduct or supervise examinations;

20070 (7) Have the responsibility and duty of administering and enforcing this chapter; and

20071 (8) Enter orders or take other action consistent with this chapter, which shall be entered
 20072 in compliance with Code Section 43-1-3.1.

- 20073 ~~(12) Establish fees; and~~
- 20074 ~~(13) Establish requirements for continuing professional education of persons subject to~~
- 20075 ~~this chapter by appropriate regulation.~~
- 20076 ~~(b) The division director shall be guided by the recommendations of the board in all~~
- 20077 ~~matters relating to this chapter.~~
- 20078 43-44-7.
- 20079 (a) No person shall practice or hold himself or herself out as being able to practice
- 20080 speech-language pathology or audiology in this state unless that person is licensed in
- 20081 accordance with this chapter. Nothing in this chapter, however, shall be construed so as
- 20082 to prevent a person licensed under any other law of this state from operating within the
- 20083 scope of that person's license.
- 20084 (b)(1) Licensure is not required of a speech-language pathologist certified by the
- 20085 Department of Education or Professional Standards Commission or successor agency
- 20086 while that person is working as an employee of a public educational institution, serving
- 20087 any grade or grades from pre-kindergarten through grade 12, provided that no fees are
- 20088 charged for the services either directly or through a third party, except for Medicaid.
- 20089 (2) Registration as a speech-language pathology aide is not required of a public
- 20090 education communication aide while that person is working as an employee of an
- 20091 educational institution, provided that no fees are charged for the services either directly
- 20092 or through a third party.
- 20093 (c) Nothing in this chapter shall be construed to prevent participation by a student, intern,
- 20094 or fellow in supervised clinical services which are directly related to meeting the
- 20095 qualifications for licensure as stipulated by this chapter.
- 20096 (d) Licensees shall conspicuously post their speech-language pathology or audiology
- 20097 license at all times in their principal office or place of business.
- 20098 (e) Nothing in this chapter shall be construed to entitle any person licensed under this
- 20099 chapter to engage in the practice of selling and dispensing hearing aids unless such person
- 20100 is licensed as an audiologist under this chapter.
- 20101 (f) Nothing in this chapter shall be construed to limit in any way the rights of hearing aid
- 20102 dealers or dispensers licensed under the laws of this state.
- 20103 (g) Nothing in this chapter shall be construed to restrict hearing testing or any other act by
- 20104 a physician licensed under Chapter 34 of this title operating within the scope of his or her
- 20105 license or the performing of hearing testing by persons acting under the supervision of a
- 20106 licensed physician, provided that the physician shall be on the premises while such acts are
- 20107 being performed.

20108 (h) A person who is not licensed as an audiologist may perform nondiagnostic
20109 electro-physiologic screening of the auditory system, using otoacoustic emissions or
20110 auditory brainstem response technology, as part of a planned and organized screening effort
20111 for the initial identification of communication disorders in infants under the age of three
20112 months, provided that:

20113 (1) The person not licensed as an audiologist has completed a procedure specific training
20114 program directed by an audiologist licensed under this chapter;

20115 (2) The screening equipment and protocol used are fully automated and the protocol is
20116 not accessible for alteration or adjustment by the person not licensed as an audiologist;

20117 (3) The results of the screening are determined automatically by the programmed test
20118 equipment, without discretionary judgment by the person not licensed as an audiologist,
20119 and are only reported as 'pass or fail' or 'pass or refer';

20120 (4) An audiologist licensed under this chapter is responsible for the training of the person
20121 not licensed as an audiologist, the selection of the screening program protocol, the
20122 determination of administration guidelines, the periodic monitoring of the performance
20123 of the person not licensed as an audiologist, and the screening program results; and

20124 (5) The participation of the person not licensed as an audiologist in such an automated
20125 screening program is limited to the recording of patient demographic information; the
20126 application of earphones, electrodes, and other necessary devices; the initiation of the
20127 test; the recording of the results; and the arrangement of the referral for those who do not
20128 pass the screening to an audiologist licensed under this chapter for follow-up evaluation.

20129 (i)(1) Any person in this state or physically located in another state or foreign country
20130 who, using telecommunications and information technologies through which
20131 speech-language pathology information and auditory-vestibular system information or
20132 data is transmitted, performs an act that is part of a patient care service located in this
20133 state, including but not limited to any measures of speech-language pathology or
20134 auditory-vestibular system function or hearing instrument selection, fitting, or dispensing
20135 that would affect the diagnosis or treatment of the patient is engaged in the practice of
20136 speech-language pathology or audiology in this state. Any person who performs such
20137 acts through such means shall be required to have a license to practice speech-language
20138 pathology or audiology in this state and shall be subject to regulation by the licensing
20139 board. No such out-of-state or foreign practitioner shall have ultimate authority over the
20140 speech-language or auditory-vestibular system health care of a patient who is located in
20141 this state. Any such practitioner in this state, another state, or a foreign country shall
20142 abide by the rules of the licensing board.

20143 (2) This subsection shall not apply to:

- 20144 (A) The acts of a speech-language pathologist or an audiologist located in another state
 20145 or foreign country who provides consultation services at the request of a
 20146 speech-language pathologist or an audiologist licensed in this state;
- 20147 (B) The acts of a speech-language pathologist or an audiologist licensed in another
 20148 state or foreign country who:
- 20149 (i) Provides consultation services without compensation, remuneration, or other
 20150 expectation thereof and without altering, adjusting, or manipulating hearing aid device
 20151 controls; or
- 20152 (ii) Provides consultation services to a graduate school located in this state and
 20153 approved by the licensing board; or
- 20154 (C) The acts of a speech-language pathologist or an audiologist located in another state
 20155 or foreign country when invited as a guest of any graduate school or institution of
 20156 higher learning approved by the licensing board, state, or national accrediting body or
 20157 component thereof, for the sole purpose of engaging in professional education through
 20158 lectures, clinics, or demonstrations.
- 20159 (3) This Code section shall not be construed to alter the scope of practice of any health
 20160 care provider or authorize the delivery of health care services in a setting or in a manner
 20161 not otherwise authorized by the laws of this state.
- 20162 (4) All persons subject to the provisions of this Code section shall be required to comply
 20163 with all applicable requirements of the laws of this state relating to the maintenance of
 20164 patient records and the confidentiality of patient information, regardless of where such
 20165 speech-language pathologist or audiologist may be located and regardless of where or
 20166 how the records of any patient located in this state are maintained.
- 20167 43-44-8.
- 20168 (a) To be eligible for licensure by the ~~board~~ director as a speech-language pathologist or
 20169 as an audiologist, the applicant shall have:
- 20170 (1) Completed the academic and clinical requirements as established by rule of the
 20171 licensing board;
- 20172 (2) Completed the professional experience requirement. Every applicant for licensure
 20173 as a speech-language pathologist or audiologist shall demonstrate, prior to licensure,
 20174 full-time or equivalent part-time professional employment, as determined by the ~~board~~
 20175 director. The licensing board, by rule, shall establish standards for obtaining and
 20176 verifying the required professional employment experience;
- 20177 (3) Passed an examination or examinations approved by the licensing board. Each
 20178 applicant for licensure as a speech-language pathologist or audiologist shall make
 20179 application for examination as provided by the licensing board;

- 20180 (4) Demonstrated good moral character; and
- 20181 (5) Demonstrated recency of study through experience, continuing education, or both,
- 20182 as approved by the licensing board.
- 20183 (b) To be eligible for licensure by the ~~board~~ director as a speech-language pathologist, the
- 20184 applicant shall possess a master's or higher degree with a major emphasis in
- 20185 speech-language pathology from an accredited program; which incorporates the academic
- 20186 course work and the minimum hours of supervised graduate training required by the rules
- 20187 and regulations of the licensing board.
- 20188 (c) To be eligible for licensure by the ~~board~~ director as an audiologist:
- 20189 (1) Effective January 1, 2007, the applicant shall have earned a doctoral degree in
- 20190 audiology or completed the academic requirement of a doctoral degree program with a
- 20191 major emphasis in audiology from an institution of higher learning that is, or at the time
- 20192 the applicant was enrolled and graduated was, accredited by an accrediting agency
- 20193 recognized by the United States Department of Education or its successor organization;
- 20194 or
- 20195 (2) The applicant shall have earned a master's degree with a major emphasis in audiology
- 20196 which was conferred before January 1, 2007, from an institution of higher learning which
- 20197 was, at the time the applicant was enrolled and graduated, accredited by an accrediting
- 20198 agency recognized by the United States Department of Education or its successor
- 20199 organization.
- 20200 (d) Any speech-language pathology or audiology applicant who graduated from or is
- 20201 currently enrolled in a program at a university or college outside the United States or
- 20202 Canada shall:
- 20203 (1) Present documentation of the determination of equivalency to standards established
- 20204 by the United States Department of Education or its successor organization in order to
- 20205 qualify; and
- 20206 (2) Have completed the academic and clinical requirements established by rule of the
- 20207 licensing board.
- 20208 The ~~board~~ director may waive the education, practicum, and professional employment
- 20209 experience requirements for an applicant who received a professional education in another
- 20210 country if the ~~board~~ director is satisfied that the applicant meets equivalent education and
- 20211 practicum requirements, passes the approved examination in the area of the license sought,
- 20212 and meets other requirements established by rule of the licensing board.
- 20213 (e) Notwithstanding any other provision of this chapter, any person who has been issued
- 20214 a license by the ~~State Board of Examiners for Speech Pathology and Audiology~~ director
- 20215 to practice as a speech pathologist or an audiologist and whose license was valid on June
- 20216 30, 2006, shall not be required to comply with the provisions of subsections (a), (b), (c),

20217 and (d) of this Code section. Such person shall continue to be licensed in that person's
 20218 respective field and shall have his or her license renewed if he or she complies with the
 20219 other provisions of this chapter, including but not limited to any continuing education
 20220 requirement established by the licensing board for license renewal.

20221 (f) The licensing board, by rule, shall establish requirements for the renewal of a license.
 20222 A license may not exceed the time allowed by rule of the licensing board.

20223 43-44-9.

20224 (a) The board director may, in its his or her discretion, upon payment of fees, grant a
 20225 license without examination to applicants who present proof of current licensure in a state
 20226 or country whose requirements for licensure are substantially equivalent to those of this
 20227 chapter.

20228 (b) The board director may, in its his or her discretion, upon payment of fees, grant a
 20229 license without examination to those who hold the Certificate of Clinical Competence of
 20230 the American Speech-Language and Hearing Association in the area for which they are
 20231 applying for licensure, or to those who hold certification of the American Board of
 20232 Audiology, provided the applicant otherwise meets the eligibility requirements as defined
 20233 in Code Section 43-44-8.

20234 43-44-10.

20235 An applicant who meets the requirements for licensure as provided by this chapter and has
 20236 paid the requisite fee or fees shall be licensed by the board director as a speech-language
 20237 pathologist, audiologist, or both.

20238 43-44-11.

20239 (a) The board director shall issue a certificate to each person ~~whom it licenses~~ licensed as
 20240 a speech-language pathologist, audiologist, or both. Licensure shall be granted
 20241 independently in either speech-language pathology or audiology. Qualified applicants may
 20242 be independently licensed in both areas.

20243 (b) The licensing board may establish, through rules and regulations, a mechanism to
 20244 provide for provisional and inactive status licenses to applicants.

20245 (c) The board director may, in its his or her discretion, upon payment of fees, grant a
 20246 provisional license to an applicant who has satisfied the requirements of paragraph (1) of
 20247 subsection (b) or paragraph (1) or (2) of subsection (c) of Code Section 43-44-8 and who
 20248 is engaged in a paid clinical experience. Such provisional license shall be valid for one
 20249 year and subject to renewal for only one additional year. A person holding a provisional
 20250 license shall be subject to the same disciplinary action as a person holding a full license.

20251 (d) All licenses shall be renewed biennially. Expiration, renewal, and penalty dates and
 20252 provisions shall be as established by the ~~board~~ director in accordance with Code Section
 20253 43-1-4.

20254 43-44-12.

20255 Licensees may advertise their services, but such advertising shall be subject to regulation
 20256 by the licensing board.

20257 43-44-13.

20258 The investigatory authority and disciplinary authority of the ~~board~~ director shall be as
 20259 provided in Code Section 43-1-19.

20260 43-44-14.

20261 ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' applies to and governs~~
 20262 ~~all administrative action taken by the board. Any order or administrative action of the~~
 20263 ~~director made pursuant to this chapter shall be made in compliance with Code Section~~
 20264 ~~43-1-3.1.~~

20265 43-44-15.

20266 Nothing contained in any other law shall prevent a person who is qualified under this
 20267 chapter from engaging in the practice for which he or she is licensed under this chapter.

20268 43-44-16.

20269 Any person who practices speech-language pathology or audiology or who offers or
 20270 pretends to practice or holds himself or herself out as eligible to practice speech-language
 20271 pathology or audiology and who is not legally registered or licensed under this chapter
 20272 shall be guilty of a misdemeanor. Each day or fraction of a day that such person practices
 20273 in violation of this chapter shall constitute a separate offense.

20274 43-44-17.

20275 Nothing contained in this chapter shall limit or affect the activities of any employer or any
 20276 person acting on behalf of any employer under the provisions of the Occupational Safety
 20277 and Health Act of 1970 or any standard promulgated pursuant to ~~said~~ such act, including,
 20278 without limitation, the performance of hearing tests by a technician as part of a workplace
 20279 hearing conservation program, provided that the technician who performs audiometric tests
 20280 shall be responsible to a licensed audiologist or physician."

20281 **SECTION 1-38.**

20282 Said title is further amended by revising Chapter 47, relating to used motor vehicle and used
 20283 motor vehicle parts dealers, as follows:

20284 "CHAPTER 47

20285 43-47-1.

20286 This chapter shall be known and may be cited as the 'Used Motor Vehicle Dealers' and
 20287 Used Motor Vehicle Parts Dealers' Registration Act.'

20288 43-47-2.

20289 As used in this chapter, the term:

20290 (1) 'Board' means the State Board of Registration of Used Motor Vehicle Dealers and
 20291 Used Motor Vehicle Parts Dealers, a professional licensing policy board pursuant to
 20292 Chapter 1 of this title with the authority and responsibility set forth in such chapter.

20293 (1.1) 'Director' means the director of professional licensing.

20294 (2) 'Dismantler' means any person, partnership, limited liability company, firm, or
 20295 corporation engaged in the business of acquiring wrecked, abandoned, or reparable motor
 20296 vehicles and selling either the usable parts, the motor vehicle as a unit, or the hulk of the
 20297 motor vehicle after the usable parts have been removed. Without limiting any of the
 20298 foregoing, for the purposes of this chapter, a person, partnership, limited liability
 20299 company, firm, or corporation shall be presumed to be engaged in the business of auto
 20300 dismantling if he, she, or it possesses ten or more inoperative motor vehicles for more
 20301 than 45 days unless such vehicles are scrap vehicles being held by a scrap metal
 20302 processor for recycling scrap metal, vehicles awaiting repairs being held by a repair
 20303 business, or vehicles being held for other reasons as may be prescribed by the licensing
 20304 board.

20305 (3) 'Established place of business' means a salesroom or sales office in a building or on
 20306 an open lot of a retail used car dealership or at which a permanent business of bartering,
 20307 trading, offering, displaying, selling, buying, dismantling, or rebuilding wrecked or used
 20308 motor vehicles or parts is carried on, or the place at which the books, records, and files
 20309 necessary to conduct such business are kept. Each such place of business shall be
 20310 furnished with a working telephone listed in the name of the licensee for use in
 20311 conducting the business and shall be marked by an appropriate permanent sign as
 20312 prescribed by the ~~appropriate division under this chapter~~ director.

20313 (4) 'Financial institution' means a finance company or a banking institution or any
 20314 subsidiary of a finance company or banking institution which engages solely in the

- 20315 financing or leasing of motor vehicles. Such term shall not mean a pawnbroker as such
 20316 term is defined in Code Section 44-12-130.
- 20317 (5) 'Licensee' means any person who is required to be licensed or who is actually
 20318 licensed under this chapter.
- 20319 (5.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 20320 Article 2 of Chapter 1 of this title.
- 20321 (6) 'Major component part' means one of the subassemblies of a motor vehicle as defined
 20322 in paragraph (9) of Code Section 40-3-2.
- 20323 (7) 'Motor vehicle' or 'car' means every vehicle which is self-propelled and required to
 20324 be registered under the laws of this state, except trackless trolleys (which are classified
 20325 as streetcars), airplanes, motorboats, motorcycles, motor driven cycles, or go-carts.
- 20326 (8) 'Motor vehicle broker' means a person who, for a commission or with the intent to
 20327 make a profit or gain of money or other thing of value, negotiates or attempts to negotiate
 20328 the sale of a motor vehicle on behalf of another. Such term shall not mean any person
 20329 engaged in the solicitation, negotiation, or advertising of the sale of used motor vehicles
 20330 or any owner of real property who allows the display of used motor vehicles on such
 20331 property if the sale of such vehicles is made by a used car dealer or a financial institution.
- 20332 (9) 'Part' means any used motor vehicle part that has been installed as standard or
 20333 optional equipment on a motor vehicle, has been removed from the motor vehicle on
 20334 which it was originally attached or affixed, and is the subject of sale or resale as a part
 20335 and not as scrap.
- 20336 (10) 'Person' means any individual, partnership, limited liability company, firm,
 20337 association, corporation, or combination of individuals of whatever form or character.
- 20338 (11) 'Rebuilder' means any person, partnership, limited liability company, firm, or
 20339 corporation engaged in the business of buying more than two salvage or wrecked motor
 20340 vehicles per year for the purpose of restoring or rebuilding them with used or new motor
 20341 vehicle parts, or both, to be sold as motor vehicles.
- 20342 (12) 'Salvage dealer' means any person, firm, or corporation who purchases a salvage
 20343 vehicle or parts of a salvage vehicle for purposes of resale as parts only or as salvage.
- 20344 (13) Reserved.
- 20345 (14) 'Salvage vehicle' means any vehicle which:
- 20346 (A) Has been damaged, crushed, or otherwise reduced to such a state that its restoration
 20347 would require the replacement of two or more major component parts;
- 20348 (B) Has been acquired by an insurance company as a result of the vehicle's being
 20349 damaged to the extent that its restoration to an operable condition would require the
 20350 replacement of two or more major component parts or for which the insurance company

20351 has paid a total loss claim, excluding recovered total theft vehicles which do not require
 20352 the replacement of two or more major component parts for restoration; or
 20353 (C) Is an imported vehicle which has been damaged in shipment and disclaimed by the
 20354 manufacturer as a result of the damage, has never been the subject of a retail sale to a
 20355 consumer, and has never been issued a certificate of title.

20356 (15) 'Scrap vehicle' means any vehicle which has been wrecked, destroyed, or damaged
 20357 to the extent that it cannot be economically repaired, rebuilt, or made operable or
 20358 roadworthy.

20359 (15.1) 'Temporary site' means a location at which used motor vehicles are sold or offered
 20360 for sale for which a temporary site permit has been issued by the ~~board~~ director in
 20361 accordance with Code Section 43-47-8.2 and which location is:

20362 (A) Used for a period not to exceed 96 hours in any 30 day period of time;
 20363 (B) Located in the county in which the established place of business of the used motor
 20364 vehicle dealer using the temporary site is located or an adjoining county; and
 20365 (C) Used not more than three times in any calendar year.

20366 (16) 'Used motor vehicle' or 'used car' means any motor vehicle or car other than a motor
 20367 vehicle which has never been the subject of a retail sale by a new motor vehicle dealer
 20368 or a used motor vehicle dealer and which is the subject of a retail sale to a consumer for
 20369 his or her own use or of a resale to another licensed dealer.

20370 (17)(A) 'Used motor vehicle dealer,' 'used car dealer,' or 'licensee' means any person
 20371 who, for commission or with intent to make a profit or gain of money or other thing of
 20372 value, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate
 20373 a sale or exchange of an interest in used motor vehicles or who is engaged wholly or
 20374 in part in the business of selling used motor vehicles, whether or not such motor
 20375 vehicles are owned by such person. A motor vehicle wholesaler and a motor vehicle
 20376 broker shall be deemed to be a used motor vehicle dealer or a used car dealer for the
 20377 purposes of this chapter. Any independent motor vehicle leasing agency which sells
 20378 or offers for sale used motor vehicles shall be deemed to be a used motor vehicle dealer
 20379 or a used car dealer for the purposes of this chapter. Any motor vehicle auction
 20380 company selling or offering for sale used motor vehicles to independent motor vehicle
 20381 dealers or to individual consumers shall be deemed to be a used motor vehicle dealer
 20382 or used car dealer for the purposes of this chapter except as otherwise provided in
 20383 division (x) of subparagraph (B) of this paragraph. Without limiting any of the
 20384 foregoing, the sale of five or more used motor vehicles in any one calendar year shall
 20385 be prima-facie evidence that a person is engaged in the business of selling used motor
 20386 vehicles. A pawnbroker who disposes of all repossessed motor vehicles by selling or
 20387 exchanging his or her interest in such motor vehicles only to licensees under this

20388 chapter shall not be considered a used motor vehicle dealer under this chapter ~~as so~~ long
 20389 as such pawnbroker does not otherwise engage in activities which would bring him or
 20390 her under the licensing requirements of this chapter.

20391 (B) Used motor vehicle dealer or used car dealer does not include:

20392 (i) Franchised motor vehicle dealers and their wholly owned and controlled
 20393 subsidiaries operating in the county in which their franchise is located or operating
 20394 as a direct dealer of a manufacturer;

20395 (ii) Receivers, trustees, administrators, executors, guardians, or other persons
 20396 appointed by or acting under the judgment or order of any court;

20397 (iii) Public officers while performing their official duties;

20398 (iv) Persons disposing of motor vehicles acquired for their own use when the same
 20399 shall have been acquired and used in good faith and not for the purpose of avoiding
 20400 the provisions of this chapter. Evidence of good faith, as provided in this division,
 20401 shall consist of the fact that the vehicle is properly titled and registered in the name
 20402 of the transferor;

20403 (v) Financial institutions when the financial institution sells its repossessed or leased
 20404 motor vehicles. Finance companies, for purposes of this chapter, shall not include a
 20405 pawnbroker as defined in Code Section 44-12-130;

20406 (vi) Insurance companies ~~who~~ that sell motor vehicles to which they have taken title
 20407 as an incident of payments made under policies of insurance;

20408 (vii) Persons, firms, or corporations who act as agents for insurance companies for
 20409 the purpose of soliciting insurance for motor vehicles;

20410 (viii) Persons, firms, or corporations engaged in a business other than as a used car
 20411 dealer, as defined in divisions (i) through (vii) of this subparagraph, who sell motor
 20412 vehicles traded in as a part of the purchase price of an article other than a motor
 20413 vehicle and which have not been acquired by direct purchase for cash, and ~~which~~ such
 20414 business is not for the purpose of violating this chapter;

20415 (ix) Persons, firms, or corporations which sell only vehicles which will not be used
 20416 primarily for transportation purposes, including, but not limited to, antique
 20417 automobiles, classic automobiles, and automobiles sold solely as speculative
 20418 investments. In determining whether a vehicle or vehicles will not be used primarily
 20419 for transportation purposes, the ~~board~~ director may rely on the representations, written
 20420 or oral, made regarding the vehicles, but may also look at any other relevant evidence;
 20421 or

20422 (x) Persons licensed or companies registered under Chapter 6 of this title, relating to
 20423 auctioneers, when auctioning used motor vehicles which are being disposed of under

20424 administration of an estate or when auctioning used motor vehicles and real property
 20425 at the same sale when such vehicles and property are owned by a common owner.

20426 (18) 'Used motor vehicle parts dealer' or 'used parts dealer' means any person,
 20427 partnership, limited liability company, firm, or corporation buying, selling, or using
 20428 motor vehicle parts, either as a used motor vehicle parts dealer, a motor vehicle
 20429 dismantler, a motor vehicle rebuilder, a salvage pool dealer, or a salvage dealer.

20430 (19) 'Wholesaler' means a person who sells or distributes used motor vehicles to motor
 20431 vehicle dealers in this state, has a sales representative in this state, or controls any person
 20432 who offers for sale, sells, or distributes any used motor vehicles to motor vehicle dealers
 20433 in this state.

20434 43-47-3.

20435 (a) There is created a State Board of Registration of Used Motor Vehicle Dealers and Used
 20436 Motor Vehicle Parts Dealers as a professional licensing policy board. The board shall be
 20437 ~~comprised~~ composed of 15 members:

20438 (1) Three members shall be independent used car dealers;

20439 (2) Three members shall be appointed from the public at large and shall have no
 20440 connection whatsoever with the sale of used cars or parts;

20441 (3) The state revenue commissioner, or a designated agent, shall be a permanent ex
 20442 officio member and shall be authorized to vote on all matters before the board;

20443 (4) The administrator of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business
 20444 Practices Act of 1975,' or a designated agent, shall be a permanent ex officio member and
 20445 shall be authorized to vote on all matters before the board;

20446 (5) One member shall be a representative of the automobile auction industry;

20447 (6) One member shall be an auto salvage pool operator;

20448 (7) Two members shall be used motor vehicle parts dealers who are not rebuilders;

20449 (8) One member shall be a rebuilder;

20450 (9) One member shall be a pawnbroker as defined in Code Section 44-12-130 who is in
 20451 the business of pawning automobile titles and is licensed as a used car dealer; and

20452 (10) One member shall be a representative of the automobile insurance industry.

20453 (b) The members of the board referred to in paragraphs (1), (2), (5), (6), (7), (8), (9), and
 20454 (10) of subsection (a) of this Code section shall be appointed by the Governor and shall
 20455 take office on July 1, 1995, or as soon thereafter as appointed. The initial terms of those
 20456 13 appointed members shall expire as follows: three on June 30, 1996; three on June 30,
 20457 1997; three on June 30, 1998; and four on June 30, 1999. Thereafter, the appointed
 20458 members of the board shall serve terms of four years. All members shall be residents of
 20459 this state. No more than two of the appointed members shall be from the same

20460 congressional district. The terms of the two ex officio members shall be coextensive with
20461 their terms of office.

20462 (c) Any vacancies on the board shall be filled by the Governor for the remainder of the
20463 unexpired term. The members of the board shall annually elect one of their number to
20464 serve as chairperson for a term of two years. The board chairperson shall not also serve
20465 contemporaneously as the chairperson of either division under this chapter. The first term
20466 as chairperson of the board shall be served by a member or members elected from either
20467 division under this chapter; thereafter, the chairperson for each succeeding term shall not
20468 be elected from the same division as that of the chairperson from the immediately
20469 preceding term. In the event a chairperson of the board is unable to complete his or her
20470 term, his or her successor for the remainder of the term shall be elected from the same
20471 division as was the chairperson who is unable to complete the term. The chairperson of the
20472 board shall be an ex officio member of both divisions under this chapter; however, the
20473 chairperson of the board shall not be counted for purposes of determining whether a
20474 quorum is present in the division meeting for the division in which he or she is not a
20475 regular member.

20476 (d)(1) The board shall be composed of two divisions, a used car division and a used parts
20477 division.

20478 (2) The members of the used car division shall be the three independent used car dealers,
20479 two of the members from the public at large, the state revenue commissioner or a
20480 designated agent, the administrator of Part 2 of Article 15 of Chapter 1 of Title 10, the
20481 'Fair Business Practices Act of 1975,' or a designated agent, the representative of the
20482 automobile auction industry, and the pawnbroker. ~~All powers and duties relating to used~~
20483 ~~car dealers which are not specifically reserved to the board shall be assigned to the used~~
20484 ~~car division.~~ The used car division shall elect one of its members to serve as chairperson
20485 of the division for a period of one year.

20486 (3) The members of the used parts division shall be the third member from the public at
20487 large, the state revenue commissioner or a designated agent, the auto salvage pool
20488 operator, the two used motor vehicle parts dealers who are not rebuilders, the rebuilder,
20489 and the representative of the automobile insurance industry. ~~All powers and duties~~
20490 ~~relating to used parts dealers which are not specifically reserved to the board shall be~~
20491 ~~assigned to the used parts division.~~ The used parts division shall elect one of its members
20492 to serve as chairperson of the division for a period of one year.

20493 (4) The chairperson of the board shall determine which of the two members from the
20494 public at large will serve in the used car division and which shall serve in the used parts
20495 division.

20496 43-47-4.

20497 The ~~division~~ director shall be the secretary of the board and of the divisions. He or she
 20498 shall issue licenses and certificates and perform such other duties as provided by this
 20499 chapter and by the rules and regulations promulgated by the licensing board or the
 20500 ~~divisions may direct~~ to carry out this chapter.

20501 43-47-5.

20502 The members of the board shall be reimbursed for their duties as board members and as
 20503 division members as provided for in subsection (f) of Code Section 43-1-2.

20504 43-47-6.

20505 ~~(a) The director All powers and duties under this chapter not specifically reserved to the~~
 20506 ~~board shall be the powers and duties of the division. The board shall have the following~~
 20507 powers and duties:

20508 (1) To receive applications for registration of licensees ~~and to forward them to the~~
 20509 ~~appropriate division;~~

20510 ~~(2) To make such rules and regulations as may be necessary to effectuate the~~
 20511 ~~administration and enforcement of this chapter;~~

20512 ~~(3)~~(2) To arrange for all new applicants to have a mandatory criminal background check;
 20513 ~~which background check shall be mandatory.~~ The applicant's fingerprints shall be
 20514 forwarded to the Georgia Crime Information Center which shall run a criminal
 20515 background check on the applicant and provide the results of the background check to the
 20516 ~~board~~ director. Additionally, the applicant's fingerprints will be forwarded to the Federal
 20517 Bureau of Investigation for a national criminal history record check;

20518 ~~(4)~~(3) To publish in print or electronically on or before September 1 of each year an
 20519 alphabetical listing of all licensees ~~pursuant to this chapter~~ and to distribute copies of the
 20520 same, if requested, to the Department of Public Safety, the Department of Revenue, and
 20521 the Georgia Bureau of Investigation, to all sheriffs in this state, and to all county and
 20522 municipal police departments in this state;

20523 ~~(5) To establish a fee for a license for each principal place of business and a fee for a~~
 20524 ~~supplemental license for each place of business not immediately adjacent to the principal~~
 20525 ~~place of business. The board may establish separate schedules of fees for such licenses~~
 20526 ~~depending on whether the applicant begins to do business as a licensee prior to or after~~
 20527 ~~the issuance of any such license; and~~

20528 ~~(6)~~(4) To do all other things necessary and proper to carry out the powers and duties
 20529 listed in this Code section, Chapter 1 of this title, and rules and regulations promulgated
 20530 by the licensing board; and

20531 (5) To enter orders, or take other disciplinary action consistent with this chapter, which
 20532 shall be entered in compliance with Code Section 43-1-3.1.

20533 (b) The licensing board shall have the following powers and duties:

20534 (1) To make such rules and regulations as may be necessary to effectuate the
 20535 administration and enforcement of this chapter;

20536 (2) To establish a fee for a license for each principal place of business and a fee for a
 20537 supplemental license for each place of business not immediately adjacent to the principal
 20538 place of business. The licensing board may establish separate schedules of fees for such
 20539 licenses depending on whether the applicant begins to do business as a licensee prior to
 20540 or after the issuance of any such license; and

20541 (3) To conduct hearings upon the petition of any person who is aggrieved or adversely
 20542 affected by an order or action of the director, which shall be conducted by the licensing
 20543 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 20544 Act.'

20545 43-47-7.

20546 (a) It shall be unlawful for any person to operate as a used motor vehicle dealer in this state
 20547 without first registering and obtaining a license from the ~~used car division~~ director as
 20548 provided in this chapter.

20549 (b) It shall be unlawful for any person to operate as a used motor vehicle parts dealer in
 20550 this state without first registering and obtaining a license from the ~~used parts division~~
 20551 director as provided in this chapter.

20552 (c) It shall be unlawful for any used car dealer or any used parts dealer willfully to fail to
 20553 keep the records required to be kept by this chapter.

20554 43-47-8.

20555 (a) Applications for a license shall be made to the ~~board~~ director, shall contain the
 20556 information required by this chapter, and shall be accompanied by the fee prescribed by the
 20557 licensing board. Each applicant for a new license shall submit to the ~~board~~ director such
 20558 information as may be required by the Georgia Crime Information Center and by the
 20559 Federal Bureau of Investigation, including classifiable sets of fingerprints, an affidavit by
 20560 the applicant disclosing the date and nature of any conviction for the violation of any crime
 20561 involving violence, a used motor vehicle, illegal drugs, tax evasion, failure to pay taxes,
 20562 or ~~any crime involving~~ the illegal use, carrying, or possession of a dangerous weapon, or
 20563 moral turpitude, and such fees as may be set by the Georgia Crime Information Center and
 20564 by the Federal Bureau of Investigation for a records check comparison by the Georgia
 20565 Crime Information Center and by the Federal Bureau of Investigation. Application for a

20566 license under this chapter shall constitute consent for performance of a records check
20567 comparison.

20568 (b) ~~A division under this chapter~~ The director shall not issue or renew any license unless
20569 the applicant or holder thereof ~~shall show~~ shows that he or she maintains an established
20570 place of business as defined in Code Section 43-47-2.

20571 (c) All licenses issued under this chapter shall be renewable biennially. ~~The divisions~~
20572 licensing board may establish continuing education requirements for license renewals.

20573 (d) ~~Each division~~ The licensing board may require either that within the preceding year the
20574 applicant has attended a training and information seminar approved by the ~~division~~
20575 licensing board or that the applicant has passed a test approved by the ~~division~~ licensing
20576 board. Such seminar or test, if required, shall include, but shall not be limited to, dealer
20577 requirements of this chapter, including books and records to be kept; requirements of the
20578 Department of Revenue; and such other information as in the opinion of the ~~division~~
20579 licensing board will promote good business practices. No seminar shall exceed one day
20580 in length.

20581 (e) Supplemental licenses shall be issued for each place of business operated or proposed
20582 to be operated by the licensee that is not contiguous to other premises for which a license
20583 is issued.

20584 (f) Each application for a license shall also show that the licensee has obtained, or has
20585 applied for, a certificate of registration, Department of Revenue Form ST-2, commonly
20586 known as a sales tax number certificate. ~~The board~~ director shall not renew any license
20587 unless the applicant or holder thereof shall show that he or she maintains a certificate of
20588 registration, Department of Revenue Form ST-2, under the laws of this state providing for
20589 issuance of such certificates.

20590 (g) Each application for a license shall show that the prospective licensee has or has made
20591 provision for a bond. The required bond shall be executed with a surety company duly
20592 authorized to do business in this state and shall be payable to the Governor for the use and
20593 benefit of any purchaser and vendees or successors in title of any used motor vehicle and
20594 shall be conditioned to pay all loss, damages, and expenses that may be sustained by such
20595 purchaser, his or her vendees, or successors in title that may be occasioned by reason of
20596 any misrepresentation, deceptive practice, or unfair practice or by reason of any breach of
20597 warranty as to such used vehicle.

20598 (h) The bond shall be in the amount of \$35,000.00 for used car dealers and \$10,000.00 for
20599 used parts dealers and shall be filed, immediately upon the granting of the license, with the
20600 ~~division~~ director by the licensee and shall be approved by the ~~division~~ director as to form
20601 and as to the solvency of the surety. The prospective licensee may file the required bond

20602 with the ~~division~~ director for the ~~division~~ director's approval prior to the granting of a
20603 license.

20604 (i) No licensee shall cancel, or cause to be canceled, a bond issued pursuant to this Code
20605 section unless the ~~appropriate division~~ director is informed in writing by a certified letter
20606 at least 30 days prior to the proposed cancellation.

20607 (j) If the surety or licensee cancels the bond and the licensee fails to submit, within ten
20608 days of the effective date of the cancellation, a new bond, the ~~division~~ director may revoke
20609 his or her license.

20610 (k) Each application for a license shall show that the licensee maintains public liability and
20611 property damage insurance with liability limits of not less than \$50,000.00 per person and
20612 \$100,000.00 per accident, personal insurance liability coverage, and \$25,000.00 property
20613 damage liability coverage. Any licensee under Chapter 6 of this title shall be exempt from
20614 the requirements of this subsection.

20615 (l) ~~Each division may authorize the division~~ The director to may issue a license when he
20616 or she has received the bond required by subsections (g) and (h) of this Code section, the
20617 proof of insurance required by subsection (k) of this Code section, and a fingerprint card
20618 for submission to the Georgia Crime Information Center and to the Federal Bureau of
20619 Investigation. Each completed application for a permanent license shall be reviewed by
20620 the ~~appropriate division, which~~ director, who may deny licensure for any good reason
20621 under this chapter. Any other provision of law to the contrary notwithstanding, each
20622 applicant for a license pursuant to the provisions of this Code section shall agree in the
20623 application that if the applicant makes a false statement on the application or if the criminal
20624 record check returned from the Georgia Crime Information Center or from the Federal
20625 Bureau of Investigation reveals a conviction of or an entry of a plea of nolo contendere to
20626 a crime involving the use of violence, a used motor vehicle, or illegal drugs; tax evasion
20627 or failure to pay taxes; any crime involving the illegal use or possession of a dangerous
20628 weapon; or any crime involving moral turpitude, then the ~~division~~ director shall be
20629 authorized to suspend the license ~~without a prior hearing as provided in Code Section~~
20630 43-1-3.1. ~~The divisions shall each meet as needed, in their discretion. The board shall~~
20631 ~~meet at least once each quarter and upon the call of the board chairperson for any special~~
20632 ~~sessions.~~

20633 43-47-8.1.

20634 Any person who violates any provision of Code Section 40-2-39.1 shall be deemed to be
20635 a licensee for the purpose of imposing sanctions and penalties under this chapter and for
20636 the purpose of granting the ~~board~~ director jurisdiction over such violator.

20637 43-47-8.2.

20638 (a) A used motor vehicle dealer shall not engage in any activity as a used motor vehicle
20639 dealer except at such dealer's established place of business which has been registered under
20640 Code Section 40-2-38, at temporary sites not more than three times in any one calendar
20641 year, or at a licensed auto auction or any licensed facility. This subsection shall not be
20642 construed to prohibit a used motor vehicle dealer from delivering a vehicle off site,
20643 provided that the transaction is initiated from an established place of business under this
20644 chapter.

20645 (b)(1) At least 60 days prior to opening a sale at a temporary site, a used motor vehicle
20646 dealer must make application to the ~~board~~ director for a temporary site permit. A
20647 separate application must be submitted for every temporary site sale.

20648 (2) To be eligible for a temporary site permit, a used motor vehicle dealer must be
20649 registered as required by Code Section 40-2-38. In order to obtain a temporary site
20650 permit, a used motor vehicle dealer must provide, on a form promulgated by the licensing
20651 board:

20652 (A) The address, including county, of the used motor vehicle dealer's established place
20653 of business;

20654 (B) The address, including county, of the proposed temporary site location;

20655 (C) The dates and hours of the temporary site sale;

20656 (D) The number of temporary site sales already conducted by the used motor vehicle
20657 dealer during the calendar year in which the requested temporary site sale is to occur;
20658 and

20659 (E) The name, address, and contact person of any sponsors, promoters, and lending
20660 institutions involved in or to be represented at the temporary site sale.

20661 (3) As part of the application, a used motor vehicle dealer must submit written
20662 documentation demonstrating that the used motor vehicle dealer has complied with any
20663 licensing requirements applicable in the local jurisdiction in which the temporary site sale
20664 will occur and a copy of a written agreement with the owner of the real property where
20665 this sale will occur.

20666 (4) A temporary site permit issued pursuant to this subsection shall be valid only for the
20667 dates and hours of the sale as indicated on the application submitted to the ~~board~~ director
20668 and must be prominently displayed at the temporary site at all times during the site sale.
20669 No used motor vehicle dealer may purchase more than three temporary site permits
20670 within a calendar year. A temporary site permit is not transferable to any other dealer or
20671 location.

20672 (5) The fee for each application for a temporary site permit shall be \$100.00.

20673 (c) As an alternative to criminal or other civil enforcement of this Code section or any
 20674 orders, rules, and regulations promulgated pursuant hereto, the board director may issue
 20675 an administrative fine not to exceed \$1,000.00 for each violation whenever the board
 20676 director, after a hearing, determines that any person has violated any ~~provisions~~ provision
 20677 of this Code section or any orders, rules, and regulations promulgated pursuant hereto. If,
 20678 after a hearing, the board director determines that any person has violated this provision
 20679 more than once, the board director may suspend his or her license for a period not to
 20680 exceed ten days. An order or determination of the director made pursuant to this Code
 20681 section shall be entered in compliance with Code Section 43-1-3.1. Any hearing and any
 20682 administrative review held pursuant to this Code section shall be conducted in accordance
 20683 with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia
 20684 Administrative Procedure Act.' Any person who has exhausted all administrative remedies
 20685 available and who is aggrieved or adversely affected by a final order or action of the
 20686 licensing board shall have the right of judicial review thereof in accordance with Chapter
 20687 13 of Title 50. All fines recovered under this Code section shall be paid into the state
 20688 treasury. The licensing board may file, in the superior court:

- 20689 (1) In the county wherein the person under order resides;
- 20690 (2) If such person is a corporation, in the county wherein the corporation maintains its
 20691 established place of business; or
- 20692 (3) In the county wherein the violation occurred,

20693 a certified copy of a final order of the licensing board or the director, whether unappealed
 20694 from or affirmed upon appeal, whereupon the superior court shall render judgment in
 20695 accordance therewith and notify the parties. Such judgment shall have the same effect and
 20696 proceedings in relation thereto shall thereafter be the same as though the judgment had
 20697 been rendered in an action duly heard and determined by the superior court. The penalty
 20698 prescribed in this Code section shall be concurrent, alternative, and cumulative with any
 20699 and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties
 20700 provided, allowed, or available to the licensing board or the director with respect to any
 20701 violation of this Code section or any order, rule, or regulation promulgated pursuant hereto.
 20702 For purposes of this Code section, the sale of each motor vehicle while not in compliance
 20703 with temporary site permit requirements shall constitute a separate violation.

20704 (d) Any person who violates any provision of this Code section shall be guilty of a
 20705 misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed
 20706 \$1,000.00 or imprisonment for a period not to exceed 12 months, or both.

20707 43-47-9.

20708 The licenses issued pursuant to this chapter shall specify the location of each place of
 20709 business or branch or other location occupied or to be occupied by the licensee in
 20710 conducting his or her business; and the license or supplemental license issued therefor shall
 20711 be conspicuously displayed on each of such premises. In the event any such location is
 20712 changed, the ~~appropriate division~~ director shall endorse the change of location on the
 20713 license without charge.

20714 43-47-10.

20715 The ~~board or each division~~ director may, upon its his or her own motion, and shall, upon
 20716 the verified complaint in writing of any person, investigate the actions of any licensee or
 20717 anyone who shall assume to act in such capacity. ~~Each division~~ The director shall have
 20718 power, in addition to the other powers authorized by this chapter, to revoke or to suspend
 20719 a license for a specified time, to be determined in it's the director's discretion, or to invoke
 20720 such other lesser sanctions, including but not limited to the imposition of fines and penalty
 20721 fees, which the licensing board is hereby authorized to create by rule, where:

20722 (1) The licensee is found by a ~~majority of the members of the board~~ director to have
 20723 committed any one or more of the following:

20724 (A) Material misstatement in an application for a license;

20725 (B) Willful and intentional failure to comply with any provisions of this chapter or any
 20726 lawful rule or regulation issued by the licensing board under this chapter;

20727 (C) Making any substantial misrepresentation;

20728 (D) Making any false promises of a character likely to influence, persuade, or induce;

20729 (E) Pursuing a continued and flagrant course of misrepresentation or the making of
 20730 false promises through agents, salespersons, advertising, or otherwise;

20731 (F) Failure to account for or to remit any moneys coming into his or her possession
 20732 which belong to others;

20733 (G) Having demonstrated unworthiness or incompetency to act as a licensee in such
 20734 manner as to safeguard the interest of the public;

20735 (H) Fraud or fraudulent practice, unfair and deceptive acts or practices, misleading acts
 20736 or practices, or untrustworthiness or incompetency to act as a licensee, including, but
 20737 not limited to, the failure to provide the appropriate odometer disclosure forms required
 20738 by law or knowingly selling or offering for sale any used car on which the odometer has
 20739 been tampered with to reflect lower than the actual mileage the car has been driven;

20740 (I) The intentional use of any false, fraudulent, or forged statement or document or the
 20741 use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any
 20742 of the licensing requirements as provided for in this chapter;

- 20743 (J) The commission of any crime involving violence, a used motor vehicle, illegal
 20744 drugs, tax evasion, failure to pay taxes, or ~~any crime involving~~ the illegal use, carrying,
 20745 or possession of a dangerous weapon; the conviction of, plea of guilty to, or plea of
 20746 nolo contendere to a crime involving violence, a used motor vehicle, illegal drugs, tax
 20747 evasion, failure to pay taxes, or ~~any crime involving~~ the illegal use, carrying, or
 20748 possession of a dangerous weapon shall be conclusive evidence of the commission of
 20749 such crime;
- 20750 (K) Use of untruthful or improbable statements or flamboyant or extravagant claims
 20751 concerning such licensee's excellence or abilities;
- 20752 (L) The performance of any dishonorable or unethical conduct likely to deceive,
 20753 defraud, mislead, unfairly treat, or harm the public;
- 20754 (M) The use of any false or fraudulent statement in any document in connection with
 20755 the business as a licensee;
- 20756 (N) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
 20757 the violation of, or conspiring to violate any of the provisions of this chapter, including
 20758 but not limited to (i) the failure to maintain the certificate of registration required by
 20759 Code Section 43-47-8 and (ii) the failure to keep records required by this chapter;
- 20760 (O) Any other conduct, whether of the same or a different character than heretofore
 20761 specified, which constitutes dishonest dealing;
- 20762 (P)(i) Any of the following activities by an automobile auction:
- 20763 (I) Allowing a motor vehicle to be sold through an auction where the seller's name
 20764 does not appear on the face of the title;
- 20765 (II) Failing to refund all of the purchase price to the buyer when the title and tag
 20766 receipt are not assigned to and processed for the buyer within 21 days of the
 20767 purchase;
- 20768 (III) Failing to make available to the ~~board~~ director, for investigative purposes,
 20769 auction records of a seller, for the purpose of determining if a seller sold more than
 20770 five motor vehicles in a calendar year; provided, however, that the ~~board~~ director
 20771 shall give the auction reasonable notice during normal working hours;
- 20772 (IV) Failing to disclose in a conspicuous manner on the bill of sale that a buyer is
 20773 entitled to a refund of all of the purchase price when the title and tag receipt are not
 20774 assigned and processed within 21 days of the purchase;
- 20775 (V) Failing to include on the bill of sale any warranty disclaimer; or
- 20776 (VI) Accepting or delivering a certificate of title signed in blank.
- 20777 (ii) The provisions of this subparagraph shall not apply where:
- 20778 (I) The sale of the motor vehicle is not open to the general public;
- 20779 (II) Either the seller or purchaser of the vehicle is a licensed used car dealer;

20780 (III) The motor vehicle is sold as a repossessed or abandoned vehicle; or
 20781 (IV) The motor vehicle is sold on behalf of any government agency or by court
 20782 order.

20783 (iii) A violation of this subparagraph shall also be grounds for suspension or censure
 20784 of a license under Code Section 43-6-18, and any auction violating this subparagraph
 20785 may be required by the ~~board~~ director to surrender its master tag;

20786 (Q) Acting to obtain or holding a license on behalf of another person who was
 20787 previously denied a license or had a license suspended or revoked under this chapter;
 20788 in making determinations under this subparagraph, the ~~division~~ director may look at any
 20789 competent evidence, including, but not limited to, who actually directs the activities at
 20790 the business and who actually receives the proceeds from the business;

20791 (R) Having purchased, concealed, possessed, or otherwise acquired or disposed of a
 20792 vehicle, knowing the same to be stolen;

20793 (S) Having failed to meet and maintain the requirements for issuance of a license as
 20794 provided for in this chapter;

20795 (T) Having failed to pay within 30 days after written demand from the ~~board~~ director
 20796 any fees or penalties due on vehicles acquired for dismantling or rebuilding; or

20797 (U) Having willfully failed to keep or maintain the records required to be kept by this
 20798 chapter; or

20799 (2) ~~A majority of the members of the division find~~ The director finds that the licensee
 20800 failed to establish, maintain, or monitor procedural safeguards to ensure that the
 20801 following activities do not occur at the business, regardless of whether the licensee had
 20802 actual knowledge of any such activity or activities or regardless of whether there was an
 20803 intent on the part of any person to engage in any such activity or activities:

20804 (A) Unfair and deceptive acts or practices as defined in Part 2 of Article 15 of Chapter
 20805 1 of Title 10, the 'Fair Business Practices Act of 1975';

20806 (B) Any of those activities described in paragraphs (1) through (6) of Code Section
 20807 40-3-90; or

20808 (C) Failure to obtain a certificate of title for a purchaser.

20809 43-47-11.

20810 ~~Except as provided in subsection (1) of Code Section 43-47-8, no license shall be suspended~~
 20811 ~~or revoked without a hearing in accordance with Chapter 13 of Title 50, the 'Georgia~~
 20812 ~~Administrative Procedure Act.'~~ An order or other disciplinary action of the director entered
 20813 pursuant to this chapter shall be made in compliance with Code Section 43-1-3.1.

20814 43-47-11.1.

20815 As provided by law, every licensee who transfers a used motor vehicle title within this state
20816 shall register with the state revenue commissioner, making application for a dealer's
20817 registration plate. No person not licensed in accordance with this chapter shall be entitled
20818 to receive or use any dealer's registration plates for motor vehicles under the motor vehicle
20819 laws of this state providing for the issuance of such plates.

20820 43-47-12.

20821 (a) Every licensee shall maintain for three years a record of:

20822 (1) Every vehicle, vehicle body, chassis, or major component part of or for a vehicle
20823 received or acquired by him or her; its description and any identifying numbers; the date
20824 of its receipt or acquisition; and the full name, address, and driver's license number or
20825 social security number of the person from whom received or acquired; provided,
20826 however, that, in the event such purchase or acquisition is from a used car dealer or from
20827 a used motor vehicle parts dealer, the name and address of the corporation or company
20828 shall be sufficient if the seller is registered under this chapter;

20829 (2) Every vehicle, vehicle body, chassis, or major component part disposed of by him or
20830 her; its description and any identifying numbers; the date of its receipt or acquisition; and
20831 the full name, address, and driver's license number or social security number of the
20832 person to whom disposed; provided, however, that, in the event such disposal is to a used
20833 car dealer or to a used motor vehicle parts dealer, the name and address of the corporation
20834 or company shall be sufficient if the purchaser or acquirer is registered under this chapter;

20835 (3) Every vehicle wrecked, dismantled, or crushed by him or her and the date of its
20836 wrecking or dismantling; and

20837 (4) Any other records which the ~~appropriate division~~ director may reasonably require to
20838 protect the public, as relating to the licensee's method of operation and personnel
20839 employed.

20840 (b) The possession of motor vehicles or parts covered by this chapter shall be prima-facie
20841 evidence that they were purchased for the purpose of resale.

20842 43-47-13.

20843 Nothing in this chapter shall prohibit any lawful regulation or licensing of licensees by any
20844 municipality, county, or other political subdivision of this state; provided, however, that
20845 no such political subdivision shall license any licensee required to be registered by this
20846 chapter unless such licensee is properly licensed under this chapter.

20847 43-47-14.

20848 ~~Each division or the board~~ As provided in Code Section 43-1-3.1, the director may impose
 20849 a fine not to exceed \$500.00 for each violation of any provision of this chapter. Such fines
 20850 shall be listed in a schedule contained in the rules and regulations of the licensing board.
 20851 ~~The licensee shall pay the fine within 30 days after receiving written notification from~~
 20852 ~~either the appropriate division or a representative of the division unless the licensee~~
 20853 ~~requests in writing a hearing before the division. Such request for a hearing must be~~
 20854 ~~received by the division within 30 days after receipt of the written notification from the~~
 20855 ~~division.~~ Failure either to pay the fine or request a hearing shall result in immediate
 20856 suspension of the license pending a hearing by the licensing board to determine whether
 20857 revocation or other disciplinary action should be imposed on the licensee.

20858 43-47-15.

20859 Any licensee who purchases a wrecked or salvage motor vehicle or rebuilds a wrecked or
 20860 salvage motor vehicle shall fully comply with Chapter 3 of Title 40, the 'Motor Vehicle
 20861 Certificate of Title Act,' regarding titling and inspection of salvage and rebuilt vehicles, and
 20862 shall comply with any rules and regulations adopted by the state revenue commissioner
 20863 pursuant to this chapter.

20864 43-47-16.

20865 All licensees under this chapter who operate salvage pools shall furnish to any person who
 20866 purchases a motor vehicle the make, model, year, body style, and vehicle identification
 20867 number of the particular vehicle sold. In the event that the operator of a salvage pool is an
 20868 insurance company, the claim number of the vehicle shall be furnished to the purchaser in
 20869 addition to the other required information.

20870 43-47-17.

20871 Every person required to be licensed under this chapter shall, as a condition of licensure,
 20872 be deemed to have granted authority and permission to the ~~board~~ director, ~~to either~~
 20873 ~~division~~, or to any peace officer to inspect any record or document and any motor vehicle
 20874 or motor vehicle part or accessory at or on the premises of his or her principal place of
 20875 business, or any additional place of business, at any reasonable time during the day or night
 20876 during reasonable business hours.

20877 43-47-18.

20878 Nothing in this chapter shall be construed to prohibit municipalities or counties, by
 20879 ordinance or resolution, from authorizing local law enforcement officers to impound used

20880 motor vehicles which are displayed for sale at unlicensed facilities, provided that such
 20881 ordinances or resolutions provide for actual prior notice to the owners of such motor
 20882 vehicles of such impoundment.

20883 43-47-19.

20884 No licensee, except any licensed auto auction or salvage pool selling at its regular place of
 20885 business, shall sell any used motor vehicle on a consignment basis unless the licensee
 20886 places his or her name on the title at the time of sale and complies with all other applicable
 20887 laws.

20888 43-47-20.

20889 It is the intent of the General Assembly that all parts of rules properly adopted under this
 20890 chapter and Chapter 48 of this title prior to July 1, 1995, which do not conflict with this
 20891 chapter shall be valid until such time as they are repealed, revised, amended, or otherwise
 20892 changed under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

20893 43-47-21.

20894 (a) Any person, regardless of whether that person is a licensee or not, who commits or
 20895 causes to be done any act that violates this chapter or fails to do any act or causes to be
 20896 omitted any act that is required by this chapter shall be subject to a civil penalty not to
 20897 exceed \$3,000.00 for each violation. A violation of this chapter shall, for the purposes of
 20898 this Code section, constitute a separate offense as to any motor vehicle or motor vehicle
 20899 part; and each day during which any person offers for sale, sells, trades, transfers, or
 20900 disposes of used motor vehicles or used motor vehicle parts without being licensed
 20901 pursuant to this chapter shall constitute a separate offense.

20902 (b) The penalty provided in subsection (a) of this Code section and any restitution due to
 20903 specifically named consumers for violations of this chapter shall be recoverable by a civil
 20904 action brought by the ~~division, the board~~ director, the Attorney General, or any district
 20905 attorney, solicitor-general, or municipal or county attorney in any superior or state court
 20906 having proper jurisdiction. The proceeds of any civil penalty shall be remitted to the ~~board~~
 20907 director by the clerk of the court in which such case is filed; provided, however, that in an
 20908 action brought on behalf of a county or municipality one-half of the proceeds of such civil
 20909 penalty shall be paid into the treasury of such county or municipality. The court shall order
 20910 any restitution recovered on behalf of any consumer to be paid over directly to the
 20911 consumer by the defendant.

20912 (c) Any person damaged by a violation of this chapter may bring an action against the
 20913 person committing the violation, regardless of whether that person is a licensee, in any

20914 superior court of competent jurisdiction to recover actual, consequential, and punitive
20915 damages, attorneys' fees, and court costs.

20916 (d) Any person who is already licensed under this chapter or its predecessor or under
20917 former Chapter 48 of this title who will be required as a result of this chapter to make
20918 changes in his or her business operations will not be required to make such changes until
20919 such time as he or she is required to renew his or her license. Any such changes shall have
20920 been completed prior to the granting of any renewal license.

20921 43-47-22.

20922 Any person, firm, or corporation who violates this chapter shall be guilty of a
20923 misdemeanor. In addition to such criminal penalty, the ~~board~~ director may bring an action
20924 to enjoin any violation, actual or threatened, of this chapter notwithstanding the existence
20925 of an adequate remedy at law."

20926 **SECTION 1-39.**

20927 Said title is further amended by revising Chapter 50, relating to veterinarians and veterinary
20928 technicians, as follows:

20929 "CHAPTER 50

20930 ARTICLE 1

20931 43-50-1.

20932 This chapter shall be known and may be cited as the 'Georgia Veterinary Practice Act.'

20933 43-50-2.

20934 This chapter is enacted as an exercise of the powers of the state to promote the public
20935 health, safety, and welfare by safeguarding the people of this state against incompetent,
20936 dishonest, or unprincipled practitioners of veterinary medicine or veterinary technology.

20937 43-50-3.

20938 As used in this chapter, the term:

20939 (1) 'Accredited college or school of veterinary medicine' means any veterinary college
20940 or school or division of a university or college that offers the degree of Doctor of
20941 Veterinary Medicine or its equivalent and that conforms to the standards required for
20942 accreditation by the American Veterinary Medical Association Council on Education or
20943 its successor organization.

- 20944 (2) 'Animal' means any animal other than man and includes fowl, birds, fish, and reptiles,
 20945 wild or domestic, living or dead.
- 20946 (3) 'AVMA accredited program in veterinary technology' means any postsecondary
 20947 educational program of two or more academic years that has fulfilled the essential criteria
 20948 established by the Committee on Veterinary Technician Education and Activities and
 20949 approved by the American Veterinary Medical Association or its successor organization.
- 20950 (4) 'Board' means the State Board of Veterinary Medicine, a professional licensing policy
 20951 board pursuant to Chapter 1 of this title with the authority and responsibility set forth in
 20952 such chapter.
- 20953 (5) 'Direct supervision' means that the licensed veterinarian is on the premises and is
 20954 quickly and easily available and that the animal patient has been examined by a licensed
 20955 veterinarian at such time as acceptable veterinary medical practice requires, consistent
 20956 with the particular delegated animal health care task.
- 20957 (5.1) 'Director' means the director of professional licensing.
- 20958 (6) 'ECFVG certificate or its substantial equivalent' means a certificate issued by the
 20959 American Veterinary Medical Association Educational Commission for Foreign
 20960 Veterinary Graduates or its successor organization indicating the holder has demonstrated
 20961 knowledge and skill equivalent to that possessed by a graduate of an accredited college
 20962 of veterinary medicine.
- 20963 (7) 'Immediate supervision' means the licensed veterinarian is in audible and visual range
 20964 of the animal patient and the person treating the animal.
- 20965 (8) 'Indirect supervision' means the licensed veterinarian is not on the premises but has
 20966 given either written or oral instructions for the treatment of the animal patient and the
 20967 animal has been examined by a licensed veterinarian at such times as acceptable
 20968 veterinary medical practice requires, consistent with the particular delegated health care
 20969 task.
- 20970 (9) 'Licensed veterinarian' means a person who is validly and currently licensed to
 20971 practice veterinary medicine in this state.
- 20972 (9.5) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 20973 Article 2 of Chapter 1 of this title.
- 20974 (10) 'Person' means any individual, firm, partnership, limited liability company,
 20975 association, joint venture, cooperative, and corporation or any other group or combination
 20976 acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or
 20977 as any other kind of legal or personal representative, or as the successor in interest,
 20978 assignee, agent, factor, servant, employee, member, director, officer, or any other
 20979 representative of such person.
- 20980 (11) 'Practice veterinary medicine' or 'practice of veterinary medicine' means:

- 20981 (A) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity,
20982 defect, injury, or other physical or mental conditions, including the prescription,
20983 administration, or dispensing of any prescription drug, medicine, biologic, apparatus,
20984 application, anesthetic, or other therapeutic or diagnostic substance or technique on, for,
20985 or to any animal, including but not limited to acupuncture, animal dentistry, manual or
20986 mechanical adjustment procedures, physical therapy, surgery, diagnostic veterinary
20987 pathology, any manual, mechanical, biological, or chemical procedure used for
20988 pregnancy testing or for correcting sterility or infertility, or to render advice or
20989 recommendations with regard to any of the above; but not including such
20990 administration or dispensing pursuant to prescription or direction of a licensed
20991 veterinarian;
- 20992 (B)(i) To apply or use any instrument or device on any portion of an animal's tooth,
20993 gum, or any related tissue for the prevention, cure, or relief of any wound, fracture,
20994 injury, disease, or other condition of an animal's tooth, gum, or related tissue.
- 20995 (ii) To engage in preventive dental procedures on animals including, but not limited
20996 to, the removal of calculus, soft deposits, plaque, or stains or the smoothing, filing,
20997 or polishing of tooth surfaces.
- 20998 (iii) Nothing in this subparagraph shall prohibit any person from utilizing cotton
20999 swabs, gauze, dental floss, dentifrice, toothbrushes, or similar items to clean an
21000 animal's teeth;
- 21001 (C) To represent, directly or indirectly, publicly or privately, an ability and willingness
21002 to do any act described in subparagraphs (A) and (B) of this paragraph;
- 21003 (D) To use any title, words, abbreviation, or letters in a manner or under circumstances
21004 which induce the belief that the person using them is legally authorized or qualified to
21005 perform an act included in this paragraph. Such use shall be evidence of the intention
21006 to represent oneself as engaged in the practice of veterinary medicine;
- 21007 (E) To apply principles of environmental sanitation, food inspection, environmental
21008 pollution control, zoonotic disease control, and disaster medicine in the promotion and
21009 protection of public health as it specifically relates to animals. This subparagraph shall
21010 apply only to licensed veterinarians and not to other qualified individuals;
- 21011 (F) To collect blood or other samples for the purpose of diagnosing diseases or related
21012 conditions. This subparagraph shall not apply to unlicensed professionals employed by
21013 or under contract with the United States Department of Agriculture or the Georgia
21014 Department of Agriculture who are engaged in their official duties; or
- 21015 (G) To administer a rabies vaccination to any animal that the state requires to be
21016 vaccinated.

- 21017 (12) 'Prescription drug' includes any medicine, medication, or pharmaceutical or
21018 biological product whose manufacturer's label must, pursuant to federal or state law, have
21019 the following statement printed on its packaging: 'Federal law restricts this drug to use
21020 by or on the order of a licensed veterinarian'; or any over-the-counter product that is used
21021 in a manner different from the label directions and that by definition requires a valid
21022 veterinarian-client-patient relationship for prescription or dispensing.
- 21023 (13) Reserved.
- 21024 (14) 'Veterinarian' means a person who has received a doctorate degree in veterinary
21025 medicine from a college or school of veterinary medicine.
- 21026 (15) 'Veterinarian-client-patient relationship' means that:
- 21027 (A) The licensed veterinarian or his or her licensed designee has assumed the
21028 responsibility for making medical judgments regarding the health of the animal and the
21029 need for medical treatment, and the client (owner or caretaker) has agreed to follow the
21030 instruction of the licensed veterinarian;
- 21031 (B) There is sufficient knowledge of the animal by the licensed veterinarian to initiate
21032 at least a general or preliminary diagnosis of the medical condition of the animal. This
21033 means that the licensed veterinarian has recently seen and is personally acquainted with
21034 the keeping and care of the animal by the virtue of examination of the animal or by
21035 medically appropriate and timely visits to the premises where the animal is kept; and
- 21036 (C) A licensed veterinarian is readily available for follow up in the case of adverse
21037 reactions or failure of the regimen of therapy.
- 21038 (15.1) 'Veterinary assistant' means a person who engages in certain aspects of the
21039 practice of veterinary technology but is not registered by the ~~board~~ director for such
21040 purpose.
- 21041 (16) 'Veterinary facility' means any premises owned or operated by a veterinarian or his
21042 or her employer where the practice of veterinary medicine occurs, including but not
21043 limited to veterinary hospitals, clinics, or mobile clinics; provided, however, that such
21044 term does not include a client's private property where a licensed veterinarian treats the
21045 client's animals.
- 21046 (17) 'Veterinary medicine' includes veterinary surgery, obstetrics, dentistry, and all other
21047 branches or specialties of veterinary medicine.
- 21048 (18) 'Veterinary technician' means a person who engages in the practice of veterinary
21049 technology and on the basis of his or her qualifications is validly and currently registered
21050 by the ~~board~~ director for such purpose.
- 21051 (19) 'Veterinary technology' means the science and art of providing certain aspects of
21052 professional medical care and treatment for animals and the practice of veterinary

21053 medicine as may be delegated and supervised by a licensed veterinarian and performed
 21054 by a person who is not a licensed veterinarian.

21055 ARTICLE 2

21056 43-50-20.

21057 (a) There shall be a State Board of Veterinary Medicine, a professional licensing policy
 21058 board, the members of which shall be appointed by the Governor with the approval of the
 21059 Secretary of State and confirmation by the Senate. The board shall consist of six members,
 21060 each appointed for a term of five years or until his or her successor is appointed. Five
 21061 members of the board shall be duly licensed veterinarians actually engaged in active
 21062 practice for at least five years prior to appointment. The sixth member shall be appointed
 21063 from the public at large and shall in no way be connected with the practice of veterinary
 21064 medicine. Those members of the State Board of Veterinary Medicine serving on July 1,
 21065 2003, shall continue to serve as members of the board until the expiration of the term for
 21066 which they were appointed. Thereafter, successors to such board members shall be
 21067 appointed in accordance with this Code section.

21068 (b) Vacancies due to death, resignation, removal, or otherwise shall be filled for the
 21069 remainder of the unexpired term in the same manner as regular appointments. No person
 21070 shall serve two consecutive five-year terms, but a person appointed for a term of less than
 21071 five years may succeed himself or herself.

21072 (c) No person may serve on the board who is, or was during the two years preceding his
 21073 or her appointment, a member of the faculty, trustees, or advisory board of a veterinary
 21074 school.

21075 (d) Each member of the board shall be reimbursed as provided for in subsection (f) of
 21076 Code Section 43-1-2.

21077 (e) Any member of the board may be removed by the Governor after a hearing by the
 21078 board determines cause for removal.

21079 (f) The board shall meet at least once each year at the time fixed by the board. Other
 21080 necessary meetings may be called by the president of the board by giving such notice as
 21081 shall be established by the board and approved by the director. ~~Meetings shall be open and~~
 21082 ~~public except that the board may meet in closed session to prepare, approve, administer,~~
 21083 ~~or grade examinations or to deliberate the qualifications of an applicant for license or the~~
 21084 ~~disposition of a proceeding to discipline a licensed veterinarian.~~

21085 (g) At its annual meeting, the board shall organize by electing a president and such other
 21086 officers as may be required by the board. Officers of the board serve for terms of one year

21087 and until a successor is elected, without limitation on the number of terms an officer may
 21088 serve. The president shall chair the board meetings.

21089 43-50-21.

21090 (a) The ~~board~~ director shall have the power to:

21091 (1) Examine and determine the qualifications and fitness of applicants for licenses or
 21092 registrations to practice veterinary medicine and veterinary technology in this state;

21093 (2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses or registrations to
 21094 practice veterinary medicine or veterinary technology in this state or otherwise discipline
 21095 licensed veterinarians and registered veterinary technicians; and to issue, renew, deny,
 21096 suspend, or revoke veterinary faculty licenses, consistent with this chapter and the rules
 21097 and regulations adopted under this chapter;

21098 (3) Conduct investigations for the purpose of discovering violations of this chapter or
 21099 grounds for disciplining persons licensed or registered under this chapter;

21100 (4) ~~Hold hearings on all matters properly brought before the board; and, in connection~~
 21101 ~~therewith, to administer~~ Administer oaths, receive evidence, make the necessary
 21102 determinations, and enter orders consistent with the findings. ~~The board may designate~~
 21103 ~~one or more of its members to serve as its hearing officer;~~

21104 (5) ~~Appoint from its own membership one member to act~~ Act as a representative of the
 21105 board at any meeting within or outside the state where such representative is deemed
 21106 desirable; and

21107 (6) Bring proceedings in the courts for the enforcement of this chapter or any regulations
 21108 made pursuant to this chapter; ~~and.~~

21109 (b) The licensing board shall have the power to:

21110 ~~(7)~~(1) Adopt, amend, or repeal all rules necessary for its government and all regulations
 21111 necessary to carry this chapter into effect, including without limitation the establishment
 21112 and ~~print~~ printing or electronic publication of standards of professional conduct for the
 21113 practice of veterinary medicine and veterinary technology; and

21114 (2) Conduct hearings upon the petition of any person who is aggrieved or adversely
 21115 affected by an order or action of the director, which shall be conducted by the licensing
 21116 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 21117 Act.'

21118 ~~(b)~~(c) The powers enumerated in ~~subsection (a)~~ of this Code section are granted for the
 21119 purpose of enabling the director and licensing board to supervise effectively the practice
 21120 of veterinary medicine and veterinary technology and are to be construed liberally to
 21121 accomplish this objective.

21122 ARTICLE 3

21123 Part 1

21124 43-50-30.

21125 (a) No person may practice veterinary medicine in this state who is not a licensed
 21126 veterinarian or the holder of a valid temporary license issued by the ~~division~~ director
 21127 pursuant to this article.

21128 (b) A licensed veterinarian may practice veterinary medicine as an employee of a
 21129 corporation, partnership, or other business organization provided the articles of
 21130 incorporation, partnership, or business organization documents clearly state that the
 21131 licensed veterinarian is not subject to the direction of anyone not licensed to practice
 21132 veterinary medicine in Georgia in making veterinary medical decisions or judgments.

21133 43-50-31.

21134 (a) Any person desiring a license to practice veterinary medicine in this state shall make
 21135 application to the ~~board~~ director. The application shall include evidence, satisfactory to the
 21136 ~~board~~ director, that:

21137 (1) The applicant has attained the age of 18;

21138 (2) The applicant is of good moral character;

21139 (3) The applicant is a graduate of an accredited college or school of veterinary medicine
 21140 or possesses an ECFVG certificate or its substantial equivalent; provided, however, that
 21141 a senior veterinary student may, in the discretion of the ~~board~~ director, be allowed to sit
 21142 for the examination during his or her senior year if he or she meets the other
 21143 qualifications but shall not be issued a license unless and until he or she graduates; and

21144 (4) The applicant meets such other qualifications or provides such other information as
 21145 the ~~board~~ director may require by rule.

21146 (b) The application shall be accompanied by a fee in the amount established by the
 21147 licensing board.

21148 (c) If the ~~board~~ director determines that an applicant possesses the proper qualifications,
 21149 ~~it~~ the director shall admit the applicant to the next examination; provided, however, that the
 21150 licensing board may provide by rule for waiver of any part of such examination for
 21151 veterinarians who are licensed as such by another state and who are in good standing
 21152 therewith.

21153 43-50-32.

21154 (a) The ~~board~~ director shall hold at least one license examination during each year and
 21155 may hold such additional license examinations as are necessary.

21156 (b) After each examination, the ~~division~~ director shall notify each examinee of the result
 21157 of his or her examination, and the ~~board~~ director shall issue licenses to the persons
 21158 successfully completing the examination. The ~~division~~ director shall record the new
 21159 licenses and issue a certificate of registration to the new licensees. If an applicant fails a
 21160 license examination, the applicant may take a subsequent examination upon payment of the
 21161 registration and examination fees. No person may take the examination more than three
 21162 times without review and approval by the ~~board~~ director. Approval may be provided under
 21163 such circumstances as the ~~board~~ director deems appropriate.

21164 43-50-33.

21165 Any person holding a valid license to practice veterinary medicine in this state on July 1,
 21166 2003, shall be recognized as a licensed veterinarian and shall be entitled to retain this status
 21167 so long as he or she complies with this article, including biennial renewal of the license.

21168 Part 2

21169 43-50-40.

21170 (a) All licenses and registrations under this article shall be renewable biennially.

21171 (b) Any person who shall practice veterinary medicine or veterinary technology after the
 21172 expiration of his or her license or registration and willfully or by neglect fail to renew such
 21173 license or registration shall be practicing in violation of this article, provided that any
 21174 person may renew an expired license or registration within the period established by the
 21175 division director in accordance with Code Section 43-1-4 by making application for
 21176 renewal and paying the applicable fees. After the time period established by the ~~division~~
 21177 director has elapsed, such license or registration may be reinstated in accordance with the
 21178 rules of the licensing board.

21179 (c) The licensing board may by rule waive the payment of the renewal fee of a licensed
 21180 veterinarian or registered veterinary technician during the period when he or she is on
 21181 active duty with any branch of the armed forces of the United States, not to exceed the
 21182 longer of three years or the duration of a national emergency.

21183 (d)(1) The licensing board shall establish a program of continuing professional veterinary
 21184 medical education for the renewal of veterinary licenses. Notwithstanding any other
 21185 provision of this article, no license to practice veterinary medicine shall be renewed by
 21186 the ~~board or the division~~ director until the licensed veterinarian submits to the ~~board~~
 21187 director satisfactory proof of his or her participation, during the biennium preceding his
 21188 or her application for renewal, in approved programs of continuing education, as defined
 21189 in this Code section. The amount of continuing veterinary medical education required

21190 of licensed veterinarians by the licensing board under this paragraph shall not be less than
 21191 30 hours and shall be established by licensing board rule.

21192 (2) Continuing professional veterinary medical education shall consist of educational
 21193 programs providing training pertinent to the practice of veterinary medicine and approved
 21194 by the licensing board under this Code section. The licensing board may approve
 21195 educational programs for persons practicing veterinary medicine in this state on a
 21196 reasonable nondiscriminatory fee basis and may contract with institutions of higher
 21197 learning, professional organizations, or qualified individuals for the provision of
 21198 approved programs. In addition to such programs, the licensing board may allow the
 21199 continuing education requirement to be fulfilled by the completion of approved distance
 21200 learning courses, with the number of hours being established by licensing board rule.

21201 (3) The licensing board may, consistent with the requirements of this Code section,
 21202 promulgate rules and regulations to implement and administer this Code section,
 21203 including the establishment of a committee to prescribe standards, approve and contract
 21204 for educational programs, and set the required minimum number of hours per year.

21205 (e) The licensing board shall provide by regulation for an inactive status license or
 21206 registration for those individuals who elect to apply for such status. Persons who are
 21207 granted inactive status shall not engage in the practice of veterinary medicine or veterinary
 21208 technology and shall be exempt from the requirements of continuing veterinary medical
 21209 education during such inactivity.

21210 43-50-41.

21211 (a) The ~~board~~ director is authorized to refuse to grant a license or registration to an
 21212 applicant, to revoke the license or registration of a person licensed or registered by the
 21213 ~~board~~ director, or to discipline a person licensed or registered under this chapter or any
 21214 antecedent law in compliance with Code Section 43-1-3.1, upon a finding by ~~a majority of~~
 21215 ~~the entire board~~ the director that the licensee, registrant, or applicant has:

21216 (1) Failed to demonstrate the qualifications or standards for a license or registration
 21217 contained in this chapter or in the rules and regulations issued by the licensing board,
 21218 pursuant to specific statutory authority. It shall be incumbent upon the applicant to
 21219 demonstrate to the satisfaction of the ~~board~~ director that he or she meets all the
 21220 requirements for the issuance of a license or registration, and, if the ~~board~~ director is not
 21221 satisfied as to the applicant's qualifications, ~~it~~ the director may deny a license or
 21222 registration without a prior hearing; provided, however, that the applicant shall be
 21223 allowed to appear before the licensing board if he or she so desires;

21224 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
 21225 practice of veterinary medicine or veterinary technology on any document connected

21226 therewith; ~~or~~ practiced fraud or deceit or intentionally made any false statement in
 21227 obtaining a license or registration to practice veterinary medicine or veterinary
 21228 technology; or made a false statement or deceptive biennial renewal with the ~~board~~
 21229 director;

21230 (3) Been convicted of any felony or of any crime involving moral turpitude in the courts
 21231 of this state or any other state, territory, or country or in the courts of the United States.
 21232 As used in this paragraph, the term 'felony' shall include any offense which, if committed
 21233 in this state, would be deemed a felony without regard to its designation elsewhere. As
 21234 used in this paragraph, the term 'conviction' shall include a finding or verdict of guilty or
 21235 a plea of guilty, regardless of whether an appeal of the conviction has been sought;

21236 (4) Been arrested, charged, and sentenced for the commission of any felony, or any crime
 21237 involving moral turpitude, where:

21238 (A) A plea of nolo contendere was entered to the charge;

21239 (B) First offender treatment without adjudication of guilt pursuant to the charge was
 21240 granted; or

21241 (C) An adjudication or sentence was otherwise withheld or not entered on the charge.

21242 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
 21243 of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of
 21244 arrest and sentencing for such crime;

21245 (5) Had his or her license to practice veterinary medicine or registration to practice
 21246 veterinary technology revoked, suspended, or annulled by any lawful licensing veterinary
 21247 medical authority other than the ~~board~~ director; ~~or~~ had other disciplinary action taken
 21248 against him or her by any lawful licensing or registering veterinary medical authority
 21249 other than the ~~board~~ director; ~~or~~ was denied a license or registration by any lawful
 21250 licensing veterinary medical authority other than the ~~board~~ director, pursuant to
 21251 disciplinary proceedings; or was refused the renewal of a license or registration by any
 21252 lawful licensing veterinary medical authority other than the ~~board~~ director, pursuant to
 21253 disciplinary proceedings;

21254 (6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct
 21255 or practice harmful to the public, ~~which conduct or practice that~~ that materially affects the
 21256 fitness of the licensee, registrant, or applicant to practice veterinary medicine or
 21257 veterinary technology, or is of a nature likely to jeopardize the interest of the public;
 21258 ~~which;~~ such conduct or practice need not have resulted in actual injury or be directly
 21259 related to the practice of veterinary medicine or veterinary technology but shows that the
 21260 licensee, registrant, or applicant has committed any act or omission which is indicative
 21261 of bad moral character or untrustworthiness. Unprofessional conduct shall also include
 21262 any departure from, or the failure to conform to, the minimal standards of acceptable and

21263 prevailing veterinary medical practice or veterinary technology practice. Unprofessional
 21264 conduct shall also include, but not be limited to, the following: failure to keep veterinary
 21265 facility premises and equipment in a clean and sanitary condition; dishonesty or gross
 21266 negligence in the inspection of foodstuffs or the issuance of health or inspection
 21267 certificates; or cruelty to animals;

21268 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
 21269 encourages any unlicensed or unregistered person or any licensee or registrant whose
 21270 license or registration has been suspended or revoked by the licensing board or the
 21271 director to practice veterinary medicine or veterinary technology or to practice outside
 21272 the scope of any disciplinary limitation placed upon the licensee or registrant by the
 21273 licensing board or the director;

21274 (8) Violated a statute, law, or any rule or regulation of this state, any other state, the
 21275 licensing board, the United States, or any other lawful authority (without regard to
 21276 whether the violation is criminally punishable), ~~which~~ when such statute, law, rule, or
 21277 regulation relates to or in part regulates the practice of veterinary medicine or veterinary
 21278 technology; and when the licensee, registrant, or applicant knows or should know that
 21279 such action violates such statute, law, rule, or regulation; or violated the lawful order of
 21280 the licensing board or the director previously entered by the licensing board or the
 21281 director in a disciplinary hearing, consent decree, or license reinstatement;

21282 (9) Been adjudged mentally incompetent by a court of competent jurisdiction within or
 21283 without this state. Any such adjudication shall automatically suspend the license or
 21284 registration of any such person and shall prevent the reissuance or renewal of any license
 21285 or registration so suspended for ~~as~~ so long as the adjudication of incompetence is in
 21286 effect;

21287 (10) Displayed an inability to practice veterinary medicine or veterinary technology with
 21288 reasonable skill and safety to patients or has become unable to practice veterinary
 21289 medicine or veterinary technology with reasonable skill and safety to patients by reason
 21290 of illness; or the use of alcohol, drugs, narcotics, chemicals, or any other type of material;
 21291 ~~or~~ as a result of any mental or physical condition; or by reason of displaying habitual
 21292 intoxication, addiction to, or recurrent personal misuse of alcohol, drugs, narcotics,
 21293 chemicals, or any other type of similar substances. In enforcing this paragraph, the ~~board~~
 21294 director may, upon reasonable grounds, require a licensee, registrant, or applicant to
 21295 submit to a mental or physical examination by physicians designated by the licensing
 21296 board. The results of such examination shall be admissible in any hearing before the
 21297 licensing board, notwithstanding any claim of privilege under a contrary rule of law or
 21298 statute. Every person who shall accept the privilege of practicing veterinary medicine or
 21299 veterinary technology in this state or who shall file an application for a license or

21300 registration to practice veterinary medicine or veterinary technology in this state shall be
 21301 deemed to have given that person's consent to submit to such mental or physical
 21302 examination and to have waived all objections to the admissibility of the results in any
 21303 hearing before the licensing board upon the grounds that the same constitutes a privileged
 21304 communication. If a licensee, registrant, or applicant fails to submit to such an
 21305 examination when properly directed to do so by the board director, unless such failure is
 21306 due to circumstances beyond his or her control, the board director may enter a final order
 21307 ~~upon proper notice, hearing, and proof of such refusal~~ as provided in Code Section
 21308 43-1-3.1. Any licensee, registrant, or applicant who is prohibited from practicing
 21309 veterinary medicine or veterinary technology under this paragraph shall at reasonable
 21310 intervals be afforded an opportunity to demonstrate to the board director that such person
 21311 can resume or begin the practice of veterinary medicine or veterinary technology with
 21312 reasonable skill and safety to patients;

21313 (11) Failed to register with the ~~division~~ director as required by law. It shall be the duty
 21314 of every licensee or registrant to notify the board director of any change in his or her
 21315 address of record with the board director; provided, however, that, for a period
 21316 established by the ~~division~~ director after failure to register, a license or registration may
 21317 be reinstated by payment of a registration fee to be determined by the licensing board by
 21318 rule and by filing of a special application therefor. After this period has elapsed, a license
 21319 or registration may be revoked for failure to register and for failure to pay the fee as
 21320 provided by law;

21321 (12) Engaged in the excessive prescribing or administering of drugs or treatment or the
 21322 use of diagnostic procedures which are detrimental to the patient as determined by the
 21323 customary practice and standards of the local community of licensees; ~~or~~ knowingly
 21324 prescribed controlled drug substances or any other medication without a legitimate
 21325 veterinary medical purpose; or knowingly overprescribed controlled drug substances or
 21326 other medication, in light of the condition of the patient at the time of prescription;

21327 (13) Knowingly made any fraudulent, misleading, or deceptive statement in any form of
 21328 advertising or made any statement in any advertisement concerning the quality of the
 21329 veterinary services rendered by that licensed veterinarian or any licensed veterinarian
 21330 associated with him or her. For purposes of this paragraph, 'advertising' shall include any
 21331 information communicated in a manner designed to attract public attention to the practice
 21332 of the licensee or registrant;

21333 (14) Used, prescribed, or sold any veterinary prescription drug or prescribed an
 21334 extralabel use of any drug in the absence of a valid veterinarian-client-patient
 21335 relationship; or

- 21336 (15) Has had his or her ~~U.S.~~ United States Drug Enforcement Administration privileges
 21337 restricted or revoked.
- 21338 (b) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
 21339 with respect to emergency action by the ~~board~~ director and summary suspension of a
 21340 license or registration are adopted and incorporated by reference into this chapter.
- 21341 (c) For purposes of this Code section, the ~~board~~ director may obtain, and is authorized to
 21342 subpoena, upon reasonable grounds, any and all records relating to the mental or physical
 21343 condition of a licensee, registrant, or applicant, and such records shall be admissible in any
 21344 hearing before the licensing board.
- 21345 (d) When the ~~board~~ director finds that any person is unqualified to be granted a license or
 21346 registration or finds that any person should be disciplined pursuant to subsection (a) of this
 21347 Code section, the ~~board~~ director may take any one or more of the following actions:
- 21348 (1) Refuse to grant or renew a license or registration to an applicant;
 21349 (2) Administer a public or private reprimand, but a private reprimand shall not be
 21350 disclosed to anyone other than the person reprimanded;
 21351 (3) Suspend any license or registration for a definite period or for an indefinite period in
 21352 connection with any condition which may be attached to the restoration of said license
 21353 or registration;
 21354 (4) Limit or restrict any license or registration as the ~~board~~ director deems necessary for
 21355 the protection of the public;
 21356 (5) Revoke any license or registration; or
 21357 (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's,
 21358 registrant's, or licensee's submission to such care, counseling, or treatment as the ~~board~~
 21359 director may direct.
- 21360 (e) In addition to and in conjunction with the actions described in subsection (d) of this
 21361 Code section, the ~~board~~ director may make a finding adverse to the licensee, registrant, or
 21362 applicant but withhold imposition of judgment and penalty; or ~~it~~ the director may impose
 21363 the judgment and penalty but suspend enforcement thereof and place the licensee or
 21364 registrant on probation, which ~~probation~~ may be vacated upon noncompliance with such
 21365 reasonable terms as the ~~board~~ director may impose.
- 21366 (f) An order or action of the director entered pursuant to this Code section shall be made
 21367 in compliance with Code Section 43-1-3.1. Initial judicial review of a final decision of the
 21368 licensing board shall be had solely in the ~~superior court of the county of domicile of the~~
 21369 board Superior Court of Bibb County.
- 21370 (g) In ~~its~~ his or her discretion, the ~~board~~ director may reinstate a license or registration
 21371 which has been revoked or issue a license or registration which has been denied or refused,
 21372 following such procedures as the licensing board may prescribe by rule; and, as a condition

21373 thereof, ~~it~~ the director may impose any disciplinary or corrective method provided in this
21374 chapter.

21375 (h)(1) The ~~division~~ director is authorized to make, or cause to be made ~~through~~
21376 ~~employees or contract agents of the board~~, such investigations as he or she ~~or the board~~
21377 may deem necessary or proper for the enforcement of the provisions of this chapter. Any
21378 person properly conducting an investigation on behalf of the ~~board~~ director shall have
21379 access to and may examine any writing, document, or other material relating to the fitness
21380 of any licensee, registrant, or applicant. The ~~division~~ director ~~or his or her appointed~~
21381 ~~representative~~ may issue subpoenas to compel such access upon a determination that
21382 reasonable grounds exist for the belief that a violation of this chapter or any other law
21383 relating to the practice of veterinary medicine or veterinary technology may have taken
21384 place.

21385 (2) The results of all investigations initiated by the ~~board~~ director shall be reported solely
21386 to the licensing board in the event a petition for a hearing vefore the licensing board is
21387 made, and the records of such investigations shall be kept for the licensing board by the
21388 ~~division~~ director, ~~with the board retaining the right to have access at any time to such~~
21389 ~~records~~. No part of any such records shall be released, ~~except to the board~~, for any
21390 purpose other than a hearing before the licensing board, nor shall such records be subject
21391 to subpoena; provided, however, that the ~~board~~ director shall be authorized to release
21392 such records to another enforcement agency or lawful licensing authority.

21393 (3) The licensing board shall have the authority to exclude all persons during its
21394 deliberations on disciplinary proceedings ~~and~~. The licensing board and the director shall
21395 have the authority to discuss any disciplinary matter in private with a licensee, registrant,
21396 or applicant and the legal counsel of that licensee, registrant, or applicant.

21397 (i) A person, firm, corporation, association, authority, or other entity shall be immune from
21398 civil and criminal liability for reporting or investigating the acts or omissions of a licensee,
21399 registrant, or applicant which violate the provisions of subsection (a) of this Code section
21400 or any other provision of law relating to a licensee's, registrant's, or applicant's fitness to
21401 practice as a licensed veterinarian or registered veterinary technician or for initiating or
21402 conducting proceedings against such licensee, registrant, or applicant, if such report is
21403 made or action is taken in good faith, without fraud or malice. Any person who testifies
21404 or who makes a recommendation to the licensing board or the director in the nature of peer
21405 review, in good faith, without fraud or malice, before the licensing board in any proceeding
21406 involving the provisions of subsection (a) of this Code section or any other law relating to
21407 a licensee's, registrant's, or applicant's fitness to practice as a licensed veterinarian or
21408 registered veterinary technician shall be immune from civil and criminal liability for so
21409 testifying.

21410 (j) ~~Neither a~~ A denial of a license or registration on grounds other than those enumerated
 21411 in subsection (a) of this Code section, ~~nor~~ the issuance of a private reprimand, ~~nor~~ the
 21412 denial of a license or registration by endorsement ~~nor~~, the denial of a request for
 21413 reinstatement of a revoked license or registration ~~nor~~, and the refusal to issue a previously
 21414 denied license or registration shall be made in compliance with Code Section 43-1-3.1
 21415 ~~considered to be a contested case within the meaning of Chapter 13 of Title 50, the~~
 21416 ~~'Georgia Administrative Procedure Act.'~~ Notice and hearing within the meaning of Chapter
 21417 ~~13 of Title 50 shall not be required, but the applicant, registrant, or licensee shall be~~
 21418 allowed to appear before the board if he or she so requests.

21419 (k) ~~If any licensee, registrant, or applicant fails to appear at any hearing after reasonable~~
 21420 ~~notice, the board may proceed to hear the evidence against such licensee, registrant, or~~
 21421 ~~applicant and take action as if such licensee, registrant, or applicant had been present. A~~
 21422 ~~notice of hearing, initial or recommended decision, or final decision of the board in a~~
 21423 ~~disciplinary proceeding shall be served upon the licensee, registrant, or applicant by~~
 21424 ~~certified mail or statutory overnight delivery, return receipt requested, to the last known~~
 21425 ~~address of record with the board. If such material is returned marked 'unclaimed' or~~
 21426 ~~'refused' or is otherwise undeliverable and if the licensee, registrant, or applicant cannot,~~
 21427 ~~after diligent effort, be located, the division director shall be deemed to be the agent for~~
 21428 ~~service for such licensee, registrant, or applicant for purposes of this Code section, and~~
 21429 ~~service upon the division director shall be deemed to be service upon the licensee,~~
 21430 ~~registrant, or applicant. Reserved.~~

21431 (l) The voluntary surrender of a license or registration shall have the same effect as a
 21432 revocation of the license or registration, subject to reinstatement in the discretion of the
 21433 ~~board~~ director.

21434 (m) This Code section shall apply equally to all licensees, registrants, or applicants
 21435 whether individuals, partners, or members of any other incorporated or unincorporated
 21436 associations, corporations, or other associations of any kind whatsoever.

21437 (n) All subpoenas issued pursuant to the authority granted in this chapter shall be subject
 21438 to the general rules of law with respect to distance, tender of fees and expenses, and
 21439 protective orders; and any motion made with respect thereto shall be made to and passed
 21440 on by a judge of the superior court of the county of residence of the person to whom the
 21441 subpoena is directed.

21442 (o) Any proceeding or administrative action instituted under this Code section shall be
 21443 governed by the provisions of this Code section as they existed in full force and effect on
 21444 the date of the commission of the act or acts constituting a violation of this Code section,
 21445 except as otherwise specifically declared by the General Assembly.

21446 43-50-42.

21447 (a) The ~~board~~ director may issue a temporary license to the following applicants who are
21448 qualified to take the veterinary license examination:

21449 (1) An applicant licensed in another state. Such license shall have the same force and
21450 effect as a permanent license until the time of its expiration; and

21451 (2) An applicant who is not the holder of any veterinary license. Such license shall
21452 authorize the applicant to work under the supervision of a licensed veterinarian as
21453 provided by the ~~board~~ director.

21454 (b) The temporary license shall expire on the date that permanent licenses are issued to
21455 persons who have passed the examination provided for in Code Section 43-50-32, ~~which~~
21456 if the examination occurred immediately following the issuance of the temporary license.

21457 (c) A temporary license issued pursuant to this Code section may, in the discretion of the
21458 ~~board~~ director, be renewed for one six-month period only; provided, however, that no
21459 temporary license shall be issued, renewed, or reissued to a person who fails to pass the
21460 examination established by the licensing board.

21461 43-50-43.

21462 The ~~board~~ director may, in ~~its~~ his or her discretion, issue a veterinary faculty license to any
21463 qualified applicant associated with one of this state's institutions of higher learning and
21464 involved either in research activities within such institution or in the instructional program
21465 of either undergraduate or graduate veterinary medical students, subject to the following
21466 conditions:

21467 (1) That the holder of the veterinary faculty license shall be remunerated for the practice
21468 aspects of his or her services solely from state, federal, or institutional funds and not from
21469 the patient-owner beneficiary of his or her practice efforts;

21470 (2) That the applicant will furnish the ~~board~~ director with such proof as the ~~board~~
21471 director may deem necessary to demonstrate that the applicant is a graduate of a reputable
21472 school or college of veterinary medicine; that the applicant has or will have a faculty
21473 position at an institution which meets the requirements of paragraph (1) of this Code
21474 section, as certified by an authorized administrative official at such institution; and that
21475 the applicant understands and agrees that the faculty license is valid only for the practice
21476 of veterinary medicine as a faculty member of the institution;

21477 (3) That the license issued under this Code section may be revoked or suspended or the
21478 licensee may be otherwise disciplined in accordance with Code Section 43-50-41; and

21479 (4) That the license issued under this Code section may be canceled by the ~~board~~ director
21480 upon receipt of information that the holder of the veterinary faculty license has left or has

21481 otherwise been discontinued from faculty employment at an institution of higher learning
21482 of this state.

21483 43-50-44.

21484 This article shall not be construed to prohibit:

21485 (1)(A) An employee of the federal, state, or local government or any contractual
21486 partner thereof from performing his or her duties relating to animals owned by or on
21487 loan to such employer or the control of stray animals; or

21488 (B) Any employee of a public or private college or university from performing his or
21489 her duties relating to animals owned by or on loan to such employer;

21490 (2) A person who is a regular student in a veterinary school or school of veterinary
21491 technology performing duties or actions assigned by his or her instructors or working
21492 under the supervision of a licensed veterinarian;

21493 (3) A person, compensated or otherwise, from performing acceptable livestock
21494 management practices, ~~which practices shall include~~ including, but not be limited to,
21495 castration of food animals, dehorning without the use of prescription drugs or surgical
21496 closure of wounds, hoof trimming or shoeing, docking, ear notching, removing needle
21497 teeth, testing for pregnancy, implantation of over-the-counter growth implants,
21498 implantation of over-the-counter identification devices, artificial insemination, the use
21499 of federally approved over-the-counter products, branding, collecting of fluids for genetic
21500 identification and classification, semen collection and storage, and the use of ultrasound
21501 for collection of production data and similar nondiagnostic purposes;

21502 (4) A person assisting with a nonsurgical fetal delivery in a food animal, provided that
21503 no fee is charged;

21504 (5) The actions of a veterinarian currently licensed in another state, province of Canada,
21505 or a United States territory in consulting with a licensee of this state but who:

21506 (A) Does not open an office or appoint a place to do business within this state;

21507 (B) Does not print or use letterhead or business cards reflecting in-state addresses;

21508 (C) Does not establish answering services or advertise the existence of a practice
21509 address within this state;

21510 (D) Does not practice veterinary medicine as a consultant rendering services directly
21511 to the public without the direction of a licensed veterinarian of this state more than two
21512 days per calendar year; and

21513 (E) Is providing services for an organization conducting a public event lasting less than
21514 ten days that utilizes animals in need of veterinary examinations, treatments, or
21515 oversight to promote the safety and health of the public, the event, and the animal
21516 participants; provided, however, that a veterinarian licensed in another state who

21517 practices veterinary medicine on animals belonging to residents of this state by
 21518 communicating directly with such owners and independent of the attending veterinary
 21519 licensee is not exempt from this state's licensing requirements;

21520 (6) Any merchant or manufacturer selling, at his or her regular place of business,
 21521 medicines, feed, appliances, or other products used in the prevention or treatment of
 21522 animal diseases. This shall not be construed to authorize the sale of medicines which
 21523 must be obtained by a prescription from a pharmacist but shall only include the right to
 21524 sell those medicines which are classified as proprietary and which are commonly known
 21525 as over-the-counter medicines;

21526 (7)(A) The owner of an animal or the owner's full-time regular employee caring for and
 21527 treating the animal belonging to such owner; or

21528 (B) The owner's friend or relative caring for or treating the animal belonging to such
 21529 owner, provided that no fee is charged and the friend or relative does not solicit,
 21530 advertise, or regularly engage in providing such care or treatment or administer or
 21531 dispense prescription drugs without a valid prescription;

21532 (8) The owner, operator, or employee of a licensed kennel, animal shelter, or stable or
 21533 of a pet-sitting service providing food, shelter, or supervision of an animal or
 21534 administering prescription drugs pursuant to prescription of a licensed veterinarian or
 21535 over-the-counter medicine to an animal;

21536 (9) A member of the faculty, a resident, an intern, or a graduate student of an accredited
 21537 college or school of veterinary medicine or school of veterinary technology performing
 21538 his or her regular nonclinical functions or a person lecturing or giving instructions or
 21539 demonstrations at an accredited college or school of veterinary medicine or school of
 21540 veterinary technology in connection with a continuing education course or seminar;

21541 (10) Any person selling or applying any pesticide, insecticide, or herbicide;

21542 (11) Any person engaging in bona fide scientific research which reasonably requires
 21543 experimentation involving animals;

21544 (12) Any person performing artificial insemination;

21545 (13) An employee of a licensed veterinarian administering prescribed care to an animal
 21546 under the appropriate supervision of the veterinarian;

21547 (14) A graduate of a foreign college or school of veterinary medicine who is in the
 21548 process of obtaining the ECFVG certificate or its substantial equivalent performing duties
 21549 or actions under the direct supervision of a licensed veterinarian;

21550 (15) The owner of an animal, the owner's employee, or a member of a nationally
 21551 recognized organization that acknowledges individuals performing embryo transfer or
 21552 artificial breeding and ~~which organization~~ that is approved by the licensing board from:

- 21553 (A) The nonsurgical removal of an embryo from an animal for the purpose of
 21554 transplanting such embryo into another female animal, cryopreserving such embryo, or
 21555 implanting such embryo in an animal, provided that the use of prescription medications
 21556 in such animals is maintained under the direction of a licensed veterinarian with a valid
 21557 veterinarian-client-patient relationship; or
- 21558 (B) The testing and evaluation of semen;
- 21559 (16) Any other licensed or registered health care provider utilizing his or her special
 21560 skills so long as the treatment of the animal is under the direction of a licensed
 21561 veterinarian with a valid veterinary-client-patient relationship;
- 21562 (17) A person performing soft tissue animal massage or other forms of soft tissue animal
 21563 manipulation;
- 21564 (18) A person performing aquaculture or raniculture management practices;
- 21565 (19) A person implanting electronic identification devices in small companion animals;
 21566 or
- 21567 (20) An employee or contractual partner of a zoological park or aquarium accredited by
 21568 the American Zoo and Aquarium Association or other substantially equivalent nationally
 21569 recognized accrediting agency as determined by the licensing board from performing his
 21570 or her duties that are approved by a licensed veterinarian and relate to animals owned by
 21571 or on loan to such zoological park or aquarium.

21572 43-50-45.

21573 (a) Any person who practices veterinary medicine without a valid license in violation of
 21574 this article shall be guilty of the misdemeanor offense of practicing veterinary medicine
 21575 without a license and, upon conviction thereof, shall be punished as provided in this Code
 21576 section, provided that each act of such unlawful practice shall constitute a distinct and
 21577 separate offense.

21578 (b) Upon being convicted a first time under this Code section, such person shall be
 21579 punished by a fine of not more than \$500.00 for each offense. Upon being convicted a
 21580 second or subsequent time under this Code section, such person shall be punished by a fine
 21581 of not more than \$1,000.00 for each offense, imprisonment for not more than 12 months,
 21582 or both such fine and imprisonment.

21583 (c) The ~~board~~ director or any citizen of this state may bring an action to enjoin any person
 21584 from practicing veterinary medicine without a valid license. If the court finds that the
 21585 person is violating, or is threatening to violate, this article, it shall enter an injunction
 21586 restraining him or her from such unlawful acts.

21587 (d) The successful maintenance of an action based on any one of the remedies set forth in
 21588 this Code section shall in no way prejudice the prosecution of an action based on any other
 21589 of the remedies.

21590 Part 3

21591 43-50-50.

21592 It is the purpose of this part to encourage more effective utilization of the skills of licensed
 21593 veterinarians by enabling them to delegate certain veterinary health care tasks to veterinary
 21594 technicians where such delegation is consistent with the animal patient's health and welfare.

21595 43-50-51.

21596 (a) Subject to the provisions of this Code section, the practice of veterinary technology by
 21597 a veterinary technician shall not be a violation of subsection (a) of Code Section 43-50-30
 21598 or subsection (a) of Code Section 43-50-45.

21599 (b) No veterinary technician shall make a diagnosis or prognosis, prescribe treatment,
 21600 perform surgery, or prescribe medication for any animal.

21601 43-50-52.

21602 (a)(1) Any person desiring to work as a veterinary technician in this state shall apply to
 21603 the ~~board~~ director for a certificate of registration as a veterinary technician. All such
 21604 applications shall be made on forms approved by the licensing board and provided by the
 21605 board director and shall be accompanied by such fee as may be required by the licensing
 21606 board.

21607 (2) The application shall include evidence, satisfactory to the ~~board~~ director, that:

21608 (A) The applicant has attained the age of 18;

21609 (B) The applicant is of good moral character;

21610 (C)(i) The applicant is a graduate of a college or technical school course of study in
 21611 veterinary technology from an institution accredited by the American Veterinary
 21612 Medical Association, including without limitation instruction in the operation of life
 21613 sustaining oxygen equipment, and has successfully passed an examination required
 21614 by the licensing board; or

21615 (ii) The applicant has successfully completed a college course of study in the care
 21616 and treatment of animals from an institution having a curriculum approved by the
 21617 licensing board, including without limitation instruction in the operation of life
 21618 sustaining oxygen equipment, and has successfully passed an examination required
 21619 by the licensing board; and

21620 (D) The applicant meets such other qualifications or provides such other information
21621 as the board director may require by rule or regulation.

21622 (b) Until July 1, 2009, any person who during the period from July 1, 1993, through June
21623 30, 2008, acquired a minimum of five years' experience assisting a licensed veterinarian
21624 may, with a signed affidavit from his or her supervising veterinarian attesting to his or her
21625 level of on-the-job training, be allowed to take the examination approved by the licensing
21626 board. Upon the applicant's receiving a passing grade on such examination, the board
21627 director may issue a certificate of registration. The board director shall provide a list of
21628 appropriate study materials to candidates.

21629 (c) Until January 1, 2005, any person who at any time prior to July 1, 2003, was certified
21630 as a veterinary technician in this state shall be entitled to renew such registration without
21631 examination and without meeting any requirements of subparagraph (a)(2)(C) of this Code
21632 section.

21633 (d) The board director may issue a certificate of registration to an applicant if the applicant
21634 is currently registered in another state having standards for admission substantially the
21635 same as this state and such standards were in effect at the time the applicant was first
21636 admitted to practice in the other state.

21637 (e) The board director shall be responsible for registering any person who wishes to
21638 practice as a veterinary technician in this state and in accordance with this part shall govern
21639 such practice by licensing board rule or regulation as the licensing board deems appropriate
21640 and necessary for the protection of the public health, safety, and general welfare.

21641 43-50-53.

21642 (a) The board director shall hold at least one registration examination for applicants
21643 annually or allow applicants to take automated tests at such locations and at such times as
21644 determined by the board director.

21645 (b) The licensing board shall establish rules or regulations governing the preparation,
21646 administration, and grading of the examination. The licensing board may adopt the
21647 National Veterinary Technicians Examination prepared by the Professional Examination
21648 Service or any other such examination prepared to the licensing board's standards and
21649 satisfaction.

21650 (c) The licensing board shall establish by rule or regulation the score needed to pass any
21651 examination.

21652 (d) If an applicant fails an examination, the applicant may take a subsequent examination
21653 upon payment of the registration and examination fees. No person may take the
21654 examination more than three times without review and approval by the board director under
21655 such circumstances as the licensing board deems appropriate.

21656 (e) Any veterinary technician in this state whose certificate of registration has been on
21657 inactive status for at least five consecutive years and who desires to reactivate such
21658 registration shall be required to take continuing education, pay all fees, and meet all other
21659 requirements and licensing board rules or regulations for registration as a veterinary
21660 technician. It shall be the duty of the licensing board to approve study materials that may
21661 be used to assist such persons in preparing for any examination.

21662 43-50-54.

21663 (a) Any veterinary technician must at all times be under the supervision of a licensed
21664 veterinarian whenever practicing veterinary technology in this state. The level of
21665 supervision shall be consistent with the delegated animal health care task. Subject to the
21666 provisions of subsection (b) of Code Section 43-50-51, a licensed veterinarian may in his
21667 or her discretion delegate any animal health care task to a veterinary technician; provided,
21668 however, that the licensing board may establish by rules or regulations, in such general or
21669 specific terms as it deems necessary and appropriate for purposes of this part, the level of
21670 supervision, whether direct supervision, immediate supervision, or indirect supervision,
21671 that is required by the licensed veterinarian for any delegated animal health care task to be
21672 performed by a veterinary technician. Such rules or regulations may require lower levels
21673 of supervision for veterinary technicians as compared to veterinary assistants performing
21674 the same or similar animal health care tasks.

21675 (b) Specifically and without limitation, the ~~board~~ director may take disciplinary action
21676 against a veterinary technician if the technician:

21677 (1) Solicits patients from a licensed veterinarian;

21678 (2) Solicits or receives any form of compensation from any person for veterinary services
21679 rendered other than from the licensed veterinarian or corporation under whom the
21680 veterinary technician is employed;

21681 (3) Willfully or negligently divulges a professional confidence or discusses a licensed
21682 veterinarian's diagnosis or treatment without the express permission of the licensed
21683 veterinarian; or

21684 (4) Demonstrates a manifest incapability or incompetence to perform as a veterinary
21685 technician.

21686 (c) A veterinary technician shall not be utilized in any manner which would be in violation
21687 of this article.

21688 (d) A veterinary technician shall not be utilized to perform the duties of a pharmacist
21689 licensed under Chapter 4 of Title 26.

21690 (e) Any disciplinary action of the director taken pursuant to this Code section shall be
21691 made in compliance with Code Section 43-1-3.1.

21692 43-50-55.

21693 (a) Any licensed veterinarian, animal clinic, or animal hospital using veterinary
21694 technicians shall post a notice to that effect in a prominent place.

21695 (b) A veterinary technician must clearly identify himself or herself as such in order to
21696 ensure that he or she is not mistaken by the public as a licensed veterinarian. This may be
21697 accomplished, for example, by the wearing of an appropriate name tag. Any time the
21698 veterinary technician's name appears in a professional setting, his or her status must be
21699 shown as 'veterinary technician.'

21700 (c)(1) No licensed veterinarian shall have more than four veterinary technicians on duty
21701 under his or her supervision at any one time.

21702 (2) No licensed veterinarian shall practice veterinary medicine at a veterinary facility
21703 when the number of veterinary technicians employed at such veterinary facility exceeds
21704 the number of licensed veterinarians regularly engaged in the practice of veterinary
21705 medicine at such veterinary facility by a ratio of more than 2:1.

21706 (3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to any
21707 licensed veterinarian engaged in a specialty practice if he or she is certified for such
21708 specialty practice by a college approved for such purpose by the American Veterinary
21709 Medical Association or its successor organization; provided, however, that no such
21710 licensed veterinarian shall engage in such specialty practice at a veterinary facility when
21711 the number of veterinary technicians employed at such veterinary facility exceeds the
21712 number of licensed veterinarians regularly engaged in a specialty practice of veterinary
21713 medicine at such veterinary facility by a ratio of more than 5:1.

21714 43-50-56.

21715 A veterinarian who utilizes a veterinary technician shall be responsible for any violation
21716 of any limitations which are placed on the duties of a veterinary technician.

21717 ARTICLE 3A

21718 43-50-60.

21719 It is the purpose of this article to encourage more effective utilization of the skills of
21720 licensed veterinarians by enabling them to delegate certain veterinary health care tasks to
21721 veterinary assistants where such delegation is consistent with the animal patient's health
21722 and welfare.

21723 43-50-61.

21724 (a) Subject to the provisions of this Code section, the practice of veterinary technology by
21725 a veterinary assistant shall not be a violation of subsection (a) of Code Section 43-50-30
21726 or subsection (a) of Code Section 43-50-45.

21727 (b) No veterinary assistant shall make a diagnosis or prognosis, prescribe treatment,
21728 perform surgery, prescribe medication, perform a nonemergency intubation, induce
21729 anesthesia, perform central venous catheterization, or perform arterial catheterization and
21730 arterial collection for any animal.

21731 43-50-62.

21732 (a) Any veterinary assistant must at all times be under the supervision of a licensed
21733 veterinarian whenever practicing veterinary technology in this state. The level of
21734 supervision shall be consistent with the delegated animal health care task. Subject to the
21735 provisions of subsection (b) of Code Section 43-50-61, a licensed veterinarian may in his
21736 or her discretion delegate any animal health care task to a veterinary assistant; provided,
21737 however, that the licensing board may establish by rules or regulations, in such general or
21738 specific terms as it deems necessary and appropriate for purposes of this article, the level
21739 of supervision, whether direct supervision, immediate supervision, or indirect supervision,
21740 that is required by the licensed veterinarian for any delegated animal health care task to be
21741 performed by a veterinary assistant. Such rules or regulations may require higher levels
21742 of supervision for veterinary assistants as compared to veterinary technicians performing
21743 the same or similar animal health care tasks.

21744 (b) A veterinary assistant shall not be utilized in any manner which would be in violation
21745 of this article.

21746 (c) A veterinary assistant shall not be utilized to perform the duties of a pharmacist
21747 licensed under Chapter 4 of Title 26.

21748 43-50-63.

21749 (a) Any licensed veterinarian, animal clinic, or animal hospital using veterinary assistants
21750 shall post a notice to that effect in a prominent place.

21751 (b) A veterinary assistant must clearly identify himself or herself as such in order to ensure
21752 that he or she is not mistaken by the public as a licensed veterinarian. This may be
21753 accomplished, for example, by the wearing of an appropriate name tag. Any time the
21754 veterinary assistant's name appears in a professional setting, his or her status must be
21755 shown as 'veterinary assistant.'

21756 43-50-64.

21757 A veterinarian who utilizes a veterinary assistant shall be responsible for any violation of
21758 any limitations which are placed on the duties of a veterinary assistant.

21759 **ARTICLE 4**

21760 43-50-80.

21761 Any person who gratuitously and in good faith administers emergency treatment to a sick
21762 or injured animal at the scene of an accident or emergency shall not be in violation of this
21763 chapter and shall not be liable to the owner of such animal in any civil action for damages;
21764 provided, however, that this Code section shall not provide immunity for acts of gross
21765 negligence."

21766 **SECTION 1-40.**

21767 Said title is further amended by revising Chapter 51, relating to water and wastewater
21768 treatment plant operators and laboratory analysts, as follows:

21769 **"CHAPTER 51**

21770 43-51-1.

21771 This chapter shall be known and may be cited as the 'Certification of Water and
21772 Wastewater Treatment Plant Operators and Laboratory Analysts Act.'

21773 43-51-2.

21774 As used in this chapter, the term:

21775 (1) 'Board' means the State Board of Examiners for Certification of Water and
21776 Wastewater Treatment Plant Operators and Laboratory Analysts, a professional licensing
21777 policy board pursuant to Chapter 1 of this title with the authority and responsibility set
21778 forth in such chapter.

21779 (2) 'Certificate' means a document issued by the ~~board~~ director stating that the operator
21780 or laboratory analyst has met the requirements for the specified operator classification of
21781 the certification program.

21782 (3) 'Director' means the director of ~~the Division of Environmental Protection of the~~
21783 ~~Department of Natural Resources~~ professional licensing.

21784 (4) 'Division' means the ~~Division of Environmental Protection~~ Division of the
21785 Department of Natural Resources.

21786 (5) 'Laboratory analyst' means any person who tests water or wastewater samples in
 21787 conjunction with the operation of public water supply systems or wastewater treatment
 21788 plants.

21789 (5.1) 'Licensing board' means the Georgia Board of Licensing and Regulation created by
 21790 Article 2 of Chapter 1 of this title.

21791 (6) 'Operator' means any person who performs operational duties and water treatment
 21792 plant and wastewater treatment plant laboratory testing for reporting purposes for
 21793 operator classifications I and II, as defined by the licensing board, at wastewater
 21794 treatment plants, wastewater collection systems, water distribution systems, or public
 21795 water supply systems.

21796 (7) 'Person' means any individual, corporation, company, association, partnership,
 21797 county, municipality, state agency, federal agency, or other entity.

21798 (8) 'Public water supply system' means the system of pipes, structures, and facilities
 21799 through which water is obtained and treated to be offered to the public for household use
 21800 or for any other public consumption.

21801 (9) 'Wastewater collection system' means the system of sanitary sewers, pipes, manholes,
 21802 pumps, and other such apparatus used to convey sewage to wastewater treatment plants.

21803 (10) 'Wastewater treatment plant' means the facilities provided for the treatment and
 21804 disposal of wastewater, including industrial process wastewater.

21805 (11) 'Water distribution system' means the system of pipes, pumps, valves, and other
 21806 such apparatus used to distribute water to the public.

21807 (12) 'Water treatment plant' means that portion of the water supply system which in some
 21808 way alters the physical, chemical, or bacteriological quality of the water.

21809 43-51-3.

21810 (a) There is created the State Board of Examiners for Certification of Water and
 21811 Wastewater Treatment Plant Operators and Laboratory Analysts as a professional licensing
 21812 policy board. The board shall be composed of six members to be appointed by the
 21813 Governor. The appointments shall be made as follows: one member from the technical
 21814 staff of the Environmental Protection Division of the Department of Natural Resources;
 21815 one member who is a currently employed public water supply system operator holding a
 21816 valid certificate of the highest classification issued by the ~~board~~ director; one member who
 21817 is a currently employed wastewater treatment plant operator holding a valid certificate of
 21818 the highest classification issued by the ~~board~~ director; one member who is an employee of
 21819 a municipality or county required to employ a certified operator and who holds the position
 21820 of municipal or county manager, engineer, director of public works, or director of water
 21821 supply and water pollution control; and one member who is a consultant in the field of

21822 water supply and water pollution control or who is engaged in teaching or administering
 21823 courses in water supply and water pollution control in an educational institution in this
 21824 state. The sixth member shall be appointed from the public at large and shall have no
 21825 connection whatsoever with the water and wastewater treatment industry. The initial term
 21826 for the member appointed from the public at large shall expire June 30, 1984; thereafter,
 21827 the Governor shall appoint successors for a term of four years. The other five members of
 21828 the board shall serve four-year terms, which ~~terms~~ shall be staggered so that the terms of
 21829 two members shall expire one year and the term of one member shall expire in each of the
 21830 following three years. No member of the board may serve more than two consecutive full
 21831 terms.

21832 (b) The Governor may fill any vacancy in the appointed membership of the board and may
 21833 remove any appointed member for cause.

21834 (c) The members of the board shall be reimbursed as provided for in subsection (f) of Code
 21835 Section 43-1-2.

21836 (d) The members of the board shall meet for an organization meeting at the call of the
 21837 ~~division~~ director, within 60 days after their appointments and thereafter at least twice a
 21838 year, at such time and place as may be provided by rules and regulations adopted and
 21839 promulgated by them; provided, however, that special meetings may be called by the
 21840 ~~chairman~~ chairperson, with the approval of the director, or the ~~division~~ director at such
 21841 time and under such circumstances as they may deem necessary and proper; and, provided,
 21842 further, that any notice of such meeting shall be given all members in writing at least ten
 21843 days prior to the date of the meeting.

21844 (e) At the first meeting of the board and annually thereafter, the members shall elect one
 21845 of its members to serve as ~~chairman~~ chairperson and one to serve as ~~vice-chairman~~ vice
 21846 chairperson.

21847 43-51-4.

21848 The ~~division~~ director shall act as the administrative agent for the board and shall, ~~with~~
 21849 ~~respect to the board~~, exercise those powers and duties conferred on ~~him~~ the director by
 21850 Chapter 1 of this title.

21851 43-51-5.

21852 The licensing board shall have the authority to adopt such rules and regulations as may be
 21853 necessary to administer this chapter and effectuate the purposes expressed in this chapter.
 21854 The rules and regulations shall include, but are not limited to, provisions establishing
 21855 qualifications of applicants and procedures for examination of candidates.

21856 43-51-6.

21857 (a) The ~~board~~ director shall certify persons as to their qualifications to operate wastewater
21858 treatment plants, wastewater collection systems, water distribution systems, or public water
21859 supply systems in accordance with rules and regulations promulgated by the licensing
21860 board.

21861 (b) Any person who operates a wastewater treatment plant, wastewater collection system,
21862 water distribution system, or public water supply system shall obtain a certificate from the
21863 ~~board~~ director; provided, however, that each industrial wastewater treatment or
21864 pretreatment facility, wastewater collection system, or distribution system shall be required
21865 to have only one responsible operator obtain such a certificate; and provided, further, that
21866 any person who is operating a wastewater treatment plant on July 1, 1991, and who is
21867 required to obtain a certificate on or after July 1, 1991, but who was not required to have
21868 a certificate prior to said date, shall have until July 1, 1996, to obtain such certificate
21869 without being in violation of this chapter; provided, further, that no such person who is
21870 operating without a certificate a wastewater treatment plant on July 1, 1991, shall be
21871 authorized to operate any other wastewater treatment plant after July 1, 1991, without a
21872 certificate as required by the licensing board. Such person shall make application to the
21873 ~~board~~ director for such certificate, ~~which application shall be~~ accompanied by a fee in an
21874 amount established by the licensing board.

21875 (c)(1) Any laboratory analyst who conducts certain tests, as defined by the licensing
21876 board, of water or wastewater samples in conjunction with the operation of public water
21877 supply systems or wastewater treatment plants shall obtain a certificate from the ~~board~~
21878 director; provided, however, that any industrial wastewater or pretreatment plant shall be
21879 required to have only one responsible analyst obtain such a certificate, and any other
21880 analyst in that facility shall be supervised by such person. Such persons shall make
21881 application to the ~~board~~ director for such a certificate, ~~which application shall be~~
21882 accompanied by a fee in an amount established by the licensing board; provided,
21883 however, that until July 1, 1993, any person who has obtained or shall obtain certification
21884 by the ~~board~~ director as an operator under this chapter shall not be required to obtain a
21885 certificate from the ~~board~~ director to provide services as a laboratory analyst.

21886 (2) Notwithstanding the provisions of paragraph (1) of this subsection, any person who
21887 possesses certification by the ~~board~~ director as Class I and II operators of a water
21888 treatment plant or wastewater treatment plant shall not be required to obtain a certificate
21889 to perform the duties of a laboratory analyst in conducting certain tests for reporting
21890 purposes as defined by the licensing board.

21891 (d) Any certificate granted under this chapter shall be renewable biennially. Application
21892 for renewal of certificates shall be accompanied by a renewal fee in an amount established

21893 by the licensing board. The licensing board shall be authorized to require continuing
 21894 education as a condition of certificate renewal. The ~~board~~ director shall be authorized to
 21895 waive the continuing education requirement in cases of hardship, disability, or illness or
 21896 under such other circumstances as the licensing board deems appropriate.

21897 (e) The licensing board may establish a training period during which a certificate is not
 21898 required.

21899 (f) Any person who possesses certification by the ~~board~~ director as an operator of a public
 21900 water supply system shall not be required to obtain a certificate to operate a water
 21901 distribution system.

21902 (g) Any person who possesses certification by the ~~board~~ director as an operator of a
 21903 wastewater treatment plant shall not be required to obtain a certificate to operate a
 21904 wastewater collection system.

21905 43-51-6.1.

21906 (a) In addition to current classifications I, II, and III, ~~the division shall establish~~ there is
 21907 established a new classification to be known as Class IV which ~~designation~~ shall apply to
 21908 all very small public water supply systems in this state which are ground-water systems
 21909 serving a population of less than 1,000.

21910 (b) The ~~board~~ director shall certify persons as to their qualifications to operate a very small
 21911 public water supply system.

21912 (c) Any person who operates a very small public water supply system shall obtain a
 21913 certificate from the ~~board~~ director. A requirement for such certification shall be the
 21914 successful completion of a basic six-hour course of training approved by the licensing
 21915 board. No person ~~being~~ certified prior to July 1, 2000, shall be required to possess a high
 21916 school diploma or its equivalent.

21917 (d) A certificate granted under this Code section shall be renewable biennially.
 21918 Application for renewal of certificates shall be accompanied by a renewal fee in an amount
 21919 established by the licensing board.

21920 43-51-7.

21921 ~~Board~~ Licensing board approved examinations shall be used in determining the knowledge,
 21922 ability, and judgment of applicants for certification as operators or laboratory analysts
 21923 except for applications submitted prior to July 1, 2000, for Class IV level certifications.
 21924 Such examinations shall be given at least six times annually.

- 21925 43-51-8.
- 21926 The ~~board~~ director, upon application, may issue a certificate without examination to any
 21927 person who holds a certificate in good standing issued by another country or by any state,
 21928 territory, or possession of the United States which has requirements for certification
 21929 substantially similar to those of the licensing board.
- 21930 43-51-9.
- 21931 The ~~board~~ director may investigate the actions of any operator or laboratory analyst and
 21932 may revoke or suspend the certificate of an operator or laboratory analyst, ~~following a~~
 21933 ~~hearing conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative~~
 21934 ~~Procedure Act,'~~ in compliance with Code Section 43-1-3.1 when it is found that the
 21935 operator or laboratory analyst has practiced fraud or deception; that reasonable care,
 21936 judgment, or the application of his or her knowledge or ability was not used in the
 21937 performance of his or her duties; or that the operator or laboratory analyst is incompetent
 21938 or unable to perform his or her duties properly.
- 21939 43-51-10.
- 21940 The ~~division~~ licensing board shall classify all public water supply systems and wastewater
 21941 treatment plants with due regard to the size, type, character of water or wastewater to be
 21942 treated, and other physical conditions affecting such systems or treatment plants, according
 21943 to the skill, knowledge, and experience that the operator in responsible charge must have
 21944 to operate the facilities successfully so as to protect the public health and welfare and
 21945 prevent unlawful pollution.
- 21946 43-51-11.
- 21947 Notwithstanding any other provisions of this chapter, any state agency which operates and
 21948 maintains facilities contemplated by this chapter shall be required to have a minimum of
 21949 one licensed operator in each departmental district.
- 21950 43-51-12.
- 21951 The director is authorized where appropriate to include, as a condition in a permit issued
 21952 pursuant to Part 5 of Article 3 of Chapter 5 of Title 12, the 'Georgia Safe Drinking Water
 21953 Act of 1977,' or Article 2 of Chapter 5 of Title 12, the 'Georgia Water Quality Control Act,'
 21954 a requirement that the operator and laboratory analyst be duly certified in accordance with
 21955 this chapter.

21956 43-51-13.

21957 (a) Whenever, in the judgment of the director, any person has engaged in, is currently
 21958 engaged in, or is about to engage in any act or practice which constitutes or will constitute
 21959 an unlawful action under this chapter, he or she may make application to the superior court
 21960 of the county in which the unlawful act or practice has been or is about to be engaged in
 21961 for an order enjoining such act or practice or for an order requiring compliance with this
 21962 chapter; and, upon a showing by the director that such person has engaged in or is about
 21963 to engage in any such act or practice, a permanent or temporary injunction, restraining
 21964 order, or other order shall be granted without the necessity of showing lack of an adequate
 21965 remedy at law.

21966 (b) The director may file in the superior court of the county wherein the person under order
 21967 resided, or, if said person is a corporation, in the county wherein the corporation maintains
 21968 its principal place of business or in the county wherein the violation occurred, a certified
 21969 copy of a final order issued pursuant to subsection (d) of Code Section 43-51-14 and
 21970 unappealed from or a final order issued pursuant to subsection (d) of Code Section
 21971 43-51-14 affirmed upon appeal; whereupon the court shall render judgment in accordance
 21972 therewith and notify the parties. Such judgment shall have the same effect and all
 21973 proceedings in relation thereto shall thereafter be the same as though the judgment has been
 21974 rendered in an action duly heard and determined by the court.

21975 43-51-14.

21976 (a) It shall be unlawful for any person to perform the duties of an operator or laboratory
 21977 analyst without being duly certified under this chapter.

21978 (b) It shall be unlawful for any water or wastewater treatment plant to be operated in
 21979 Georgia by a person or persons not certified under this chapter.

21980 (c)(1) Any person violating this chapter shall be liable for a civil penalty not to exceed
 21981 \$500.00 for each day during which such violation continues.

21982 (2) Any person willfully violating this chapter shall be liable for a civil penalty not to
 21983 exceed \$5,000.00 for each day during which such violation continues.

21984 (d) Whenever the director has reason to believe that any person has violated any provision
 21985 of this chapter, ~~he the director~~ may, upon written request, cause a hearing to be conducted
 21986 ~~before a hearing officer appointed by the Board of Natural Resources. Upon~~ make a
 21987 finding that such person has violated any provision of this chapter, ~~such hearing officer and~~
 21988 shall issue ~~his initial decision and~~ an order imposing such civil penalties as are provided
 21989 in this Code section. ~~Such hearing and any administrative or judicial review thereof shall~~
 21990 ~~be conducted in accordance with subsection (c) of Code Section 12-2-2.~~ An order of the

21991 director entered pursuant to this Code section shall be made in compliance with Code
 21992 Section 43-1-3.1."

21993 **PART II**
 21994 **SECTION 2-1.**

21995 Article 1 of Chapter 11 of Title 4 of the Official Code of Georgia Annotated, relating to
 21996 general provisions relative to animal protection,, is amended by revising Code Section
 21997 4-11-5.1, relating to euthanasia of dogs and cats by animal shelters or facilities operated for
 21998 collection of stray, neglected, abandoned, or unwanted animals, as follows:

21999 "4-11-5.1.

22000 (a) Except as provided in subsection (b) of this Code section, the use of sodium
 22001 pentobarbital or a derivative of it shall be the exclusive method for euthanasia of dogs and
 22002 cats by animal shelters or other facilities which are operated for the collection and care of
 22003 stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the
 22004 following order of preference:

22005 (1) Intravenous injection by hypodermic needle;

22006 (2) Intraperitoneal injection by hypodermic needle; or

22007 (3) If the dog or cat is unconscious, intracardial injection by hypodermic needle.

22008 (b) Notwithstanding subsection (a) of this Code section, any substance which is clinically
 22009 proven to be as humane as sodium pentobarbital and which has been officially recognized
 22010 as such by the American Veterinary Medical Association may be used in lieu of sodium
 22011 pentobarbital to perform euthanasia on dogs and cats, but succinylcholine chloride, curare,
 22012 curariform mixtures, or any substance which acts as a neuromuscular blocking agent may
 22013 not be used on a dog or cat in lieu of sodium pentobarbital for euthanasia purposes.

22014 (c) In addition to the exception provided for in subsection (b) of this Code section, in cases
 22015 of extraordinary circumstance where the dog or cat poses an extreme risk or danger to the
 22016 veterinarian, physician, or lay person performing euthanasia, such person shall be allowed
 22017 the use of any other substance or procedure that is humane to perform euthanasia on such
 22018 dangerous dog or cat.

22019 (d) Under no circumstance shall a chamber using commercially bottled carbon monoxide
 22020 gas or other lethal gas or a chamber which causes a change in body oxygen by means of
 22021 altering atmospheric pressure or which is connected to an internal combustion engine and
 22022 uses the engine exhaust for euthanasia purposes be permitted.

22023 (e) A dog or cat may be tranquilized with an approved and humane substance before
 22024 euthanasia is performed.

22025 (f) Euthanasia shall be performed by a licensed veterinarian or physician or a lay person
 22026 who is properly trained in the proper and humane use of a method of euthanasia. Such lay
 22027 person shall perform euthanasia under supervision of a licensed veterinarian or physician.
 22028 This shall not be construed so as to require that a veterinarian or physician be present at the
 22029 time euthanasia is performed.

22030 (g) No dog or cat may be left unattended between the time euthanasia procedures are first
 22031 begun and the time death occurs, nor may its body be disposed of until death is confirmed
 22032 by a qualified person.

22033 (h) The supervising veterinarian or physician shall be subject to all record-keeping
 22034 requirements and inspection requirements of the ~~State Board of Pharmacy~~ Georgia Board
 22035 of Licensing and Regulation pertaining to sodium pentobarbital and other drugs authorized
 22036 under subsection (b) of this Code section and may limit the quantity of possession of
 22037 sodium pentobarbital and other drugs authorized to ensure compliance with the provisions
 22038 of this Code section."

22039 **SECTION 2-2.**

22040 Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to standards of
 22041 construction, is amended by revising Code Section 8-2-22, relating to licensing of trades,
 22042 professions, and businesses governed by Chapter 14 of Title 43 and rules and regulations of
 22043 the State Construction Industry Licensing Board, as follows:

22044 "8-2-22.

22045 Provisions for licensing trades, professions, and businesses covered by the provisions of
 22046 this article shall be as determined by Chapter 14 of Title 43 and the rules and regulations
 22047 of the ~~State Construction Industry Licensing Board~~ created in State Board of Licensing and
 22048 Regulation pursuant to such chapter."

22049 **SECTION 2-3.**

22050 Said chapter is further amended by revising Code Section 8-2-26, relating to enforcement of
 22051 codes generally, employment and training of inspectors, and contracts for administration and
 22052 enforcement of codes, as follows:

22053 "8-2-26.

22054 (a) The governing body of any municipality or county adopting any state minimum
 22055 standard code shall have the power:

22056 (1) To adopt by ordinance or resolution any reasonable provisions for the enforcement
 22057 of the state minimum standard codes, including procedural requirements, provisions for
 22058 hearings, provisions for appeals from decisions of local inspectors, and any other

22059 provisions or procedures necessary to the proper administration and enforcement of the
 22060 requirements of the state minimum standard codes;

22061 (2) To provide for inspection of buildings or similar structures to ensure compliance with
 22062 the state minimum standard codes;

22063 (3) To employ inspectors, including chief and deputy inspectors, and any other personnel
 22064 necessary for the proper enforcement of such codes and to provide for the authority,
 22065 functions, and duties of such inspectors;

22066 (4) To require permits and to fix charges therefor;

22067 (5) To contract with other municipalities or counties adopting any state minimum
 22068 standard code to administer such codes and to provide inspection and enforcement
 22069 personnel and services necessary to ensure compliance with the codes; and

22070 (6) To contract with any other county or municipality whereby the parties agree that the
 22071 inspectors of each contracting party may have jurisdiction to enforce the state minimum
 22072 standard codes within the boundaries of the other contracting party.

22073 (b) The commissioner shall be authorized to establish a training program for local
 22074 inspectors whereby a representative of the department, upon the request of the governing
 22075 authority of a county or municipality, may visit such county or municipality for the purpose
 22076 of training the inspectors of such county or municipality in the effective enforcement of
 22077 any state minimum standard code adopted by such county or municipality. The
 22078 commissioner may from time to time establish regional training programs whereby the
 22079 inspectors of several different counties and municipalities may take advantage of the
 22080 training made available by such regional training programs.

22081 (c) No local inspector shall require any person performing work in compliance with a state
 22082 minimum standard code or variations thereto which are in conformity with the provisions
 22083 of this part to comply with the standards of any other building code not covered by this
 22084 part.

22085 (d)(1) In lieu of inspection by an inspector or other person employed by the governing
 22086 authority of any county or municipality, a licensed master plumber or utility contractor
 22087 shall have the option of installing a water or sewer line according to the alternative
 22088 inspection procedure described in this subsection where the installation is on private
 22089 property outside the building underground.

22090 (2) If the master plumber or utility contractor elects to utilize this inspection procedure,
 22091 he or she shall file with the local inspector:

22092 (A) Notice that the water and sewer line will be installed in accordance with the
 22093 International Plumbing Code and will be inspected pursuant to the alternative
 22094 inspection procedure described in this subsection;

- 22095 (B) A copy of his or her master plumber or utility contractor certificate issued by the
 22096 ~~State Construction Industry Licensing Board~~ director of professional licensing pursuant
 22097 to Chapter 1 of title 43;
- 22098 (C) A copy of his or her trenching competent person certificate;
- 22099 (D) A certificate showing that a bond has been filed in accordance with paragraph (2)
 22100 of subsection (b) of Code Section 43-14-12, except that such bond shall be in the
 22101 amount of \$50,000.00 and issued by a surety rated 'A,' 'Class VI,' or better by the A. M.
 22102 Best Company; and
- 22103 (E) Within five business days after completion of the installation, a sworn certification
 22104 that the water or sewer line has been installed in accordance with the International
 22105 Plumbing Code.
- 22106 (3) The department shall promulgate a standard form notice and a standard form
 22107 certificate that shall be used to administer this subsection. Local inspectors shall make
 22108 copies of the standard forms available to contractors.
- 22109 (4) The master plumber or utility contractor shall be required to pay to the governing
 22110 authority the applicable permit fee.
- 22111 (5) Upon submission of the certification required by this subsection, the local governing
 22112 authority shall be required to accept the inspection without the necessity of further
 22113 inspection or approval, except that the local governing authority may perform an
 22114 inspection at any time and may issue a stop-work order if the work is found to be in
 22115 violation of code requirements.
- 22116 (6) Any other provision of this subsection notwithstanding, the alternative inspection
 22117 procedure described in this subsection shall be applicable only to installations on private
 22118 individual single-family residential property.
- 22119 (e)(1) Any county or municipal building permit issued in this state to a general contractor
 22120 or homebuilder for residential or commercial construction shall have prominently printed
 22121 thereon at least one inch apart from any other text on such permit and in type size and
 22122 boldness equal to or greater than any other type size and boldness in the body of the
 22123 permit the following:
- 22124 'The issuance of this permit authorizes improvements of the real property designated
 22125 herein which improvements may subject such property to mechanics' and materialmen's
 22126 liens pursuant to Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of
 22127 Georgia Annotated. In order to protect any interest in such property and to avoid
 22128 encumbrances thereon, the owner or any person with an interest in such property should
 22129 consider contacting an attorney or purchasing a consumer's guide to the lien laws which
 22130 may be available at building supply home centers.'

22131 (2) Any county or municipal construction permit, including but not limited to
 22132 mechanical, plumbing, or electrical permits, issued in this state on existing residential or
 22133 commercial property shall have prominently printed thereon at least one inch apart from
 22134 any other text on such permit and in type size and boldness equal to or greater than any
 22135 other type size and boldness in the body of the permit the following:

22136 'The issuance of this permit authorizes improvements of the real property designated
 22137 herein which improvements may subject such property to mechanics' and materialmen's
 22138 liens pursuant to Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of
 22139 Georgia Annotated. In order to protect any interest in such property and to avoid
 22140 encumbrances thereon, the owner or any person with an interest in such property should
 22141 consider contacting an attorney or purchasing a consumer's guide to the lien laws which
 22142 may be available at building supply home centers.'

22143 (3) Any person or entity which is issued a permit which authorizes improvements to new
 22144 or existing residential or commercial real property shall be required to:

22145 (A) Post a copy of such permit in a conspicuous place in the vicinity of such property
 22146 where such improvements are being undertaken; or

22147 (B) Deliver a copy of the permit to the property owner within ten days after the permit
 22148 is received.

22149 (f) A local inspector, including a fire service employee enforcing a state or local fire safety
 22150 standard, who specifies a code violation noted during an inspection shall, upon the written
 22151 request of the permit holder, cite in writing the particular code book, section, and edition
 22152 of the code which is the basis of the violation.

22153 (g)(1) If a governing authority of a county or municipality cannot provide review of the
 22154 documents intended to demonstrate that the structure to be built is in compliance with the
 22155 Georgia State Minimum Standard Codes most recently adopted by the Department of
 22156 Community Affairs and any locally adopted ordinances and amendments to such codes
 22157 within 30 business days of receiving a written application for permitting in accordance
 22158 with the code official's plan submittal process or inspection services within two business
 22159 days of receiving a valid written request for inspection, then, in lieu of plan review or
 22160 inspection by personnel employed by such governing authority, any person, firm, or
 22161 corporation engaged in a construction project which requires plan review or inspection
 22162 shall have the option of retaining, at its own expense, a private professional provider to
 22163 provide the required plan review or inspection. As used in this subsection, the term
 22164 'private professional provider' means a professional engineer who holds a certificate of
 22165 registration issued under Chapter 15 of Title 43 or a professional architect who holds a
 22166 certificate of registration issued under Chapter 4 of Title 43, who is not an employee of
 22167 or otherwise affiliated with or financially interested in the person, firm, or corporation

22168 engaged in the construction project to be reviewed or inspected. The local governing
22169 authority shall advise the permit applicant in writing if requested by the applicant at the
22170 time the complete submittal application for a permit in accordance with the code official's
22171 plan submittal process is received that the local governing authority intends to complete
22172 the required plan review within the time prescribed by this paragraph or that the applicant
22173 may immediately secure the services of a private professional provider to complete the
22174 required plan review pursuant to this subsection. The plan submittal process shall include
22175 those procedures and approvals required by the local jurisdiction before plan review can
22176 take place. If the local governing authority states its intent to complete the required plan
22177 review within the time prescribed by this paragraph, the applicant shall not be authorized
22178 to use the services of a private professional provider as provided in this subsection. The
22179 permit applicant and the local governing authority may agree by mutual consent to extend
22180 the time period prescribed by this paragraph for plan review if the characteristics of the
22181 project warrant such an extension. However, if the local governing authority states its
22182 intent to complete the required plan review within the time prescribed by this paragraph,
22183 or any extension thereof mutually agreed to by the applicant and the governing authority,
22184 and does not permit the applicant to use the services of a private professional provider
22185 and the local governing authority fails to complete such plan review in the time
22186 prescribed by this paragraph, or any extension thereof mutually agreed to by the applicant
22187 and the governing authority, the local governing authority shall issue the applicant a
22188 project initiation permit. The local governing authority shall be allowed to limit the
22189 scope of a project initiation permit and limit the areas of the site to which the project
22190 initiation permit may apply but shall permit the applicant to begin work on the project,
22191 provided that portion of the initial phase of work is compliant with applicable codes,
22192 laws, and rules. If a full permit is not issued for the portion requested for permitting, then
22193 the governing authority shall have an additional 20 business days to complete the review
22194 and issue the full permit. If the plans submitted for permitting are denied for any
22195 deficiency, the time frames and process for resubmittal shall be governed by
22196 subparagraphs (C) through (E) of paragraph (7) of this subsection. On or before July 1,
22197 2007, the Board of Natural Resources shall adopt rules and regulations governing the
22198 review of erosion and sedimentation control plans under Part 9 of Chapter 7 of Title 12
22199 to establish appropriate time frames for the submission and review of revised plan
22200 submittals where a deficiency or deficiencies in the submitted plans have been identified
22201 by the governing authority.

22202 (2) Any plan review or inspection conducted by a private professional provider shall be
22203 no less extensive than plan reviews or inspections conducted by county or municipal
22204 personnel.

22205 (3) The person, firm, or corporation retaining a private professional provider to conduct
 22206 a plan review or an inspection shall be required to pay to the county or municipality
 22207 which requires the plan review or inspection the same regulatory fees and charges which
 22208 would have been required had the plan review or inspection been conducted by a county
 22209 or municipal inspector.

22210 (4) A private professional provider performing plan reviews under this subsection shall
 22211 review construction plans to determine compliance with the Georgia State Minimum
 22212 Standard Codes most recently adopted by the Department of Community Affairs and any
 22213 locally adopted ordinances and amendments to such codes. Upon determining that the
 22214 plans reviewed comply with the applicable codes, such private professional provider shall
 22215 prepare an affidavit or affidavits on a form adopted by the Department of Community
 22216 Affairs certifying under oath that the following is true and correct to the best of such
 22217 private professional provider's knowledge and belief and in accordance with the
 22218 applicable professional standard of care:

22219 (A) The plans were reviewed by the affiant who is duly authorized to perform plan
 22220 review pursuant to this subsection and who holds the appropriate license or
 22221 certifications and insurance coverage stipulated in this subsection;

22222 (B) The plans comply with the Georgia State Minimum Standard Codes most recently
 22223 adopted by the Department of Community Affairs and any locally adopted ordinances
 22224 and amendments to such codes; and

22225 (C) The plans submitted for plan review are in conformity with plans previously
 22226 submitted to obtain governmental approvals required in the plan submittal process and
 22227 do not make a change to the project reviewed for such approvals.

22228 (5) All private professional providers providing plan review or inspection services
 22229 pursuant to this subsection shall secure and maintain insurance coverage for professional
 22230 liability (errors and omissions) insurance. The limits of such insurance shall be not less
 22231 than \$1 million per claim and \$1 million in aggregate coverage. Such insurance may be
 22232 a practice policy or project-specific coverage. If the insurance is a practice policy, it shall
 22233 contain prior acts coverage for the private professional provider. If the insurance is
 22234 project-specific, it shall continue in effect for two years following the issuance of the
 22235 certificate of final completion for the project. A local enforcement agency, local building
 22236 official, or local government may establish, for private professional providers working
 22237 within that jurisdiction, a system of registration listing the private professional providers
 22238 within their areas of competency and verifying compliance with the insurance
 22239 requirements of this subsection.

22240 (6) The private professional provider shall be empowered to perform any plan review or
 22241 inspection required by the governing authority of any county or municipality, including,

22242 but not limited to, inspections for footings, foundations, concrete slabs, framing,
 22243 electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all
 22244 other inspections necessary or required for the issuance of a building permit or certificate
 22245 of occupancy by the governing authority of any county or municipality, provided that the
 22246 plan review or inspection is within the scope of such private professional provider's area
 22247 of competency. Nothing in this Code section shall authorize any private professional
 22248 provider to issue a certificate of occupancy. Only a local governing authority shall be
 22249 authorized to issue a certificate of occupancy.

22250 (7)(A) The permit applicant shall submit a copy of the private professional provider's
 22251 plan review report to the county or municipality. Such plan review report shall include
 22252 at a minimum all of the following:

- 22253 (i) The affidavit of the private professional provider required pursuant to this
 22254 subsection;
- 22255 (ii) The applicable fees; and
- 22256 (iii) Any documents required by the local official and any other documents necessary
 22257 to determine that the permit applicant has secured all other governmental approvals
 22258 required by law.

22259 (B) No more than 30 business days after receipt of a permit application and the
 22260 affidavit from the private professional provider required pursuant to this subsection, the
 22261 local building official shall issue the requested permit or provide written notice to the
 22262 permit applicant identifying the specific plan features that do not comply with the
 22263 applicable codes, as well as the specific code chapters and sections. If the local
 22264 building official does not provide a written notice of the plan deficiencies within the
 22265 prescribed 30 day period, the permit application shall be deemed approved as a matter
 22266 of law and the permit shall be issued by the local building official on the next business
 22267 day.

22268 (C) If the local building official provides a written notice of plan deficiencies to the
 22269 permit applicant within the prescribed 30 day period, the 30 day period shall be tolled
 22270 pending resolution of the matter. To resolve the plan deficiencies, the permit applicant
 22271 may elect to dispute the deficiencies pursuant to this subsection or to submit revisions
 22272 to correct the deficiencies.

22273 (D) If the permit applicant submits revisions to address the plan deficiencies previously
 22274 identified, the local building official shall have the remainder of the tolled 30 day
 22275 period plus an additional five business days to issue the requested permit or to provide
 22276 a second written notice to the permit applicant stating which of the previously identified
 22277 plan features remain in noncompliance with the applicable codes, with specific
 22278 reference to the relevant code chapters and sections. If the local building official does

22279 not provide the second written notice within the prescribed time period, the permit shall
 22280 be issued by the local building official on the next business day. In the event that the
 22281 revisions required to address the plan deficiencies or any additional revisions submitted
 22282 by the applicant require that new governmental approvals be obtained, the applicant
 22283 shall be required to obtain such approvals before a new plan report can be submitted.
 22284 (E) If the local building official provides a second written notice of plan deficiencies
 22285 to the permit applicant within the prescribed time period, the permit applicant may elect
 22286 to dispute the deficiencies pursuant to this subsection or to submit additional revisions
 22287 to correct the deficiencies. For all revisions submitted after the first revision, the local
 22288 building official shall have an additional five business days to issue the requested
 22289 permit or to provide a written notice to the permit applicant stating which of the
 22290 previously identified plan features remain in noncompliance with the applicable codes,
 22291 with specific reference to the relevant code chapters and sections.

22292 (8) Upon submission by the private professional provider of a copy of his or her
 22293 inspection report to the local governing authority, said local governing authority shall be
 22294 required to accept the inspection of the private professional provider without the necessity
 22295 of further inspection or approval by the inspectors or other personnel employed by the
 22296 local governing authority unless said governing authority has notified the private
 22297 professional provider, within two business days after the submission of the inspection
 22298 report, that it finds the report incomplete or the inspection inadequate and has provided
 22299 the private professional provider with a written description of the deficiencies and
 22300 specific code requirements that have not been adequately addressed.

22301 (9) A local governing authority may provide for the prequalification of private
 22302 professional providers who may perform plan reviews or inspections pursuant to this
 22303 subsection. No ordinance implementing prequalification shall become effective until
 22304 notice of the governing authority's intent to require prequalification and the specific
 22305 requirements for prequalification have been advertised in the newspaper in which the
 22306 sheriff's advertisements for that locality are published. The ordinance implementing
 22307 prequalification shall provide for evaluation of the qualifications of a private professional
 22308 provider only on the basis of the private professional provider's expertise with respect to
 22309 the objectives of this subsection, as demonstrated by the private professional provider's
 22310 experience, education, and training. Such ordinance may require a private professional
 22311 provider to hold additional certifications, provided that such certifications are required
 22312 by ordinance for plan review personnel currently directly employed by such local
 22313 governing authority.

22314 (10) Nothing in this subsection shall be construed to limit any public or private right of
 22315 action designed to provide protection, rights, or remedies for consumers.

22316 (11) This subsection shall not apply to hospitals, ambulatory health care centers, nursing
 22317 homes, jails, penal institutions, airports, buildings or structures that impact national or
 22318 state homeland security, or any building defined as a high-rise building in the State
 22319 Minimum Standards Code; provided, however, that interior tenant build-out projects
 22320 within high-rise buildings are not exempt from this subsection.

22321 (12) If the local building official determines that the building construction or plans do
 22322 not comply with the applicable codes, the official may deny the permit or request for a
 22323 certificate of occupancy or certificate of completion, as appropriate, or may issue a
 22324 stop-work order for the project or any portion thereof as provided by law, after giving
 22325 notice to the owner, the architect of record, the engineer of record, or the contractor of
 22326 record and by posting a copy of the order on the site of the project and opportunity to
 22327 remedy the violation within the time limits set forth in the notice, if the official
 22328 determines noncompliance with state or local laws, codes, or ordinances, provided that:

22329 (A) The local building official shall be available to meet with the private professional
 22330 provider within two business days to resolve any dispute after issuing a stop-work order
 22331 or providing notice to the applicant denying a permit or request for a certificate of
 22332 occupancy or certificate of completion; and

22333 (B) If the local building official and the private professional provider are unable to
 22334 resolve the dispute or meet within the time required by this Code section, the matter
 22335 shall be referred to the local enforcement agency's board of appeals, if one exists, which
 22336 shall consider the matter not later than its next scheduled meeting. Any decisions by
 22337 the local official, if there is no board of appeals, may be appealed to the Department of
 22338 Community Affairs as provided in this chapter. The Department of Community Affairs
 22339 shall develop rules and regulations which shall establish reasonable time frames and
 22340 fees to carry out the provisions of this paragraph.

22341 (13) The local government, the local building official, and local building code
 22342 enforcement personnel and agents of the local government shall be immune from liability
 22343 to any person or party for any action or inaction by an owner of a building or by a private
 22344 professional provider or its duly authorized representative in connection with building
 22345 code plan review and inspection services by private professional providers as provided
 22346 in this subsection.

22347 (14) No local enforcement agency, local code official, or local government shall adopt
 22348 or enforce any rules, procedures, policies, qualifications, or standards more stringent than
 22349 those prescribed in this subsection. This subsection shall not preempt any local laws,
 22350 rules, or procedures relating to the plan submittal process of local governing authorities.

22351 (15) Nothing in this subsection shall limit the authority of the local code official to issue
 22352 a stop-work order for a building project or any portion of such project, which may go into

22353 effect immediately as provided by law, after giving notice and opportunity to remedy the
 22354 violation, if the official determines that a condition on the building site constitutes an
 22355 immediate threat to public safety and welfare. A stop work order issued for reasons of
 22356 immediate threat to public safety and welfare shall be appealable to the local enforcement
 22357 agency's board of appeals, if one exists, in the manner provided by applicable law. Any
 22358 decisions by the local official, if there is no board of appeals, may be appealed to the
 22359 Department of Community Affairs as provided in this chapter.

22360 (16) When performing building code plan reviews or inspection services, a private
 22361 professional provider is subject to the disciplinary guidelines of the ~~applicable~~
 22362 ~~professional licensing board with jurisdiction over such private professional provider's~~
 22363 ~~license or certification under Chapters 4 and 15 of Title 43, as applicable~~ Georgia Board
 22364 of Licensing and Regulation pursuant to Chapter 1 of Title 43. Any complaint
 22365 processing, investigation, and discipline that arise out of a private professional provider's
 22366 performance of building code plan reviews or inspection services shall be conducted by
 22367 the ~~applicable professional licensing board~~ director of professional licensing pursuant to
 22368 Chapter 1 of Title 43. Notwithstanding any disciplinary rules of the ~~applicable~~
 22369 ~~professional licensing board with jurisdiction over such private professional provider's~~
 22370 ~~license or certification under Chapters 4 and 15 of~~ Georgia Board of Licensing and
 22371 Regulation pursuant to Chapter 1 of Title 43, any local building official may decline to
 22372 accept building code plan reviews or inspection services submitted by any private
 22373 professional provider who has submitted multiple reports which required revisions due
 22374 to negligence, noncompliance, or deficiencies.

22375 (17) Nothing in this subsection shall apply to inspections exempted in Code Section
 22376 8-2-26.1."

22377 **SECTION 2-4.**

22378 Said chapter is further amended by revising paragraphs (2) and (3) of subsection (a) of Code
 22379 Section 8-2-26.1, relating to definitions and requirements, as follows:

22380 "(2) 'Qualified inspector' means:

22381 (A) A person inspecting for compliance with the International Building Code or the
 22382 building portion of the International Residential Code for One- and Two-Family
 22383 Dwellings who holds a certification from the ICC as a building inspector;

22384 (B) A person inspecting for the compliance of residential buildings with the National
 22385 Electrical Code or the electrical portion of the International Residential Code for One-
 22386 and Two-Family Dwellings who holds a certification from the ICC as a residential
 22387 electrical inspector or an electrical contractor license from the ~~State Construction~~

22388 ~~Industry Licensing Board~~ director of professional licensing pursuant to Chapter 1 of
 22389 Title 43;

22390 (C) A person inspecting for the compliance of nonresidential buildings with the
 22391 National Electrical Code who holds a certification from the ICC as a commercial
 22392 electrical inspector or an electrical contractor license from the ~~State Construction~~
 22393 ~~Industry Licensing Board~~ director of licensing pursuant to Chapter 1 of Title 43;

22394 (D) A person inspecting for compliance with the International Fuel Gas Code who
 22395 holds a certification from the ICC as a mechanical inspector or plumbing inspector or
 22396 a conditioned air contractor, journeyman plumber, or master plumber license from the
 22397 ~~State Construction Industry Licensing Board~~ director of licensing pursuant to Chapter
 22398 1 of Title 43;

22399 (E) A person inspecting for compliance with the International Mechanical Code or the
 22400 mechanical portion of the International Residential Code for One- and Two-Family
 22401 Dwellings who holds a certification from the ICC as a mechanical inspector or a
 22402 conditioned air contractor license from the ~~State Construction Industry Licensing Board~~
 22403 director of licensing pursuant to Chapter 1 of Title 43;

22404 (F) A person inspecting for compliance with the International Plumbing Code or the
 22405 plumbing portion of the International Residential Code for One- and Two-Family
 22406 Dwellings who holds a certification from the ICC as a plumbing inspector or a
 22407 journeyman plumber or master plumber license from the ~~State Construction Industry~~
 22408 ~~Licensing Board~~ director of licensing pursuant to Chapter 1 of Title 43;

22409 (G) A person inspecting for compliance with any portion of the International
 22410 Residential Code for One- and Two-Family Dwellings who holds a certification from
 22411 the ICC as a one and two-family dwelling inspector;

22412 (H) A person inspecting for compliance with the International Energy Conservation
 22413 Code for Buildings who has completed eight hours of training that is conducted or
 22414 approved by the department; or

22415 (I) A person inspecting for compliance with any of the codes listed in subparagraphs
 22416 (A) through (H) of this paragraph who holds a certificate of registration as a
 22417 professional engineer issued under Chapter 15 of Title 43 and is practicing within the
 22418 scope of his or her branch of engineering expertise while conducting such inspection.

22419 (3) ~~'State Construction Industry Licensing Board'~~ means that board created pursuant to
 22420 ~~Code Section 43-14-3."~~

22421 **SECTION 2-5.**

22422 Code Section 12-8-107 of the Official Code of Georgia Annotated, relating to submission of
 22423 voluntary investigation and remediation plan, enrollment, proof of assurance, termination,
 22424 and compliance status, is amended by revising subsection (a) as follows:

22425 "(a) In order to enroll any qualifying property in the voluntary remediation program
 22426 described in this part, an applicant shall submit to the director a voluntary investigation and
 22427 remediation plan prepared by a registered professional engineer or a registered professional
 22428 geologist who is registered with the ~~State Board of Registration for Professional Engineers~~
 22429 ~~and Land Surveyors or the State Board of Registration for Geologists~~ director of
 22430 professional licensing pursuant to Chapter 1 of Title 43 and who has experience in
 22431 responsible charge of the investigation and remediation of such releases. The voluntary
 22432 investigation and remediation plan shall be in such streamlined form as may be prescribed
 22433 by the director; provided, however, that the plan shall, at minimum, enumerate and describe
 22434 those actions planned to bring the qualifying property into compliance with the applicable
 22435 cleanup standards, with one or more registered professionals to be retained by the applicant
 22436 at its sole cost to oversee the investigation and remediation described in the plan; all in
 22437 accordance with the provisions, purposes, standards, and policies of the voluntary
 22438 remediation program. The voluntary investigation and remediation plan shall be
 22439 considered an application for enrollment in the voluntary remediation program, and a
 22440 nonrefundable application fee of \$5,000.00 shall be submitted with the application. The
 22441 director may, at any time, invoice the participant for any costs to the division in reviewing
 22442 the application or subsequent document that exceed the initial application review fee,
 22443 including reasonably detailed itemization and justification of the costs. Failure to remit
 22444 payment within 60 days of receipt of such invoice may cause rejection of the participant
 22445 from the voluntary remediation program. The director may not issue a written concurrence
 22446 with a certification of compliance if there is an outstanding fee to be paid by the
 22447 participant."

22448 **SECTION 2-6.**

22449 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 22450 amended by revising Code Section 16-8-41, relating to armed robbery, robbery by
 22451 intimidation, taking controlled substance from pharmacy in course of committing an offense,
 22452 as follows:

22453 "16-8-41.

22454 (a) A person commits the offense of armed robbery when, with intent to commit theft, he
 22455 or she takes property of another from the person or the immediate presence of another by
 22456 use of an offensive weapon, or any replica, article, or device having the appearance of such

22457 weapon. The offense of robbery by intimidation shall be a lesser included offense in the
22458 offense of armed robbery.

22459 (b) A person convicted of the offense of armed robbery shall be punished by death or
22460 imprisonment for life or by imprisonment for not less than ten nor more than 20 years.

22461 (c)(1) The preceding provisions of this Code section notwithstanding, in any case in
22462 which the defendant commits armed robbery and in the course of the commission of the
22463 offense such person unlawfully takes a controlled substance from a pharmacy or a
22464 wholesale druggist and intentionally inflicts bodily injury upon any person, such facts
22465 shall be charged in the indictment or accusation and, if found to be true by the court or
22466 if admitted by the defendant, the defendant shall be punished by imprisonment for not
22467 less than 15 years.

22468 (2) As used in this subsection, the term:

22469 (A) 'Controlled substance' means a drug, substance, or immediate precursor in
22470 Schedules I through V of Code Sections 16-13-25 through 16-13-29.

22471 (B) 'Pharmacy' means any place licensed in accordance with Chapter 4 of Title 26
22472 wherein the possessing, displaying, compounding, dispensing, or retailing of drugs may
22473 be conducted, including any and all portions of any building or structure leased, used,
22474 or controlled by the licensee in the conduct of the business licensed by the ~~State Board~~
22475 ~~of Pharmacy~~ director of professional licensing pursuant to Chapter 1 of Title 43 at the
22476 address for which the license was issued. The term pharmacy shall also include any
22477 building, warehouse, physician's office, or hospital used in whole or in part for the sale,
22478 storage, or dispensing of any controlled substance.

22479 (C) 'Wholesale druggist' means an individual, partnership, corporation, or association
22480 registered with the ~~State Board of Pharmacy~~ director of professional licensing under
22481 Chapter 4 of Title 26.

22482 (d) Any person convicted under this Code section shall, in addition, be subject to the
22483 sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7."

22484 **SECTION 2-7.**

22485 Said title is further amended by revising Article 2 of Chapter 13, relating to regulation of
22486 controlled substances, as follows:

22487 "ARTICLE 2

22488 Part 1

22489 16-13-20.

22490 This article shall be known and may be cited as the 'Georgia Controlled Substances Act.'

22491 16-13-21.

22492 As used in this article, the term:

22493 (0.5) 'Addiction' means a primary, chronic, neurobiologic disease with genetic,
22494 psychosocial, and environmental factors influencing its development and manifestations.

22495 It is characterized by behaviors that include the following: impaired control drug use,
22496 craving, compulsive use, and continued use despite harm. Physical dependence and
22497 tolerance are normal physiological consequences of extended opioid therapy for pain and
22498 are not the same as addiction.

22499 (1) 'Administer' means the direct application of a controlled substance, whether by
22500 injection, inhalation, ingestion, or by any other means, to the body of a patient or research
22501 subject by:

22502 (A) A practitioner or, in his or her presence, by his or her authorized agent; or

22503 (B) The patient or research subject at the direction and in the presence of the
22504 practitioner.

22505 (1.1) 'Agency' means the Georgia Drugs and Narcotics Agency established pursuant to
22506 Code Section 26-4-29.

22507 (2) 'Agent' of a manufacturer, distributor, or dispenser means an authorized person who
22508 acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does
22509 not include a common or contract carrier, public warehouseman, or employee of the
22510 carrier or warehouseman.

22511 (2.1) 'Board' means the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
22512 Regulation or its designee, so long as such designee is another state entity.

22513 (3) 'Bureau' means the Georgia Bureau of Investigation.

22514 (4) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules
22515 I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of
22516 21 C.F.R. Part 1308.

22517 (5) 'Conveyance' means any object, including aircraft, vehicle, or vessel, but not
22518 including a person, which may be used to carry or transport a substance or object.

22519 (6) 'Counterfeit substance' means:

22520 (A) A controlled substance which, or the container or labeling of which, without
22521 authorization, bears the trademark, trade name, or other identifying mark, imprint,
22522 number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser
22523 other than the person who in fact manufactured, distributed, or dispensed the controlled
22524 substance;

22525 (B) A controlled substance or noncontrolled substance, which is held out to be a
22526 controlled substance or marijuana, whether in a container or not which does not bear
22527 a label which accurately or truthfully identifies the substance contained therein; or

- 22528 (C) Any substance, whether in a container or not, which bears a label falsely
 22529 identifying the contents as a controlled substance.
- 22530 (6.1) 'Dangerous drug' means any drug, other than a controlled substance, which cannot
 22531 be dispensed except upon the issuance of a prescription drug order by a practitioner
 22532 authorized under this chapter.
- 22533 (6.2) 'DEA' means the United States Drug Enforcement Administration.
- 22534 (7) 'Deliver' or 'delivery' means the actual, constructive, or attempted transfer from one
 22535 person to another of a controlled substance, whether or not there is an agency
 22536 relationship.
- 22537 (8) 'Dependent,' 'dependency,' 'physical dependency,' 'psychological dependency,' or
 22538 'psychic dependency' means and includes the state of adaptation that is manifested by
 22539 drug class specific signs and symptoms that can be produced by abrupt cessation, rapid
 22540 dose reduction, decreasing blood level of the drug, and administration of an antagonist.
 22541 Physical dependence, by itself, does not equate with addiction.
- 22542 (8.1) 'Director' means the director of professional licensing pursuant to Chapter 1 of Title
 22543 43.
- 22544 (9) 'Dispense' means to deliver a controlled substance to an ultimate user or research
 22545 subject by or pursuant to the lawful order of a practitioner, including the prescribing,
 22546 administering, packaging, labeling, or compounding necessary to prepare the substance
 22547 for that delivery, or the delivery of a controlled substance by a practitioner, acting in the
 22548 normal course of his or her professional practice and in accordance with this article, or
 22549 to a relative or representative of the person for whom the controlled substance is
 22550 prescribed.
- 22551 (10) 'Dispenser' means a person that delivers a Schedule II, III, IV, or V controlled
 22552 substance to the ultimate user but shall not include:
- 22553 (A) A pharmacy licensed as a hospital pharmacy ~~by the Georgia Board of Pharmacy~~
 22554 pursuant to Code Section 26-4-110;
- 22555 (B) An institutional pharmacy that serves only a health care facility, including, but not
 22556 limited to, a nursing home, an intermediate care home, a personal care home, or a
 22557 hospice program, which provides patient care and which pharmacy dispenses such
 22558 substances to be administered and used by a patient on the premises of the facility;
- 22559 (C) A practitioner or other authorized person who administers such a substance; or
- 22560 (D) A pharmacy operated by, on behalf of, or under contract with the Department of
 22561 Corrections for the sole and exclusive purpose of providing services in a secure
 22562 environment to prisoners within a penal institution, penitentiary, prison, detention
 22563 center, or other secure correctional institution. This shall include correctional

- 22564 institutions operated by private entities in this state which house inmates under the
22565 Department of Corrections.
- 22566 (11) 'Distribute' means to deliver a controlled substance, other than by administering or
22567 dispensing it.
- 22568 (12) 'Distributor' means a person who distributes.
- 22569 (12.05) 'FDA' means the United States Food and Drug Administration.
- 22570 (12.1) 'Imitation controlled substance' means:
- 22571 (A) A product specifically designed or manufactured to resemble the physical
22572 appearance of a controlled substance such that a reasonable person of ordinary
22573 knowledge would not be able to distinguish the imitation from the controlled substance
22574 by outward appearances; or
- 22575 (B) A product, not a controlled substance, which, by representations made and by
22576 dosage unit appearance, including color, shape, size, or markings, would lead a
22577 reasonable person to believe that, if ingested, the product would have a stimulant or
22578 depressant effect similar to or the same as that of one or more of the controlled
22579 substances included in Schedules I through V of Code Sections 16-13-25 through
22580 16-13-29.
- 22581 (13) 'Immediate precursor' means a substance which the ~~State Board of Pharmacy~~
22582 Georgia Board of Licensing and Regulation has found to be and by rule identifies as
22583 being the principal compound commonly used or produced primarily for use, and which
22584 is an immediate chemical intermediary used or likely to be used, in the manufacture of
22585 a controlled substance, the control of which is necessary to prevent, curtail, or limit
22586 manufacture.
- 22587 (14) 'Isomers' means stereoisomers (optical isomers), geometrical isomers, and structural
22588 isomers (chain and positional isomers) but shall not include functional isomers.
- 22589 (15) 'Manufacture' means the production, preparation, propagation, compounding,
22590 conversion, or processing of a controlled substance, either directly or indirectly by
22591 extraction from substances of natural origin, or independently by means of chemical
22592 synthesis, and includes any packaging or repackaging of the substance or labeling or
22593 relabeling of its container, except that this term does not include the preparation,
22594 compounding, packaging, or labeling of a controlled substance:
- 22595 (A) By a practitioner as an incident to his or her administering or dispensing of a
22596 controlled substance in the course of his or her professional practice; or
- 22597 (B) By a practitioner or by his or her authorized agent under his or her supervision for
22598 the purpose of, or as an incident to, research, teaching, or chemical analysis and not for
22599 sale.

- 22600 (16) 'Marijuana' means all parts of the plant of the genus *Cannabis*, whether growing or
22601 not, the seeds thereof, the resin extracted from any part of such plant, and every
22602 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
22603 or resin; but shall not include samples as described in subparagraph (P) of paragraph (3)
22604 of Code Section 16-13-25 and shall not include the completely defoliated mature stalks
22605 of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized
22606 samples of seeds of the plant which are incapable of germination.
- 22607 (17) 'Narcotic drug' means any of the following, whether produced directly or indirectly
22608 by extraction from substances of vegetable origin, or independently by means of chemical
22609 synthesis, or by a combination of extraction and chemical synthesis:
- 22610 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
22611 opiate;
- 22612 (B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically
22613 equivalent or identical to any of the substances referred to in subparagraph (A) of this
22614 paragraph, but not including the isoquinoline alkaloids of opium;
- 22615 (C) Opium poppy and poppy straw; or
- 22616 (D) Coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or
22617 preparation of coca leaves, and any salt, compound, stereoisomers of cocaine,
22618 derivative, or preparation thereof which is chemically equivalent or identical to any of
22619 these substances, but not including decocainized coca leaves or extractions of coca
22620 leaves which do not contain cocaine or ecgonine.
- 22621 (18) 'Opiate' means any substance having an addiction-forming or addiction-sustaining
22622 liability similar to morphine or being capable of conversion into a drug having
22623 addiction-forming or addiction-sustaining liability. It does not include, unless
22624 specifically designated as controlled under Code Section 16-13-22, the dextrorotatory
22625 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
22626 include its racemic and levorotatory forms.
- 22627 (19) 'Opium poppy' means the plant of the species *Papaver somniferum* L., except its
22628 seeds.
- 22629 (19.1) 'Patient' means the person who is the intended consumer of a drug for whom a
22630 prescription is issued or for whom a drug is dispensed.
- 22631 (20) 'Person' means an individual, corporation, government, or governmental subdivision
22632 or agency, business trust, estate, trust, partnership, or association, or any other legal
22633 entity.
- 22634 (21) 'Poppy straw' means all parts, except the seeds, of the opium poppy after mowing.
- 22635 (22) 'Potential for abuse' means and includes a substantial potential for a substance to be
22636 used by an individual to the extent of creating hazards to the health of the user or the

22637 safety of the public, or the substantial potential of a substance to cause an individual
 22638 using that substance to become dependent upon that substance.

22639 (23) 'Practitioner' means:

22640 (A) A physician, dentist, pharmacist, podiatrist, scientific investigator, or other person
 22641 licensed, registered, or otherwise authorized under the laws of this state to distribute,
 22642 dispense, conduct research with respect to, or to administer a controlled substance in
 22643 the course of professional practice or research in this state;

22644 (B) A pharmacy, hospital, or other institution licensed, registered, or otherwise
 22645 authorized by law to distribute, dispense, conduct research with respect to, or to
 22646 administer a controlled substance in the course of professional practice or research in
 22647 this state;

22648 (C) An advanced practice registered nurse acting pursuant to the authority of Code
 22649 Section 43-34-25. For purposes of this chapter and Code Section 43-34-25, an
 22650 advanced practice registered nurse is authorized to register with the federal Drug
 22651 Enforcement Administration and appropriate state authorities; or

22652 (D) A physician assistant acting pursuant to the authority of subsection (e.1) of Code
 22653 Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section
 22654 43-34-103, a physician assistant is authorized to register with the federal Drug
 22655 Enforcement Administration and appropriate state authorities.

22656 (23.1) 'Prescriber' means a physician, dentist, scientific investigator, or other person
 22657 licensed, registered, or otherwise authorized under the laws of this state to prescribe a
 22658 controlled substance in the course of professional practice or research in this state.

22659 (24) 'Production' includes the manufacture, planting, cultivation, growing, or harvesting
 22660 of a controlled substance.

22661 (25) 'Registered' or 'register' means registration as required by this article.

22662 (26) 'Registrant' means a person who is registered under this article.

22663 (26.1) 'Schedule II, III, IV, or V controlled substance' means a controlled substance that
 22664 is classified as a Schedule II, III, IV, or V controlled substance under Code Section
 22665 16-13-26, 16-13-27, 16-13-28, or 16-13-29, respectively, or under the Federal Controlled
 22666 Substances Act, 21 U.S.C. Section 812.

22667 (27) 'State,' when applied to a part of the United States, includes any state, district,
 22668 commonwealth, territory, insular possession thereof, or any area subject to the legal
 22669 authority of the United States.

22670 (27.1) 'Tolerance' means a physiologic state resulting from regular use of a drug in which
 22671 an increased dosage is needed to produce a specific effect or a reduced effect is observed
 22672 with a constant dose over time. Tolerance may or may not be evident during opioid
 22673 treatment and does not equate with addiction.

22674 (28) 'Ultimate user' means a person who lawfully possesses a controlled substance for
 22675 his or her own use, for the use of a member of his or her household, or for administering
 22676 to an animal owned by him or her or by a member of his or her household or an agent or
 22677 representative of the person.

22678 (29) 'Noncontrolled substance' means any drug or other substance other than a controlled
 22679 substance as defined by paragraph (4) of this Code section.

22680 16-13-22.

22681 (a) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation shall
 22682 administer this article and shall add substances to or reschedule all substances enumerated
 22683 in the schedules in Code Sections 16-13-25 through 16-13-29 pursuant to the procedures
 22684 of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In making a
 22685 determination or identification regarding a substance, the ~~State Board of Pharmacy~~ Georgia
 22686 Board of Licensing and Regulation shall consider the following factors:

22687 (1) The actual or relative potential for abuse;

22688 (2) The scientific evidence of its pharmacological effect, if known;

22689 (3) The state of current scientific knowledge regarding the substance;

22690 (4) The history and current pattern of abuse;

22691 (5) The scope, duration, and significance of abuse;

22692 (6) The risk to the public health;

22693 (7) The potential of the substance to produce psychic or physiological dependence
 22694 liability;

22695 (8) Whether the substance is an immediate precursor of a substance already controlled
 22696 under this article; and

22697 (9) The designation, deletion, or rescheduling of a substance under federal law
 22698 controlling controlled substances.

22699 (b) After considering the factors enumerated in subsection (a) of this Code section, the
 22700 ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation shall make findings
 22701 with respect thereto and cause the publication of such findings as a rule, in accordance with
 22702 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' controlling the
 22703 substance if it finds the substance has a potential for abuse.

22704 (c) If the ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation identifies
 22705 a substance as an immediate precursor, substances which are precursors of the controlled
 22706 substance shall not be subject to control solely because they are precursors of the controlled
 22707 substance.

22708 (d) Authority to control under this Code section does not extend to distilled spirits, wine,
 22709 malt beverages, or tobacco, as those terms are defined or used in Title 3 or 48.

- 22710 16-13-23.
- 22711 The controlled substances listed in the schedules in Code Sections 16-13-25 through
 22712 16-13-29 are included by whatever official, common, usual, chemical, or trade name
 22713 designated.
- 22714 16-13-24.
- 22715 (a) There are established five schedules of controlled substances, to be known as
 22716 Schedules I, II, III, IV, and V. The schedules shall consist of the substances listed in Code
 22717 Sections 16-13-25 through 16-13-29. The schedules so established shall be updated and
 22718 republished by the ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation
 22719 on an annual basis.
- 22720 (b) Except in the case of an immediate precursor, a drug or other substance may not be
 22721 placed in any schedule unless the findings required for such schedule are made with respect
 22722 to the drug or other substance. The findings for each of the schedules are as follows:
- 22723 (1) Schedule I:
- 22724 (A) The drug or other substance has a high potential for abuse;
- 22725 (B) The drug or other substance has no currently accepted medical use in treatment in
 22726 the United States; and
- 22727 (C) There is a lack of accepted safety for use of the drug or other substance under
 22728 medical supervision.
- 22729 (2) Schedule II:
- 22730 (A) The drug or other substance has a high potential for abuse;
- 22731 (B) The drug or other substance has a currently accepted medical use in treatment in
 22732 the United States or a currently accepted medical use with severe restrictions; and
- 22733 (C) Abuse of the drug or other substance may lead to severe psychological or physical
 22734 dependence.
- 22735 (3) Schedule III:
- 22736 (A) The drug or other substance has a potential for abuse less than the drugs or other
 22737 substances in Schedules I and II;
- 22738 (B) The drug or other substance has a currently accepted medical use in treatment in
 22739 the United States; and
- 22740 (C) Abuse of the drug or other substance may lead to moderate or low physical
 22741 dependence or high psychological dependence.
- 22742 (4) Schedule IV:
- 22743 (A) The drug or other substance has a low potential for abuse relative to the drugs or
 22744 other substances in Schedule III;

- 22745 (B) The drug or other substance has a currently accepted medical use in treatment in
 22746 the United States; and
- 22747 (C) Abuse of the drug or other substance may lead to limited physical dependence or
 22748 psychological dependence relative to the drugs or other substances in Schedule III.
- 22749 (5) Schedule V:
- 22750 (A) The drug or other substance has a low potential for abuse relative to the drugs or
 22751 other substances in Schedule IV;
- 22752 (B) The drug or other substance has a currently accepted medical use in treatment in
 22753 the United States; and
- 22754 (C) Abuse of the drug or other substance may lead to limited physical dependence or
 22755 psychological dependence relative to the drugs or other substances in Schedule IV.
- 22756 16-13-25.
- 22757 The controlled substances listed in this Code section are included in Schedule I:
- 22758 (1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts
 22759 of isomers, esters, and ethers, unless specifically excepted, pursuant to this article,
 22760 whenever the existence of these isomers, esters, ethers, and salts is possible within the
 22761 specific chemical designation:
- 22762 (A) Acetylmethadol;
- 22763 (B) Allylprodine;
- 22764 (C) Reserved;
- 22765 (D) Alphameprodine;
- 22766 (E) Alphamethadol;
- 22767 (F) Benzethidine;
- 22768 (G) Betacetylmethadol;
- 22769 (H) Betameprodine;
- 22770 (I) Betamethadol;
- 22771 (J) Betaprodine;
- 22772 (K) Clonitazene;
- 22773 (L) Dextromoramide;
- 22774 (M) Dextromorphan;
- 22775 (N) Diampromide;
- 22776 (O) Diethylthiambutene;
- 22777 (P) Dimenoxadol;
- 22778 (Q) Dimetheptanol;
- 22779 (R) Dimethylthiambutene;
- 22780 (S) Dioxaphetyl butyrate;

- 22781 (T) Dipipanone;
- 22782 (U) Ethylmethylthiambutene;
- 22783 (V) Etonitazene;
- 22784 (W) Etoxidene;
- 22785 (X) Furethidine;
- 22786 (Y) Hydroxypethidine;
- 22787 (Z) Ketobemidone;
- 22788 (AA) Levomoramide;
- 22789 (BB) Levophenacymorphan;
- 22790 (CC) Morpheridine;
- 22791 (DD) Noracymethadol;
- 22792 (EE) Norlevorphanol;
- 22793 (FF) Normethadone;
- 22794 (GG) Norpipanone;
- 22795 (HH) Phenadoxone;
- 22796 (II) Phenampromide;
- 22797 (JJ) Phenomorphan;
- 22798 (KK) Phenoperidine;
- 22799 (LL) Piritramide;
- 22800 (MM) Proheptazine;
- 22801 (NN) Properidine;
- 22802 (OO) Propiram;
- 22803 (PP) Racemoramide;
- 22804 (QQ) Trimeperidine;
- 22805 (2) Any of the following opium derivatives, their salts, isomers, and salts of isomers,
- 22806 unless specifically excepted, whenever the existence of these salts, isomers, and salts of
- 22807 isomers is possible within the specific chemical designation:
- 22808 (A) Acetorphine;
- 22809 (B) Acetyldihydrocodeine;
- 22810 (C) Benzylmorphine;
- 22811 (D) Codeine methylbromide;
- 22812 (E) Codeine-N-Oxide;
- 22813 (F) Cyprenorphine;
- 22814 (G) Desomorphine;
- 22815 (H) Dihydromorphine;
- 22816 (I) Etorphine;
- 22817 (J) Heroin;

- 22818 (K) Hydromorphenol;
- 22819 (L) Methyldesorphine;
- 22820 (M) Methyldihydromorphine;
- 22821 (N) Morphine methylbromide;
- 22822 (O) Morphine methylsulfonate;
- 22823 (P) Morphine-N-Oxide;
- 22824 (Q) Myrophine;
- 22825 (R) Nicocodeine;
- 22826 (S) Nicomorphine;
- 22827 (T) Normorphine;
- 22828 (U) Pholcodine;
- 22829 (V) Thebacon;
- 22830 (3) Any material, compound, mixture, or preparation which contains any quantity of the
- 22831 following hallucinogenic substances, their salts, isomers (whether optical, position, or
- 22832 geometrics), and salts of isomers, unless specifically excepted, whenever the existence
- 22833 of these salts, isomers, and salts of isomers is possible within the specific chemical
- 22834 designation:
- 22835 (A) 3, 4-methylenedioxyamphetamine;
- 22836 (B) 5-methoxy-3, 4-methylenedioxyamphetamine;
- 22837 (C) 3, 4, 5-trimethoxyamphetamine;
- 22838 (D) Bufotenine;
- 22839 (E) Diethyltryptamine;
- 22840 (F) Dimethyltryptamine;
- 22841 (G) 4-methyl-2, 5-dimethoxyamphetamine;
- 22842 (H) Ibogaine;
- 22843 (I) Lysergic acid diethylamide;
- 22844 (J) Mescaline;
- 22845 (K) Peyote;
- 22846 (L) N-ethyl-3-piperidyl benzilate;
- 22847 (M) N-methyl-3-piperidyl benzilate;
- 22848 (N) Psilocybin;
- 22849 (O) Psilocyn (Psilocin);
- 22850 (P) Tetrahydrocannabinols which shall include, but are not limited to:
- 22851 (i) All synthetic or naturally produced samples containing more than 15 percent by
- 22852 weight of tetrahydrocannabinols; and

- 22853 (ii) All synthetic or naturally produced tetrahydrocannabinol samples which do not
22854 contain plant material exhibiting the external morphological features of the plant
22855 cannabis;
- 22856 (Q) 2, 5-dimethoxyamphetamine;
- 22857 (R) 4-bromo-2, 5-dimethoxyamphetamine;
- 22858 (S) 4-methoxyamphetamine;
- 22859 (T) Cyanoethylamphetamine;
- 22860 (U) (1-phenylcyclohexyl) ethylamine;
- 22861 (V) 1-(1-phenylcyclohexyl) pyrrolidine;
- 22862 (W) Phencyclidine;
- 22863 (X) 1-piperidinocyclohexanecarbonitrile;
- 22864 (Y) 1-phenyl-2-propanone (phenylacetone);
- 22865 (Z) 3, 4-Methylenedioxyamphetamine (MDMA);
- 22866 (AA) 1-methyl-4-phenyl-4-propionoxypiperidine;
- 22867 (BB) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine;
- 22868 (CC) 3-methylfentanyl;
- 22869 (DD) N-ethyl-3, 4-methylenedioxyamphetamine;
- 22870 (EE) Para-fluorofentanyl;
- 22871 (FF) 2,5-Dimethoxy-4-Ethylamphetamine;
- 22872 (GG) Cathinone;
- 22873 (HH) MPPP (1-Methyl-4-Phenyl-4-Propionoxypiperidine);
- 22874 (II) PEPAP (1-(2-phenethyl)-4 phenyl-4-acetoxypiperide);
- 22875 (JJ) Alpha-Methylthiofentanyl;
- 22876 (KK) Acetyl-Alpha-Methylfentanyl;
- 22877 (LL) 3-Methylthiofentanyl;
- 22878 (MM) Beta-Hydroxyfentanyl;
- 22879 (NN) Thiofentanyl;
- 22880 (OO) 3,4-Methylenedioxy-N-Ethylamphetamine;
- 22881 (PP) 4-Methylaminorex;
- 22882 (QQ) N-Hydroxy-3,4-Methylenedioxyamphetamine;
- 22883 (RR) Beta-Hydroxy-3-Methylfentanyl;
- 22884 (SS) Chlorophenylpiperazine (CPP);
- 22885 (TT) N, N-Dimethylamphetamine;
- 22886 (UU) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine;
- 22887 (VV) 4-Bromo-2,5-Dimethoxyphenethylamine (DMPE);
- 22888 (WW) Alpha-Ethyltryptamine;
- 22889 (XX) Methcathinone;

- 22890 (YY) Aminorex;
- 22891 (ZZ) 4-iodo-2,5-dimethoxyamphetamine;
- 22892 (AAA) 4-chloro-2,5-dimethoxyamphetamine;
- 22893 (BBB) 3,4-Methylenedioxypropylamphetamine (MDPV);
- 22894 (CCC) 4-Methylmethcathinone (Mephedrone);
- 22895 (DDD) 3,4-Methylenedioxymethcathinone (Methylone);
- 22896 (EEE) 4-Methoxymethcathinone;
- 22897 (FFF) 4-Fluoromethcathinone;
- 22898 (4) Any material, compound, mixture, or preparation which contains any of the following
- 22899 substances having a stimulant effect on the central nervous system, including its salts,
- 22900 isomers, and salts of isomers, unless specifically excepted, whenever the existence of
- 22901 these salts, isomers, and salts of isomers is possible within the specific chemical
- 22902 designation:
- 22903 (A) Fenethylamine;
- 22904 (B) N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzyl-fentanyl);
- 22905 (C) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl);
- 22906 (5) Any material, compound, mixture, or preparation which contains any quantity of the
- 22907 following substances, their salts, isomers (whether optical, position, or geometrical), and
- 22908 salts of isomers, unless specifically excepted, whenever the existence of these substances,
- 22909 their salts, isomers, and salts of isomers is possible within the specific chemical
- 22910 designation:
- 22911 (A) Gamma hydroxybutyric acid (gamma hydroxy butyrate); provided, however, that
- 22912 this does not include any amount naturally and normally occurring in the human body;
- 22913 and
- 22914 (B) Sodium oxybate, when the FDA approved form of this drug is not:
- 22915 (i) In a container labeled in compliance with subsection (a) or (b) of Code Section
- 22916 26-3-8; and
- 22917 (ii) In the possession of:
- 22918 (I) A registrant permitted to dispense the drug;
- 22919 (II) Any person other than to whom the drug was prescribed; or
- 22920 (III) Any person who attempts to or does unlawfully possess, sell, distribute, or
- 22921 give this drug to any other person;
- 22922 (6) Notwithstanding the fact that Schedule I substances have no currently accepted
- 22923 medical use, the General Assembly recognizes certain of these substances which are
- 22924 currently accepted for certain limited medical uses in treatment in the United States but
- 22925 have a high potential for abuse. Accordingly, unless specifically excepted or unless listed
- 22926 in another schedule, any material, compound, mixture, or preparation which contains any

- 22927 quantity of methaqualone, including its salts, isomers, optical isomers, salts of their
 22928 isomers, and salts of these optical isomers, is included in Schedule I;
- 22929 (7) 2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);
- 22930 (8) 1-(3-Trifluoromethylphenyl) Piperazine (TFMPP);
- 22931 (9) N-Benzylpiperazine (BZP);
- 22932 (10) 5-Methoxy-N,N-Diisopropyltryptamine (5-MeO-DIPT);
- 22933 (11) Alpha-Methyltryptamine (AMT);
- 22934 (12) Any material, compound, mixture, or preparation which contains any quantity of the
 22935 following substances, their salts, isomers (whether optical, positional, or geometric),
 22936 homologues, and salts of isomers and homologues, unless specifically excepted,
 22937 whenever the existence of these salts, isomers, homologues, and salts of isomers and
 22938 homologues is possible within the specific chemical designation:
- 22939 (A) 1-pentyl-3-(1-naphthoyl)indole (JWH-018);
- 22940 (B) 1,1-dimethylheptyl-11-hydroxy-delta-8-tetrahydrocannabinol (HU-210; (6a,
 22941 10a)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydr
 22942 obenzo[c]chromen-1-ol);
- 22943 (C) 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol (CP 47,497);
- 22944 (D) 1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
- 22945 (E) 2-(2-Methoxyphenyl)-1-(1-pentylindole-3-yl) ethanone (JWH-250);
- 22946 (F) 4-Methoxynaphthalen-1-yl-(1-pentylindole-3-yl) methanone (JWH-081).
- 22947 16-13-26.
- 22948 The controlled substances listed in this Code section are included in Schedule II:
- 22949 (1) Any of the following substances, or salts thereof, except those narcotic drugs
 22950 specifically exempted or listed in other schedules, whether produced directly or indirectly
 22951 by extraction from substances of vegetable origin, or independently by extraction from
 22952 substances of vegetable origin, or independently by means of chemical synthesis, or by
 22953 combination of extraction and chemical synthesis:
- 22954 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
 22955 opiate, excluding naloxone hydrochloride, but including the following:
- 22956 (i) Raw opium;
- 22957 (ii) Opium extracts;
- 22958 (iii) Opium fluid extracts;
- 22959 (iv) Powdered opium;
- 22960 (v) Granulated opium;
- 22961 (vi) Tincture of opium;
- 22962 (vii) Codeine;

- 22963 (viii) Ethylmorphine;
- 22964 (ix) Hydrocodone;
- 22965 (x) Hydromorphone;
- 22966 (xi) Metopon;
- 22967 (xii) Morphine;
- 22968 (xiii) Oripavine;
- 22969 (xiv) Oxycodone;
- 22970 (xv) Oxymorphone;
- 22971 (xvi) Thebaine;
- 22972 (B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically
- 22973 equivalent or identical with any of the substances referred to in subparagraph (A) of this
- 22974 paragraph, except that these substances shall not include the isoquinoline alkaloids of
- 22975 opium;
- 22976 (C) Opium poppy and poppy straw;
- 22977 (D) Cocaine, coca leaves, any salt, compound, derivative, stereoisomers of cocaine, or
- 22978 preparation of coca leaves, and any salt, compound, derivative, stereoisomers of
- 22979 cocaine, or preparation thereof which is chemically equivalent or identical with any of
- 22980 these substances, but not including decocainized coca leaves or extractions which do
- 22981 not contain cocaine or ecgonine;
- 22982 (2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts
- 22983 of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible
- 22984 within the specific chemical designation:
- 22985 (A) Alfentanil;
- 22986 (A.1) Alphaprodine;
- 22987 (B) Anileridine;
- 22988 (C) Bezitramide;
- 22989 (D) Dihydrocodeine;
- 22990 (E) Diphenoxylate;
- 22991 (F) Fentanyl;
- 22992 (G) Isomethadone;
- 22993 (G.5) Levo-alphaacetylmethadol (some other names: levomethadyl acetate, LAAM);
- 22994 (H) Levomethorphan;
- 22995 (I) Levorphanol;
- 22996 (J) Methazocine;
- 22997 (K) Methadone;
- 22998 (L) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

- 22999 (M) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic
 23000 acid;
- 23001 (N) Pethidine (meperidine);
- 23002 (O) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 23003 (P) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 23004 (Q) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 23005 (R) Phenazocine;
- 23006 (S) Piminodine;
- 23007 (T) Racemethorphan;
- 23008 (U) Racemorphan;
- 23009 (U.1) Remifentanil;
- 23010 (V) Sufentanil;
- 23011 (V.1) Tapentadol;
- 23012 (W) 4-anilino-N-phenethyl-4-piperidine (ANPP);
- 23013 (3) Unless specifically excepted or unless listed in another schedule, any material,
 23014 compound, mixture, or preparation which contains any quantity of the following
 23015 substances included as having a stimulant effect on the central nervous system:
- 23016 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 23017 (B) Any substance which contains any quantity of methamphetamine, including its
 23018 salts, isomers, and salts of isomers;
- 23019 (C) Phenmetrazine and its salts;
- 23020 (D) Methylphenidate, including its salts, isomers, and salts of isomers;
- 23021 (E) Carfentanil;
- 23022 (F) Nabilone;
- 23023 (G) Lisdexamfetamine;
- 23024 (4) Unless specifically excepted or unless listed in another schedule, any material,
 23025 compound, mixture, or preparation which contains any of the following substances
 23026 included as having a depressant effect on the central nervous system, including its salts,
 23027 isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of
 23028 isomers is possible within the specific chemical designation:
- 23029 (A) Amobarbital;
- 23030 (A.5) Glutethimide;
- 23031 (B) Secobarbital;
- 23032 (C) Pentobarbital.
- 23033 16-13-27.
- 23034 The controlled substances listed in this Code section are included in Schedule III:

- 23035 (1) Unless specifically excepted or unless listed in another schedule, any material,
 23036 compound, mixture, or preparation which contains any quantity of the following
 23037 substances, included as having a stimulant effect on the central nervous system, including
 23038 its salts, isomers (whether optical, position, or geometric), and salts of such isomers
 23039 whenever the existence of such salts, isomers, and salts of isomers is possible within the
 23040 specific chemical designation:
- 23041 (A) Those compounds, mixtures, or preparations in dosage unit forms containing any
 23042 stimulant substances which are listed as excepted compounds by the ~~State Board of~~
 23043 Pharmacy Georgia Board of Licensing and Regulation pursuant to this article, and any
 23044 other drug of quantitative composition so excepted or which is the same except that it
 23045 contains a lesser quantity of controlled substances;
- 23046 (B) Benzphetamine;
- 23047 (C) Chlorphentermine;
- 23048 (D) Clortermine;
- 23049 (E) Phendimetrazine;
- 23050 (2) Unless specifically excepted or unless listed in another schedule, any material,
 23051 compound, mixture, or preparation which contains any quantity of the following
 23052 substances included as having a depressant effect on the central nervous system:
- 23053 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,
 23054 pentobarbital, or any salts thereof and one or more active medicinal ingredients which
 23055 are not listed in any schedule;
- 23056 (B) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital,
 23057 or any salt of any of these drugs and approved by the ~~State Board of Pharmacy Georgia~~
 23058 Board of Licensing and Regulation for marketing only as a suppository;
- 23059 (C) Any substance which contains any quantity of a derivative of barbituric acid or any
 23060 salt thereof;
- 23061 (D) Chlorhexadol;
- 23062 (E) Reserved;
- 23063 (F) Lysergic acid;
- 23064 (G) Lysergic acid amide;
- 23065 (H) Methyprylon;
- 23066 (I) Sulfondiethylmethane;
- 23067 (J) Sulfonethylmethane;
- 23068 (K) Sulfonmethane;
- 23069 (L) Tiletamine/Zolazepam (Telazol);
- 23070 (3) Nalorphine;

- 23071 (4) Unless specifically excepted or unless listed in another schedule, any material,
23072 compound, mixture, or preparation containing limited quantities of the following narcotic
23073 drugs, or any salts thereof:
- 23074 (A) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not
23075 more than 90 milligrams per dosage unit, with an equal or greater quantity of an
23076 isoquinoline alkaloid of opium;
- 23077 (B) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not
23078 more than 90 milligrams per dosage unit, with one or more active, nonnarcotic
23079 ingredients in recognized therapeutic amounts;
- 23080 (C) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its
23081 salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold
23082 or greater quantity of an isoquinoline alkaloid of opium;
- 23083 (D) Not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its
23084 salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or
23085 more active, nonnarcotic ingredients in recognized therapeutic amounts;
- 23086 (E) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters
23087 or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic
23088 ingredients in recognized therapeutic amounts;
- 23089 (F) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100
23090 milliliters or not more than 15 milligrams per dosage unit, with one or more active,
23091 nonnarcotic ingredients in recognized therapeutic amounts;
- 23092 (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not
23093 more than 25 milligrams per dosage unit, with one or more active, nonnarcotic
23094 ingredients in recognized therapeutic amounts;
- 23095 (H) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or
23096 per 100 grams with one or more active, nonnarcotic ingredients in recognized
23097 therapeutic amounts;
- 23098 (5) ~~The State Board of Pharmacy~~ Georgia Board of Licensing and Regulation may
23099 except by rule any compound, mixture, or preparation containing any stimulant or
23100 depressant substance listed in paragraphs (1) and (2) of this Code section from the
23101 application of all or any part of this article if the compound, mixture, or preparation
23102 contains one or more active, medicinal ingredients not having a stimulant or depressant
23103 effect on the central nervous system, and if the admixtures are included therein in
23104 combinations, quantity, proportion, or concentration that vitiate the potential for abuse
23105 of the substances which have a stimulant or depressant effect on the central nervous
23106 system;

- 23107 (6) Any anabolic steroid or any salt, ester, or isomer of a drug or substance described or
23108 listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Such term
23109 does not include an anabolic steroid which is expressly intended for administration
23110 through implants to cattle or other nonhuman species and which has been approved by
23111 the secretary of health and human services for such administration:
- 23112 (A) Boldenone;
 - 23113 (A.5) Boldione (Androsta-1,4-diene-3,17-dione);
 - 23114 (B) Chlorotestosterone;
 - 23115 (C) Clostebol;
 - 23116 (D) Dehydrochlormethyltestosterone;
 - 23117 (D.1) Desoxymethyltestosterone (17a-methyl-5a-androst-2-en-17-ol, madol);
 - 23118 (E) Dihydrotestosterone;
 - 23119 (F) Drostanolone;
 - 23120 (G) Ethylestrenol;
 - 23121 (H) Fluoxymesterone;
 - 23122 (I) Formebolone;
 - 23123 (J) Mesterolone;
 - 23124 (K) Methandienone;
 - 23125 (L) Methandranone;
 - 23126 (M) Methandriol;
 - 23127 (N) Methandrostenolone;
 - 23128 (O) Methenolone;
 - 23129 (P) Methyltestosterone;
 - 23130 (Q) Mibolerone;
 - 23131 (R) Nandrolone;
 - 23132 (S) Norethandrolone;
 - 23133 (T) Oxandrolone;
 - 23134 (U) Oxymesterone;
 - 23135 (V) Oxymetholone;
 - 23136 (W) Stanolone;
 - 23137 (X) Stanozolol;
 - 23138 (Y) Testolactone;
 - 23139 (Z) Testosterone;
 - 23140 (AA) Trenbolone;
 - 23141 (BB) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
 - 23142 (7) Ketamine;

- 23143 (8) Dronabinol (synthetic) in sesame oil and encapsulated in a U.S. Food and Drug
 23144 Administration approved drug product also known as Marinol;
 23145 (9) Sodium oxybate, when the FDA approved form of this drug is in a container labeled
 23146 in compliance with subsection (a) or (b) of Code Section 26-3-8, in the possession of a
 23147 registrant permitted to dispense the drug, or in the possession of a person to whom it has
 23148 been lawfully prescribed;
 23149 (10) Buprenorphine;
 23150 (11) Embutramide;
 23151 (12) Any drug product in hard or soft gelatin capsule form containing natural dronabinol
 23152 (derived from the cannabis plant) or synthetic dronabinol (produced from synthetic
 23153 materials) in sesame oil, for which an abbreviated new drug application (ANDA) has
 23154 been approved by the FDA under section 505(j) of the Federal Food, Drug, and Cosmetic
 23155 Act (21 U.S.C. 355(j)) which references as its listed drug the drug product referred to in
 23156 paragraph (8) of this Code section.

23157 16-13-27.1.

23158 The following anabolic steroid containing compounds, mixtures, or preparations have been
 23159 exempted as Schedule III Controlled Substances by the United States Drug Enforcement
 23160 Administration, as listed in 21 C.F.R. 1308.34, and are therefore exempted from paragraph
 23161 (6) of Code Section 16-13-27:

23162 TABLE OF EXEMPT ANABOLIC STEROID PRODUCTS

23163	<u>Trade Name</u>	<u>Company</u>
23164	Androgen LA	Forest Pharmaceuticals St. Louis, MO
23165	Andro-Estro 90-4	Rugby Labs Rockville Centre, NY
23166	depANDROGYN	Forest Pharmaceuticals St. Louis, MO
23167	DEPO-T.E.	Quality Research Pharm Carmel, IN
23168	depTESTROGEN	Maroca Pharm Phoenix, AZ
23169	Duomone	Winitec Pharm Pacific, MO

23170	DURATESTRIN	W. E. Hauck Alpharetta, GA
23171	DUO-SPAN II	Premedics Labs Gardena, CA
23172	Estratest	Solvay Pharmaceuticals Marietta, GA
23173	Estratest HS	Solvay Pharmaceuticals Marietta, GA
23174	PAN ESTRA TEST	Pan American Labs Covington, LA
23175	Premarin 1.25mg with Methyltestosterone	Ayerst Labs, Inc. New York, NY
23176	Premarin 0.625mg with Methyltestosterone	Ayerst Labs, Inc. New York, NY
23177	TEST-ESTRO Cypionates	Rugby Labs Rockville Centre, NY
23178	Testosterone Cyp 50	I.D.E. Interstate
23179	Estradiol Cyp 2	Amityville, NY
23180	Testosterone Cypionate-Estradiol	Best Generics
23181	Cypionate Injection	N. Miami Beach, FL
23182	Testosterone Cypionate-Estradiol	Schein Pharm
23183	Cypionate Injection	Port Washington, NY
23184	Testosterone Cypionate-Estradiol	Steris Labs, Inc.
23185	Cypionate Injection	Phoenix, AZ
23186	Testosterone Cypionate-Estradiol	Schein Pharm
23187	Valerate Injection	Port Washington, NY
23188	Testosterone Enanthate-Estradiol	Steris Labs, Inc.
23189	Valerate Injection	Phoenix, AZ
23190	16-13-28.	
23191	(a) The controlled substances listed in this Code section are included in Schedule IV.	
23192	Unless specifically excepted or unless listed in another schedule, any material, compound,	
23193	mixture, or preparation which contains any quantity of the following substances, including	
23194	its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and	
23195	salts of isomers is possible within the specified chemical designation, included as having	
23196	a stimulant or depressant effect on the central nervous system or a hallucinogenic effect:	

23197	(1) Alprazolam;
23198	(1.5) Armodafinil;
23199	(2) Barbitol;
23200	(2.1) Bromazepam;
23201	(2.15) Butorphanol;
23202	(2.2) Camazepam;
23203	(2.25) Carisoprodol;
23204	(2.3) Cathine;
23205	(3) Chloral betaine;
23206	(4) Chloral hydrate;
23207	(5) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and
23208	clidinium bromide) or menrium (chlordiazepoxide and water soluble esterified
23209	estrogens);
23210	(5.1) Clobazam;
23211	(6) Clonazepam;
23212	(7) Clorazepate;
23213	(7.1) Clotiazepam;
23214	(7.2) Cloxazolam;
23215	(7.3) Delorazepam;
23216	(8) Desmethyldiazepam;
23217	(8.5) Dexfenfluramine;
23218	(9) Reserved;
23219	(10) Diazepam;
23220	(11) Diethylpropion;
23221	(11.05) Difenoxin;
23222	(11.1) Estazolam;
23223	(12) Ethchlorvynol;
23224	(13) Ethinamate;
23225	(13.1) Ethyl loflazepate;
23226	(13.2) Fencamfamin;
23227	(14) Fenfluramine;
23228	(14.1) Flunitrazepam;
23229	(14.2) Fenproporex;
23230	(15) Flurazepam;
23231	(15.3) Fospropofol;
23232	(16) Halazepam;
23233	(16.1) Haloxazolam;

23234	(16.15) Indiplon;
23235	(16.2) Ketazolam;
23236	(16.3) Lometazepam;
23237	(16.4) Loprazolam;
23238	(17) Lorazepam;
23239	(18) Mazindol;
23240	(19) Mebutamate;
23241	(19.1) Medazepam;
23242	(19.2) Mefenorex;
23243	(20) Meprobamate;
23244	(21) Methohexital;
23245	(22) Methylphenobarbital;
23246	(22.1) Midazolam;
23247	(22.15) Modafinil;
23248	(22.2) Nimetazepam;
23249	(22.3) Nitrazepam;
23250	(22.4) Nordiazepam;
23251	(23) Oxazepam;
23252	(23.1) Oxazolam;
23253	(24) Paraldehyde;
23254	(25) Pemoline;
23255	(26) Pentazocine;
23256	(27) Petrichloral;
23257	(28) Phenobarbital;
23258	(29) Phentermine;
23259	(29.1) Pipradrol;
23260	(30) Prazepam;
23261	(30.03) Propofol;
23262	(30.05) Propoxyphene (including all salts and optical isomers);
23263	(30.1) Quazepam;
23264	(30.2) Sibutramine;
23265	(30.3) SPA (-)-1-dimethylamino-1, 2-diphenylethane;
23266	(31) Temazepam;
23267	(32) Triazolam;
23268	(32.5) Zaleplon;
23269	(33) Zolpidem;
23270	(34) Zopiclone.

23271 (b) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation may except
 23272 by rule any compound, mixture, or preparation containing any depressant, stimulant, or
 23273 hallucinogenic substance listed in subsection (a) of this Code section from the application
 23274 of all or any part of this article if the compound, mixture, or preparation contains one or
 23275 more active, medicinal ingredients not having a depressant or stimulant effect on the
 23276 central nervous system, and if the admixtures are included therein in combinations,
 23277 quantity, proportion, or concentration that vitiate the potential for abuse of the substances
 23278 which have a depressant or stimulant effect on the central nervous system.

23279 16-13-29.

23280 The controlled substances listed in this Code section are included in Schedule V:

23281 (1) Any compound, mixture, or preparation containing limited quantities of any of the
 23282 following narcotic drugs, or salts thereof, which also contains one or more nonnarcotic,
 23283 active, medicinal ingredients in sufficient proportion to confer upon the compound,
 23284 mixture, or preparation valuable medicinal qualities other than those possessed by the
 23285 narcotic drug alone:

23286 (A) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or
 23287 per 100 grams;

23288 (B) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100
 23289 milliliters or per 100 grams;

23290 (C) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100
 23291 milliliters or per 100 grams;

23292 (D) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms
 23293 of atropine sulfate per dosage unit;

23294 (E) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

23295 (2) Lacosamide;

23296 (3) Pregabalin;

23297 (4) Pyrovalerone; or

23298 (5) Pseudoephedrine as an exempt over-the-counter (~~OTC~~) Schedule V controlled
 23299 substance distributed in the same manner as set forth in Code Section 16-13-29.2;
 23300 provided, however, that such exemption shall take effect immediately and shall not
 23301 require ~~rulemaking~~ rule making by the ~~State Board of Pharmacy~~ Georgia Board of
 23302 Licensing and Regulation; provided, further, that wholesale drug distributors located
 23303 within this state and licensed by the ~~State Board of Pharmacy~~ director and which are
 23304 registered and regulated by the ~~U.S. Drug Enforcement Administration (DEA)~~ shall not
 23305 be subject to any board requirements for controlled substances for the storage, reporting,

23306 recordkeeping, or physical security of drug products containing pseudoephedrine which
23307 are more stringent than those included in DEA regulations.

23308 16-13-29.1.

23309 The following nonnarcotic substances which may, under the Federal Food, Drug, and
23310 Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, are
23311 excluded from all schedules of controlled substances under this article:

23312	Trade name or designation	<u>Composition/Potency</u>	Manufacturer or <u>distributor</u>
23314	<u>(Dosage form)</u>		
23315	Amodrine	Phenobarbital/8.00 mg;	Searle, G.D. & Co.
23316	(Tablet)	Aminophylline/100.00 mg; Racephedrine/25.00 mg	
23317	Amodrine E C	Phenobarbital/8.00 mg;	Searle, G.D. & Co.
23318	(Enteric-coated	Aminophylline/100.00 mg;	
23319	tablet)	Racephedrine/25.00 mg	
23320	Anodyne	Chloral hydrate/0.69 g/30 g	Zemmer Co.
23321	(Ointment)		
23322	Anti-Asthma	Phenobarbital/8.00 mg;	Ormont Drug
23323	(Tablet)	Theophylline/130.00 mg; Ephedrine hydrochloride/ 25.00 mg	& Chem.
23324	Anti-asthmatic	Phenobarbital/8.10 mg;	Zenith Labs., Inc.
23325	(Tablet)	Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	
23326	Asma-Ese	Phenobarbital/8.10 mg;	Parmed Pharm.
23327	(Tablet)	Theophylline/129.60 mg; Ephedrine hydrochloride/ 24.30 mg	
23328	Asma-Lief	Phenobarbital/8.10 mg;	Columbia Medical Co.
23329	(Tablet)	Ephedrine hydrochloride/ 24.30 mg; Theophylline/ 129.60 mg	

23330	Asma-Lief	Phenobarbital/4.00 mg/05 ml;	Columbia Medical Co.
23331	Pediatric	Ephedrine hydrochloride/	
23332	(Suspension)	12.00 mg/05 ml; Theophylline/ 65.00 mg/05 ml	
23333	Asma Tuss	Phenobarbital/4.00 mg/05 ml;	Halsey Drug Co.
23334	(Syrup)	Glyceryl guaiacolate/50.00 mg/05 ml; Chlorphentramine maleate/1.00 mg/05 ml; Ephedrine sulfate/12.00 mg/05 ml; Theophylline/ 15.00 mg/05 ml	
23335	Azma-Aid	Phenobarbital/8.00 mg;	Rondex Labs.
23336	(Tablet)	Theophylline/129.60 mg; Ephedrine hydrochloride/ 24.30 mg	
23337	Azmadrine	Phenobarbital/8.00 mg;	U.S. Ethicals.
23338	(Tablet)	Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	
23339	Benzedrex	Propylhexedrine	Smith Kline
23340	Inhaler		Consumer Products.
23341	(Inhaler)		
23342	Bet-U-Lol	Chloral hydrate/0.54 g/30 ml;	Huxley Pharm.
23343	(Liquid)	Methyl salicylate/30.10 g/30 ml; Menthol/0.69 g/30 ml	
23344	Bronkolixir	Phenobarbital/4.00 mg/05 ml;	Breon Labs.
23345	(Elixir)	Theophylline/15.00 mg/05 ml; Ephedrine sulfate/12.00 mg/05 ml; Glyceryl guaiacolate/50.00 mg/05 ml	
23346	Bronkotabs	Phenobarbital/8.00 mg;	Breon Labs.
23347	(Tablet)	Theophylline/100.00 mg; Glyceryl guaiacolate/100.00 mg; Ephedrine sulfate/24.00 mg	

23348	Bronkotabs-Hafs	Phenobarbital/4.00 mg;	Breon Labs.
23349	(Tablet)	Glyceryl guaiacolate/50.00 mg; Theophylline/50.00 mg; Ephedrine sulfate/12.00 mg	
23350	Ceepea	Phenobarbital/8.00 mg;	Geneva Drugs.
23351	(Tablet)	Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	
23352	Chlorasal	Chloral hydrate/648.00 mg/30 g;	Wisconsin Pharmacal.
23353	(Ointment)	Menthol/972.00 mg/30 g; Methyl salicylate/4.277 g/30 g	
23354	Choate's Leg	Chloral hydrate/7.40 g/30 ml;	Bickmore, Inc.
23355	Freeze	Ether/10.3 ml/30 ml;	
23356	(Liquid)	Menthol/6.3 g/30 ml; Camphor/8.7 g/30 ml	
23357	Chloro-salicylate	Chloral hydrate/648.00	Kremers-Urban Co.
23358	(Ointment)	mg/30 g; Methyl salicylate/6.66 g/30 g; Menthol/1.13 g/30 g	
23359	Menthalgesic	Chloral hydrate/0.45 g/30 g;	Blue Line Chem Co.
23360	(Ointment)	Menthol/0.45 g/30 g; Methyl salicylate/3.60 g/30 g; Camphor/0.45 g/30 g	
23361	Neosma	Phenobarbital/10.00 mg;	Tarmac Products.
23362	(Tablet)	Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	
23363	P.E.C.T.	Phenobarbital/8.10 mg;	Halsom Drug Co.
23364	(Tablet)	Chlorpheniramine maleate/ 2.00 mg; Ephedrine sulfate/24.30 mg; Theophylline/129.60 mg	
23365	Primatene	Phenobarbital/8.00 mg;	Whitehall Labs.
23366	(Tablet)	Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	

23367	Rynal	d1-methamphetamine	Blaine Co.
23368	(Spray)	hydrochloride/0.11 g/50 ml; Antipyrine/0.14 g/50 ml; Pyriamine maleate/0.005 g/50 ml; Hyamine 2389/0.01 g/50 ml	
23369	S-K Asthma	Phenobarbital/8.00 mg;	S-K Research Labs.
23370	(Tablet)	Ephedrine hydrochloride/ 24.30 mg; Theophylline/ 129.60 mg	
23371	Tedral	Phenobarbital/8.00 mg;	Warner-Chilcott.
23372	(Tablet)	Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	
23373	Tedral Anti H	Phenobarbital/8.00 mg;	Warner-Chilcott.
23374	(Tablet)	Chlorpheniramine maleate/ 2.00 mg; Theophylline/ 130.00 mg; Ephedrine hydrochloride/24.00 mg	
23375	Tedral	Phenobarbital/8.00 mg;	Parke-Davis & Co.
23376	Antiasthmatic	Theophylline/130.00 mg;	
23377	(Tablet)	Ephedrine hydrochloride/ 24.00 mg	
23378	Tedral Elixir	Phenobarbital/2.00 mg/05 ml;	Warner-Chilcott.
23379	(Elixir)	Ephedrine hydrochloride/6.00 mg/05 ml; Theophylline/ 32.50 mg/05 ml	
23380	Tedral Pediatric	Phenobarbital/4.00 mg/05 ml;	Warner-Chilcott.
23381	(Suspension)	Ephedrine hydrochloride/12.00 mg/05 ml; Theophylline/ 65.00 mg/05 ml	
23382	Teephen	Phenobarbital/8.00 mg;	Robinson Labs.
23383	(Tablet)	Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	

23384	Teephen Pediatric	Phenobarbital/4.00 mg/05 ml;	Robinson Labs.
23385	(Suspension)	Ephedrine hydrochloride/12.00 mg/05 ml; Theophylline anhydrous/65.00 mg/05 ml	
23386	TEP	Phenobarbital/8.00 mg;	Towne, Paulsen &
23387	(Tablet)	Theophylline/130.00 mg; Ephedrine hydrochloride/ 24.00 mg	Co., Inc.
23388	T.E.P. Compound	Phenobarbital/8.10 mg;	Stanlabs, Inc.
23389	(Tablet)	Theophylline/129.60 mg; Ephedrine hydrochloride/ 24.30 mg	
23390	Thedrizem	Phenobarbital/8.00 mg;	Zemmer Co.
23391	(Tablet)	Ephedrine hydrochloride/ 25.00 mg; Theophylline/ 100.00 mg	
23392	Theobal	Phenobarbital/8.00 mg;	Halsey Drug Co.
23393	(Tablet)	Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	
23394	Val-Tep	Phenobarbital/8.00 mg;	Vale Chemical Co.
23395	(Tablet)	Ephedrine hydrochloride/ 24.00 mg; Theophylline/ 130.00 mg	
23396	Verequad	Phenobarbital/4.00 mg/05 ml;	Knoll Pharm.
23397	(Suspension)	Ephedrine hydrochloride/ 12.00 mg/05 ml; Theophylline calcium salicylate/65.00 mg/05 ml; Glyceryl guaiacolate/ 50.00 mg/05 ml	
23398	Verequad	Phenobarbital/8.00 mg; Ephedrine	Knoll Pharm.
23399	(Tablet)	hydrochloride/24.00 mg; Glyceryl guaiacolate/100.00 mg; Theophylline calcium salicylate/130.00 mg	

23400 Vicks Inhaler 1-Desoxyephedrine/113.00 mg Vick Chemical Co.
 23401 (Inhaler)

23402 16-13-29.2.

23403 The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation shall have the
 23404 authority to exempt and control the sale of Schedule V controlled substances by rule which
 23405 shall allow the sale of such substances without the need for issuance of a prescription from
 23406 a medical practitioner and shall require such substances to be sold only in a pharmacy when
 23407 such substances are sold without a prescription. Such substances shall be known as Exempt
 23408 Over-the-Counter (OTC) Schedule V Controlled Substances.

23409 16-13-30.

23410 (a) Except as authorized by this article, it is unlawful for any person to purchase, possess,
 23411 or have under his control any controlled substance.

23412 (b) Except as authorized by this article, it is unlawful for any person to manufacture,
 23413 deliver, distribute, dispense, administer, sell, or possess with intent to distribute any
 23414 controlled substance.

23415 (c) Except as otherwise provided, any person who violates subsection (a) of this Code
 23416 section with respect to a controlled substance in Schedule I or a narcotic drug in Schedule
 23417 II shall be guilty of a felony and, upon conviction thereof, shall be punished by
 23418 imprisonment for not less than two years nor more than 15 years. Upon conviction of a
 23419 second or subsequent offense, he shall be imprisoned for not less than five years nor more
 23420 than 30 years.

23421 (d) Except as otherwise provided, any person who violates subsection (b) of this Code
 23422 section with respect to a controlled substance in Schedule I or Schedule II shall be guilty
 23423 of a felony and, upon conviction thereof, shall be punished by imprisonment for not less
 23424 than five years nor more than 30 years. Upon conviction of a second or subsequent offense,
 23425 he or she shall be imprisoned for not less than ten years nor more than 40 years or life
 23426 imprisonment. The provisions of subsection (a) of Code Section 17-10-7 shall not apply
 23427 to a sentence imposed for a second such offense; provided, however, that the remaining
 23428 provisions of Code Section 17-10-7 shall apply for any subsequent offense.

23429 (e) Any person who violates subsection (a) of this Code section with respect to a
 23430 controlled substance in Schedule II, other than a narcotic drug, shall be guilty of a felony
 23431 and, upon conviction thereof, shall be punished by imprisonment for not less than two
 23432 years nor more than 15 years. Upon conviction of a second or subsequent offense, he shall
 23433 be punished by imprisonment for not less than five years nor more than 30 years.

23434 (f) Reserved.

23435 (g) Any person who violates subsection (a) of this Code section with respect to a
23436 controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon
23437 conviction thereof, shall be punished by imprisonment for not less than one year nor more
23438 than five years. Upon conviction of a second or subsequent offense, he shall be imprisoned
23439 for not less than one year nor more than ten years.

23440 (h) Any person who violates subsection (b) of this Code section with respect to a
23441 controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon
23442 conviction thereof, shall be punished by imprisonment for not less than one year nor more
23443 than ten years.

23444 (i) Except as authorized by this article, it is unlawful for any person to possess, have under
23445 his control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess
23446 with intent to distribute a counterfeit substance. Any person who violates this subsection
23447 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment
23448 for not less than one year nor more than ten years.

23449 (j)(1) It is unlawful for any person to possess, have under his control, manufacture,
23450 deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute
23451 marijuana.

23452 (2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 or in Code
23453 Section 16-13-2, any person who violates this subsection shall be guilty of a felony and,
23454 upon conviction thereof, shall be punished by imprisonment for not less than one year nor
23455 more than ten years.

23456 (k) It shall be unlawful for any person to hire, solicit, engage, or use an individual under
23457 the age of 17 years, in any manner, for the purpose of manufacturing, distributing, or
23458 dispensing, on behalf of the solicitor, any controlled substance, counterfeit substance, or
23459 marijuana unless the manufacturing, distribution, or dispensing is otherwise allowed by
23460 law. Any person who violates this subsection shall be guilty of a felony and, upon
23461 conviction thereof, shall be punished by imprisonment for not less than five years nor more
23462 than 20 years or by a fine not to exceed \$20,000.00, or both.

23463 (l)(1) Any person who violates subsection (a) of this Code section with respect to
23464 flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon
23465 conviction thereof, shall be punished by imprisonment for not less than two years nor
23466 more than 15 years. Upon conviction of a second or subsequent offense, such person shall
23467 be punished by imprisonment for not less than five years nor more than 30 years.

23468 (2) Any person who violates subsection (b) of this Code section with respect to
23469 flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon
23470 conviction thereof, shall be punished by imprisonment for not less than five years nor
23471 more than 30 years. Upon conviction of a second or subsequent offense, such person shall

23472 be punished by imprisonment for not less than ten years nor more than 40 years or life
 23473 imprisonment. The provisions of subsection (a) of Code Section 17-10-7 shall not apply
 23474 to a sentence imposed for a second such offense, but that subsection and the remaining
 23475 provisions of Code Section 17-10-7 shall apply for any subsequent offense.

23476 16-13-30.1.

23477 (a)(1) It is unlawful for any person knowingly to manufacture, deliver, distribute,
 23478 dispense, possess with the intent to distribute, or sell a noncontrolled substance upon
 23479 either:

23480 (A) The express or implied representation that the substance is a narcotic or
 23481 nonnarcotic controlled substance;

23482 (B) The express or implied representation that the substance is of such nature or
 23483 appearance that the recipient of said delivery will be able to distribute said substance
 23484 as a controlled substance; or

23485 (C) The express or implied representation that the substance has essentially the same
 23486 pharmacological action or effect as a controlled substance.

23487 (2) The definitions of the terms 'deliver,' 'delivery,' 'distribute,' 'dispense,' and
 23488 'manufacture' provided in Code Section 16-13-21 shall not be applicable to this Code
 23489 section; but such terms as used in this Code section shall have the meanings ascribed to
 23490 them in the ordinary course of business.

23491 (b) An implied representation may be shown by proof of any two of the following:

23492 (1) The manufacture, delivery, distribution, dispensing, or sale included an exchange or
 23493 a demand for money or other valuable property as consideration for delivery of the
 23494 substance and the amount of such consideration was substantially in excess of the
 23495 reasonable value of the noncontrolled substance;

23496 (2) The physical appearance of the finished product containing the substance is
 23497 substantially identical to a specific controlled substance;

23498 (3) The finished product bears an imprint, identifying mark, number, or device which is
 23499 substantially identical to the trademark, identifying mark, imprint, number, or device of
 23500 a manufacturer licensed by the Food and Drug Administration of the United States
 23501 Department of Health and Human Services.

23502 (c) In any prosecution for unlawful manufacture, delivery, distribution, possession with
 23503 intent to distribute, dispensing, or sale of a noncontrolled substance, it is no defense that
 23504 the accused believed the noncontrolled substance to be actually a controlled substance.

23505 (d) The provisions of this Code section shall not prohibit a duly licensed business
 23506 establishment, acting in the usual course of business, from selling or for a practitioner,
 23507 acting in the usual course of his professional practice, from dispensing a drug preparation

23508 manufactured by a manufacturer licensed by the Food and Drug Administration of the
23509 United States Department of Health and Human Services for over-the-counter sale which
23510 does not bear a label stating 'Federal law prohibits dispensing without a prescription' or
23511 similar language meaning that the drug preparation requires a prescription.

23512 (e) The unlawful manufacture, delivery, distribution, dispensing, possession with the
23513 intention to distribute, or sale of a noncontrolled substance in violation of this Code section
23514 is a felony and, upon conviction thereof, such person shall be punished by imprisonment
23515 for not less than one year nor more than ten years or by a fine not to exceed \$25,000.00,
23516 or both.

23517 (f) All property which would be subject to forfeiture under the provisions of subsection
23518 (d) of Code Section 16-13-49 for a violation of this article which is used, or intended for
23519 use, to facilitate, or is derived from, a violation of this Code section and any noncontrolled
23520 substance which is manufactured, distributed, dispensed, possessed with the intent to
23521 distribute, or sold in violation of this Code section are declared to be contraband and there
23522 shall be no property interest therein. Any property or noncontrolled substance which is
23523 subject to the provisions of this subsection shall be forfeited in accordance with the
23524 procedures of Code Section 16-13-49.

23525 16-13-30.2.

23526 (a) Any person who knowingly manufactures, distributes, or possesses with intent to
23527 distribute an imitation controlled substance as defined in paragraph (12.1) of Code Section
23528 16-13-21 is guilty of a misdemeanor of a high and aggravated nature.

23529 (b) The provisions of this Code section are cumulative and shall not be construed as
23530 restricting any remedy, provisional or otherwise, provided by law for the benefit of any
23531 party.

23532 (c) No civil or criminal liability shall be imposed by virtue of this Code section on any
23533 person registered under this article who manufactures, distributes, or possesses an imitation
23534 controlled substance for use by a practitioner, as defined in paragraph (23) of Code Section
23535 16-13-21, in the course of lawful professional practice or research.

23536 (d) All materials which are manufactured, distributed, or possessed in violation of this
23537 Code section are declared to be contraband and shall be forfeited according to the
23538 procedure described in Code Section 16-13-49.

23539 16-13-30.3.

23540 (a) As used in this Code section, the term:

- 23541 (1) 'Ephedrine,' 'pseudoephedrine,' or 'phenylpropanolamine' means any drug product
23542 containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts,
23543 isomers, or salts of isomers, alone or in a mixture.
- 23544 (2) 'Personal use' means the sale in a single transaction to an individual customer for a
23545 legitimate medical use of a product containing ephedrine, pseudoephedrine, or
23546 phenylpropanolamine in quantities at or below that specified in subsection (b) of this
23547 Code section, and includes the sale of those products to employers to be dispensed to
23548 employees from first-aid kits or medicine chests.
- 23549 (3) 'Retail distributor' means a grocery store, general merchandise store, drugstore,
23550 convenience store, or other related entity, the activities of which involve the distribution
23551 of ephedrine, pseudoephedrine, or phenylpropanolamine products.
- 23552 (b)(1) It is unlawful for any person, other than a person or entity described in paragraph
23553 (28), (29), or (33) of Code Section 26-4-5 or a retail distributor, to knowingly possess any
23554 product that contains ephedrine, pseudoephedrine, or phenylpropanolamine in an amount
23555 which exceeds 300 pills, tablets, gelcaps, capsules, or other individual units or more than
23556 9 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or
23557 salts of isomers, or a combination of any of these substances, whichever is smaller.
- 23558 (2) It shall be unlawful for any person to possess any amount of a substance set forth in
23559 this Code section with the intent to manufacture amphetamine or methamphetamine.
- 23560 (3) Any person who violates the provisions of this Code section shall be guilty of a
23561 felony and, upon conviction thereof, shall be punished by imprisonment for not less than
23562 one year nor more than ten years.
- 23563 (b.1)(1) Products whose sole active ingredient is pseudoephedrine may be offered for
23564 retail sale only if sold in blister packaging. Such products may not be offered for retail
23565 sale by self-service but only from behind a counter or other barrier so that such products
23566 are not directly accessible by the public but only by a retail store employee or agent.
- 23567 (2) No person shall deliver in any single over the counter sale more than three packages
23568 of any product containing pseudoephedrine as the sole active ingredient or in combination
23569 with other active ingredients or any number of packages that contain a combined total of
23570 more than nine grams of pseudoephedrine or its base, salts, optical isomers, or salts of its
23571 optical isomers.
- 23572 (3) It shall be unlawful for a retail distributor to purchase any product containing
23573 pseudoephedrine from any person or entity other than a manufacturer or a wholesale
23574 distributor licensed by the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
23575 Regulation.
- 23576 (4) This subsection shall not apply to:

- 23577 (A) Pediatric products labeled pursuant to federal regulation as primarily intended for
 23578 administration to children under 12 years of age according to label instructions; and
 23579 (B) Products that the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 23580 Regulation, upon application of a manufacturer, exempts because the product is
 23581 formulated in such a way as to effectively prevent the conversion of the active
 23582 ingredient into methamphetamine or its salts or precursors.
- 23583 (5) This subsection shall preempt all local ordinances or regulations governing the retail
 23584 sale of over the counter products containing pseudoephedrine by a retail business except
 23585 such local ordinances or regulations that existed on or before December 31, 2004.
 23586 Effective January 1, 2006, this subsection shall preempt all local ordinances.
- 23587 (6)(A) Except as otherwise provided herein, it shall be unlawful for any person
 23588 knowingly to violate any prohibition contained in paragraph (1), (2), or (3) of this
 23589 subsection.
- 23590 (B) Any person convicted of a violation of paragraph (1) or (2) of this subsection shall
 23591 be guilty of a misdemeanor which, upon the first conviction, shall be punished by a fine
 23592 of not more than \$500.00 and, upon the second or subsequent conviction, shall be
 23593 punished by not more than six months' imprisonment or a fine of not more than
 23594 \$1,000.00, or both.
- 23595 (C) Any person convicted of a violation of paragraph (3) of this subsection shall, upon
 23596 the first conviction, be guilty of a misdemeanor and, upon the second or subsequent
 23597 conviction, be guilty of a misdemeanor of a high and aggravated nature.
- 23598 (D) It shall be a defense to a prosecution of a retail business or owner or operator
 23599 thereof for violation of paragraph (1) or (2) of this subsection that, at the time of the
 23600 alleged violation, all of the employees of the retail business had completed training
 23601 under Georgia Meth Watch, the retail business was in compliance with Georgia Meth
 23602 Watch, and the defendant did not knowingly, willfully, or intentionally violate
 23603 paragraph (1) or (2) of this subsection. For purposes of this subsection only, the term
 23604 'Georgia Meth Watch' shall mean that program entitled 'Georgia Meth Watch' or similar
 23605 program which has been promulgated, approved, and distributed by the Georgia
 23606 Council on Substance Abuse.
- 23607 (7) Except as otherwise provided in this subsection, the ~~State Board of Pharmacy~~
 23608 Georgia Board of Licensing and Regulation may adopt reasonable rules and regulations
 23609 to effectuate the provisions of this subsection. The board is further authorized to charge
 23610 reasonable fees to defray expenses incurred in maintaining any records or forms
 23611 necessitated by this subsection or otherwise administering any other provisions of this
 23612 subsection.
- 23613 (c) This Code section shall not apply to:

- 23614 (1) Pediatric products primarily intended for administration to children under 12 years
 23615 of age, according to label instructions, either:
- 23616 (A) In solid dosage form whose recommended dosage, according to label instructions,
 23617 does not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine
 23618 per individual dosage unit; or
- 23619 (B) In liquid form whose recommended dosage, according to label instructions, does
 23620 not exceed 15 milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per
 23621 five milliliters of liquid product;
- 23622 (2) Pediatric liquid products primarily intended for administration to children under two
 23623 years of age for which the recommended dosage does not exceed two milliliters and the
 23624 total package content does not exceed one fluid ounce; or
- 23625 (3) Products that the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 23626 Regulation, upon application of a manufacturer, exempts by rule from this Code section
 23627 because the product has been formulated in such a way as to prevent effectively the
 23628 conversion of the active ingredient into methamphetamine or its salts or precursors.
- 23629 (d) Except as authorized by this article, it is unlawful for any person to possess, have under
 23630 his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or
 23631 possess with intent to distribute any substance containing any amounts of ephedrine,
 23632 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of
 23633 optical isomers which have been altered from their original condition so as to be powdered,
 23634 liquefied, or crushed. This subsection shall not apply to any of the substances identified
 23635 within this subsection which are possessed or altered for a legitimate medical purpose.
 23636 Any person who violates this subsection shall be guilty of a felony and, upon conviction
 23637 thereof, shall be punished by imprisonment for not less than one year nor more than ten
 23638 years.
- 23639 16-13-30.4.
- 23640 (a) As used in this Code section and unless otherwise specified, the term 'board' or '~~board~~
 23641 ~~of pharmacy~~' shall mean the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 23642 Regulation.
- 23643 (b)(1) A wholesale distributor who sells, transfers, purchases for resale, or otherwise
 23644 furnishes any product containing pseudoephedrine must first obtain a license from the
 23645 board ~~of pharmacy~~; provided, however, that a wholesale distributor that has a valid
 23646 license as a wholesale distributor under Code Section 26-4-113 shall not be required to
 23647 obtain an additional license under this Code section.

23648 (2) Wholesale distributors licensed under Code Section 26-4-113 shall be subject to the
23649 provisions of this Code section in the same manner as wholesale distributors licensed
23650 under this Code section.

23651 (3) Every wholesale distributor licensed as provided in this Code section shall:

23652 (A) Submit reports, upon verbal or written request from the Georgia Drugs and
23653 Narcotics Agency, the Georgia Bureau of Investigation, or the sheriff of a county or the
23654 police chief of a municipality located in this state, to account for all transactions with
23655 persons or firms located within this state; such reportable transactions shall include all
23656 sales, distribution, or transactions dealing with products containing pseudoephedrine;
23657 and

23658 (B) Within seven days, notify the Georgia Drugs and Narcotics Agency of any
23659 purchases of products containing pseudoephedrine from the wholesale distributor
23660 which the wholesaler judges to be excessive.

23661 (4) Whenever any firm or person located in this state receives, purchases, or otherwise
23662 gains access to products containing pseudoephedrine from any wholesale distributor,
23663 whether located in or outside this state, such firm or person shall maintain a copy of such
23664 wholesale distributor's license issued by the ~~State Board of Pharmacy~~ Georgia Board of
23665 Licensing and Regulation. Such firm or person shall maintain copies of all invoices,
23666 receipts, and other records regarding such products containing pseudoephedrine for a
23667 minimum of three years from the date of receipt, purchase, or access. Failure to maintain
23668 records to verify the presence of any and all products containing pseudoephedrine being
23669 held by a firm or person shall subject such products containing pseudoephedrine to being
23670 embargoed or seized by proper law enforcement authorities until such time as proof can
23671 be shown that such products containing pseudoephedrine were obtained from a Georgia
23672 licensed wholesale distributor.

23673 (5) Agents of the Georgia Drugs and Narcotics Agency, agents of the Georgia Bureau
23674 of Investigation, and the sheriff of a county or the police chief of a county or municipality
23675 in this state in which a firm or person that receives, purchases, or otherwise gains access
23676 to products containing pseudoephedrine is located may request to review the receiving
23677 records for such products. Failure to provide such records within five business days
23678 following such request to account for the presence of such products shall result in the
23679 embargo or seizure of such products.

23680 (c) A license or permit obtained pursuant to this Code section shall be denied, suspended,
23681 or revoked by the board of ~~pharmacy~~ upon finding that the licensee or permit holder has:
23682 (1) Furnished false or fraudulent material information in any application filed under this
23683 Code section;

- 23684 (2) Been convicted of a crime under any state or federal law relating to any controlled
23685 substance;
- 23686 (3) Had his or her federal registration suspended or revoked to manufacture, distribute,
23687 or dispense controlled substances;
- 23688 (4) Violated the provisions of Chapter 4 of Title 26; or
- 23689 (5) Failed to maintain effective controls against the diversion of products containing
23690 pseudoephedrine to unauthorized persons or entities.
- 23691 (d) The board of pharmacy may adopt reasonable rules and regulations to effectuate the
23692 provisions of this Code section. The board is further authorized to charge reasonable fees
23693 to defray expenses incurred in issuing any licenses or permits, maintaining any records or
23694 forms required by this Code section, and the administration of the provisions of this Code
23695 section.
- 23696 (e) Notwithstanding any other provision of this Code section to the contrary, no person
23697 shall be required to obtain a license or permit for the sale, receipt, transfer, or possession
23698 of a product containing pseudoephedrine when:
- 23699 (1) Such lawful distribution takes place in the usual course of business between agents
23700 or employees of a single regulated person or entity; or
- 23701 (2) A product containing pseudoephedrine is delivered to or by a common or contract
23702 carrier for carriage in the lawful and usual course of the business of the common or
23703 contract carrier or to or by a warehouseman for storage in the lawful and usual course of
23704 the business of the warehouseman.
- 23705 (f) All products containing pseudoephedrine that have been or that are intended to be sold,
23706 transferred, purchased for resale, possessed, or otherwise transferred in violation of a
23707 provision of this Code section shall be subject to forfeiture to the state and no property
23708 right shall exist in them.
- 23709 (g)(1) Any person who sells, transfers, receives, or possesses a product containing
23710 pseudoephedrine violates this Code section if the person:
- 23711 (A) Knowingly fails to comply with the reporting requirements of this Code section;
- 23712 (B) Knowingly makes a false statement in a report or record required by this Code
23713 section or the rules adopted thereunder; or
- 23714 (C) Is required by this Code section to have a license or permit and knowingly or
23715 deliberately fails to obtain such a license or permit.
- 23716 (2) It shall be illegal for a person to possess, sell, transfer, or otherwise furnish a product
23717 containing pseudoephedrine if such person possesses, sells, transfers, or furnishes the
23718 substance with the knowledge or intent that the substance will be used in the unlawful
23719 manufacture of a controlled substance.

23720 (3)(A) A person who violates paragraph (2) of this subsection shall be guilty of a
 23721 felony and, upon conviction thereof, shall be punished by imprisonment for not less
 23722 than one nor more than 15 years or by a fine not to exceed \$100,000.00, or both.

23723 (B) A person who violates any provision of this Code Section other than paragraph (2)
 23724 of this subsection shall be guilty of a misdemeanor on the first offense and a
 23725 misdemeanor of a high and aggravated nature on the second and subsequent offenses.

23726 16-13-30.5.

23727 (a) It shall be illegal for a person to possess, whether acquired through theft or other
 23728 means, any substance with the intent to:

23729 (1) Use such substance in the manufacture of a Schedule I or Schedule II controlled
 23730 substance; or

23731 (2) Knowingly convey such substance to another for use in the manufacture of a
 23732 Schedule I or Schedule II controlled substance.

23733 (b) In determining whether a particular substance is possessed with the intent required to
 23734 violate subsection (a) of this Code section, the court or other authority making such a
 23735 determination may, in addition to all other logically relevant factors, consider the
 23736 following:

23737 (1) Statements by the owner or anyone in control of the substance concerning its use;

23738 (2) Prior convictions, if any, of the owner or of anyone in control of the substance for
 23739 violation of any state or federal law relating to the sale or manufacture of controlled
 23740 substances;

23741 (3) Instructions or descriptive materials of any kind accompanying the substance or
 23742 found in the owner's or controlling person's possession concerning, explaining, or
 23743 depicting its use;

23744 (4) The manner in which the substance is displayed or offered for sale;

23745 (5) The quantity and location of the substance considered in relation to the existence and
 23746 scope of legitimate uses for the substance in the community; and

23747 (6) Expert testimony concerning the substance's use.

23748 (c) This Code section shall not apply where possession was by a person authorized by law
 23749 to dispense, prescribe, manufacture, or possess the substance in question.

23750 (d) A person who violates this Code section shall be guilty of a felony and, upon
 23751 conviction thereof, shall be punished by imprisonment for not less than one nor more than
 23752 15 years or by a fine not to exceed \$100,000.00, or both.

23753 16-13-30.6.

23754 (a) As used in this Code section, the term:

- 23755 (1) 'Marijuana flavored product' means any product, including lollipops, gumdrops, or
 23756 other candy, which is flavored to taste like marijuana or hemp. The term shall include,
 23757 but is not limited to, 'Chronic Candy,' 'Kronic Kandy,' or 'Pot Suckers.'
- 23758 (2) 'Minor' means any person under the age of 18 years.
- 23759 (3) 'Person' means any natural person, individual, corporation, unincorporated
 23760 association, proprietorship, firm, partnership, limited liability company, joint venture,
 23761 joint stock association, or other entity or business organization of any kind.
- 23762 (b) The General Assembly finds and determines that:
- 23763 (1) According to the '2004 Monitoring the Future Study' conducted by the University of
 23764 Michigan, 16.3 percent of eighth graders, 35.1 percent of tenth graders, and 45.7 percent
 23765 of twelfth graders reported using marijuana at least once during their lifetimes;
- 23766 (2) According to a 2002 Substance Abuse and Mental Health Service Administration
 23767 report, 'Initiation of Marijuana Use: Trends, Patterns and Implications,' the younger
 23768 children are when they first use marijuana, the more likely they are to use cocaine and
 23769 heroin and become drug dependent as adults;
- 23770 (3) Marijuana abuse is associated with many negative health effects, including frequent
 23771 respiratory infections, impaired memory and learning, increased heart rate, anxiety, and
 23772 panic attacks;
- 23773 (4) Marijuana users have many of the same respiratory problems that are associated with
 23774 tobacco use;
- 23775 (5) According to the '2001 National Household Survey on Drug Abuse,' marijuana is the
 23776 nation's most commonly used illicit drug, and more than 83,000,000 Americans aged 12
 23777 and older have tried marijuana at least once;
- 23778 (6) Use of marijuana has been shown to lower test scores among high school students,
 23779 and workers who smoke marijuana are more likely to have problems on their jobs;
- 23780 (7) Federal, state, and local governments spend millions of dollars annually on programs
 23781 educating people about the hazards of drugs, and the marketing of marijuana flavored
 23782 substances would have an adverse impact upon these programs;
- 23783 (8) The sale of marijuana flavored products, including lollipops and gum drops, which
 23784 claim 'every lick is like taking a hit' is a marketing ploy that perpetuates an unhealthy
 23785 culture and should not be permitted in the State of Georgia;
- 23786 (9) Marijuana flavored products are a threat to minors in the State of Georgia because
 23787 such products give the false impression that marijuana is fun and safe;
- 23788 (10) Marijuana flavored products packaged as candy or lollipops falling into the hands
 23789 of unsuspecting minors may serve as a gateway to future use of marijuana and other
 23790 drugs; and

23791 (11) Merchants who sell marijuana flavored products are promoting marijuana use and
23792 creating new customers for drug dealers in the State of Georgia.

23793 Therefore, the purpose of this Code section is to prohibit the purchase and sale of
23794 marijuana flavored products to minors in the State of Georgia.

23795 (c) It shall be unlawful for any person knowingly to sell, deliver, distribute, or provide to
23796 a minor or knowingly possess with intent to sell, deliver, distribute, or provide to a minor
23797 any marijuana flavored product in the State of Georgia.

23798 (d) It shall be unlawful for any minor falsely to represent to any person that such minor is
23799 18 years of age or older with the intent to purchase or otherwise obtain any marijuana
23800 flavored product.

23801 (e) Any person who violates subsection (c) of this Code section shall be guilty of a
23802 misdemeanor and shall be subject to a fine of \$500.00 for each offense. Each sale in
23803 violation of this Code section shall constitute a separate offense.

23804 16-13-31.

23805 (a)(1) Any person who knowingly sells, manufactures, delivers, or brings into this state
23806 or who is knowingly in possession of 28 grams or more of cocaine or of any mixture with
23807 a purity of 10 percent or more of cocaine, as described in Schedule II, in violation of this
23808 article commits the felony offense of trafficking in cocaine and, upon conviction thereof,
23809 shall be punished as follows:

23810 (A) If the quantity of the cocaine or the mixture involved is 28 grams or more, but less
23811 than 200 grams, the person shall be sentenced to a mandatory minimum term of
23812 imprisonment of ten years and shall pay a fine of \$200,000.00;

23813 (B) If the quantity of the cocaine or the mixture involved is 200 grams or more, but less
23814 than 400 grams, the person shall be sentenced to a mandatory minimum term of
23815 imprisonment of 15 years and shall pay a fine of \$300,000.00; and

23816 (C) If the quantity of the cocaine or the mixture involved is 400 grams or more, the
23817 person shall be sentenced to a mandatory minimum term of imprisonment of 25 years
23818 and shall pay a fine of \$1 million.

23819 (2) Any person who knowingly sells, manufactures, delivers, or brings into this state or
23820 who is knowingly in possession of any mixture with a purity of less than 10 percent of
23821 cocaine, as described in Schedule II, in violation of this article commits the felony
23822 offense of trafficking in cocaine if the total weight of the mixture multiplied by the
23823 percentage of cocaine contained in the mixture exceeds any of the quantities of cocaine
23824 specified in paragraph (1) of this subsection. Upon conviction thereof, such person shall
23825 be punished as provided in paragraph (1) of this subsection depending upon the quantity

23826 of cocaine such person is charged with knowingly selling, manufacturing, delivering, or
23827 bringing into this state or knowingly possessing.

23828 (b) Any person who knowingly sells, manufactures, delivers, brings into this state, or has
23829 possession of 4 grams or more of any morphine or opium or any salt, isomer, or salt of an
23830 isomer thereof, including heroin, as described in Schedules I and II, or 4 grams or more of
23831 any mixture containing any such substance in violation of this article commits the felony
23832 offense of trafficking in illegal drugs and, upon conviction thereof, shall be punished as
23833 follows:

23834 (1) If the quantity of such substances involved is 4 grams or more, but less than 14
23835 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of
23836 five years and shall pay a fine of \$50,000.00;

23837 (2) If the quantity of such substances involved is 14 grams or more, but less than 28
23838 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of
23839 ten years and shall pay a fine of \$100,000.00; and

23840 (3) If the quantity of such substances involved is 28 grams or more, the person shall be
23841 sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine
23842 of \$500,000.00.

23843 (c) Any person who knowingly sells, manufactures, grows, delivers, brings into this state,
23844 or has possession of a quantity of marijuana exceeding 10 pounds commits the offense of
23845 trafficking in marijuana and, upon conviction thereof, shall be punished as follows:

23846 (1) If the quantity of marijuana involved is in excess of 10 pounds, but less than 2,000
23847 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of
23848 five years and shall pay a fine of \$100,000.00;

23849 (2) If the quantity of marijuana involved is 2,000 pounds or more, but less than 10,000
23850 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of
23851 seven years and shall pay a fine of \$250,000.00; and

23852 (3) If the quantity of marijuana involved is 10,000 pounds or more, the person shall be
23853 sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine
23854 of \$1 million.

23855 (d) Any person who knowingly sells, manufactures, delivers, or brings into this state 200
23856 grams or more of methaqualone or of any mixture containing methaqualone, as described
23857 in paragraph (6) of Code Section 16-13-25, in violation of this article commits the felony
23858 offense of trafficking in methaqualone and, upon conviction thereof, shall be punished as
23859 follows:

23860 (1) If the quantity of the methaqualone or the mixture involved is 200 grams or more, but
23861 less than 400 grams, the person shall be sentenced to a mandatory minimum term of
23862 imprisonment of five years and shall pay a fine of \$50,000.00; and

23863 (2) If the quantity of the methaqualone or the mixture involved is 400 grams or more, the
23864 person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and
23865 shall pay a fine of \$250,000.00.

23866 (e) Any person who knowingly sells, delivers, or brings into this state or has possession
23867 of 28 grams or more of methamphetamine, amphetamine, or any mixture containing either
23868 methamphetamine or amphetamine, as described in Schedule II, in violation of this article
23869 commits the felony offense of trafficking in methamphetamine or amphetamine and, upon
23870 conviction thereof, shall be punished as follows:

23871 (1) If the quantity of methamphetamine, amphetamine, or a mixture containing either
23872 substance involved is 28 grams or more, but less than 200 grams, the person shall be
23873 sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a
23874 fine of \$200,000.00;

23875 (2) If the quantity of methamphetamine, amphetamine, or a mixture containing either
23876 substance involved is 200 grams or more, but less than 400 grams, the person shall be
23877 sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine
23878 of \$300,000.00; and

23879 (3) If the quantity of methamphetamine, amphetamine, or a mixture containing either
23880 substance involved is 400 grams or more, the person shall be sentenced to a mandatory
23881 minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

23882 (f) Any person who knowingly manufactures methamphetamine, amphetamine, or any
23883 mixture containing either methamphetamine or amphetamine, as described in Schedule II,
23884 in violation of this article commits the felony offense of trafficking methamphetamine or
23885 amphetamine and, upon conviction thereof, shall be punished as follows:

23886 (1) If the quantity of methamphetamine, amphetamine, or a mixture containing either
23887 substance involved is less than 200 grams, the person shall be sentenced to a mandatory
23888 minimum term of imprisonment of ten years and shall pay a fine of \$200,000.00;

23889 (2) If the quantity of methamphetamine, amphetamine, or a mixture containing either
23890 substance involved is 200 grams or more, but less than 400 grams, the person shall be
23891 sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine
23892 of \$300,000.00; and

23893 (3) If the quantity of methamphetamine, amphetamine, or a mixture containing either
23894 substance involved is 400 grams or more, the person shall be sentenced to a mandatory
23895 minimum term of imprisonment of 25 years and shall pay a fine of \$1 million.

23896 (g)(1) Except as provided in paragraph (2) of this subsection and notwithstanding Code
23897 Section 16-13-2, with respect to any person who is found to have violated this Code
23898 section, adjudication of guilt or imposition of sentence shall not be suspended, probated,

23899 deferred, or withheld prior to serving the mandatory minimum term of imprisonment
23900 prescribed by this Code section.

23901 (2) The district attorney may move the sentencing court to impose a reduced or
23902 suspended sentence upon any person who is convicted of a violation of this Code section
23903 and who provides substantial assistance in the identification, arrest, or conviction of any
23904 of his accomplices, accessories, coconspirators, or principals. Upon good cause shown,
23905 the motion may be filed and heard in camera. The judge hearing the motion may impose
23906 a reduced or suspended sentence if he finds that the defendant has rendered such
23907 substantial assistance.

23908 (h) Any person who violates any provision of this Code section in regard to trafficking in
23909 cocaine, illegal drugs, marijuana, or methamphetamine shall be punished by imprisonment
23910 for not less than five years nor more than 30 years and by a fine not to exceed \$1 million.

23911 16-13-31.1.

23912 Any person who knowingly sells, manufactures, delivers, brings into this state, or has
23913 possession of 28 grams or more of 3, 4-methylenedioxyamphetamine or 3,
23914 4-methylenedioxyamphetamine, or any mixture containing 3,
23915 4-methylenedioxyamphetamine or 3, 4-methylenedioxyamphetamine as described in
23916 Schedule I, in violation of this article commits the felony offense of trafficking in 3,
23917 4-methylenedioxyamphetamine or 3, 4-methylenedioxyamphetamine and, upon
23918 conviction thereof, shall be punished as follows:

23919 (1) If the quantity of such substance involved is 28 grams or more, but less than 200
23920 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of
23921 three years but not more than 30 years and shall pay a fine of not less than \$25,000.00 nor
23922 more than \$250,000.00;

23923 (2) If the quantity of such substance involved is 200 grams or more, but less than 400
23924 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of
23925 five years but not more than 30 years and shall pay a fine of not less than \$50,000.00 nor
23926 more than \$250,000.00; and

23927 (3) If the quantity of such substance involved is 400 grams or more, the person shall be
23928 sentenced to a mandatory minimum term of imprisonment of ten years but not more than
23929 30 years and shall pay a fine of not less than \$100,000.00 nor more than \$250,000.00.

23930 16-13-32.

23931 (a) As used in this Code section, the term:

23932 (1) 'Drug related object' means any instrument, device, or object which is designed or
23933 marketed as useful primarily for one or more of the following purposes:

- 23934 (A) To inject, ingest, inhale, or otherwise introduce marijuana or a controlled substance
23935 into the human body;
- 23936 (B) To enhance the effect of marijuana or a controlled substance on the human body;
- 23937 (C) To test the strength, effectiveness, or purity of marijuana or a controlled substance;
- 23938 (D) To process or prepare marijuana or a controlled substance for introduction into the
23939 human body;
- 23940 (E) To conceal any quantity of marijuana or a controlled substance; or
- 23941 (F) To contain or hold marijuana or a controlled substance while it is being introduced
23942 into the human body.
- 23943 (2) 'Knowing' means either actual or constructive knowledge of the drug related nature
23944 of the object; and a person or corporation has constructive knowledge of the drug related
23945 nature of the object if he or it has knowledge of facts which would put a reasonable and
23946 prudent person on notice of the drug related nature of the object.
- 23947 (b) It shall be unlawful for any person or corporation, knowing the drug related nature of
23948 the object, to sell, lend, rent, lease, give, exchange, or otherwise distribute to any person
23949 any drug related object. It shall also be unlawful for any person or corporation, knowing
23950 the drug related nature of the object, to display for sale, or possess with the intent to
23951 distribute any drug related object. Unless stated within the body of the advertisement or
23952 notice that the object that is advertised or about which information is disseminated is not
23953 available for distribution of any sort in this state, it shall be unlawful for any person or
23954 corporation, knowing the drug related nature of the object, to distribute or disseminate in
23955 any manner to any person any advertisement of any kind or notice of any kind which gives
23956 information, directly or indirectly, on where, how, from whom, or by what means any drug
23957 related object may be obtained or made.
- 23958 (c) It shall be unlawful for any person or corporation, other than a licensed pharmacist, a
23959 pharmacy intern or pharmacy extern as defined in Code Section 26-4-5, or a practitioner
23960 licensed to dispense dangerous drugs, to sell, lend, rent, lease, give, exchange, or otherwise
23961 distribute to any person a hypodermic syringe or needle designed or marketed primarily for
23962 human use. It shall be an affirmative defense that the hypodermic syringe or needle was
23963 marketed for a legitimate medical purpose.
- 23964 (d) For a first offense, any person or corporation which violates any provision of this Code
23965 section shall be guilty of a misdemeanor. For a second offense, the defendant shall be
23966 guilty of a misdemeanor of a high and aggravated nature. For a third or subsequent offense,
23967 the defendant shall be guilty of a felony and, upon conviction thereof, shall be imprisoned
23968 for not less than one year nor more than five years and shall be fined not more than
23969 \$5,000.00.

23970 (e) All instruments, devices, and objects which are distributed or possessed in violation of
23971 this Code section are declared to be contraband.

23972 (f) After conviction and after all direct appeals from the conviction have been exhausted,
23973 any instruments, devices, or objects which are the subject of prosecution under this Code
23974 section may be destroyed by the state or any county or municipality thereof without court
23975 order.

23976 (g) Any instruments, devices, or objects which are seized after July 1, 1980, on
23977 condemnation as being distributed or possessed in violation of this Code section and which
23978 are not made the subject of prosecution under this Code section may be destroyed by the
23979 state or any county or municipality thereof if within 90 days after such seizures are made,
23980 the district attorney or the solicitor-general of any court that has jurisdiction to try
23981 misdemeanors in the county where the seizure occurred shall institute condemnation
23982 proceedings in the court by petition, a copy of which shall be served upon the owner of the
23983 seized items, if known; and if the owner is unknown, notice of such proceedings shall be
23984 published once a week for two weeks in the newspaper in which the sheriff's
23985 advertisements are published. The petition shall allege that the seized items were
23986 distributed or possessed in violation of this Code section; and, if no defense is filed within
23987 30 days from the filing of the petition, judgment by default shall be entered by the court at
23988 chambers, and the court shall order the seized items to be destroyed; otherwise, the case
23989 shall proceed as other civil cases in the court. Should the state prove, by a preponderance
23990 of the evidence, that the seized items were distributed or possessed in violation of this Code
23991 section, the court shall order the seized items to be destroyed.

23992 16-13-32.1.

23993 (a) It shall be unlawful for any person or corporation to sell, rent, lease, give, exchange,
23994 otherwise distribute, or possess with intent to distribute any object or materials of any kind
23995 which such person or corporation intends to be used for the purpose of planting,
23996 propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
23997 producing, processing, preparing, testing, analyzing, packaging, repackaging, storing,
23998 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the
23999 human body marijuana or a controlled substance.

24000 (b) Unless stated within the body of the advertisement or notice that the object or materials
24001 that are advertised or about which information is disseminated are not available for
24002 distribution of any sort in this state, it shall be unlawful for any person or corporation to
24003 sell, rent, lease, give, exchange, distribute, or possess with intent to distribute any
24004 advertisement of any kind or notice of any kind which gives information, directly or
24005 indirectly, on where, how, from whom, or by what means any object or materials may be

24006 obtained or made, which object or materials such person or corporation intends to be used
 24007 for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing,
 24008 compounding, converting, producing, processing, preparing, testing, analyzing, packaging,
 24009 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
 24010 introducing into the human body marijuana or a controlled substance.

24011 (c) In determining whether any object or materials are intended for any of the purposes
 24012 listed in subsections (a) and (b) of this Code section, a court or other authority shall
 24013 consider all logically relevant factors. In a trial under this Code section, any evidence
 24014 admissible on this question under the rules of evidence shall be admitted. Subject to the
 24015 rules of evidence, when they are the object of an offer of proof in a court proceeding, the
 24016 following factors are among those that should be considered by a court or other authority
 24017 on this question:

- 24018 (1) Statements by an owner or anyone in control of the object or materials;
- 24019 (2) Instructions provided with the object or materials;
- 24020 (3) Descriptive materials accompanying the object or materials;
- 24021 (4) National and local advertising or promotional materials concerning the object or
 24022 materials;
- 24023 (5) The appearance of, and any writing or other representations appearing on, the object
 24024 or materials;
- 24025 (6) The manner in which the object or materials are displayed for sale or other
 24026 distribution;
- 24027 (7) Expert testimony concerning the object or materials; and
- 24028 (8) Any written or pictorial materials which are present in the place where the object is
 24029 located.

24030 (d) For a first offense, any person or corporation which violates any provision of this Code
 24031 section shall be guilty of a misdemeanor. For a second offense, the defendant shall be
 24032 guilty of a misdemeanor of a high and aggravated nature. For a third or subsequent offense,
 24033 the defendant shall be guilty of a felony and, upon conviction thereof, shall be imprisoned
 24034 for not less than one year nor more than five years and shall be fined not more than
 24035 \$5,000.00.

24036 (e) All objects and materials which are distributed or possessed in violation of this Code
 24037 section are declared to be contraband and shall be forfeited according to the procedure
 24038 described in Code Section 16-13-49.

24039 16-13-32.2.

24040 (a) It shall be unlawful for any person to use, or possess with the intent to use, any object
 24041 or materials of any kind for the purpose of planting, propagating, cultivating, growing,

24042 harvesting, manufacturing, compounding, converting, producing, processing, preparing,
24043 testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting,
24044 ingesting, inhaling, or otherwise introducing into the human body marijuana or a controlled
24045 substance.

24046 (b) Any person or corporation which violates any provision of this Code section shall be
24047 guilty of a misdemeanor.

24048 16-13-32.3.

24049 (a) It shall be unlawful for any person knowingly or intentionally to use any
24050 communication facility in committing or in causing or facilitating the commission of any
24051 act or acts constituting a felony under this chapter. Each separate use of a communication
24052 facility shall be a separate offense under this Code section. For purposes of this Code
24053 section, the term 'communication facility' means any and all public and private
24054 instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or
24055 sounds of all kinds and includes mail, telephone, wire, radio, computer or computer
24056 network, and all other means of communication.

24057 (b) Any person who violates subsection (a) of this Code section shall be punished by a fine
24058 of not more than \$30,000.00 or by imprisonment for not less than one nor more than four
24059 years, or both.

24060 16-13-32.4.

24061 (a) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with
24062 intent to distribute a controlled substance or marijuana in, on, or within 1,000 feet of any
24063 real property owned by or leased to any public or private elementary school, secondary
24064 school, or school board used for elementary or secondary education.

24065 (b) Any person who violates or conspires to violate subsection (a) of this Code section
24066 shall be guilty of a felony and upon conviction shall receive the following punishment:

24067 (1) Upon a first conviction, imprisonment for not more than 20 years or a fine of not
24068 more than \$20,000.00, or both; or

24069 (2) Upon a second or subsequent conviction, imprisonment for not less than five years
24070 nor more than 40 years or a fine of not more than \$40,000.00, or both. It shall be
24071 mandatory for the court to impose a minimum sentence of five years which may not be
24072 suspended unless otherwise provided by law.

24073 A sentence imposed under this Code section shall be served consecutively to any other
24074 sentence imposed.

24075 (c) A conviction arising under this Code section shall not merge with a conviction arising
24076 under any other provision of this article.

24077 (d) It shall be no defense to a prosecution for a violation of this Code section that:

24078 (1) School was or was not in session at the time of the offense;

24079 (2) The real property was being used for other purposes besides school purposes at the
24080 time of the offense; or

24081 (3) The offense took place on a school vehicle.

24082 (e) In a prosecution under this Code section, a map produced or reproduced by any
24083 municipal or county agency or department for the purpose of depicting the location and
24084 boundaries of the area on or within 1,000 feet of the real property of a school board or a
24085 private or public elementary or secondary school that is used for school purposes, or a true
24086 copy of the map, shall, if certified as a true copy by the custodian of the record, be
24087 admissible and shall constitute prima-facie evidence of the location and boundaries of the
24088 area, if the governing body of the municipality or county has approved the map as an
24089 official record of the location and boundaries of the area. A map approved under this Code
24090 section may be revised from time to time by the governing body of the municipality or
24091 county. The original of every map approved or revised under this subsection or a true copy
24092 of such original map shall be filed with the municipality or county and shall be maintained
24093 as an official record of the municipality or county. This subsection shall not preclude the
24094 prosecution from introducing or relying upon any other evidence or testimony to establish
24095 any element of this offense. This subsection shall not preclude the use or admissibility of
24096 a map or diagram other than the one which has been approved by the municipality or
24097 county.

24098 (f) A county school board may adopt regulations requiring the posting of signs designating
24099 the areas within 1,000 feet of school boards and private or public elementary and secondary
24100 schools as 'Drug-free School Zones.'

24101 (g) It is an affirmative defense to prosecution for a violation of this Code section that the
24102 prohibited conduct took place entirely within a private residence, that no person 17 years
24103 of age or younger was present in such private residence at any time during the commission
24104 of the offense, and that the prohibited conduct was not carried on for purposes of financial
24105 gain. Nothing in this subsection shall be construed to establish an affirmative defense with
24106 respect to any offense under this chapter other than the offense provided for in subsection
24107 (a) of this Code section.

24108 16-13-32.5.

24109 (a) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with
24110 intent to distribute a controlled substance or marijuana or a counterfeit substance in, on, or
24111 within 1,000 feet of any real property which has been dedicated and set apart by the
24112 governing authority of any municipality, county, state authority, or the state for use as a

24113 park, playground, recreation center, or for any other recreation purposes, unless the
24114 manufacture, distribution, or dispensing is otherwise allowed by law.

24115 (b) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with
24116 intent to distribute a controlled substance or marijuana or a counterfeit substance in, on, or
24117 within 1,000 feet of any real property of any publicly owned or publicly operated housing
24118 project, unless the manufacture, distribution, or dispensing is otherwise allowed by law.
24119 For the purposes of this Code section, the term 'housing project' means any facilities under
24120 the jurisdiction of a housing authority which constitute single or multifamily dwelling units
24121 occupied by low and moderate-income families pursuant to Chapter 3 of Title 8.

24122 (c) Any person who violates or conspires to violate subsection (a) or (b) of this Code
24123 section shall be guilty of a felony and upon conviction shall receive the following
24124 punishment:

24125 (1) Upon a first conviction, imprisonment for not more than 20 years or a fine of not
24126 more than \$20,000.00, or both; or

24127 (2) Upon a second or subsequent conviction, imprisonment for not less than five years
24128 nor more than 40 years or a fine of not more than \$40,000.00, or both. It shall be
24129 mandatory for the court to impose a minimum sentence of five years which may not be
24130 suspended unless otherwise provided by law.

24131 A sentence imposed under this Code section shall be served consecutively to any other
24132 sentence imposed.

24133 (d) A conviction arising under this Code section shall not merge with a conviction arising
24134 under any other provision of this article.

24135 (e) In a prosecution under this Code section, a map produced or reproduced by any
24136 municipal or county agency or department for the purpose of depicting the location and
24137 boundaries of the area on or within 1,000 feet of the real property of any publicly owned
24138 or publicly operated housing project or the real property set apart for use as a park,
24139 playground, recreation center, or for any other recreation purposes, or a true copy of the
24140 map, shall, if certified as a true copy by the custodian of the record, be admissible and shall
24141 constitute prima-facie evidence of the location and boundaries of the area, if the governing
24142 body of the municipality or county has approved the map as an official record of the
24143 location and boundaries of the area. A map approved under this Code section may be
24144 revised from time to time by the governing body of the municipality or county. The
24145 original of every map approved or revised under this subsection or a true copy of such
24146 original map shall be filed with the municipality or county and shall be maintained as an
24147 official record of the municipality or county. This subsection shall not preclude the
24148 prosecution from introducing or relying upon any other evidence or testimony to establish
24149 any element of this offense. This subsection shall not preclude the use or admissibility of

24150 a map or diagram other than the one which has been approved by the municipality or
24151 county.

24152 (f) The governing authority of a municipality or county may adopt regulations requiring
24153 the posting of signs designating the areas within 1,000 feet of any lands or buildings set
24154 apart for use as parks, playgrounds, recreation centers, or any other recreation purposes as
24155 'Drug-free Recreation Zones' and designating the areas within 1,000 feet of the real
24156 property of any publicly owned or publicly operated housing project as 'Drug-free
24157 Residential Zones.'

24158 (g) It is an affirmative defense to prosecution for a violation of this Code section that the
24159 prohibited conduct took place entirely within a private residence, that no person 17 years
24160 of age or younger was present in such private residence at any time during the commission
24161 of the offense, and that the prohibited conduct was not carried on for purposes of financial
24162 gain. Nothing in this subsection shall be construed to establish an affirmative defense with
24163 respect to any offense under this chapter other than the offense provided for in subsections
24164 (a) and (b) of this Code section.

24165 16-13-32.6.

24166 (a) It shall be unlawful for any person to illegally manufacture, distribute, dispense, or
24167 possess with intent to distribute a controlled substance or marijuana in, on, or within any
24168 real property which has been designated under this Code section as a drug-free commercial
24169 zone.

24170 (b)(1) Any person who violates or conspires to violate subsection (a) of this Code section
24171 shall be guilty of a felony and upon conviction shall receive the following punishment:

24172 (A) Upon a first conviction, imprisonment for not more than 20 years or a fine of not
24173 more than \$20,000.00, or both; or

24174 (B) Upon a second or subsequent conviction, imprisonment for not less than five years
24175 nor more than 40 years or a fine of not more than \$40,000.00, or both.

24176 (2) A sentence imposed under this Code section shall be served consecutively to any
24177 other sentence imposed.

24178 (3) Any person convicted of a violation of subsection (a) of this Code section may, as a
24179 condition of probation or parole, be required by the sentencing court or State Board of
24180 Pardons and Paroles to refrain for a period of not more than 24 months from entering or
24181 at any time being within the boundaries of the drug-free commercial zone wherein such
24182 person was arrested for a violation of this Code section. Any person arrested for violation
24183 of his or her terms of probation shall be governed by the provisions of Code Section
24184 42-8-38 and any person arrested for a violation of his or her terms of parole shall be
24185 governed by the provisions of Article 2 of Chapter 9 of Title 42.

24186 (c) A conviction arising under this Code section shall not merge with a conviction arising
 24187 under any other provision of this article.

24188 (d) Any municipality or county may designate one or more commercial areas where there
 24189 is a high rate of drug related crime as drug-free commercial zones. A drug-free commercial
 24190 zone may include only an area which the municipality or county has previously zoned
 24191 commercial pursuant to its planning and zoning powers and any residential area contiguous
 24192 to such commercially zoned area extending not more than one-half mile from the external
 24193 boundary of any portion of the commercially zoned area. A municipality or county which
 24194 designates one or more areas as drug-free commercial zones shall be required to make such
 24195 designations by ordinance and shall be required to post prominent and conspicuous signs
 24196 on the boundaries of and throughout any such drug-free commercial zone. A municipality
 24197 or county shall be required to file with the Department of Community Affairs a copy of
 24198 each ordinance which shall have attached a clearly defined map describing each drug-free
 24199 commercial zone and a report evidencing all drug related crimes in such drug-free
 24200 commercial zone area during the 12 months preceding the enactment of such ordinance.
 24201 A municipality or county shall also be required to file with the Department of Community
 24202 Affairs, during the period that a drug-free commercial zone is in effect, annual reports
 24203 evidencing all drug related crimes in such drug-free commercial zone. Such ordinances,
 24204 maps, and drug crime reports shall be maintained in a permanent register by such
 24205 department, and copies of such ordinances, maps, and drug crime reports of drug-free
 24206 commercial zones shall be made available to the public at a reasonable cost. A drug-free
 24207 commercial zone shall not be effective and valid for the purposes of this Code section until
 24208 it has been adopted by the General Assembly by general law. After the General Assembly
 24209 has adopted one or more drug-free commercial zones, the governing authority of each
 24210 municipality or county which has such a zone or zones designated and adopted shall be
 24211 required to have a description of each such zone published in the legal organ of the
 24212 municipality or county at least once a week for three weeks. A drug-free commercial zone
 24213 adopted by the General Assembly shall remain in effect for five years and shall expire five
 24214 years from the effective date of such adoption by the General Assembly. An area which has
 24215 been a drug-free commercial zone may be continued as or again designated as a drug-free
 24216 commercial zone upon the enactment of an ordinance and adoption thereof by the General
 24217 Assembly in accordance with the provisions of this subsection. No arrest for a violation of
 24218 this Code section shall be permissible for a period of 30 days immediately following the
 24219 effective date of the adoption of such drug-free commercial zone by the General Assembly.

24220 (e) In a prosecution under this Code section, a true copy of a map produced or reproduced
 24221 by any municipal or county agency or department for the purpose of depicting the location
 24222 and boundaries of any drug-free commercial zone and filed and on record at the

24223 Department of Community Affairs shall, if certified as a true copy by the custodian of such
 24224 records at such department, be admissible and shall constitute prima-facie evidence of the
 24225 location and boundaries of such zone. A map approved under this Code section may be
 24226 revised from time to time by the governing body of the municipality or county; provided,
 24227 however, that a revised map shall not become effective and the revised area shall not be a
 24228 drug-free commercial zone until the revised map has been filed with the Department of
 24229 Community Affairs and adopted by the General Assembly by general law; provided,
 24230 further, that the revision of a drug-free commercial zone shall not extend the expiration
 24231 date of such a drug-free commercial zone. The original copy of every map approved or
 24232 revised under this subsection or a true copy of such original map shall be filed with the
 24233 Department of Community Affairs and shall be maintained as an official record of the
 24234 department. This subsection shall not preclude the prosecution from introducing or relying
 24235 upon any other evidence or testimony to establish any element of this offense.

24236 (f) The General Assembly hereby adopts and incorporates into this Code section all
 24237 drug-free commercial zones which have been adopted by municipal or county ordinance
 24238 and entered in the register of the Department of Community Affairs as provided for in
 24239 subsection (d) of this Code section on or before March 28, 2011.

24240 16-13-33.

24241 Any person who attempts or conspires to commit any offense defined in this article shall
 24242 be, upon conviction thereof, punished by imprisonment not exceeding the maximum
 24243 punishment prescribed for the offense, the commission of which was the object of the
 24244 attempt or conspiracy.

24245 16-13-34.

24246 ~~The State Board of Pharmacy~~ Georgia Board of Licensing and Regulation may promulgate
 24247 rules and charge reasonable fees relating to the registration and control of the manufacture,
 24248 distribution, and dispensing of controlled substances within this state.

24249 16-13-35.

24250 (a) Every person who manufactures, distributes, or dispenses any controlled substances
 24251 within this state or who proposes to engage in the manufacture, distribution, or dispensing
 24252 of any controlled substance within this state must obtain annually a registration issued by
 24253 the ~~State Board of Pharmacy~~ director in accordance with its rules of the Georgia Board of
 24254 Licensing and Regulation.

24255 (b) Persons registered by the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 24256 Regulation under this article to manufacture, distribute, dispense, or conduct research with

24257 controlled substances may possess, manufacture, distribute, dispense, or conduct research
 24258 with those substances to the extent authorized by their registration and in conformity with
 24259 this article.

24260 (c) The following persons need not register and may lawfully possess controlled
 24261 substances under this article:

24262 (1) An agent or employee of any registered manufacturer, distributor, or dispenser of any
 24263 controlled substance if he is acting in the usual course of his business or employment;

24264 (2) A common or contract carrier or warehouseman, or any employee thereof, whose
 24265 possession of any controlled substance is in the usual course of his business or
 24266 employment;

24267 (3) An ultimate user or a person in possession of any controlled substance pursuant to
 24268 a lawful order of a practitioner or in lawful possession of a Schedule V substance; and

24269 (4) Officers and employees of this state, or of a political subdivision of this state, or of
 24270 the United States while acting in the course of their official duties.

24271 (d) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation may waive
 24272 by rule the requirements for registration of certain manufacturers, distributors, or
 24273 dispensers if it finds it consistent with the public health and safety.

24274 (e) A separate registration is required at each principal place of business or professional
 24275 practice where the applicant manufactures, distributes, or dispenses controlled substances.

24276 (f) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation, the director
 24277 of the Georgia Drugs and Narcotics Agency, or other drug agents designated by the ~~State~~
 24278 ~~Board of Pharmacy~~ Georgia Board of Licensing and Regulation for this purpose may
 24279 inspect the establishment of a registrant or applicant for registration in accordance with the
 24280 ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation rules and the
 24281 provisions of this article.

24282 (g) The following persons are registered under this article and are exempt from the
 24283 registration fee and registration application requirements of this article:

24284 (1) Persons licensed by the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 24285 Regulation as a pharmacist or a pharmacy under Chapter 4 of Title 26;

24286 (2) Persons licensed as a physician, dentist, or veterinarian under the laws of the state to
 24287 use, mix, prepare, dispense, prescribe, and administer drugs in connection with medical
 24288 treatment to the extent provided by the laws of this state; and

24289 (3) An employee, agent, or representative of any person described in paragraph (1) or (2)
 24290 of this subsection acting in the usual course of his employment or occupation and not on
 24291 his own account, provided that suspension or revocation of licensure as set forth in
 24292 paragraphs (1) and (2) of this subsection shall nullify the exemption as set forth in this
 24293 subsection.

24294 16-13-36.

24295 (a) The ~~State Board of Pharmacy~~ director shall register an applicant to manufacture or
 24296 distribute controlled substances included in Code Sections 16-13-25 through 16-13-29
 24297 unless it he or she determines that the issuance of that registration would be inconsistent
 24298 with the public interest. In determining the public interest, the ~~State Board of Pharmacy~~
 24299 director shall consider the following factors:

24300 (1) Maintenance of effective controls against diversion of controlled substances into
 24301 other than legitimate medical, scientific, or industrial channels;

24302 (2) Compliance with applicable state and local law;

24303 (3) Any convictions of the applicant under any federal or state laws relating to any
 24304 controlled substance;

24305 (4) Past experience in the manufacture or distribution of controlled substances and the
 24306 existence in the applicant's establishment of effective controls against illegal diversion
 24307 of controlled substances;

24308 (5) Furnishing by the applicant of false or fraudulent material in any application filed
 24309 under this article;

24310 (6) Suspension or revocation of the applicant's federal registration to manufacture,
 24311 distribute, or dispense controlled substances as authorized by federal law;

24312 (7) Suspension or revocation of the applicant's registration or license to manufacture,
 24313 distribute, or dispense controlled substances, drugs, or narcotics in this state or any other
 24314 state of the United States; and

24315 (8) Any other factors relevant to and consistent with the public health and safety.

24316 (b) Registration under subsection (a) of this Code section does not entitle a registrant to
 24317 manufacture and distribute controlled substances in Schedule I or II other than those
 24318 specified in the registration.

24319 (c) Practitioners must be registered under state law to dispense any controlled substances
 24320 or to conduct research with controlled substances in Schedules II through V if they are
 24321 authorized to dispense or conduct research under the law of this state. The ~~State Board of~~
 24322 ~~Pharmacy~~ Georgia Board of Licensing and Regulation need not require separate
 24323 registration under this Code section for practitioners engaging in research with nonnarcotic
 24324 controlled substances in Schedules II through V where the registrant is already registered
 24325 under this article in another capacity. Practitioners registered under federal law to conduct
 24326 research with Schedule I substances may conduct research with Schedule I substances
 24327 within this state upon furnishing the ~~State Board of Pharmacy~~ Georgia Board of Licensing
 24328 and Regulation satisfactory evidence of that federal registration. Any practitioner
 24329 conducting research with Schedule I controlled substances must obtain a separate
 24330 registration with the ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation.

24331 (d) Compliance by manufacturers and distributors with the provisions of federal law
24332 respecting registration (excluding fees) entitles them to be registered under this article.

24333 16-13-37.

24334 (a) A registration under Code Section 16-13-36 to manufacture, distribute, or dispense a
24335 controlled substance may be suspended or revoked by the ~~State Board of Pharmacy~~ director
24336 upon a finding that the registrant:

24337 (1) Has furnished false or fraudulent material information in any application filed under
24338 this article;

24339 (2) Has been convicted of a felony under any state or federal law relating to any
24340 controlled substance;

24341 (3) Has had his federal registration to manufacture, distribute, or dispense controlled
24342 substances suspended or revoked;

24343 (4) Has violated any provision of this article or the rules and regulations promulgated
24344 under this article; or

24345 (5) Has failed to maintain sufficient controls against diversion of controlled substances
24346 into other than legitimate medical, scientific, or industrial channels.

24347 (b) The ~~State Board of Pharmacy~~ director may limit revocation or suspension of a
24348 registration to the particular controlled substance with respect to which grounds for
24349 revocation or suspension exist.

24350 (c) If the ~~State Board of Pharmacy~~ director suspends or revokes a registration, all
24351 controlled substances owned or possessed by the registrant at the time of suspension or the
24352 effective date of the revocation order shall be placed under seal. No disposition may be
24353 made of substances under seal until the time for taking an appeal has elapsed or until all
24354 appeals have been concluded unless a court, upon application therefor, orders the sale of
24355 perishable substances and the deposit of the proceeds of the sale with the court. Upon a
24356 revocation order becoming final, all controlled substances shall be forfeited to the state.

24357 (d) The ~~State Board of Pharmacy~~ director shall promptly notify the bureau of all orders
24358 suspending or revoking registration and all forfeitures of controlled substances.

24359 16-13-38.

24360 (a) Before denying, suspending, revoking, or limiting registration, or refusing a renewal
24361 of registration, the ~~State Board of Pharmacy~~ director shall serve upon the applicant or
24362 registrant an order to show cause why registration should not be denied, revoked, limited,
24363 or suspended, or why the renewal should not be refused. The order to show cause shall
24364 contain a statement of the basis therefor and shall call upon the applicant or registrant to
24365 appear before the ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation at

24366 a time and place not less than 30 days after the date of service of the order; but in the case
24367 of a denial of renewal of registration the show cause order shall be served not later than 30
24368 days before the expiration of the registration. These proceedings shall be conducted in
24369 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
24370 without regard to any criminal prosecution or other proceeding. Proceedings to refuse
24371 renewal or registration shall not abate the existing registration, which shall remain in effect
24372 pending the outcome of the administrative hearing.

24373 (b) The ~~State Board of Pharmacy~~ director shall suspend, without an order to show cause,
24374 any registration simultaneously with the institution of proceedings under Code Section
24375 16-13-37 or where renewal of registration is refused if ~~it~~ the director finds that there is an
24376 imminent danger to the public health or safety which warrants this action. The suspension
24377 shall continue in effect until the conclusion of the proceedings, including judicial review
24378 thereof, unless sooner withdrawn by the ~~State Board of Pharmacy~~ director or dissolved by
24379 a court of competent jurisdiction.

24380 16-13-39.

24381 Persons registered to manufacture, distribute, or dispense controlled substances under this
24382 article shall keep a complete and accurate record of all controlled substances on hand,
24383 received, manufactured, sold, dispensed, or otherwise disposed of and shall maintain such
24384 records and inventories in conformance with the record-keeping and inventory
24385 requirements of federal law and with any rules issued by the ~~State Board of Pharmacy~~
24386 Georgia Board of Licensing and Regulation.

24387 16-13-40.

24388 Controlled substances in Schedules I and II shall be distributed by a registrant to another
24389 registrant only pursuant to an order form. Compliance with federal law respecting order
24390 forms shall be deemed compliance with this Code section.

24391 16-13-41.

24392 (a) Except when dispensed directly by a registered practitioner, other than a pharmacy or
24393 pharmacist, to an ultimate user, no controlled substance in Schedule II may be dispensed
24394 without the written prescription of a registered practitioner.

24395 (b) When a practitioner writes a prescription drug order to cause the dispensing of a
24396 Schedule II substance, he or she shall include the name and address of the person for whom
24397 it is prescribed, the kind and quantity of such Schedule II controlled substance, the
24398 directions for taking, the signature, and the name, address, telephone number, and DEA
24399 registration number of the prescribing practitioner. Such prescription shall be signed and

24400 dated by the practitioner on the date when issued, and the nature of such signature shall be
24401 defined in regulations promulgated by the ~~State Board of Pharmacy~~ Georgia Board of
24402 Licensing and Regulation. Prescription drug orders for Schedule II controlled substances
24403 may be transmitted via facsimile machine or other electronic means only in accordance
24404 with regulations promulgated by the ~~State Board of Pharmacy~~ Georgia Board of Licensing
24405 and Regulation in accordance with Code Section 26-4-80 or 26-4-80.1, or in accordance
24406 with DEA regulations at 21 C.F.R. 1306.

24407 (c) In emergency situations, as defined by rule of the ~~State Board of Pharmacy~~ Georgia
24408 Board of Licensing and Regulation, Schedule II drugs may be dispensed upon oral
24409 prescription of a registered practitioner, reduced promptly to writing and filed by the
24410 pharmacy. Prescriptions shall be retained in conformity with the requirements of Code
24411 Section 16-13-39. No prescription for a Schedule II substance may be refilled.

24412 (d)(1) Except when dispensed directly by a practitioner, other than a pharmacy or
24413 pharmacist, to an ultimate user, a controlled substance included in Schedule III, IV, or V,
24414 which is a prescription drug as determined under any law of this state or the Federal
24415 Food, Drug and Cosmetic Act, 21 U.S.C. Section 301, 52 Stat. 1040 (1938), shall not be
24416 dispensed without a written or oral prescription of a registered practitioner. The
24417 prescription shall not be filled or refilled more than six months after the date on which
24418 such prescription was issued or be refilled more than five times.

24419 (2) When a practitioner writes a prescription drug order to cause the dispensing of a
24420 Schedule III, IV, or V controlled substance, he or she shall include the name and address
24421 of the person for whom it is prescribed, the kind and quantity of such controlled
24422 substance, the directions for taking, the signature, and the name, address, telephone
24423 number, and DEA registration number of the practitioner. Such prescription shall be
24424 signed and dated by the practitioner on the date when issued or may be issued orally, and
24425 the nature of the signature of the prescriber shall meet the guidelines set forth in Chapter
24426 4 of Title 26, the regulations promulgated by the ~~State Board of Pharmacy~~ Georgia Board
24427 of Licensing and Regulation, or both such guidelines and regulations.

24428 (e) A controlled substance included in Schedule V shall not be distributed or dispensed
24429 other than for a legitimate medical purpose.

24430 (f) No person shall prescribe or order the dispensing of a controlled substance, except a
24431 registered practitioner who is:

24432 (1) Licensed or otherwise authorized by this state to prescribe controlled substances;

24433 (2) Acting in the usual course of his professional practice; and

24434 (3) Prescribing or ordering such controlled substances for a legitimate medical purpose.

24435 (g) No person shall fill or dispense a prescription for a controlled substance except a
24436 person who is licensed by this state as a pharmacist or a pharmacy intern acting under the

24437 immediate and direct personal supervision of a licensed pharmacist in a pharmacy licensed
 24438 by the ~~State Board of Pharmacy~~ director, provided that this subsection shall not prohibit
 24439 a registered physician, dentist, veterinarian, or podiatrist authorized by this state to dispense
 24440 controlled substances as provided in this article if such registered person complies with all
 24441 record-keeping, labeling, packaging, and storage requirements regarding such controlled
 24442 substances and imposed upon pharmacists and pharmacies in this chapter and in Chapter
 24443 4 of Title 26 and complies with the requirements of Code Section 26-4-130.

24444 (h) It shall be unlawful for any practitioner to issue any prescription document signed in
 24445 blank. The issuance of such document signed in blank shall be prima-facie evidence of a
 24446 conspiracy to violate this article. The possession of a prescription document signed in
 24447 blank by a person other than the person whose signature appears thereon shall be
 24448 prima-facie evidence of a conspiracy between the possessor and the signer to violate the
 24449 provisions of this article.

24450 (i)(1) Pharmacists may dispense prescriptions from a remote location for the benefit of
 24451 an institution that uses a remote automated medication system in accordance with the
 24452 requirements set forth in the rules and regulations adopted by the ~~State Board of~~
 24453 ~~Pharmacy~~ Georgia Board of Licensing and Regulation pursuant to paragraph ~~(12.1)~~ (7)
 24454 of subsection ~~(a)~~ (b) of Code Section 26-4-28.

24455 (2) As used in this subsection, the term 'institution' means a skilled nursing facility or a
 24456 hospice licensed as such under Chapter 7 of Title 31.

24457 16-13-42.

24458 (a) It is unlawful for any person:

24459 (1) Who is subject to the requirements of Code Section 16-13-35 to distribute or dispense
 24460 a controlled substance in violation of Code Section 16-13-41;

24461 (2) Who is a registrant to manufacture a controlled substance not authorized by his
 24462 registration or to distribute or dispense a controlled substance not authorized by his
 24463 registration to another registrant or other authorized person;

24464 (3) To refuse or fail to make, keep, or furnish any record, notification, order form,
 24465 statement, invoice, or information required under this article;

24466 (4) To refuse an entry into any premises for any inspection authorized by this article; or

24467 (5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building,
 24468 vehicle, boat, aircraft, or other structure or place which is resorted to by persons using
 24469 controlled substances in violation of this article for the purpose of using these substances,
 24470 or which is used for keeping or selling them in violation of this article.

24471 (b) Any person who violates this Code section is guilty of a felony and, upon conviction
 24472 thereof, may be imprisoned for not more than five years, fined not more than \$25,000.00,
 24473 or both.

24474 16-13-43.

24475 (a) It is unlawful for any person:

24476 (1) Who is a registrant to distribute a controlled substance classified in Schedule I or II,
 24477 except pursuant to an order form as required by Code Section 16-13-40;

24478 (2) To use, in the course of the manufacture or distribution of a controlled substance, a
 24479 registration number which is fictitious, revoked, suspended, or issued to another person;

24480 (3) To acquire or obtain possession of a controlled substance by misrepresentation, fraud,
 24481 forgery, deception, subterfuge, or theft;

24482 (4) To furnish false or fraudulent material information in, or omit any material
 24483 information from, any application, report, or other document or record required to be kept
 24484 or filed under this article;

24485 (5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed
 24486 to print, imprint, or reproduce the trademark, trade name, or other identifying mark,
 24487 imprint, or device of another or any likeness of any of the foregoing, upon any drug or
 24488 container or labeling thereof so as to render the drug a counterfeit substance; or

24489 (6) To withhold information from a practitioner that such person has obtained a
 24490 controlled substance of a similar therapeutic use in a concurrent time period from another
 24491 practitioner.

24492 (b) Any person who violates this Code section is guilty of a felony and, upon conviction
 24493 thereof, may be imprisoned for not more than eight years or fined not more than
 24494 \$50,000.00, or both.

24495 16-13-44.

24496 Any penalty imposed for violation of this article is in addition to, and not in lieu of, any
 24497 civil or administrative penalty or sanction otherwise authorized by law.

24498 16-13-45.

24499 Any officer or employee of the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 24500 Regulation or the director designated by the director of the Georgia Drugs and Narcotics
 24501 Agency may:

24502 (1) Carry firearms in the performance of his official duties;

24503 (2) Execute and serve search warrants, arrest warrants, administrative inspection
 24504 warrants, subpoenas, and summonses issued under the authority of this state;

24505 (3) Make arrests without warrant for any offense under this article committed in his
 24506 presence or if he has probable cause to believe that the person to be arrested has
 24507 committed or is committing a violation of this article which may constitute a felony;
 24508 (4) Make seizures of property pursuant to this article; or
 24509 (5) Perform other law enforcement duties as the ~~State Board of Pharmacy~~ Georgia Board
 24510 of Licensing and Regulation or the director of the Georgia Drugs and Narcotics Agency
 24511 designates.

24512 16-13-46.

24513 (a) Issuance and execution of inspection warrants shall be as follows:

24514 (1) A judge of the superior, state, city, or magistrate court, or any municipal officer
 24515 clothed by law with the powers of a magistrate, upon proper oath or affirmation showing
 24516 probable cause, may issue warrants for the purpose of conducting inspections authorized
 24517 by this article, or rules promulgated under this article, and seizures of property
 24518 appropriate to the inspections. For the purpose of the issuance of inspection warrants,
 24519 probable cause exists upon showing a valid public interest in the effective enforcement
 24520 of this article, or rules promulgated under this article, sufficient to justify inspection of
 24521 the area, premises, building, or conveyance in the circumstances specified in the
 24522 application for the warrant;

24523 (2) A warrant shall issue only upon an affidavit of a designated officer, drug agent, or
 24524 employee of the ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation
 24525 or director having knowledge of the facts alleged, sworn to before the judicial officer and
 24526 establishing the grounds for issuing the warrant. If the judicial officer is satisfied that
 24527 grounds for the application exist or that there is probable cause to believe they exist, he
 24528 shall issue a warrant identifying the area, premises, building, registrant, or conveyance
 24529 to be inspected, the purpose of the inspection, and, if appropriate, the type of property to
 24530 be inspected, if any. The warrant shall:

24531 (A) State the grounds for its issuance and the name of each person whose affidavit has
 24532 been taken in support thereof;

24533 (B) Be directed to persons authorized by Code Section 16-13-45 to execute it;

24534 (C) Command the persons to whom it is directed to inspect the area, premises,
 24535 building, registrant, or conveyance identified for the purpose specified and, if
 24536 appropriate, direct the seizure of the property specified;

24537 (D) Identify the item or types of property to be seized, if any; and

24538 (E) Designate the judicial officer to whom it shall be returned;

24539 (3) A warrant issued pursuant to this Code section must be executed and returned within
 24540 ten days of its date unless, upon a showing of a need for additional time, the court orders

24541 otherwise. If property is seized pursuant to a warrant, a copy shall be provided upon
 24542 request to the person from whom or from whose premises the property is taken, together
 24543 with a receipt for the property taken. The return of the warrant shall be made promptly,
 24544 accompanied by a written inventory of any property taken. A copy of the inventory shall
 24545 be delivered upon request to the person from whom or from whose premises the property
 24546 was taken and to the applicant for the warrant; and

24547 (4) The judicial officer who has issued a warrant shall attach thereto a copy of the return
 24548 and all papers returnable in connection therewith and file them with the clerk of the
 24549 superior court for the county in which the inspection was made.

24550 (b) The ~~State Board of Pharmacy~~ director, the director of the Georgia Drugs and Narcotics
 24551 Agency or drug agents may make inspections of controlled premises in accordance with
 24552 the following provisions:

24553 (1) For purposes of this Code section only, 'controlled premises' means:

24554 (A) Places where persons registered or exempted from registration requirements under
 24555 this article are required to keep records; and

24556 (B) Places, including factories, warehouses, establishments, and conveyances, in which
 24557 persons registered or exempted from registration requirements under this article are
 24558 permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose
 24559 of any controlled substance;

24560 (2) When authorized by an inspection warrant issued pursuant to subsection (a) of this
 24561 Code section, an officer or employee designated by the ~~State Board of Pharmacy~~ Georgia
 24562 Board of Licensing and Regulation, the director, or the director of the Georgia Drugs and
 24563 Narcotics Agency, upon presenting the warrant and appropriate credentials to the owner,
 24564 operator, or agent in charge, may enter controlled premises for the purpose of conducting
 24565 an inspection;

24566 (3) When authorized by an inspection warrant, an officer or employee designated by the
 24567 ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation, the director, or the
 24568 director of the Georgia Drugs and Narcotics Agency may:

24569 (A) Inspect and copy records required by this article to be kept;

24570 (B) Inspect, within reasonable limits and in a reasonable manner, controlled premises
 24571 and all pertinent equipment, finished and unfinished material, containers, and labeling
 24572 found therein, and, except as provided in paragraph (5) of subsection (b) of this Code
 24573 section, all other things therein, including records, files, papers, processes, controls, and
 24574 facilities bearing on violation of this article; and

24575 (C) Inventory any stock of any controlled substance therein and obtain samples thereof;

24576 (4) This Code section does not prevent the inspection without a warrant of books and
 24577 records pursuant to an administrative inspection in accordance with subsection (c) of this

24578 Code section, nor does it prevent entries and inspections, including seizures of property,
24579 without a warrant:

24580 (A) If the owner, operator, or agent in charge of the controlled premises consents;

24581 (B) In situations presenting imminent danger to health or safety;

24582 (C) In situations involving inspection of conveyance if there is reasonable cause to
24583 believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

24584 (D) In any other exceptional or emergency circumstance where time or opportunity to
24585 apply for a warrant is lacking; or

24586 (E) In all other situations in which a warrant is not constitutionally required; and

24587 (5) An inspection authorized by this Code section shall not extend to financial data, sales
24588 data other than shipment data, or pricing data unless the owner, operator, or agent in
24589 charge of the controlled premises consents in writing.

24590 (c) ~~The State Board of Pharmacy, its members~~ Georgia Board of Licensing and
24591 Regulation, the director, or duly authorized agents or drug agents shall have the power to
24592 inspect, without a warrant, in a lawful manner at all reasonable hours, any pharmacy or
24593 other place licensed by the ~~State Board of Pharmacy~~ director pursuant to Chapter 4 of Title
24594 26 for the purpose:

24595 (1) Of determining if any of the provisions of this article or any rule or regulation
24596 promulgated under its authority is being violated;

24597 (2) Of securing samples or specimens of any drug or medical supplies, after first paying
24598 or offering to pay for such samples or specimens; and

24599 (3) Of securing other such evidence as may be needed for an administrative proceedings
24600 action, as provided by this article.

24601 16-13-47.

24602 (a) The superior courts of this state may exercise jurisdiction to restrain or enjoin
24603 violations of this article.

24604 (b) The defendant may demand a trial by jury for an alleged violation of an injunction or
24605 restraining order under this Code section.

24606 16-13-48.

24607 (a) ~~The State Board of Pharmacy~~ Georgia Board of Licensing and Regulation and the
24608 director shall cooperate with federal and other state agencies in discharging its
24609 responsibilities concerning traffic in controlled substances and in suppressing the abuse of
24610 controlled substances. To this end, ~~it~~ they may:

24611 (1) Arrange for the exchange of information among governmental officials concerning
24612 the use and abuse of controlled substances;

24613 (2) Coordinate and cooperate in training programs concerning controlled substance law
 24614 enforcement at local and state levels;

24615 (3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file,
 24616 and collect statistics, including records, other than medical treatment records, of drug
 24617 dependent persons and other controlled substance law offenders within the state, and
 24618 make the information available for federal, state, and local law enforcement purposes;
 24619 and

24620 (4) Conduct or promote programs of eradication aimed at destroying wild or illicit
 24621 growth of plant species from which controlled substances may be extracted.

24622 (b) Results, information, and evidence received from the bureau relating to the regulatory
 24623 functions of this article, including results of inspections conducted by it, may be relied and
 24624 acted upon by the ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation,
 24625 the director, or drug agents in the exercise of its or their regulatory functions under this
 24626 article.

24627 16-13-48.1.

24628 Money or property seized or forfeited pursuant to federal law regarding controlled
 24629 substances, marijuana, or dangerous drugs, which money, property, or proceeds therefrom
 24630 are authorized by that federal law to be transferred to a cooperating law enforcement
 24631 agency of this state or any political subdivision thereof, shall be utilized by the law
 24632 enforcement agency or political subdivision to which the money, property, or proceeds are
 24633 so transferred as provided by such federal law and regulations thereunder. Unless otherwise
 24634 required by federal law or regulation, such funds shall be received and utilized as provided
 24635 by Georgia law.

24636 16-13-49.

24637 (a) As used in this Code section, the term:

24638 (1) 'Controlled substance' shall have the same meaning as provided in paragraph (4) of
 24639 Code Section 16-13-21 and shall also include marijuana as such term is defined in
 24640 paragraph (16) of Code Section 16-13-21, notwithstanding any other provisions of this
 24641 article.

24642 (2) 'Costs' means, but is not limited to:

24643 (A) All expenses associated with the seizure, towing, storage, maintenance, custody,
 24644 preservation, operation, or sale of the property; and

24645 (B) Satisfaction of any security interest or lien not subject to forfeiture under this Code
 24646 section.

24647 (3) 'Court costs' means, but is not limited to:

- 24648 (A) All court costs, including the costs of advertisement, transcripts, and court reporter
 24649 fees; and
- 24650 (B) Payment of receivers, conservators, appraisers, accountants, or trustees appointed
 24651 by the court pursuant to this Code section.
- 24652 (4) 'Enterprise' means any person, sole proprietorship, partnership, corporation, trust,
 24653 association, or other legal entity created under the laws of this state, of the United States
 24654 or any of the several states of the United States, or of any foreign nation or a group of
 24655 individuals associated in fact although not a legal entity and includes illicit as well as licit
 24656 enterprises and governmental as well as other entities.
- 24657 (5) 'Governmental agency' means any department, office, council, commission,
 24658 committee, authority, board, bureau, or division of the executive, judicial, or legislative
 24659 branch of a state, the United States, or any political subdivision thereof.
- 24660 (6) 'Interest holder' means a secured party within the meaning of Code Section 11-9-102
 24661 or the beneficiary of a perfected encumbrance pertaining to an interest in property.
- 24662 (7) 'Owner' means a person, other than an interest holder, who has an interest in property
 24663 and is in compliance with any statute requiring its recordation or reflection in public
 24664 records in order to perfect the interest against a bona fide purchaser for value.
- 24665 (8) 'Proceeds' means property derived directly or indirectly from, maintained by, or
 24666 realized through an act or omission and includes any benefit, interest, or property of any
 24667 kind without reduction for expenses incurred for acquisition, maintenance, or any other
 24668 purpose.
- 24669 (9) 'Property' means anything of value and includes any interest in anything of value,
 24670 including real property and any fixtures thereon, and tangible and intangible personal
 24671 property, including but not limited to currency, instruments, securities, or any other kind
 24672 of privilege, interest, claim, or right.
- 24673 (10) 'United States' includes its territories, possessions, and dominions and the District
 24674 of Columbia.
- 24675 (b)(1) An action filed pursuant to this Code section shall be filed in the name of the State
 24676 of Georgia and may be brought:
- 24677 (A) In the case of an in rem action, by the district attorney for the judicial circuit where
 24678 the property is located;
- 24679 (B) In the case of an in personam action, by the district attorney for the judicial circuit
 24680 in which the defendant resides; or
- 24681 (C) By the district attorney having jurisdiction over any offense which arose out of the
 24682 same conduct which made the property subject to forfeiture.
- 24683 Such district attorney may bring an action pursuant to this Code section in any superior
 24684 court of this state.

- 24685 (2) If more than one district attorney has jurisdiction to file an action pursuant to this
24686 Code section, the district attorney having primary jurisdiction over a violation of this
24687 article shall, in the event of a conflict, have priority over any other district attorney.
- 24688 (3) Any action brought pursuant to this Code section may be compromised or settled in
24689 the same manner as other civil actions.
- 24690 (c) An action for forfeiture brought pursuant to this Code section shall be tried:
- 24691 (1) If the action is in rem against real property, in the county where the property is
24692 located, except where a single tract is divided by a county line, in which case the superior
24693 court of either county shall have jurisdiction;
- 24694 (2) If the action is in rem against tangible or intangible personal property, in any county
24695 where the property is located or will be during the pendency of the action; or
- 24696 (3) If the action is in personam, as provided by law.
- 24697 (d) The following are declared to be contraband and no person shall have a property right
24698 in them:
- 24699 (1) All controlled substances, raw materials, or controlled substance analogs that have
24700 been manufactured, distributed, dispensed, possessed, or acquired in violation of this
24701 article;
- 24702 (2) All property which is, directly or indirectly, used or intended for use in any manner
24703 to facilitate a violation of this article or any proceeds derived or realized therefrom;
- 24704 (3) All property located in this state which was, directly or indirectly, used or intended
24705 for use in any manner to facilitate a violation of this article or of the laws of the United
24706 States or any of the several states relating to controlled substances which is punishable
24707 by imprisonment for more than one year or any proceeds derived or realized therefrom;
- 24708 (4) All weapons possessed, used, or available for use in any manner to facilitate a
24709 violation of this article or any of the laws of the United States or any of the several states
24710 relating to controlled substances which is punishable by imprisonment for more than one
24711 year;
- 24712 (5) Any interest, security, claim, or property or contractual right of any kind affording
24713 a source of influence over any enterprise that a person has established, operated,
24714 controlled, conducted, or participated in the conduct of in violation of this article or any
24715 of the laws of the United States or any of the several states relating to controlled
24716 substances which is punishable by imprisonment for more than one year or any proceeds
24717 derived or realized therefrom; and
- 24718 (6) All moneys, negotiable instruments, securities, or other things of value which are
24719 found in close proximity to any controlled substance or marijuana or other property
24720 which is subject to forfeiture under this subsection.

24721 (e)(1) A property interest shall not be subject to forfeiture under this Code section if the
24722 owner of such interest or interest holder establishes that the owner or interest holder:

24723 (A) Is not legally accountable for the conduct giving rise to its forfeiture, did not
24724 consent to it, and did not know and could not reasonably have known of the conduct or
24725 that it was likely to occur;

24726 (B) Had not acquired and did not stand to acquire substantial proceeds from the
24727 conduct giving rise to its forfeiture other than as an interest holder in an arm's length
24728 commercial transaction;

24729 (C) With respect to conveyances for transportation only, did not hold the property
24730 jointly, in common, or in community with a person whose conduct gave rise to its
24731 forfeiture;

24732 (D) Does not hold the property for the benefit of or as nominee for any person whose
24733 conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the
24734 interest through any such person, the owner or interest holder acquired it as a bona fide
24735 purchaser for value without knowingly taking part in an illegal transaction; and

24736 (E) Acquired the interest:

24737 (i) Before the completion of the conduct giving rise to its forfeiture, and the person
24738 whose conduct gave rise to its forfeiture did not have the authority to convey the
24739 interest to a bona fide purchaser for value at the time of the conduct; or

24740 (ii) After the completion of the conduct giving rise to its forfeiture:

24741 (I) As a bona fide purchaser for value without knowingly taking part in an illegal
24742 transaction;

24743 (II) Before the filing of a lien on it and before the effective date of a notice of
24744 pending forfeiture relating to it and without notice of its seizure for forfeiture under
24745 this article; and

24746 (III) At the time the interest was acquired, was reasonably without cause to believe
24747 that the property was subject to forfeiture or likely to become subject to forfeiture
24748 under this article.

24749 (2) A property interest shall not be subject to forfeiture under this Code section for a
24750 violation involving only one gram or less of a mixture containing cocaine or four ounces
24751 or less of marijuana unless said property was used to facilitate a transaction in or a
24752 purchase of or sale of a controlled substance or marijuana.

24753 (f) A rented or leased vehicle shall not be subject to forfeiture unless it is established in
24754 forfeiture proceedings that the owner of the rented or leased vehicle is legally accountable
24755 for the conduct which would otherwise subject the vehicle to forfeiture, consented to the
24756 conduct, or knew or reasonably should have known of the conduct or that it was likely to
24757 occur. Upon learning of the address or phone number of the company which owns any

24758 rented or leased vehicle which is present at the scene of an arrest or other action taken
24759 pursuant to this Code section, the duly authorized authorities shall immediately contact the
24760 company to inform it that the vehicle is available for the company to take possession.

24761 (g)(1) Property which is subject to forfeiture under this Code section may be seized by
24762 the director of the Georgia Drugs and Narcotics Agency or any duly authorized agent or
24763 drug agent of this state or by any law enforcement officer of this state or of any political
24764 subdivision thereof who has power to make arrests or execute process or a search warrant
24765 issued by any court having jurisdiction over the property. A search warrant authorizing
24766 seizure of property which is subject to forfeiture pursuant to this Code section may be
24767 issued on an affidavit demonstrating that probable cause exists for its forfeiture or that
24768 the property has been the subject of a previous final judgment of forfeiture in the courts
24769 of this state, any other state, or the United States. The court may order that the property
24770 be seized on such terms and conditions as are reasonable.

24771 (2) Property which is subject to forfeiture under this Code section may be seized without
24772 process if there is probable cause to believe that the property is subject to forfeiture under
24773 this article or the seizure is incident to an arrest or search pursuant to a search warrant or
24774 to an inspection under an inspection warrant.

24775 (3) The court's jurisdiction over forfeiture proceedings is not affected by a seizure in
24776 violation of the Constitution of Georgia or the United States Constitution made with
24777 process or in a good faith belief of probable cause.

24778 (h)(1) When property is seized pursuant to this article, the sheriff, drug agent, or law
24779 enforcement officer seizing the same shall report the fact of seizure, in writing, within 20
24780 days thereof to the district attorney of the judicial circuit having jurisdiction in the county
24781 where the seizure was made.

24782 (2) Within 60 days from the date of seizure, a complaint for forfeiture shall be initiated
24783 as provided for in subsection (n), (o), or (p) of this Code section.

24784 (3) If the state fails to initiate forfeiture proceedings against property seized for forfeiture
24785 by notice of pending forfeiture within the time limits specified in paragraphs (1) and (2)
24786 of this subsection, the property must be released on the request of an owner or interest
24787 holder, pending further proceedings pursuant to this Code section, unless the property is
24788 being held as evidence.

24789 (i)(1) Seizure of property by a law enforcement officer constitutes notice of such seizure
24790 to any person who was present at the time of seizure who may assert an interest in the
24791 property.

24792 (2) When property is seized pursuant to this article, the district attorney or the sheriff,
24793 drug agent, or law enforcement officer seizing the same shall give notice of the seizure

24794 to any owner or interest holder who is not present at the time of seizure by personal
24795 service, publication, or the mailing of written notice:

24796 (A) If the owner's or interest holder's name and current address are known, by either
24797 personal service or mailing a copy of the notice by certified mail or statutory overnight
24798 delivery to that address;

24799 (B) If the owner's or interest holder's name and address are required by law to be on
24800 record with a government agency to perfect an interest in the property but the owner's
24801 or interest holder's current address is not known, by mailing a copy of the notice by
24802 certified mail or statutory overnight delivery, return receipt requested, to any address
24803 on the record; or

24804 (C) If the owner's or interest holder's address is not known and is not on record as
24805 provided in subparagraph (B) of this paragraph or the owner's or interest holder's
24806 interest is not known, by publication in two consecutive issues of a newspaper of
24807 general circulation in the county in which the seizure occurs.

24808 (3) Notice of seizure must include a description of the property, the date and place of
24809 seizure, the conduct giving rise to forfeiture, and the violation of law alleged.

24810 (j) A district attorney may file, without a filing fee, a lien for forfeiture of property upon
24811 the initiation of any civil or criminal proceeding under this article or upon seizure for
24812 forfeiture. The filing constitutes notice to any person claiming an interest in the property
24813 owned by the named person. The filing shall include the following:

24814 (1) The lien notice must set forth:

24815 (A) The name of the person and, in the discretion of the state, any alias and any
24816 corporations, partnerships, trusts, or other entities, including nominees, that are either
24817 owned entirely or in part or controlled by the person; and

24818 (B) The description of the property, the criminal or civil proceeding that has been
24819 brought under this article, the amount claimed by the state, the name of the court where
24820 the proceeding or action has been brought, and the case number of the proceeding or
24821 action if known at the time of filing;

24822 (2) A lien under this subsection applies to the described property and to one named
24823 person and to any aliases, fictitious names, or other names, including names of
24824 corporations, partnerships, trusts, or other entities, that are either owned entirely or in part
24825 or controlled by the named person and any interest in real property owned or controlled
24826 by the named person. A separate lien for forfeiture of property must be filed for any other
24827 person;

24828 (3) The lien creates, upon filing, a lien in favor of the state as it relates to the seized
24829 property or to the named person or related entities with respect to said property. The lien
24830 secures the amount of potential liability for civil judgment and, if applicable, the fair

24831 market value of seized property relating to all proceedings under this article enforcing the
 24832 lien. The forfeiture lien referred to in this subsection must be filed in accordance with the
 24833 provisions of the laws in this state pertaining to the type of property that is subject to the
 24834 lien. The state may amend or release, in whole or in part, a lien filed under this subsection
 24835 at any time by filing, without a filing fee, an amended lien in accordance with this
 24836 subsection which identifies the lien amended. The state, as soon as practical after filing
 24837 a lien, shall furnish to any person named in the lien a notice of the filing of the lien.
 24838 Failure to furnish notice under this subsection does not invalidate or otherwise affect a
 24839 lien filed in accordance with this subsection;

24840 (4) Upon entry of judgment in favor of the state, the state may proceed to execute on the
 24841 lien as in the case of any other judgment;

24842 (5) A trustee, constructive or otherwise, who has notice that a lien for forfeiture of
 24843 property, a notice of pending forfeiture, or a civil forfeiture proceeding has been filed
 24844 against the property or against any person or entity for whom the person holds title or
 24845 appears as the owner of record shall furnish, within ten days, to the district attorney or his
 24846 designee the following information:

24847 (A) The name and address of the person or entity for whom the property is held;

24848 (B) The names and addresses of all beneficiaries for whose benefit legal title to the
 24849 seized property, or property of the named person or related entity, is held; and

24850 (C) A copy of the applicable trust agreement or other instrument, if any, under which
 24851 the trustee or other person holds legal title or appears as the owner of record of the
 24852 property; and

24853 (6) A trustee, constructive or otherwise, who fails to comply with this subsection shall
 24854 be guilty of a misdemeanor.

24855 (k) Property taken or detained under this Code section is not subject to replevin,
 24856 conveyance, sequestration, or attachment. The seizing law enforcement agency or the
 24857 district attorney may authorize the release of the property if the forfeiture or retention is
 24858 unnecessary or may transfer the action to another agency or district attorney by
 24859 discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other
 24860 law enforcement agency or district attorney. An action under this Code section may be
 24861 consolidated with any other action or proceeding under this article relating to the same
 24862 property on motion by an interest holder and must be so consolidated on motion by the
 24863 district attorney in either proceeding or action. The property is deemed to be in the custody
 24864 of the State of Georgia subject only to the orders and decrees of the superior court having
 24865 jurisdiction over the forfeiture proceedings.

24866 (l)(1) If property is seized under this article, the district attorney may:

- 24867 (A) Remove the property to a place designated by the superior court having jurisdiction
24868 over the forfeiture proceeding;
- 24869 (B) Place the property under constructive seizure by posting notice of pending
24870 forfeiture, by giving notice of pending forfeiture to its owners and interest holders, or
24871 by filing notice of seizure in any appropriate public record relating to the property;
- 24872 (C) Remove the property to a storage area, within the jurisdiction of the court, for
24873 safekeeping or, if the property is a negotiable instrument or money and is not needed
24874 for evidentiary purposes, the district attorney may authorize its being deposited in an
24875 interest-bearing account in a financial institution in this state. Any accrued interest shall
24876 follow the principal in any judgment with respect thereto;
- 24877 (D) Provide for another governmental agency, a receiver appointed by the court
24878 pursuant to Chapter 8 of Title 9, an owner, or an interest holder to take custody of the
24879 property and remove it to an appropriate location within the county where the property
24880 was seized; or
- 24881 (E) Require the sheriff or chief of police of the political subdivision where the property
24882 was seized to take custody of the property and remove it to an appropriate location for
24883 disposition in accordance with law.
- 24884 (2) If any property which has been attached or seized pursuant to this Code section is
24885 perishable or is liable to perish, waste, or be greatly reduced in value by keeping or if the
24886 expense of keeping the same is excessive or disproportionate to the value thereof, the
24887 court, upon motion of the state, a claimant, or the custodian, may order the property or
24888 any portion thereof to be sold upon such terms and conditions as may be prescribed by
24889 the court; and the proceeds shall be paid into the registry of the court pending final
24890 disposition of the action.
- 24891 (m) As soon as possible, but not more than 30 days after the seizure of property, the
24892 seizing law enforcement agency shall conduct an inventory and estimate the value of the
24893 property seized.
- 24894 (n) If the estimated value of personal property seized is \$25,000.00 or less, the district
24895 attorney may elect to proceed under the provisions of this subsection in the following
24896 manner:
- 24897 (1) Notice of the seizure of such property shall be posted in a prominent location in the
24898 courthouse of the county in which the property was seized. Such notice shall include a
24899 description of the property, the date and place of seizure, the conduct giving rise to
24900 forfeiture, a statement that the owner of such property has 30 days within which a claim
24901 must be filed, and the violation of law alleged;
- 24902 (2) A copy of the notice, which shall include a statement that the owner of such property
24903 has 30 days within which a claim must be filed, shall be served upon an owner, interest

24904 holder, or person in possession of the property at the time of seizure as provided in
24905 subsection (i) of this Code section and shall be published for at least three successive
24906 weeks in a newspaper of general circulation in the county where the seizure was made;
24907 (3) The owner or interest holder may file a claim within 30 days after the second
24908 publication of the notice of forfeiture by sending the claim to the seizing law enforcement
24909 agency and to the district attorney by certified mail or statutory overnight delivery, return
24910 receipt requested;

24911 (4) The claim must be signed by the owner or interest holder under penalty of perjury
24912 and must set forth:

24913 (A) The caption of the proceedings as set forth on the notice of pending forfeiture and
24914 the name of the claimant;

24915 (B) The address at which the claimant will accept mail;

24916 (C) The nature and extent of the claimant's interest in the property;

24917 (D) The date, identity of the transferor, and circumstances of the claimant's acquisition
24918 of the interest in the property;

24919 (E) The specific provision of this Code section relied on in asserting that the property
24920 is not subject to forfeiture;

24921 (F) All essential facts supporting each assertion; and

24922 (G) The precise relief sought;

24923 (5) If a claim is filed, the district attorney shall file a complaint for forfeiture as provided
24924 in subsection (o) or (p) of this Code section within 30 days of the actual receipt of the
24925 claim. A person who files a claim shall be joined as a party; and

24926 (6) If no claim is filed within 30 days after the second publication of the notice of
24927 forfeiture, all right, title, and interest in the property is forfeited to the state and the
24928 district attorney shall dispose of the property as provided in subsection (u) of this Code
24929 section.

24930 (o) In rem proceedings.

24931 (1) In actions in rem, the property which is the subject of the action shall be named as
24932 the defendant. The complaint shall be verified on oath or affirmation by a duly authorized
24933 agent of the state in a manner required by the laws of this state. Such complaint shall
24934 describe the property with reasonable particularity; state that it is located within the
24935 county or will be located within the county during the pendency of the action; state its
24936 present custodian; state the name of the owner or interest holder, if known; allege the
24937 essential elements of the violation which is claimed to exist; state the place of seizure, if
24938 the property was seized; and conclude with a prayer of due process to enforce the
24939 forfeiture.

- 24940 (2) A copy of the complaint and summons shall be served on any person known to be an
24941 owner or interest holder and any person who is in possession of the property.
- 24942 (A) Service of the complaint and summons shall be as provided in subsections (a), (b),
24943 (c), and (e) of Code Section 9-11-4.
- 24944 (B) If real property is the subject of the action or the owner or interest holder is
24945 unknown or resides out of the state or departs the state or cannot after due diligence be
24946 found within the state or conceals himself so as to avoid service, notice of the
24947 proceeding shall be published once a week for two successive weeks in the newspaper
24948 in which the sheriff's advertisements are published. Such publication shall be deemed
24949 notice to any and all persons having an interest in or right affected by such proceeding
24950 and from any sale of the property resulting therefrom, but shall not constitute notice to
24951 an interest holder unless that person is unknown or resides out of the state or departs the
24952 state or cannot after due diligence be found within the state or conceals himself to avoid
24953 service.
- 24954 (C) If tangible property which has not been seized is the subject of the action, the court
24955 may order the sheriff or another law enforcement officer to take possession of the
24956 property. If the character or situation of the property is such that the taking of actual
24957 possession is impracticable, the sheriff shall execute process by affixing a copy of the
24958 complaint and summons to the property in a conspicuous place and by leaving another
24959 copy of the complaint and summons with the person having possession or his agent. In
24960 cases involving a vessel or aircraft, the sheriff or other law enforcement officer is
24961 authorized to make a written request with the appropriate governmental agency not to
24962 permit the departure of such vessel or aircraft until notified by the sheriff or his deputy
24963 that the vessel or aircraft has been released.
- 24964 (3) An owner of or interest holder in the property may file an answer asserting a claim
24965 against the property in the action in rem. Any such answer shall be filed within 30 days
24966 after the service of the summons and complaint. Where service is made by publication
24967 and personal service has not been made, an owner or interest holder shall file an answer
24968 within 30 days of the date of final publication. An answer must be verified by the owner
24969 or interest holder under penalty of perjury. In addition to complying with the general
24970 rules applicable to an answer in civil actions, the answer must set forth:
- 24971 (A) The caption of the proceedings as set forth in the complaint and the name of the
24972 claimant;
- 24973 (B) The address at which the claimant will accept mail;
- 24974 (C) The nature and extent of the claimant's interest in the property;
- 24975 (D) The date, identity of transferor, and circumstances of the claimant's acquisition of
24976 the interest in the property;

- 24977 (E) The specific provision of this Code section relied on in asserting that the property
 24978 is not subject to forfeiture;
- 24979 (F) All essential facts supporting each assertion; and
- 24980 (G) The precise relief sought.
- 24981 (4) If at the expiration of the period set forth in paragraph (3) of this subsection no
 24982 answer has been filed, the court shall order the disposition of the seized property as
 24983 provided for in this Code section.
- 24984 (5) If an answer is filed, a hearing must be held within 60 days after service of the
 24985 complaint unless continued for good cause and must be held by the court without a jury.
- 24986 (6) An action in rem may be brought by the state in addition to or in lieu of any other in
 24987 rem or in personam action brought pursuant to this title.
- 24988 (p) In personam proceedings.
- 24989 (1) The complaint shall be verified on oath or affirmation by a duly authorized agent of
 24990 the state in a manner required by the laws of this state. It shall describe with reasonable
 24991 particularity the property which is sought to be forfeited; state its present custodian; state
 24992 the name of the owner or interest holder, if known; allege the essential elements of the
 24993 violation which is claimed to exist; state the place of seizure, if the property was seized;
 24994 and conclude with a prayer of due process to enforce the forfeiture.
- 24995 (2) Service of the complaint and summons shall be as follows:
- 24996 (A) Except as otherwise provided in this subsection, service of the complaint and
 24997 summons shall be as provided by subsections (a), (b), (c), and (d) of Code Section
 24998 9-11-4; and
- 24999 (B) If the defendant is unknown or resides out of the state or departs the state or cannot
 25000 after due diligence be found within the state or conceals himself so as to avoid service,
 25001 notice of the proceedings shall be published once a week for two successive weeks in
 25002 the newspaper in which the sheriff's advertisements are published. Such publication
 25003 shall be deemed sufficient notice to any such defendant.
- 25004 (3) A defendant shall file a verified answer within 30 days after the service of the
 25005 summons and complaint. Where service is made by publication and personal service has
 25006 not been made, a defendant shall file such answer within 30 days of the date of final
 25007 publication. In addition to complying with the general rules applicable to an answer in
 25008 civil actions, the answer must contain all of the elements set forth in paragraph (3) of
 25009 subsection (o) of this Code section.
- 25010 (4) Any interest holder or person in possession of the property may join any action
 25011 brought pursuant to this subsection as provided by Chapter 11 of Title 9, known as the
 25012 'Georgia Civil Practice Act.'

25013 (5) If at the expiration of the period set forth in paragraph (3) of this subsection no
 25014 answer has been filed, the court shall order the disposition of the seized property as
 25015 provided for in this Code section.

25016 (6) If an answer is filed, a hearing must be held within 60 days after service of the
 25017 complaint unless continued for good cause and must be held by the court without a jury.

25018 (7) On a determination of liability of a person for conduct giving rise to forfeiture under
 25019 this Code section, the court must enter a judgment of forfeiture of the property described
 25020 in the complaint and must also authorize the district attorney or his agent or any law
 25021 enforcement officer or peace officer to seize all property ordered to be forfeited which
 25022 was not previously seized or was not then under seizure. Following the entry of an order
 25023 declaring the property forfeited, the court, on application of the state, may enter any
 25024 appropriate order to protect the interest of the state in the property ordered to be forfeited.

25025 (8) Except as provided in this subsection, no person claiming an interest in property
 25026 subject to forfeiture under this Code section may intervene in a trial or appeal of a
 25027 criminal action or in an in personam civil action involving the forfeiture of the property.

25028 (q) In conjunction with any civil or criminal action brought pursuant to this article:

25029 (1) The court, on application of the district attorney, may enter any restraining order or
 25030 injunction; require the execution of satisfactory performance bonds; appoint receivers,
 25031 conservators, appraisers, accountants, or trustees; or take any action to seize, secure,
 25032 maintain, or preserve the availability of property subject to forfeiture under this article,
 25033 including issuing a warrant for its seizure and writ of attachment, whether before or after
 25034 the filing of a complaint for forfeiture;

25035 (2) A temporary restraining order under this Code section may be entered on application
 25036 of the district attorney, without notice or an opportunity for a hearing, if the district
 25037 attorney demonstrates that:

25038 (A) There is probable cause to believe that the property with respect to which the order
 25039 is sought, in the event of final judgment or conviction, would be subject to forfeiture
 25040 under this title; and

25041 (B) Provision of notice would jeopardize the availability of the property for forfeiture;

25042 (3) Notice of the entry of a restraining order and an opportunity for a hearing must be
 25043 afforded to persons known to have an interest in the property. The hearing must be held
 25044 at the earliest possible date consistent with the date set in subsection (b) of Code Section
 25045 9-11-65 and is limited to the issues of whether:

25046 (A) There is a probability that the state will prevail on the issue of forfeiture and that
 25047 failure to enter the order will result in the property's being destroyed, conveyed,
 25048 encumbered, removed from the jurisdiction of the court, concealed, or otherwise made
 25049 unavailable for forfeiture; and

25050 (B) The need to preserve the availability of property through the entry of the requested
25051 order outweighs the hardship on any owner or interest holder against whom the order
25052 is to be entered;

25053 (4) If property is seized for forfeiture or a forfeiture lien is filed without a previous
25054 judicial determination of probable cause or order of forfeiture or a hearing under
25055 paragraph (2) of this subsection, the court, on an application filed by an owner of or
25056 interest holder in the property within 30 days after notice of its seizure or lien or actual
25057 knowledge of such seizure or lien, whichever is earlier, and complying with the
25058 requirements for an answer to an in rem complaint, and after five days' notice to the
25059 district attorney of the judicial circuit where the property was seized or, in the case of a
25060 forfeiture lien, to the district attorney filing such lien, may issue an order to show cause
25061 to the seizing law enforcement agency for a hearing on the sole issue of whether probable
25062 cause for forfeiture of the property then exists. The hearing must be held within 30 days
25063 unless continued for good cause on motion of either party. If the court finds that there is
25064 no probable cause for forfeiture of the property, the property must be released pending
25065 the outcome of a judicial proceeding which may be filed pursuant to this Code section;
25066 and

25067 (5) The court may order property that has been seized for forfeiture to be sold to satisfy
25068 a specified interest of any interest holder, on motion of any party, and after notice and a
25069 hearing, on the conditions that:

25070 (A) The interest holder has filed a proper claim and:

25071 (i) Is authorized to do business in this state and is under the jurisdiction of a
25072 governmental agency of this state or of the United States which regulates financial
25073 institutions, securities, insurance, or real estate; or

25074 (ii) Has an interest that the district attorney has stipulated is exempt from forfeiture;

25075 (B) The interest holder must dispose of the property by commercially reasonable public
25076 sale and apply the proceeds first to its interest and then to its reasonable expenses
25077 incurred in connection with the sale or disposal; and

25078 (C) The balance of the proceeds, if any, must be returned to the actual or constructive
25079 custody of the court, in an interest-bearing account, subject to further proceedings under
25080 this Code section.

25081 (r) A defendant convicted in any criminal proceeding is precluded from later denying the
25082 essential allegations of the criminal offense of which the defendant was convicted in any
25083 proceeding pursuant to this Code section, regardless of the pendency of an appeal from that
25084 conviction; however, evidence of the pendency of an appeal is admissible. For the purposes
25085 of this Code section, a conviction results from a verdict or plea of guilty, including a plea
25086 of nolo contendere.

- 25087 (s) In hearings and determinations pursuant to this Code section:
- 25088 (1) The court may receive and consider, in making any determination of probable cause
- 25089 or reasonable cause, all evidence admissible in determining probable cause at a
- 25090 preliminary hearing or by a magistrate pursuant to Article 1 of Chapter 5 of Title 17,
- 25091 together with inferences therefrom;
- 25092 (2) The fact that money or a negotiable instrument was found in proximity to contraband
- 25093 or to an instrumentality of conduct giving rise to forfeiture authorizes the trier of the fact
- 25094 to infer that the money or negotiable instrument was the proceeds of conduct giving rise
- 25095 to forfeiture or was used or intended to be used to facilitate such conduct; and
- 25096 (3) There is a rebuttable presumption that any property of a person is subject to forfeiture
- 25097 under this Code section if the state establishes probable cause to believe that:
- 25098 (A) The person has engaged in conduct giving rise to forfeiture;
- 25099 (B) The property was acquired by the person during the period of the conduct giving
- 25100 rise to forfeiture or within a reasonable time after the period; and
- 25101 (C) There was no likely source for the property other than the conduct giving rise to
- 25102 forfeiture.
- 25103 (t)(1) All property declared to be forfeited under this Code section vests in this state at
- 25104 the time of commission of the conduct giving rise to forfeiture together with the proceeds
- 25105 of the property after that time. Any property or proceeds transferred later to any person
- 25106 remain subject to forfeiture and thereafter must be ordered to be forfeited unless the
- 25107 transferee claims and establishes in a hearing under this Code section that the transferee
- 25108 is a bona fide purchaser for value and the transferee's interest is exempt under subsection
- 25109 (e) of this Code section.
- 25110 (2) On entry of judgment for a person claiming an interest in the property that is subject
- 25111 to proceedings to forfeit property under this Code section, the court shall order that the
- 25112 property or interest in property be released or delivered promptly to that person free of
- 25113 liens and encumbrances, as provided under this article.
- 25114 (3) The court shall order a claimant who fails to establish that a substantial portion of the
- 25115 claimant's interest is exempt from forfeiture under subsection (e) of this Code section to
- 25116 pay the reasonable costs relating to the disproving of the claim which were incurred by
- 25117 the state, including costs for investigation, prosecution, and attorneys' fees.
- 25118 (u)(1) Whenever property is forfeited under this article, any property which is required
- 25119 by law to be destroyed or which is harmful to the public shall, when no longer needed for
- 25120 evidentiary purposes, be destroyed or forwarded to the Division of Forensic Sciences of
- 25121 the Georgia Bureau of Investigation or any other agency of state or local government for
- 25122 destruction or for any medical or scientific use not prohibited under the laws of the
- 25123 United States or this state.

- 25124 (2) When property, other than money or real property, is forfeited under this article, the
 25125 court may:
- 25126 (A) Order the property to be sold, with the proceeds of the sale to be distributed as
 25127 provided in paragraph (4) of this subsection; or
- 25128 (B) Provide for the in-kind distribution of the property as provided for in paragraph (4)
 25129 of this subsection.
- 25130 (2.1) When real property is forfeited, the court may order that:
- 25131 (A) The real property be turned over to the state;
- 25132 (B) The appropriate political subdivision take charge of the property and:
- 25133 (i) Sell the property with such conditions as the court deems proper, and distribute
 25134 the proceeds in such manner as the court so orders; or
- 25135 (ii) Hold the property for use by one or more law enforcement agencies;
- 25136 (C) The real property be turned over to an appropriate political subdivision without
 25137 restrictions;
- 25138 (D) The real property be deeded to a land bank authority as provided in Article 4 of
 25139 Chapter 4 of Title 48; or
- 25140 (E) The real property be disposed of in such other manner as the court deems proper.
- 25141 (3) Where property is to be sold pursuant to this subsection, the court may direct that
 25142 such property be sold by:
- 25143 (A) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however,
 25144 that the court may establish a minimum acceptable price for such property; or
- 25145 (B) Any commercially feasible means, including, but not limited to, in the case of real
 25146 property, listing such property with a licensed real estate broker, selected by the district
 25147 attorney through competitive bids.
- 25148 (4) All money and property forfeited in the same forfeiture proceeding shall be pooled
 25149 together for distribution as follows:
- 25150 (A) A fair market value shall be assigned to all items of property other than money in
 25151 such pool; and a total value shall be established for the pool by adding together the fair
 25152 market value of all such property in the pool and the amount of money in the pool;
- 25153 (B) All costs, including court costs, shall be paid and the remaining pool shall be
 25154 distributed pro rata to the state and to local governments, according to the role which
 25155 their law enforcement agencies played in the seizure of the assets; provided, however,
 25156 that the amount distributed to the state shall not exceed 25 percent of the amount
 25157 distributed; county governments are authorized upon request of the district attorney to
 25158 provide for payment of any and all necessary expenses for the operation of the office
 25159 from the said forfeiture pool up to 10 percent of the amount distributed, in addition to
 25160 any other expenses paid by the county to the district attorney's office.

25161 (C) An order of distribution provided for in this subsection shall be submitted by the
25162 district attorney to the court for approval; and

25163 (D)(i) Property and money distributed to a local government shall be passed through
25164 to the local law enforcement agency until the sum equals 33 1/3 percent of the amount
25165 of local funds appropriated or otherwise made available to such agency for the fiscal
25166 year in which such funds are distributed. Proceeds received may be used for any
25167 official law enforcement purpose except for the payment of salaries or rewards to law
25168 enforcement personnel, at the discretion of the chief officer of the local law
25169 enforcement agency, or may be used to fund victim-witness assistance programs or
25170 a state law enforcement museum. Such property shall not be used to supplant any
25171 other local, state, or federal funds appropriated for staff or operations.

25172 (ii) The local governing authority shall expend any remaining proceeds for any law
25173 enforcement purpose; for the representation of indigents in criminal cases; for drug
25174 treatment, rehabilitation, prevention, or education or any other program which
25175 responds to problems created by drug or substance abuse; for use as matching funds
25176 for grant programs related to drug treatment or prevention; to fund victim-witness
25177 assistance programs; or for any combination of the foregoing. If real property is
25178 distributed to a local government, the local government may transfer the real property
25179 to a land bank authority as provided in Article 4 of Chapter 4 of Title 48.

25180 (iii) Any local law enforcement agency receiving property under this subsection shall
25181 submit an annual report to the local governing authority. The report shall be submitted
25182 with the agency's budget request and shall itemize the property received during the
25183 fiscal year and the utilization made thereof.

25184 (iv) Money distributed to the state pursuant to this subsection shall be paid into the
25185 general fund of the state treasury, it being the intent of the General Assembly that the
25186 same be used, subject to appropriation from the general fund in the manner provided
25187 by law for representation of indigents in criminal cases; for funding of the Crime
25188 Victims Emergency Fund; for law enforcement and prosecution agency programs and
25189 particularly for funding of advanced drug investigation and prosecution training for
25190 law enforcement officers and prosecuting attorneys; for drug treatment, rehabilitation,
25191 prevention, or education or any other program which responds to problems created
25192 by drug or substance abuse; for use as matching funds for grant programs related to
25193 drug treatment or prevention; or for financing the judicial system of the state.

25194 (v) Property distributed in kind to the state pursuant to this subsection may be
25195 designated by the Attorney General, with the approval of the court, for use by such
25196 agency or officer of the state as may be appropriate or, otherwise, shall be turned over

25197 to the Department of Administrative Services for such use or disposition as may be
 25198 determined by the commissioner of the Department of Administrative Services.

25199 (v) An acquittal or dismissal in a criminal proceeding does not preclude civil proceedings
 25200 under this article.

25201 (w) For good cause shown, the court may stay civil forfeiture proceedings during the
 25202 criminal trial resulting from a related indictment or information alleging a violation of this
 25203 article.

25204 (x)(1) The court shall order the forfeiture of any property of a claimant or defendant up
 25205 to the value of property found by the court to be subject to forfeiture under the provisions
 25206 of this Code section if any of the forfeited property:

25207 (A) Cannot be located;

25208 (B) Has been transferred or conveyed to, sold to, or deposited with a third party;

25209 (C) Is beyond the jurisdiction of the court;

25210 (D) Has been substantially diminished in value while not in the actual physical custody
 25211 of the receiver or governmental agency directed to maintain custody of the property;
 25212 or

25213 (E) Has been commingled with other property that cannot be divided without
 25214 difficulty.

25215 (2) In addition to any other remedy provided for by law, a district attorney on behalf of
 25216 the state may institute an action in any court of this state or of the United States or any
 25217 of the several states against any person acting with knowledge or any person to whom
 25218 notice of a lien for forfeiture of property has been provided in accordance with subsection
 25219 (j) of this Code section; to whom notice of seizure has been provided in accordance with
 25220 subsection (i) of this Code section; or to whom notice of a civil proceeding alleging
 25221 conduct giving rise to forfeiture under this Code section has been provided, if property
 25222 subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered
 25223 unavailable for forfeiture after the filing of a forfeiture lien notice or notice of seizure or
 25224 after the filing and notice of a civil proceeding alleging conduct giving rise to forfeiture
 25225 under this Code section, as the case may be. The state may recover judgment in an
 25226 amount equal to the value of the lien but not to exceed the fair market value of the
 25227 property or, if there is no lien, in an amount not to exceed the fair market value of the
 25228 property, together with reasonable investigative expenses and attorneys' fees. If a civil
 25229 proceeding is pending, the action must be heard by the court in which the civil proceeding
 25230 is pending.

25231 (3) A district attorney may file and prosecute in any of the courts of this state or of the
 25232 United States or of any of the several states such civil actions as may be necessary to
 25233 enforce any judgment rendered pursuant to this Code section.

25234 (4) No person claiming an interest in property subject to forfeiture under this article may
 25235 commence or maintain any action against the state concerning the validity of the alleged
 25236 interest other than as provided in this Code section. Except as specifically authorized by
 25237 this Code section, no person claiming an interest in such property may file any
 25238 counterclaim or cross-claim to any action brought pursuant to this Code section.

25239 (5) A civil action under this article must be commenced within five years after the last
 25240 conduct giving rise to forfeiture or to the claim for relief became known or should have
 25241 become known, excluding any time during which either the property or defendant is out
 25242 of the state or in confinement or during which criminal proceedings relating to the same
 25243 conduct are in progress.

25244 (y) Controlled substances included in Schedule I which are contraband and any controlled
 25245 substance whose owners are unknown are summarily forfeited to the state. The court may
 25246 include in any judgment of conviction under this article an order forfeiting any controlled
 25247 substance involved in the offense to the extent of the defendant's interest.

25248 (z) This Code section must be liberally construed to effectuate its remedial purposes.

25249 16-13-50.

25250 (a) It is not necessary for the state to negate any exemption or exception in this article in
 25251 any complaint, accusation, indictment, or other pleading or in any trial, hearing, or other
 25252 proceeding under this article. The burden of proof of any exemption or exception is upon
 25253 the person claiming it.

25254 (b) In the absence of proof that a person is the duly authorized holder of an appropriate
 25255 registration or order form issued under this article, he is presumed not to be the holder of
 25256 the registration or form. The burden of proof is upon him to rebut the presumption.

25257 (c) No liability is imposed by this article upon any authorized state, county, or municipal
 25258 officer engaged in the lawful performance of his duties.

25259 16-13-51.

25260 All final determinations, findings, and conclusions of the ~~State Board of Pharmacy Georgia~~
 25261 Board of Licensing and Regulation under this article are final and conclusive decisions of
 25262 the matters involved. Any person aggrieved by the decision may obtain review of the
 25263 decision in the Superior Court of ~~Fulton Bibb~~ County. Findings of fact by the ~~State Board~~
 25264 of Pharmacy Georgia Board of Licensing and Regulation, if supported by substantial
 25265 evidence, are conclusive.

25266 16-13-52.

25267 (a) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation and the
25268 Georgia Drugs and Narcotics Agency shall carry out programs designed to prevent and
25269 deter misuse and abuse of controlled substances.

25270 (b) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation and the
25271 Georgia Drugs and Narcotics Agency shall encourage research on misuse and abuse of
25272 controlled substances. In connection with the research and in furtherance of the
25273 enforcement of this article, they may:

25274 (1) Establish methods to assess accurately the effects of controlled substances and
25275 identify and characterize those with potential for abuse;

25276 (2) Make studies and undertake programs of research to:

25277 (A) Develop new or improved approaches, techniques, systems, equipment, and
25278 devices to strengthen the enforcement of this article;

25279 (B) Determine patterns of misuse and abuse of controlled substances and the social
25280 effects thereof;

25281 (C) Improve methods for preventing, predicting, understanding, and dealing with the
25282 misuse and abuse of controlled substances; and

25283 (3) Enter into agreements with public agencies, institutions of higher education, and
25284 private organizations or individuals for the purpose of conducting research,
25285 demonstrations, or special projects which bear directly on misuse and abuse of controlled
25286 substances.

25287 (c) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation, in the public
25288 interest, may authorize persons engaged in research on the use and effects of controlled
25289 substances to withhold the names and other identifying characteristics of individuals who
25290 are the subjects of the research. Persons who obtain this authorization are not to be
25291 compelled in any civil, criminal, administrative, legislative, or other proceeding to identify
25292 the individuals who are the subjects of research for which the authorization was obtained.

25293 (d) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation may
25294 authorize the possession and distribution of controlled substances by persons engaged in
25295 research. Persons who obtain this authorization are exempt from state prosecution for
25296 possession and distribution of controlled substances to the extent of the authorization.

25297 16-13-53.

25298 (a) Prosecution for any violation of law occurring prior to July 1, 1974, is not affected or
25299 abated by this article. If the offense which was being prosecuted is similar to one set out
25300 in this article, then the penalties under this article apply if they are less than those under
25301 prior law.

25302 (b) Civil seizures or forfeitures and injunctive proceedings commenced prior to July 1,
25303 1974, are not affected by this article.

25304 (c) All administrative proceedings pending under prior laws which were superseded by this
25305 article shall be continued and brought to a final determination in accord with the laws and
25306 rules in effect prior to July 1, 1974. Any substance controlled under prior law which is not
25307 listed within Schedules I through V is automatically controlled without further proceedings
25308 and shall be listed in the appropriate schedule.

25309 (d) This article applies to violations of law, seizures, forfeitures, injunctive proceedings,
25310 administrative proceedings, and investigations occurring after July 1, 1974.

25311 16-13-54.

25312 Any orders and rules promulgated under any law affected by this article and in effect on
25313 July 1, 1974, and not in conflict with it shall continue in effect until modified, superseded,
25314 or repealed.

25315 16-13-55.

25316 This article shall be so applied and construed as to effectuate its general purpose to make
25317 uniform the law with respect to the subject of this article among those states which enact
25318 it.

25319 16-13-56.

25320 (a) Unless otherwise specified with respect to a particular offense, any person who violates
25321 any provision of this article shall be guilty of a misdemeanor.

25322 (b) In addition to any other penalty imposed by law for a violation of this article, if the
25323 sentencing court finds that in committing a violation of this article, the defendant
25324 contributed to a release of hazardous waste, a hazardous constituent, or a hazardous
25325 substance as such terms are defined by Code Sections 12-8-62 and 12-8-92, the court shall
25326 require such defendant to make restitution to the State of Georgia pursuant to subsection
25327 (a) of Code Section 12-8-96.1 for the reasonable costs of activities associated with the
25328 cleanup of environmental hazards, including legal expenses incurred by the state.
25329 Restitution made pursuant to this Code section shall not preclude the State of Georgia from
25330 obtaining any other civil or criminal remedy available under any other provision of law.
25331 The restitution authorized by this Code section is supplemental and not exclusive.

25332

Part 2

25333 16-13-57.

25334 (a) Subject to funds as may be appropriated by the General Assembly or otherwise
25335 available for such purpose, the agency shall, in consultation with members of the Georgia
25336 Composite Medical Board, establish and maintain a program to electronically record into
25337 an electronic data base prescription information resulting from the dispensing of Schedule
25338 II, III, IV, or V controlled substances and to electronically review such prescription
25339 information that has been entered into such data base. The purpose of such program shall
25340 be to assist in the reduction of the abuse of controlled substances, to improve, enhance, and
25341 encourage a better quality of health care by promoting the proper use of medications to
25342 treat pain and terminal illness, and to reduce duplicative prescribing and overprescribing
25343 of controlled substance practices.

25344 (b) Such program shall be administered by the agency at the direction and oversight of the
25345 board.

25346 16-13-58.

25347 (a) The agency shall be authorized to apply for available grants and may accept any gifts,
25348 grants, donations, and other funds, including funds from the disposition of forfeited
25349 property, to assist in developing and maintaining the program established pursuant to Code
25350 Section 16-13-57; provided, however, that neither the board, agency, nor any other state
25351 entity shall accept a grant that requires as a condition of the grant any sharing of
25352 information that is inconsistent with this part.

25353 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering
25354 costs for dedicated equipment and software for dispensers to use in complying with the
25355 reporting requirements of Code Section 16-13-59. Such grants to dispensers shall be
25356 funded by gifts, grants, donations, or other funds, including funds from the disposition of
25357 forfeited property, received by the agency for the operation of the program established
25358 pursuant to Code Section 16-13-57. The agency shall be authorized to establish standards
25359 and specifications for any equipment and software purchased pursuant to a grant received
25360 by a dispenser pursuant to this Code section. Nothing in this part shall be construed to
25361 require a dispenser to incur costs to purchase equipment or software to comply with this
25362 part.

25363 (c) Nothing in this part shall be construed to require any appropriation of state funds.

25364 16-13-59.

25365 (a) For purposes of the program established pursuant to Code Section 16-13-57, each
25366 dispenser shall submit to the agency by electronic means information regarding each
25367 prescription dispensed for a Schedule II, III, IV, or V controlled substance. The
25368 information submitted for each prescription shall include at a minimum, but shall not be
25369 limited to:

25370 (1) DEA permit number or approved dispenser facility controlled substance
25371 identification number;

25372 (2) Date the prescription was dispensed;

25373 (3) Prescription serial number;

25374 (4) If the prescription is new or a refill;

25375 (5) National Drug Code (NDC) for drug dispensed;

25376 (6) Quantity and strength dispensed;

25377 (7) Number of days supply of the drug;

25378 (8) Patient's name;

25379 (9) Patient's address;

25380 (10) Patient's date of birth;

25381 (11) Patient gender;

25382 (12) Method of payment;

25383 (13) Approved prescriber identification number or prescriber's DEA permit number;

25384 (14) Date the prescription was issued by the prescriber; and

25385 (15) Other data elements consistent with standards established by the American Society
25386 for Automation in Pharmacy, if designated by regulations of the agency.

25387 (b) Each dispenser shall submit the prescription information required in subsection (a) of
25388 this Code section in accordance with transmission methods and frequency requirements
25389 established by the agency on at least a weekly basis and shall report, at a minimum, such
25390 prescription information no later than ten days after the prescription is dispensed. If a
25391 dispenser is temporarily unable to comply with this subsection due to an equipment failure
25392 or other circumstances, such dispenser shall notify the board and agency.

25393 (c) The agency may issue a waiver to a dispenser that is unable to submit prescription
25394 information by electronic means acceptable to the agency. Such waiver may permit the
25395 dispenser to submit prescription information to the agency by paper form or other means,
25396 provided all information required in subsection (a) of this Code section is submitted in this
25397 alternative format and in accordance with the frequency requirements established pursuant
25398 to subsection (b) of this Code section. Requests for waivers shall be submitted in writing
25399 to the agency.

25400 (d) The agency shall not revise the information required to be submitted by dispensers
25401 pursuant to subsection (a) of this Code section more frequently than annually. Any such
25402 change to the required information shall neither be effective nor applicable to dispensers
25403 until six months after the adoption of such changes.

25404 (e) The agency shall not access or allow others to access any identifying prescription
25405 information from the electronic data base after one year from the date such information was
25406 originally received by the agency. The agency may retain aggregated prescription
25407 information for a period of one year from the date the information is received but shall
25408 promulgate regulations and procedures that will ensure that any identifying information the
25409 agency receives from any dispenser or reporting entity that is one year old or older is
25410 deleted or destroyed on an ongoing basis in a timely and secure manner.

25411 (f) A dispenser may apply to the agency for an exemption to be excluded from compliance
25412 with this Code section if compliance would impose an undue hardship on such dispenser.
25413 The agency shall provide guidelines and criteria for what constitutes an undue hardship.

25414 16-13-60.

25415 (a) Except as otherwise provided in subsections (c) and (d) of this Code section,
25416 prescription information submitted pursuant to Code Section 16-13-59 shall be confidential
25417 and shall not be subject to open records requirements, as contained in Article 4 of Chapter
25418 18 of Title 50.

25419 (b) The agency, in conjunction with the board, shall establish and maintain strict
25420 procedures to ensure that the privacy and confidentiality of patients, prescribers, and
25421 patient and prescriber information collected, recorded, transmitted, and maintained
25422 pursuant to this part are protected. Such information shall not be disclosed to any person
25423 or entity except as specifically provided in this part and only in a manner which in no way
25424 conflicts with the requirements of the federal Health Insurance Portability and
25425 Accountability Act (HIPAA) of 1996, P.L. 104-191.

25426 (c) The agency shall be authorized to provide requested prescription information collected
25427 pursuant to this part only as follows:

25428 (1) To persons authorized to prescribe or dispense controlled substances for the sole
25429 purpose of providing medical or pharmaceutical care to a specific patient;

25430 (2) Upon the request of a patient, prescriber, or dispenser about whom the prescription
25431 information requested concerns or upon the request on his or her behalf of his or her
25432 attorney;

25433 (3) To local, state, or federal law enforcement or prosecutorial officials pursuant to the
25434 issuance of a search warrant pursuant to Article 2 of Chapter 5 of Title 17; and

25435 (4) To the agency or the Georgia Composite Medical Board upon the issuance of an
25436 administrative subpoena issued by a Georgia state administrative law judge.

25437 (d) The board may provide data to government entities for statistical, research,
25438 educational, or grant application purposes after removing information that could be used
25439 to identify prescribers or individual patients or persons who received prescriptions from
25440 dispensers.

25441 (e) Any person or entity who receives electronic data base prescription information or
25442 related reports relating to this part from the agency shall not provide such information or
25443 reports to any other person or entity except by order of a court of competent jurisdiction
25444 pursuant to this part.

25445 (f) Any permissible user identified in this part who directly accesses electronic data base
25446 prescription information shall implement and maintain a comprehensive information
25447 security program that contains administrative, technical, and physical safeguards that are
25448 substantially equivalent to the security measures of the agency. The permissible user shall
25449 identify reasonably foreseeable internal and external risks to the security, confidentiality,
25450 and integrity of personal information that could result in the unauthorized disclosure,
25451 misuse, or other compromise of the information and shall assess the sufficiency of any
25452 safeguards in place to control the risks.

25453 (g) No provision in this part shall be construed to modify, limit, diminish, or impliedly
25454 repeal any authority existing on June 30, 2011, of a licensing or regulatory board or any
25455 other entity so authorized to obtain prescription information from sources other than the
25456 data base maintained pursuant to this part; provided, however, that the agency shall be
25457 authorized to release information from the data base only in accordance with the provisions
25458 of this part.

25459 16-13-61.

25460 (a) There is established an Electronic Database Review Advisory Committee for the
25461 purposes of consulting with and advising the agency on matters related to the
25462 establishment, maintenance, and operation of how prescriptions are electronically reviewed
25463 pursuant to this part. This shall include, but shall not be limited to, data collection,
25464 regulation of access to data, evaluation of data to identify benefits and outcomes of the
25465 reviews, communication to prescribers and dispensers as to the intent of the reviews and
25466 how to use the data base, and security of data collected.

25467 (b) The advisory committee shall consist of ten members as follows:

25468 (1) A representative from the agency;

25469 (2) A representative from the Georgia Composite Medical Board;

25470 (3) A representative from the Georgia Board of Dentistry;

- 25471 (4) A representative with expertise in personal privacy matters, appointed by the
 25472 president of the State Bar of Georgia;
- 25473 (5) A representative from a specialty profession that deals in addictive medicine,
 25474 appointed by the Georgia Composite Medical Board;
- 25475 (6) A pain management specialist, appointed by the Georgia Composite Medical Board;
- 25476 (7) An oncologist, appointed by the Georgia Composite Medical Board;
- 25477 (8) A representative from a hospice or hospice organization, appointed by the Georgia
 25478 Composite Medical Board;
- 25479 (9) A representative from the State Board of Optometry; and
- 25480 (10) ~~A The consumer member appointed by the Governor to the State Board of~~
 25481 ~~Pharmacy pursuant to subsection (b) of Code Section 26-4-21.~~
- 25482 (c) Each member of the advisory committee shall serve a three-year term or until the
 25483 appointment and qualification of such member's successor.
- 25484 (d) The advisory committee shall elect a chairperson and vice chairperson from among its
 25485 membership to serve a term of one year. The vice chairperson shall serve as the
 25486 chairperson at times when the chairperson is absent.
- 25487 (e) The advisory committee shall meet at the call of the chairperson or upon request by at
 25488 least three of the members and shall meet at least one time per year. Five members of the
 25489 committee shall constitute a quorum.
- 25490 (f) The members shall receive no compensation or reimbursement of expenses from the
 25491 state for their services as members of the advisory committee.
- 25492 16-13-62.
- 25493 The agency shall establish rules and regulations to implement the requirements of this part.
 25494 Nothing in this part shall be construed to authorize the agency to establish policies, rules,
 25495 or regulations which limit, revise, or expand or purport to limit, revise, or expand any
 25496 prescription or dispensing authority of any prescriber or dispenser subject to this part.
 25497 Nothing in this part shall be construed to impede, impair, or limit a prescriber from
 25498 prescribing pain medication in accordance with the pain management guidelines developed
 25499 and adopted by the Georgia Composite Medical Board.
- 25500 16-13-63.
- 25501 Nothing in this part shall require a dispenser or prescriber to obtain information about a
 25502 patient from the program established pursuant to this part. A dispenser or prescriber shall
 25503 not have a duty and shall not be held civilly liable for damages to any person in any civil
 25504 or administrative action or criminally responsible for injury, death, or loss to person or

25505 property on the basis that the dispenser or prescriber did or did not seek or obtain
25506 information from the electronic data base established pursuant to Code Section 16-13-57.

25507 16-13-64.

25508 (a) A dispenser who knowingly and intentionally fails to submit prescription information
25509 to the agency as required by this part or knowingly and intentionally submits incorrect
25510 prescription information shall be guilty of a felony and, upon conviction thereof, shall be
25511 punished for each such offense by imprisonment for not less than one year nor more than
25512 five years, a fine not to exceed \$50,000.00, or both, and such actions shall be reported to
25513 the ~~licensing board responsible for issuing such dispenser's dispensing license~~ director for
25514 action to be taken against such dispenser's license.

25515 (b) An individual authorized to access electronic data base prescription information
25516 pursuant to this part who negligently uses, releases, or discloses such information in a
25517 manner or for a purpose in violation of this part shall be guilty of a misdemeanor. Any
25518 person who is convicted of negligently using, releasing, or disclosing such information in
25519 violation of this part shall, upon the second or subsequent conviction, be guilty of a felony
25520 and shall be punished by imprisonment for not less than one nor more than three years, a
25521 fine not to exceed \$5,000.00, or both.

25522 (c)(1) An individual authorized to access electronic data base prescription information
25523 pursuant to this part who knowingly obtains or discloses such information in a manner
25524 or for a purpose in violation of this part shall be guilty of a felony and, upon conviction
25525 thereof, shall be punished by imprisonment for not less than one year nor more than five
25526 years, a fine not to exceed \$50,000.00, or both.

25527 (2) Any person who knowingly obtains, attempts to obtain, or discloses electronic data
25528 base prescription information pursuant to this part under false pretenses shall be guilty
25529 of a felony and, upon conviction thereof, shall be punished by imprisonment for not less
25530 than one year nor more than five years, a fine not to exceed \$100,000.00, or both.

25531 (3) Any person who obtains or discloses electronic data base prescription information
25532 not specifically authorized herein with the intent to sell, transfer, or use such information
25533 for commercial advantage, personal gain, or malicious harm shall be guilty of a felony
25534 and, upon conviction thereof, shall be punished by imprisonment for not less than two
25535 years nor more than ten years, a fine not to exceed \$250,000.00, or both.

25536 (d) Any person who is injured by reason of any violation of this part shall have a cause of
25537 action for the actual damages sustained and, where appropriate, punitive damages. Such
25538 person may also recover attorney's fees in the trial and appellate courts and the costs of
25539 investigation and litigation reasonably incurred.

25540 (e) The penalties provided by this Code section are intended to be cumulative of other
25541 penalties which may be applicable and are not intended to repeal such other penalties.

25542 16-13-65.

25543 (a) This part shall not apply to any veterinarian.

25544 (b) This part shall not apply to any drug, substance, or immediate precursor classified as
25545 an exempt over the counter (OTC) Schedule V controlled substance pursuant to this chapter
25546 or pursuant to board rules established in accordance with Code Section 16-13-29.2."

25547 **SECTION 2-8.**

25548 Said title is further amended by revising Article 3 of Chapter 13, relating to dangerous drugs,
25549 as follows:

25550 "ARTICLE 3

25551 16-13-70.

25552 This article shall be known and may be cited as the 'Dangerous Drug Act.'

25553 16-13-70.1.

25554 Any term used in this article and not defined in this article but defined in Code Section
25555 16-13-21 shall have the meaning provided for that term in Code Section 16-13-21.

25556 16-13-71.

25557 (a) A 'dangerous drug' means any drug other than a drug contained in any schedule of
25558 Article 2 of this chapter, which, under the Federal Food, Drug, and Cosmetic Act (52 Stat.
25559 1040 (1938)), 21 U.S.C. Section 301, et seq., as amended, may be dispensed only upon
25560 prescription. In any civil or criminal action or other proceedings, a certification from the
25561 Food and Drug Administration of the United States Department of Health and Human
25562 Services attesting to the fact that a drug other than a drug contained in any schedule of
25563 Article 2 of this chapter involved in the action or proceeding is a dangerous drug that
25564 federal law prohibits dispensing of without a prescription pursuant to the Federal Food,
25565 Drug, and Cosmetic Act shall be admissible as prima-facie proof that such drug is a
25566 'dangerous drug.'

25567 (b) In addition to subsection (a) of this Code section, a 'dangerous drug' means any other
25568 drug or substance declared by the General Assembly to be a dangerous drug; to include any
25569 of the following drugs, chemicals, or substances; salts, isomers, esters, ethers, or
25570 derivatives of such drugs, chemicals, or substances which have essentially the same

- 25571 pharmacological action; all other salts, isomers, esters, ethers, and compounds of such
25572 drugs, chemicals, or substances unless specifically exempted and the following devices,
25573 identified as 'dangerous drugs':
- 25574 (.03) Abacavir;
 - 25575 (.035) Abarelrix;
 - 25576 (.037) Abatacept;
 - 25577 (.04) Abciximab;
 - 25578 (.043) abobotulinumtoxinA;
 - 25579 (.045) Acamprostate;
 - 25580 (.05) Acarbose;
 - 25581 (.1) Acebutolol;
 - 25582 (1) Acecarbromal;
 - 25583 (2) Acenocoumarol;
 - 25584 (3) Acetazolamide;
 - 25585 (3.5) Reserved;
 - 25586 (4) Acetohexamide;
 - 25587 (4.1) Aceto-hydroxamic acid;
 - 25588 (5) Acetophenazine;
 - 25589 (6) Acetosulfone;
 - 25590 (7) Acetyl sulfamethoxypyridazine;
 - 25591 (8) Acetyl sulfisoxazole;
 - 25592 (9) Acetylcarbromal;
 - 25593 (10) Acetylcholine;
 - 25594 (11) Acetylcysteine;
 - 25595 (12) Acetyldigitoxin;
 - 25596 (12.1) Acitretin;
 - 25597 (13) Acrisorcin;
 - 25598 (13.3) Acrivastine;
 - 25599 (13.5) Acyclovir;
 - 25600 (13.53) Adalimumab;
 - 25601 (13.55) Adapalene;
 - 25602 (13.6) Adenosine;
 - 25603 (14) Adenosine 5-monophosphate;
 - 25604 (15) Adenylic acid;
 - 25605 (16) Adiphenine hydrochloride;
 - 25606 (17) Adrenal cortex extracts;
 - 25607 (17.5) Albendazole;

- 25608 (18) Albumin, normal human serum;
- 25609 (18.1) Albuterol;
- 25610 (19) Albutonium;
- 25611 (19.3) Alcaftadine;
- 25612 (19.5) Alclometasone dipropionate;
- 25613 (19.6) Alendronate;
- 25614 (19.65) Alfuzosin;
- 25615 (19.7) Alglucerase;
- 25616 (19.75) Alglucosidase alfa;
- 25617 (19.77) Aliskiren;
- 25618 (19.8) Alitretinoin;
- 25619 (20) Alkaverir;
- 25620 (21) Alkavervir;
- 25621 (21.1) Alkyl nitrites;
- 25622 (22) Allopurinol;
- 25623 (22.2) Almotriptan;
- 25624 (22.5) Alosetron;
- 25625 (23) Alpha amylase;
- 25626 (23.1) Alprostadil;
- 25627 (24) Alseroxylon;
- 25628 (24.1) Altenodol;
- 25629 (24.6) Altretamine;
- 25630 (25) Aluminum nicotinate;
- 25631 (26) Alverine;
- 25632 (26.5) Alvimopan;
- 25633 (27) Amantadine;
- 25634 (28) Ambenonium chloride;
- 25635 (28.5) Ambrisentan;
- 25636 (29) Ambrosiacaefollens;
- 25637 (30) Amcinonide;
- 25638 (30.1) Amdinocillin;
- 25639 (30.5) Amifostine;
- 25640 (31) Amikacin;
- 25641 (31.1) Amiloride;
- 25642 (32) Aminacrine;
- 25643 (33) 4-amino-N-methyl-pteroylglutamic acid;
- 25644 (34) Amino acid preparations for injection or vaginal use;

- 25645 (35) Aminocaproic acid;
- 25646 (36) Aminohippurate;
- 25647 (36.5) Aminolevulinic acid;
- 25648 (37) Aminophylline;
- 25649 (38) Aminosalicylate — See exceptions;
- 25650 (39) Aminosalicylate calcium — See exceptions;
- 25651 (40) Aminosalicylate potassium — See exceptions;
- 25652 (41) Aminosalicylate sodium — See exceptions;
- 25653 (42) Aminosalicylic acid — See exceptions;
- 25654 (42.1) Amiodarone;
- 25655 (43) Amisometradine;
- 25656 (44) Amitriptyline;
- 25657 (44.3) Amlexanox;
- 25658 (44.5) Amlodipine;
- 25659 (44.6) Ammonia, N-13;
- 25660 (44.7) Ammonium lactate;
- 25661 (45) Amodiaquin;
- 25662 (45.5) Amoxapine;
- 25663 (46) Amoxicillin;
- 25664 (47) Amphotericin B;
- 25665 (48) Ampicillin;
- 25666 (48.2) Amprenavir;
- 25667 (48.6) Amrinone;
- 25668 (49) Amyl nitrite;
- 25669 (50) Amylolytic enzymes;
- 25670 (50.1) Anabolic steroids, if listed in Code Section 16-13-27.1 as being exempt as
- 25671 Schedule III controlled substances;
- 25672 (50.3) Anagrelide;
- 25673 (50.4) Anakinra;
- 25674 (50.5) Anastrozole;
- 25675 (51) Androgens, except those androgens listed in paragraph (6) of Code Section
- 25676 16-13-27;
- 25677 (52) Angiotensin amide;
- 25678 (52.5) Anidulafungin;
- 25679 (53) Anisindione;
- 25680 (54) Anisotropine;
- 25681 (55) Antazoline;

- 25682 (56) Anterior pituitary hormones;
25683 (57) Anthralin;
25684 (58) Anti-coagulant acid:
25685 (A) Citrate dextrose;
25686 (59) Antigens:
25687 (A) *Alternaria tenius*;
25688 (B) Aqua ivy;
25689 (C) Ash mix;
25690 (D) *Aspergillus fumigatus*;
25691 (E) Bacterial, *Staphylococcus aureus*, Type 1;
25692 (F) Bacterial, *Staphylococcus aureus*, Type 3;
25693 (G) Bacterial, Undenatured;
25694 (H) Bee;
25695 (I) Beech;
25696 (J) Bermuda grass;
25697 (K) Birch;
25698 (L) California live oak;
25699 (M) *Candida albicans*;
25700 (N) Careless weed;
25701 (O) Cat epithelia;
25702 (P) Cattle epithelia;
25703 (Q) *Coccidioides immitis*;
25704 (R) Cottonwood fremont;
25705 (S) Dog epithelia;
25706 (T) Elm mix;
25707 (U) English plantain;
25708 (V) Feather mix;
25709 (W) Gram negative bacterial;
25710 (X) *Helminthosporium sativum*;
25711 (Y) Hickory;
25712 (Z) *Hormodendrum hordei*;
25713 (AA) Hornet;
25714 (BB) House dust;
25715 (CC) House dust mix;
25716 (DD) Insects;
25717 (EE) Intradermal or scratching test;
25718 (FF) Johnson grass;

25719 (GG) Kentucky blue grass;
25720 (HH) Kochia;
25721 (II) Lamb quarters;
25722 (JJ) Maple;
25723 (KK) Mesquite;
25724 (LL) Mixed epidermals;
25725 (MM) Mixed grass, ragweeds (spring-fall);
25726 (NN) Mixed grasses (spring);
25727 (OO) Mixed inhalants;
25728 (PP) Mixed molds;
25729 (QQ) Mixed ragweed;
25730 (RR) Mixed ragweed — mixed weeds (fall);
25731 (SS) Mixed weeds;
25732 (TT) Molds;
25733 (UU) Mountain cedar;
25734 (VV) Mugwort common;
25735 (WW) National weed mix;
25736 (XX) Oak mix;
25737 (YY) Olive;
25738 (ZZ) Orchard grass;
25739 (AAA) Pecan;
25740 (BBB) Penicillium notatum;
25741 (CCC) Perennial rye;
25742 (DDD) Poison oak and poison ivy;
25743 (EEE) Pollens;
25744 (FFF) Poplar mix;
25745 (GGG) Prescription;
25746 (HHH) Ragweed mix;
25747 (III) Red top grass;
25748 (JJJ) Respiratory bacterial;
25749 (KKK) Rough pigweed;
25750 (LLL) Russian thistle;
25751 (MMM) Sagebrush common;
25752 (NNN) Scale mix;
25753 (OOO) Short ragweed;
25754 (PPP) Simplified allergy screening set;
25755 (QQQ) Skin bacterial;

- 25756 (RRR) Southern grass;
- 25757 (SSS) Staphylococcal;
- 25758 (TTT) Stinging insect mix;
- 25759 (UUU) Stinging insects;
- 25760 (VVV) Sweet vernal;
- 25761 (WWW) Sycamore;
- 25762 (XXX) Tall ragweed;
- 25763 (YYY) Timothy;
- 25764 (ZZZ) Tree mix;
- 25765 (AAAA) Trees (early spring);
- 25766 (BBBB) Walnut;
- 25767 (CCCC) Wasp;
- 25768 (DDDD) West ragweed;
- 25769 (EEEE) West weed mix;
- 25770 (FFFF) Yellow jacket;
- 25771 (60) Antihemophilic factor, Human;
- 25772 (61) Antirabies serum;
- 25773 (62) Antivenin;
- 25774 (62.1) Apomorphine;
- 25775 (62.3) Apraclonidine;
- 25776 (62.4) Aprepitant;
- 25777 (62.5) Aprotinin;
- 25778 (62.7) Ardeparin;
- 25779 (62.75) Arformoterol tartrate;
- 25780 (62.8) Argatroban;
- 25781 (63) Arginine, L-;
- 25782 (63.5) Aripiprazole;
- 25783 (64) Arsenic — Preparation for human use;
- 25784 (64.1) Arsenic trioxide;
- 25785 (65) Artegraft;
- 25786 (65.5) Artemether;
- 25787 (66) Ascorbate sodium — Injection;
- 25788 (66.5) Asenapine;
- 25789 (67) Asparaginase;
- 25790 (67.6) Astemizole;
- 25791 (67.67) Astenajavol;
- 25792 (67.72) Atazanavir;

25793	(68.1) Atenolol;
25794	(68.15) Atomoxetine;
25795	(68.2) Atorvastatin;
25796	(68.3) Atovaquone;
25797	(68.4) Atracurium besylate;
25798	(68.5) Atropine — See exceptions;
25799	(68.6) Auranofin;
25800	(69) Aurothioglucose;
25801	(69.5) Azacitidine;
25802	(70) Azapetine;
25803	(71) Azatadine maleate;
25804	(72) Azathioprine;
25805	(72.3) Azelaic acid;
25806	(72.4) Azelastine;
25807	(72.5) Azithromycin;
25808	(72.7) Azlocillin;
25809	(73) Azo-sulfisoxazole;
25810	(73.5) Aztreonam;
25811	(74) Azuresin;
25812	(75) Bacitracin — See exceptions;
25813	(76) Baclofen;
25814	(76.5) Balsalazide;
25815	(77) Barium — See exceptions;
25816	(78) Beclomethasone;
25817	(79) Belladonna;
25818	(80) Belladonna alkaloids;
25819	(81) Belladonna extracts;
25820	(82) Benactyzine;
25821	(82.5) Benazepril;
25822	(82.7) Bendamustine;
25823	(83) Bendroflumethiazide;
25824	(83.1) Benoxaprofen;
25825	(83.2) Bentiromide;
25826	(83.5) Bentoquatam — See exceptions;
25827	(84) Benzestrol;
25828	(85) Benzonatate;
25829	(86) Benzoylpas;

- 25830 (87) Benzquinamide;
- 25831 (88) Benzthiazide;
- 25832 (89) Benztropine;
- 25833 (90) Benzylpenicilloyl - polylysine;
- 25834 (91) Bephenium hydroxynaphthoate;
- 25835 (91.3) Bepotastine;
- 25836 (91.5) Bepridil;
- 25837 (91.7) Beractant;
- 25838 (91.8) Besifloxacin;
- 25839 (92) Beta-carotene — See exceptions;
- 25840 (93) Betadine vaginal gel;
- 25841 (94) Betahistine;
- 25842 (94.5) Betaine, anhydrous;
- 25843 (95) Betamethasone;
- 25844 (95.1) Betaxolol;
- 25845 (96) Betazole;
- 25846 (97) Bethanechol;
- 25847 (97.1) Bethanidine sulfate;
- 25848 (97.2) Bevacizumab;
- 25849 (97.3) Bexarotene;
- 25850 (97.5) Bicalutamide;
- 25851 (98) Bile extract;
- 25852 (98.2) Bimatoprost;
- 25853 (99) Biperiden;
- 25854 (100) Bisacodyl tannex;
- 25855 (101) Bishydroxycoumarin;
- 25856 (101.5) Biskalcitrate;
- 25857 (102) Bismuth sodium tartrate — See exceptions;
- 25858 (102.05) Bisoprolol;
- 25859 (102.1) Bitolterol mesylate;
- 25860 (102.5) Bivalirudin;
- 25861 (103) Blastomycine;
- 25862 (104) Bleomycin;
- 25863 (105) Boroglycerin glycerite;
- 25864 (105.3) Bortezomib;
- 25865 (105.5) Bosentan;
- 25866 (105.7) Botulinum toxin (B);

- 25867 (106) Botulism antitoxin;
- 25868 (107) Bretylium;
- 25869 (107.3) Briazolamide;
- 25870 (107.5) Brimonidine;
- 25871 (108) Bromelains — See exceptions;
- 25872 (108.5) Bromfenac;
- 25873 (109) Bromisovalum;
- 25874 (110) Bromocriptine;
- 25875 (111) Bromodiphenhydramine;
- 25876 (112) Brompheniramine — See exceptions;
- 25877 (113) Brucella antigen;
- 25878 (114) Brucella protein nucleate;
- 25879 (115) Buclizine;
- 25880 (115.3) Budesonide;
- 25881 (115.5) Bumetanide;
- 25882 (116) Bupivacaine;
- 25883 (116.05) Reserved;
- 25884 (116.1) Bupropion;
- 25885 (116.5) Buspirone;
- 25886 (117) Busulfan;
- 25887 (118) Butacaine;
- 25888 (119) Butaperazine;
- 25889 (119.05) Butenafine — See exceptions;
- 25890 (119.1) Butoconazole — See exceptions;
- 25891 (120) Reserved;
- 25892 (121) Butyl nitrite;
- 25893 (122) Butyrophenone;
- 25894 (122.3) Cabazitaxel;
- 25895 (122.5) Cabergoline;
- 25896 (123) Cadmium sulfide — See exceptions;
- 25897 (124) Caffeine sodium benzoate;
- 25898 (124.3) Calcifediol;
- 25899 (124.7) Calcipotriene;
- 25900 (125) Calcitonin, Salmon;
- 25901 (126) Calcitriol;
- 25902 (127) Calcium disodium edetate — See exceptions;
- 25903 (128) Calcium gluconogalactogluconate;

25904	(129) Calcium levulinate;
25905	(129.5) Calfactant;
25906	(130) Calusterone;
25907	(130.3) Canakinumab;
25908	(130.5) Candesartan;
25909	(131) Candicidin;
25910	(132) Cantharidin;
25911	(132.5) Capecitabine;
25912	(133) Capreomycin;
25913	(133.05) Capsaicin - see exceptions;
25914	(133.1) Captopril;
25915	(134) Capyodiame;
25916	(135) Caramiphen;
25917	(136) Carbachol;
25918	(137) Carbamazepine;
25919	(138) Carbazochrome;
25920	(139) Carbenicillin;
25921	(140) Carbetapentane;
25922	(141) Carbidopa;
25923	(142) Carbinoxamine;
25924	(142.5) Carboplatin;
25925	(143) Carglumic Acid;
25926	(144) Carmustine;
25927	(144.1) Carnitine;
25928	(145) Carphenazine;
25929	(145.6) Carteolol;
25930	(145.8) Carvedilol;
25931	(146) Casein hydrolysate;
25932	(146.6) Caspofungin;
25933	(147) Catarrhalis combined vaccine;
25934	(148) Catarrhalis vaccine mixed;
25935	(149) Cefaclor;
25936	(150) Cefadroxil;
25937	(151) Cefamandole;
25938	(151.3) Cefazolin;
25939	(151.4) Cefdinir;
25940	(151.45) Cefditoren;

25941	(151.5) Cefepime;
25942	(151.6) Cefixime;
25943	(151.7) Cefmetazole;
25944	(151.8) Cefonicid;
25945	(152) Cefoperazone;
25946	(152.1) Ceforanide;
25947	(152.2) Cefotaxime;
25948	(152.3) Cefotetan;
25949	(152.7) Cefotiam;
25950	(152.9) Cefoxitin;
25951	(153.1) Cefpiramide;
25952	(153.2) Cefpodoxime;
25953	(153.3) Cefprozil;
25954	(153.35) Ceftaroline;
25955	(153.4) Ceftazidime;
25956	(153.5) Ceftibuten;
25957	(153.6) Ceftizoxime;
25958	(153.8) Ceftriaxone;
25959	(153.9) Cefuroxime;
25960	(153.95) Celecoxib;
25961	(154) Cellulose, Oxadized, Regenerated — See exceptions;
25962	(155) Cephalexin;
25963	(156) Cephaloglycin;
25964	(157) Cephaloridine;
25965	(158) Cephalothin;
25966	(159) Cephapirin;
25967	(159.3) Cephradine;
25968	(159.6) Ceretec;
25969	(159.8) Cerivastatin;
25970	(160) Certolizumab;
25971	(160.1) Ceruletide;
25972	(160.15) Cetirizine — See exceptions;
25973	(160.16) Cetrorelix;
25974	(160.165) Cetuximab;
25975	(160.17) Cevimeline;
25976	(160.20) Chenodiol;
25977	(161) Chlophedianol;

- 25978 (162) Chlorambucil;
- 25979 (163) Chloramphenicol;
- 25980 (164) Chloranil — See exceptions;
- 25981 (165) Chlordantoin;
- 25982 (166) Chlordiazepoxide in combination with clidinium bromide or water soluble
- 25983 esterified estrogens;
- 25984 (166.5) Chlorhexidine — See exceptions;
- 25985 (167) Chlormadinone;
- 25986 (168) Chlormerodrin;
- 25987 (169) Chlormezanone;
- 25988 (170) Chloroacetic acid — See exceptions;
- 25989 (171) Chlorobutanol — See exceptions;
- 25990 (172) Chloroform — See exceptions;
- 25991 (173) Chloroguanide;
- 25992 (174) Chlorprocaine;
- 25993 (175) Chloroquine;
- 25994 (176) Chlorothiazide;
- 25995 (177) Chlorotrianisene;
- 25996 (178) Chloroxine;
- 25997 (179) Chlorphenesin;
- 25998 (180) Chlorpheniramine — See exceptions;
- 25999 (181) Chlorphenoxamine;
- 26000 (182) Chlorpromazine;
- 26001 (183) Chlorpropamide;
- 26002 (184) Chlorprothixene;
- 26003 (185) Chlorquinaldol;
- 26004 (186) Chlortetracycline;
- 26005 (187) Chlorthalidone;
- 26006 (188) Chlorzoxazone;
- 26007 (189) Cholera vaccine;
- 26008 (190) Cholestyramine resin;
- 26009 (191) Chondroitin;
- 26010 (191.5) Chymopapain;
- 26011 (192) Chymotrypsin;
- 26012 (192.02) Ciclesonide;
- 26013 (192.03) Ciclopirox;
- 26014 (192.05) Cidofovir;

26015	(192.1) Cilastatin;
26016	(192.4) Cilexetil;
26017	(192.7) Cilostazol;
26018	(193) Cimetidine — See exceptions;
26019	(193.5) Cinacalcet;
26020	(194) Cinoxacin;
26021	(194.5) Ciprofloxacin;
26022	(194.7) Cisapride;
26023	(194.8) Cisatracurium;
26024	(195) Cisplatin;
26025	(195.2) Citalopram;
26026	(195.3) Cladribine;
26027	(195.5) Clarithromycin;
26028	(195.7) Clavulanate;
26029	(196) Clemastine — See exceptions;
26030	(196.5) Clevidipine;
26031	(197) Clidinium bromide;
26032	(198) Clindamycin;
26033	(198.1) Clobetasol propionate;
26034	(199) Clocortolone pivalate;
26035	(200) Clofibrate;
26036	(201) Clomiphene;
26037	(201.5) Clomipramine;
26038	(202) Clonidine;
26039	(203) Clopidogrel;
26040	(204) Clostridiopeptidase;
26041	(205) Clotrimazole — See exceptions;
26042	(206) Cloxacillin;
26043	(206.5) Clozapine;
26044	(207) Coal tar solution topical;
26045	(208) Cobra venom;
26046	(209) Colchicine — See exceptions;
26047	(209.5) Colesevelam;
26048	(210) Colestipol;
26049	(211) Colistimethate;
26050	(212) Colistin;
26051	(213) Collagenase;

26052	(213.1) Collagenase clostridium histolyticum;
26053	(213.3) Conivaptan;
26054	(213.5) Corticorelin;
26055	(214) Corticotropin;
26056	(215) Corticotropin, Respository;
26057	(216) Cortisone;
26058	(217) Cosyntropin;
26059	(217.5) Crixivan;
26060	(218) Cromolyn — See exceptions;
26061	(219) Crotaline antivenin, Polyvalent;
26062	(220) Crotamiton;
26063	(221) Cryptenamine;
26064	(221.5) Cupric chloride — injectable;
26065	(222) Cyanide antidote;
26066	(223) Cyclacillin;
26067	(224) Cyclandelate;
26068	(225) Reserved;
26069	(226) Cyclobenzaprine;
26070	(227) Cyclomethycaine;
26071	(228) Cyclopentamine;
26072	(229) Cyclopentolate;
26073	(230) Cyclophosphamide;
26074	(231) Cycloserine;
26075	(231.5) Cyclosporine;
26076	(232) Cyclothiazide;
26077	(233) Cycrimine;
26078	(234) Cyproheptadine;
26079	(234.5) Cysteamine;
26080	(235) Cytarabine;
26081	(235.5) Dabigatran;
26082	(236) Dacarbazine;
26083	(236.6) Daclizumab;
26084	(237) Dactinomycin;
26085	(237.1) Dalfampridine;
26086	(237.2) Dalfopristin;
26087	(237.5) Dalteparin;
26088	(237.7) Danaparoid;

- 26089 (238) Danazol;
- 26090 (239) Dantrolene;
- 26091 (239.5) Dapiprazole;
- 26092 (240) Dapsone — See exceptions;
- 26093 (240.3) Daptomycin;
- 26094 (240.5) Darbepoetin alfa;
- 26095 (240.6) Darifenacin;
- 26096 (240.7) Darunavir;
- 26097 (240.9) Dasatinib;
- 26098 (241) Daunorubicin;
- 26099 (242) Deanol;
- 26100 (243) Decamethonium;
- 26101 (243.3) Decitabine;
- 26102 (243.5) Deferasirox;
- 26103 (244) Deferoxamine;
- 26104 (244.4) Degarelix;
- 26105 (244.5) Delavirdine;
- 26106 (245) Demecarium;
- 26107 (246) Demeclocycline;
- 26108 (247) Demethylchlortetracycline;
- 26109 (247.7) Denosumab;
- 26110 (248) Deoxyribonuclease, Pancreatic;
- 26111 (249) Deserpidine;
- 26112 (249.5) Desflurane;
- 26113 (250) Desipramine;
- 26114 (250.5) Desirudin;
- 26115 (251) Deslanoside;
- 26116 (251.5) Desloratadine;
- 26117 (252) Desmopressin;
- 26118 (252.5) Desogestrel;
- 26119 (253) Desonide;
- 26120 (254) Desoximetasone;
- 26121 (255) Desoxycorticosterone;
- 26122 (256) Desoxyribonuclease;
- 26123 (256.5) Desvenlafaxine;
- 26124 (257) Dexamethasone;
- 26125 (258) Dexbrompheniramine — See exceptions;

26126	(259) Dexchlorpheniramine;
26127	(259.5) Dexlansoprazole;
26128	(260) Dexpanthenol;
26129	(260.5) Dexrazoxane;
26130	(261) Dextran;
26131	(262) Reserved;
26132	(263) Dextriferron;
26133	(264) Dextroisoephedrine;
26134	(265) Dextrothyroxine;
26135	(265.5) Dezocine;
26136	(266) Diatrizoate;
26137	(267) Diazoxide;
26138	(268) Dibucaine;
26139	(269) Dichloralphenazone;
26140	(270) Dichlorphenamide;
26141	(270.5) Diclofenac;
26142	(271) Dicloxacillin;
26143	(272) Dicyclomine;
26144	(272.5) Didanosine;
26145	(273) Dienestrol;
26146	(273.5) Dienogest;
26147	(274) Diethylcarbamazine;
26148	(275) Diethylstilbestrol;
26149	(276) Reserved;
26150	(277) Diflorasone diacetate;
26151	(277.5) Diflunisal;
26152	(277.57) Difluprednate;
26153	(278) Digitalis;
26154	(279) Digitoxin;
26155	(280) Digoxin;
26156	(281) Dihydroergocornine;
26157	(282) Dihydroergocristine;
26158	(283) Dihydroergocryptine;
26159	(284) Dihydroergotamine;
26160	(285) Dihydrostreptomycin;
26161	(286) Dihydrotachysterol;
26162	(287) Diiodohydroxyquin;

- 26163 (287.5) Diltiazem;
- 26164 (288) Dimenhydrinate — Injection or suppositories;
- 26165 (289) Dimercaprol;
- 26166 (290) Dimethindene;
- 26167 (291) Dimethisterone;
- 26168 (292) Dimethyl sulfoxide — See exceptions;
- 26169 (293) Dimethyl tubocurarine;
- 26170 (293.5) Dimyristoyl;
- 26171 (294) Dinoprost;
- 26172 (295) Dinoprostone;
- 26173 (296) Dioxyline;
- 26174 (297) Diphemanil;
- 26175 (298) Diphenadione;
- 26176 (299) Diphenhydramine — See exceptions;
- 26177 (300) Diphenidol;
- 26178 (301) Diphenylhydantoin;
- 26179 (302) Diphenylpyraline;
- 26180 (303) Diphtheria antitoxin;
- 26181 (304) Diphtheria and tetanus toxoids;
- 26182 (305) Diphtheria and tetanus toxoids and pertussis vaccine;
- 26183 (306) Diphtheria and tetanus toxoids, Absorbed;
- 26184 (307) Diphtheria and tetanus toxoids, Pertussis;
- 26185 (308) Diphtheria toxoid;
- 26186 (309) Dipivefrin;
- 26187 (310) Dipyridamole;
- 26188 (311) Dipyrone;
- 26189 (311.3) Dirithromycin;
- 26190 (311.5) Disibind;
- 26191 (312) Disodium edetate — See exceptions;
- 26192 (313) Disopyramide;
- 26193 (314) Disulfiram;
- 26194 (314.5) Divalproex;
- 26195 (315) Dobutamine;
- 26196 (315.5) Docetaxel;
- 26197 (315.7) Docosanol — See exceptions;
- 26198 (316) Doderlein bacilli;
- 26199 (316.2) Dofetilide;

26200	(316.3) Dolasetron;
26201	(316.5) Donepezil;
26202	(317) Dopamine;
26203	(317.2) Doripenem;
26204	(317.3) Dornase Alpha;
26205	(317.4) Dorzolamide;
26206	(317.5) Doxacurium;
26207	(318) Doxapram;
26208	(318.5) Doxazosin mesylate;
26209	(319) Doxepin;
26210	(319.5) Doxercalciferol;
26211	(320) Doxorubicin;
26212	(321) Doxycycline;
26213	(322) Doxylamine;
26214	(323) Doxylamine succinate;
26215	(324) Dromostanolone;
26216	(324.5) Dronedarone;
26217	(325) Droperidol;
26218	(325.3) Drospirenone;
26219	(325.4) Drotrecogin alfa;
26220	(325.45) Duloxetine;
26221	(325.5) Dutasteride;
26222	(326) Dyclonine;
26223	(327) Dydrogesterone;
26224	(328) Dyphylline;
26225	(328.5) Ecallantide;
26226	(329) Echothiophate;
26227	(329.5) Econazole;
26228	(330) Ectylurea;
26229	(330.3) Eculizumab;
26230	(330.5) Edetate — See exceptions;
26231	(331) Edrophonium;
26232	(331.03) Efavirenz;
26233	(331.05) Eflornithine;
26234	(331.06) Eltrombopag;
26235	(331.07) Emedastine;
26236	(331.072) Emtricitabine;

26237	(331.1) Enalapril;
26238	(331.6) Enalaprilat;
26239	(332) Enflurane;
26240	(332.2) Enfuvirtide;
26241	(332.5) Enoxacin;
26242	(332.7) Enoxaparin;
26243	(332.8) Entacapone;
26244	(332.85) Entecavir;
26245	(332.9) Epinastine;
26246	(333) Epinephrine;
26247	(334) Epinephryl borate;
26248	(334.3) Epirubicin;
26249	(334.4) Eplerenone;
26250	(334.5) Epoprostenol;
26251	(334.7) Eprosartan;
26252	(334.8) Eptifibatide;
26253	(335) Ergocalciferol — See exceptions;
26254	(335.5) Ergoloid mesylates;
26255	(336) Ergonovine;
26256	(337) Ergotamine;
26257	(338) Ergosine;
26258	(339) Ergocristine;
26259	(340) Ergocryptine;
26260	(341) Ergocornine;
26261	(342) Ergotaminine;
26262	(343) Ergosinine;
26263	(344) Ergocristinine;
26264	(345) Ergocryptinine;
26265	(346) Ergocorninine;
26266	(346.05) Eribulin;
26267	(346.1) Erlotinib;
26268	(346.5) Ertapenem;
26269	(347) Erythrityl tetranitrate;
26270	(348) Erythromycin;
26271	(348.722) Escitalopram;
26272	(349) Eserine;
26273	(349.4) Esmolol;

26274	(349.7) Esomeprazole;
26275	(350) Esterified estrogens;
26276	(351) Estradiol;
26277	(352) Estriol;
26278	(353) Estrogens;
26279	(354) Estrogenic substances;
26280	(355) Estrone;
26281	(355.5) Estropipate;
26282	(356) Ethacrynate;
26283	(357) Ethacrynic acid;
26284	(358) Ethambutol;
26285	(359) Ethamivan;
26286	(359.5) Ethanolamine oleate;
26287	(360) Ethaverine;
26288	(361) Ether — See exceptions;
26289	(361.5) Ethinamate;
26290	(362) Ethinyl estradiol;
26291	(363) Ethiodized oil;
26292	(364) Ethionamide;
26293	(365) Ethisterone;
26294	(366) Ethoheptazine;
26295	(367) Ethopropazine;
26296	(368) Ethosuximide;
26297	(369) Ethotoin;
26298	(370) Ethoxazene — See exceptions;
26299	(371) Ethoxazolamide;
26300	(372) Ethyl biscoumacetate;
26301	(373) Ethyl chloride — See exceptions;
26302	(374) Ethyl nitrite spirit;
26303	(375) Reserved;
26304	(376) Ethylnorepinephrine;
26305	(377) Ethynodiol diacetate;
26306	(378) Etidocaine;
26307	(379) Etidronate;
26308	(379.05) Etodolac;
26309	(379.07) Etomidate;
26310	(379.09) Etonogestrel;

26311	(379.1) Etoposide;
26312	(379.5) Etravirine;
26313	(380) Eucatropine;
26314	(380.3) Everolimus;
26315	(380.5) Exemestane;
26316	(380.6) Exenatide;
26317	(380.7) Ezetimibe;
26318	(381) Factor IX complex, Human;
26319	(381.1) Famciclovir;
26320	(381.2) Famotidine — See exceptions;
26321	(381.3) Felbamate;
26322	(381.5) Felodipine;
26323	(381.55) Fenfibrate;
26324	(381.6) Fenofenadine;
26325	(381.7) Fenofibrate;
26326	(381.75) Fenofibric acid;
26327	(381.8) Fenoldopam;
26328	(382) Fenoprofen;
26329	(382.25) Febuxostat;
26330	(383) Ferric cacodylate;
26331	(383.15) Ferric Hexacyanoferrate;
26332	(383.3) Ferumoxides;
26333	(383.4) Ferumoxsil;
26334	(383.43) Ferumoxytol;
26335	(383.45) Fesoterodine;
26336	(383.5) Fexofenadine – See exceptions;
26337	(384) Fibrinogen;
26338	(385) Fibrinogen/antihemophilic factor, Human;
26339	(386) Fibrinolysin, Human;
26340	(386.3) Finasteride;
26341	(386.5) Filgrastin;
26342	(386.7) Fingolimod;
26343	(387) Flavoxate;
26344	(387.1) Flecainide acetate;
26345	(388) Florantyrone;
26346	(388.5) Flosequinan;
26347	(389) Floxuridine;

26348	(389.5) Fluconazole;
26349	(390) Flucytosine;
26350	(390.5) Fludarabine;
26351	(390.7) Fludeoxyglucose;
26352	(391) Fludrocortisone;
26353	(391.5) Flumazenil;
26354	(392) Flumethasone;
26355	(392.1) Flunisolide;
26356	(393) Fluocinonide;
26357	(394) Fluocinolone;
26358	(395) Fluorescein;
26359	(396) Fluoride — See exceptions;
26360	(396.5) Fluorometholone;
26361	(397) Fluorophosphates;
26362	(398) Fluorouracil;
26363	(399) Fluoxetine;
26364	(399.5) Fluoxymesterone;
26365	(400) Fluphenazine;
26366	(401) Fluprednisolone;
26367	(402) Flurandrenolide;
26368	(402.2) Flurbiprofen;
26369	(402.5) Flutamide;
26370	(402.7) Fluticasone;
26371	(402.8) Fluvastatin;
26372	(402.9) Fluvoxamine;
26373	(403) Folate sodium;
26374	(404) Folic acid — See exceptions;
26375	(404.3) Follitropin;
26376	(404.5) Fomivirsen;
26377	(404.7) Fondaparinux;
26378	(405) Foreign protein;
26379	(406) Formaldehyde — See exceptions;
26380	(406.2) Formoterol;
26381	(406.3) Fosamprenavir;
26382	(406.35) Fosaprepitant;
26383	(406.4) Foscarnet;
26384	(406.5) Fosfomycin;

26385	(406.7) Fosinopril;
26386	(406.9) Fosphenytoin;
26387	(406.95) Frovatriptan;
26388	(407) Furazolidone;
26389	(408) Furosemide;
26390	(408.2) Gabapentin;
26391	(408.25) Gadobenate;
26392	(408.3) Gadodiamide;
26393	(408.35) Gadofosveset;
26394	(408.4) Gadopentetate dimeglumine;
26395	(408.6) Gadoteridol;
26396	(408.8) Gadoversetamide;
26397	(408.85) Gadoxetate;
26398	(408.9) Galantamine;
26399	(409) Gallamine triethiodide;
26400	(409.3) Gallium citrate;
26401	(409.5) Gallium nitrate;
26402	(409.8) Galsulfase;
26403	(410) Gamma benzene hexachloride;
26404	(411) Gamma globulin;
26405	(411.5) Ganciclovir;
26406	(411.7) Ganirelix;
26407	(412) Gas gangrene polyvalent antitoxin;
26408	(412.03) Gatifloxacin;
26409	(412.04) Gefitinib;
26410	(412.05) Gemcitabine;
26411	(412.1) Gemfibrozil;
26412	(412.2) Gemifloxacin;
26413	(412.3) Gemtuzumab ozogamicin;
26414	(412.5) Genotropin;
26415	(413) Gentamicin;
26416	(414) Gentian violet vaginal suppositories;
26417	(415) Gitalin;
26418	(415.03) Glatiramer;
26419	(415.05) Glimepiride;
26420	(415.1) Glipizide;
26421	(416) Glucagon;

- 26422 (417) Gluceptate;
- 26423 (418) Gluconate magnesium;
- 26424 (419) Gluconate potassium — See exceptions;
- 26425 (420) Glutamate arginine;
- 26426 (420.1) Glyburide;
- 26427 (420.5) Glycine — See exceptions;
- 26428 (421) Glycobiarsol;
- 26429 (422) Glycopyrrolate;
- 26430 (423) Gold sodium thiomalate;
- 26431 (424) Gold thiosulfate — See exceptions;
- 26432 (424.4) Golimumab;
- 26433 (425) Gomenol Solution;
- 26434 (425.5) Gonadorelin acetate;
- 26435 (426) Gonadotropin, Chroinic;
- 26436 (427) Gonadotropin, Chroinic, Anti-human serum;
- 26437 (428) Gonadotropin, Serum;
- 26438 (428.5) Goserelin;
- 26439 (429) Gramicidin;
- 26440 (430) Gramineae pollens;
- 26441 (430.3) Gramosetron;
- 26442 (430.5) Granisetron;
- 26443 (431) Griseofulvin;
- 26444 (431.5) Guanabenz;
- 26445 (432) Guanethidine;
- 26446 (432.4) Guanadrel;
- 26447 (432.7) Guanfacine;
- 26448 (432.9) Guanidine;
- 26449 (433) Halcinonide;
- 26450 (433.5) Halobetasol Propionate;
- 26451 (433.7) Halofantrine;
- 26452 (434) Haloperidol;
- 26453 (435) Haloprogin;
- 26454 (436) Halothane;
- 26455 (437) Hartman's solution;
- 26456 (438) Heparin;
- 26457 (439) Hetacillin;
- 26458 (440) Hexachlorophene — See exceptions;

26459	(441) Hexafluorenium;
26460	(442) Hexocyclium;
26461	(443) Hexylcaine;
26462	(444) Histamine;
26463	(445) Histoplasmin;
26464	(445.5) Histrelin acetate;
26465	(446) Homatropine;
26466	(446.4) Human secretin;
26467	(446.6) Hyaluronan;
26468	(446.7) Hyaluronic acid;
26469	(447) Hyaluronidase;
26470	(448) Hydralazine;
26471	(449) Hydrocalciferol;
26472	(450) Hydrochlorothiazide;
26473	(451) Hydrocortamate;
26474	(452) Hydrocortisone — See exceptions;
26475	(453) Hydroflumethiazide;
26476	(454) Hydroquinone;
26477	(455) Hydroxocobalamin — See exceptions;
26478	(456) Hydroxyamphetamine;
26479	(457) Hydroxychloroquine;
26480	(458) Hydroxyprogesterone;
26481	(459) Hydroxyurea;
26482	(460) Hydroxyzine;
26483	(461) Hyoscyamine;
26484	(462) Hyoscyamus alkaloids;
26485	(463) Hypophamine;
26486	(463.03) Ibandronate;
26487	(464) Ibuprofen — See exceptions;
26488	(464.05) Ibutilide;
26489	(464.1) Idarubicin;
26490	(464.3) Idoxuridine;
26491	(464.5) Idursulfase;
26492	(464.6) Ifosfamide;
26493	(464.67) Iloperidone;
26494	(464.7) Iloprost;
26495	(464.8) Imatinib;

- 26496 (465) Imiglucerase;
- 26497 (465.1) Imipenem/cilastatin;
- 26498 (466) Imipramine;
- 26499 (466.5) Imiquimod;
- 26500 (467) Immune hepatitis B globulin, Human;
- 26501 (468) Immune poliomyelitis globulin, Human;
- 26502 (469) Immune serum globulin, Human;
- 26503 (469.05) IncobotulinumtoxinA;
- 26504 (469.1) Indapamide;
- 26505 (469.5) Indecainide;
- 26506 (470) Indigotindisulfonate;
- 26507 (470.05) Indinavir;
- 26508 (470.1) Indium IN-III oxyquinolone;
- 26509 (470.3) Indium IN-III pentetreotide;
- 26510 (471) Indocyanine green;
- 26511 (472) Indomethacin;
- 26512 (472.5) Infliximab;
- 26513 (473) Influenza virus vaccines;
- 26514 (474) Injections, All substances for human use — See exceptions;
- 26515 (474.2) Insulin aspart;
- 26516 (474.4) Insulin glargine;
- 26517 (474.45) Insulin glulisine;
- 26518 (474.5) Interferon;
- 26519 (475) Intrinsic factor concentrate manufactured for human use;
- 26520 (475.3) Inulin;
- 26521 (475.5) Iobenguane;
- 26522 (476) Iocetamic acid;
- 26523 (477) Iodamide;
- 26524 (478) Iodinated I-125 serum albumin;
- 26525 (479) Iodinated I-131 serum albumin;
- 26526 (480) Iodinated glycerol-theophylline;
- 26527 (481) Iodine solution, Strong oral;
- 26528 (482) Iodipamide;
- 26529 (482.5) Iodixanol;
- 26530 (483) Iodized oil;
- 26531 (484) Iodobenzoic acid — See exceptions;
- 26532 (485) Iodobrassid;

26533	(485.1) Iodohippurate sodium;
26534	(486) Iodopyracet;
26535	(487) Iodothiouracil;
26536	(487.05) Iofetamine;
26537	(487.08) Iohexol;
26538	(487.1) Iopamidol;
26539	(488) Iopanoic acid — See exceptions;
26540	(489) Iophendylate;
26541	(489.1) Iopromide;
26542	(489.2) Iothalamate;
26543	(489.3) Iothiouracil;
26544	(489.5) Iotrolan;
26545	(489.6) Ioversol;
26546	(490.1) Ioxaglate;
26547	(490.5) Ioxilan;
26548	(491) Ipodate;
26549	(491.5) Ipratropium;
26550	(491.6) Irbesartan;
26551	(491.7) Irinotecan;
26552	(492) Iron cacodylate;
26553	(493) Iron dextran injection;
26554	(494) Iron peptonized;
26555	(495) Iron sorbitex;
26556	(496) Isocarboxazid;
26557	(497) Isoetharine;
26558	(498) Isoflurane;
26559	(499) Isoflurophate;
26560	(500) Isometheptene;
26561	(501) Isoniazid;
26562	(502) Isopropamide;
26563	(503) Isoproterenol;
26564	(504) Isosorbide dinitrate;
26565	(504.05) Isosorbide mononitrate;
26566	(504.1) Isosulfan blue;
26567	(505) Isothipendyl;
26568	(505.5) Isotretinoin;
26569	(506) Isoxsuprine;

26570	(506.5) Isradipine;
26571	(506.7) Itraconazole;
26572	(506.8) Ivermectin;
26573	(506.9) Ixabepilone;
26574	(507) Kanamycin;
26575	(508) Reserved;
26576	(509) KetochoLANic acids;
26577	(509.1) Ketoconazole — See exceptions;
26578	(509.15) Ketoprofen — See exceptions;
26579	(509.17) Ketorolac tromethamine;
26580	(509.18) Ketotifen — See exceptions;
26581	(509.2) Labetalol;
26582	(509.7) Lacosamide;
26583	(510) Lactated ringers solution;
26584	(511) Lactulose;
26585	(511.3) Lamivudine;
26586	(511.5) Lamotrigine;
26587	(512) Lanatoside C;
26588	(512.3) Lanreotide;
26589	(512.5) Lansoprazole - see exceptions;
26590	(512.6) Lanthanum;
26591	(512.67) Lapatinib;
26592	(512.7) Latanoprost;
26593	(513) Latrodectus mactans;
26594	(513.5) Leflunomide;
26595	(513.7) Lenalidomide;
26596	(513.8) Letrozole;
26597	(514) Leucovorin;
26598	(514.1) Leuprolide;
26599	(514.5) Levalbuterol;
26600	(515) Reserved;
26601	(515.5) Levamisole;
26602	(516) Levarterenol;
26603	(516.05) Levetiracetam;
26604	(516.07) Levobetaxolol;
26605	(516.1) Levobunolol;
26606	(516.3) Levobupivacine;

26607	(516.5) Levocabastine;
26608	(516.7) Levocarnitine;
26609	(516.75) Levocetirizine;
26610	(517) Levodopa;
26611	(517.2) Levofloxacin;
26612	(517.25) Levoleucovorin;
26613	(517.3) Levomethadyl;
26614	(517.4) Levonordefrin;
26615	(518) Levopropoxyphene;
26616	(519) Levothyroxine;
26617	(520) Lidocaine — See exceptions;
26618	(521) Lincomycin;
26619	(522) Lindane — See exceptions;
26620	(522.5) Linezolid;
26621	(523) Linolenic acid;
26622	(524) Liothyronine;
26623	(525) Liotrix;
26624	(525.2) Liraglutide;
26625	(525.5) Lisinopril;
26626	(526) Lithium carbonate — See exceptions;
26627	(527) Lithium citrate;
26628	(528) Liver extract;
26629	(528.3) Lodoxamide;
26630	(528.5) Lomefloxacin;
26631	(529) Lomustine;
26632	(529.1) Loperamide — See exceptions;
26633	(529.5) Lopinavir;
26634	(529.7) Loracarbef;
26635	(529.9) Loratadine — See exceptions;
26636	(529.95) Losartan;
26637	(529.97) Loteprednol;
26638	(530) Lovastatin;
26639	(530.5) Loxapine;
26640	(530.7) Lubiprostone;
26641	(531) Lugols solution;
26642	(531.5) Lumefantrine;
26643	(531.7) Lurasidone;

- 26644 (532) Lututrin;
- 26645 (533) Lymphogranuloma venereum antigen;
- 26646 (534) Lypressin synthetic;
- 26647 (535) Mafenide;
- 26648 (536) Magnesium gluconate — See exceptions;
- 26649 (537) Magnesium salicylate;
- 26650 (538) Mandelic acid — See exceptions;
- 26651 (539) Mannitol — See exceptions;
- 26652 (540) Mannitol hexanitrate;
- 26653 (540.1) Maprotiline;
- 26654 (540.3) Maraviroc;
- 26655 (540.5) Masoprocol;
- 26656 (541) Measles immune globulin, Human;
- 26657 (542) Measles virus vaccines;
- 26658 (543) Mebendazole for human use;
- 26659 (544) Mecamylamine;
- 26660 (544.5) Mecasermin;
- 26661 (545) Mechlorethamine;
- 26662 (546) Meclizine — See exceptions;
- 26663 (546.5) Meclocycline;
- 26664 (547) Meclofenamate;
- 26665 (548) Medroxyprogesterone;
- 26666 (549) Medrysone;
- 26667 (550) Mefenamic acid;
- 26668 (550.5) Mefloquine;
- 26669 (551) Megestrol;
- 26670 (552) Meglumine;
- 26671 (552.5) Meloxicam;
- 26672 (553) Melphalan;
- 26673 (553.5) Memantine;
- 26674 (554) Menadiol;
- 26675 (555) Menadione;
- 26676 (556) Meningococcal polysaccharide vaccine;
- 26677 (557) Menotropins;
- 26678 (558) Mepenzolate;
- 26679 (559) Mephesisin;
- 26680 (560) Mephentermine;

26681	(561) Mephenytoin;
26682	(562) Meprednisone;
26683	(563) Mepivacaine;
26684	(563.5) Mequinol;
26685	(564) Meralluride;
26686	(565) Mercaptomerin;
26687	(566) Mercaptopurine;
26688	(567) Mercury bichloride — See exceptions;
26689	(567.1) Meropenem;
26690	(567.2) Mersalyl;
26691	(567.3) Mesalamine;
26692	(567.5) Mesna;
26693	(568) Mesoridazine;
26694	(569) Mestranol;
26695	(570) Metaproterenol;
26696	(571) Metaraminol;
26697	(572) Metaxalone;
26698	(572.5) Metformin;
26699	(573) Methacholine;
26700	(574) Methacycline;
26701	(575) Methallenestril;
26702	(576) Reserved;
26703	(577) Reserved;
26704	(578) Methantheline;
26705	(579) Methazolamide;
26706	(580) Methdilazine;
26707	(581) Methenamine hippurate;
26708	(582) Methenamine mandelate;
26709	(583) Methenamine sulfosalicylate;
26710	(584) Methicillin;
26711	(585) Methimazole;
26712	(586) Methiodal;
26713	(587) Methionine;
26714	(588) Methixene;
26715	(589) Methocarbamol;
26716	(590) Methotrexate;
26717	(591) Methotrimeprazine;

26718	(592) Methoxamine;
26719	(593) Methoxsalen;
26720	(594) Methoxyflurane;
26721	(595) Methoxyphenamine;
26722	(595.5) Methoxy polyethylene glycol-epoetin beta;
26723	(596) Methscopolamine;
26724	(597) Methsuximide;
26725	(598) Methyclothiazide;
26726	(599) Methylandrostenediol;
26727	(600) Methylatropine;
26728	(601) Methyldopa;
26729	(602) Methyldopate;
26730	(603) Methylene blue, Oral;
26731	(604) Methylergonovine;
26732	(604.5) Methylnaltrexone;
26733	(605) Methylprednisolone;
26734	(606) Reserved;
26735	(607) Methysergide;
26736	(608) Metoclopramide;
26737	(609) Metocurine iodide injection;
26738	(610) Metolazone;
26739	(611) Metoprolol;
26740	(612) Metrizamide;
26741	(612.5) Metrizoate;
26742	(613) Metronidazole;
26743	(614) Metyrapone;
26744	(615) Metyrosine;
26745	(615.01) Mexiletine;
26746	(615.1) Mezlocillin;
26747	(615.6) Mibefradil;
26748	(615.9) Micafungin;
26749	(616) Miconazole — See exceptions;
26750	(617) Microfibrillar collagen hemostat;
26751	(617.1) Midodrine;
26752	(617.22) Midubosathol;
26753	(617.3) Mifepristone;
26754	(617.4) Miglitol;

26755	(617.44) Miglustat;
26756	(617.47) Milnacipran;
26757	(617.5) Milrinone;
26758	(618) Minocycline;
26759	(619) Minoxidil — See exceptions;
26760	(619.3) Mirtazapine;
26761	(619.5) Misoprostol;
26762	(620) Mithramycin;
26763	(621) Mitomycin;
26764	(622) Mitotane;
26765	(622.3) Mitoxantrone;
26766	(622.5) Mivacurium;
26767	(622.7) Moexipril;
26768	(623) Molindone;
26769	(623.5) Mometasone;
26770	(624) Monobenzene;
26771	(624.1) Monoctanoïn;
26772	(624.5) Montelukast;
26773	(624.7) Moricizine;
26774	(625) Morrhuate;
26775	(625.1) Moxalactam;
26776	(625.3) Moxidectin;
26777	(625.5) Moxifloxacin;
26778	(626) Mumps virus vaccines;
26779	(626.5) Mupirocin;
26780	(627) Mushroom spores which, when mature, contain either psilocybin or psilocin;
26781	(627.5) Mycophenolate;
26782	(628) N-acetyl-L-cysteine;
26783	(629) N. catarhalis antigen;
26784	(629.5) Nabumetone;
26785	(630) Nadolol;
26786	(630.5) Nafarelin;
26787	(631) Nafcillin;
26788	(631.5) Naftifine;
26789	(632) Nalbuphine;
26790	(633) Reserved;
26791	(634) Nalidixic acid;

26792	(634.5) Nalmefene;
26793	(635) Naloxone;
26794	(635.1) Naltrexone;
26795	(636) Reserved;
26796	(637) Naphazoline — See exceptions;
26797	(638) Naproxen — See exceptions;
26798	(638.3) Naratriptan;
26799	(638.4) Natalizumab;
26800	(638.45) Nebivolol;
26801	(638.5) Nedocromil;
26802	(638.7) Nefazodone;
26803	(638.75) Nelarabine;
26804	(638.8) Nelfinavir;
26805	(639) Neomycin — See exceptions;
26806	(640) Neostigmine;
26807	(640.1) Nepafenac;
26808	(640.2) Nesiritide;
26809	(640.3) Netilmicin;
26810	(640.4) Nevirapine;
26811	(640.5) Niacinamide — See exceptions;
26812	(640.7) Nicardipine;
26813	(640.8) Niclosamide;
26814	(641.1) Nicotine resin complex (polacrilex) — See exceptions;
26815	(641.15) Nicotine transdermal system — See exceptions;
26816	(642) Nicotiny alcohol;
26817	(642.1) Nifedipine;
26818	(643) Nifuroximine;
26819	(644) Nikethamide;
26820	(644.3) Nilotinib;
26821	(644.4) Nilutamide;
26822	(644.5) Nimodipine;
26823	(644.7) Nisoldipine;
26824	(644.72) Nitazoxanide;
26825	(644.8) Nitisinone;
26826	(644.9) Nitric oxide — for use in humans;
26827	(645) Nitrofurantoin;
26828	(646) Nitrofurazone;

- 26829 (647) Nitroglycerin;
- 26830 (648) Nitroprusside — See exceptions;
- 26831 (648.3) Nitrous oxide — See exceptions;
- 26832 (648.6) Nizatidine — See exceptions;
- 26833 (649.1) Nomifensine maleate;
- 26834 (650) Nonoxynol — See exceptions;
- 26835 (651) Norepinephrine;
- 26836 (652) Norethindrone;
- 26837 (653) Norethynodrel;
- 26838 (653.5) Norfloxacin;
- 26839 (654) Norgestrel;
- 26840 (655) Normal serum albumin, Human;
- 26841 (656) Nortriptyline;
- 26842 (657) Nositol;
- 26843 (658) Novobiocin;
- 26844 (659) Nux vomica;
- 26845 (660) Nylidrin;
- 26846 (661) Nystatin;
- 26847 (661.5) Octreotide acetate;
- 26848 (661.6) Ofatumumab;
- 26849 (661.7) Ofloxacin;
- 26850 (661.8) Olanzapine;
- 26851 (662) Old tuberculin;
- 26852 (663) Oleandomycin;
- 26853 (663.1) Olmesartan;
- 26854 (663.2) Olopatadine;
- 26855 (663.3) Olsalazine Sodium;
- 26856 (663.4) Omega-3-acid;
- 26857 (663.5) Omeprazole — See exceptions;
- 26858 (663.7) Ondansetron;
- 26859 (663.75) Orlistat — See exceptions;
- 26860 (664) Orphenadrine;
- 26861 (665) Orthiodobenzoic acid;
- 26862 (665.5) Oseltamivir;
- 26863 (665.7) Ovine hyaluronidase;
- 26864 (666) Oxacillin;
- 26865 (666.4) Oxaliplatin;

26866	(666.6) Oxamniquine;
26867	(667) Oxaprozin;
26868	(667.5) Oxcarbazepine;
26869	(668) Oxethazaine;
26870	(668.5) Oxiconazole;
26871	(669) Oxolinic acid;
26872	(669.1) Oxprenolol;
26873	(670) Oxtriphylline;
26874	(671) Oxybutynin;
26875	(672) Oxygen for human use — See exceptions;
26876	(673) Reserved;
26877	(674) Oxyphenbutazone;
26878	(675) Oxyphencyclimine;
26879	(676) Oxyphenisatin;
26880	(677) Oxyphenonium;
26881	(678) Oxyquinoline;
26882	(679) Oxytetracycline;
26883	(680) Oxytocin;
26884	(680.5) Ozogamicin;
26885	(681) P-nitrosulfathiazole;
26886	(681.3) Paclitaxel;
26887	(681.4) Palifermin;
26888	(681.45) Paliperidone;
26889	(681.5) Palonosetron;
26890	(681.7) Pamidronate;
26891	(682) Pancreatin dornase;
26892	(683) Pancreatic enzyme;
26893	(684) Pancrelipase;
26894	(685) Pancuronium;
26895	(685.5) Panidronate;
26896	(685.6) Panitumumab;
26897	(685.7) Pantoprazole;
26898	(686) Papaverine;
26899	(687) Paramethadione;
26900	(688) Paramethasone;
26901	(689) Paranitrosulfathiazole;
26902	(690) Parathyroid injection;

26903 (691) Pargyline;
26904 (691.5) Paricalcitol;
26905 (692) Paromomycin;
26906 (692.2) Paroxetine;
26907 (692.3) Pazopanib;
26908 (692.4) Pegademase bovine;
26909 (692.5) Pegaspargase;
26910 (692.51) Pegfilgrastin;
26911 (692.515) Peginterferon;
26912 (692.517) Pegloticase;
26913 (692.52) Pegvisomant;
26914 (692.54) Pemetrexed;
26915 (692.55) Pemirolast;
26916 (692.6) Penbutolol;
26917 (692.8) Penciclovir;
26918 (693) Penicillamine;
26919 (694) Penicillin;
26920 (695) Penicillin G;
26921 (696) Penicillin O;
26922 (697) Penicillin V;
26923 (698) Penicillinase;
26924 (699) Pentaerythritol tetranitrate;
26925 (700) Pentagastrin;
26926 (700.1) Pentamidine isethionate;
26927 (701) Pentapiperide;
26928 (701.5) Pentetate calcium trisodium;
26929 (701.7) Pentetate zinc trisodium;
26930 (702) Penthienate;
26931 (703) Pentolinium;
26932 (703.03) Pentosan;
26933 (703.05) Pentostatin;
26934 (703.1) Pentoxifylline;
26935 (703.4) Pentylenetetrazol;
26936 (703.45) Perflexane;
26937 (703.5) Perflubron;
26938 (703.6) Perfluoroalkylpolyether;
26939 (703.65) Perflutren;

- 26940 (703.7) Pergolide;
- 26941 (704) Perindopril;
- 26942 (704.1) Permethrin — See exceptions;
- 26943 (705) Perphenazine;
- 26944 (706) Pertussis immune globulin, Human;
- 26945 (707) Phenacemide;
- 26946 (708) Phenaglycodol;
- 26947 (709) Phenaphthazine;
- 26948 (710) Phenazopyridine — See exceptions;
- 26949 (711) Phenelzine;
- 26950 (712) Phenethicillin;
- 26951 (713) Phenformin;
- 26952 (714) Phenindamine;
- 26953 (715) Phenindione;
- 26954 (716) Pheniramine — See exceptions;
- 26955 (717) Phenitramin;
- 26956 (718) Phenothiazine derivatives;
- 26957 (719) Phenoxybenzamine;
- 26958 (720) Phenoxyethyl penicillin;
- 26959 (721) Phenuprocoumon;
- 26960 (722) Phensuximide;
- 26961 (723) Phentolamine;
- 26962 (724) Phenylbutazone;
- 26963 (725) Phenylmercuric acetate;
- 26964 (726) Phenylmercuric nitrate;
- 26965 (726.5) Phenylpropanolamine;
- 26966 (727) Phenyltoloxamine dihydrogen citrate;
- 26967 (727.2) Phenytoin;
- 26968 (728) Phthalylsulfacetamide;
- 26969 (729) Phthalylsulfathiazole;
- 26970 (730) Physostigmine;
- 26971 (731) Phytonadione;
- 26972 (731.1) Pimozide;
- 26973 (732) Pilocarpine;
- 26974 (732.3) Pinacidil;
- 26975 (732.7) Pindolol;
- 26976 (732.8) Pioglitazone;

26977	(732.9) Pimecrolimus;
26978	(733) Pipazethate;
26979	(733.5) Pipecuronium;
26980	(734) Pipenzolate;
26981	(735) Piperacetazine;
26982	(735.1) Piperacillin;
26983	(736) Piperazine;
26984	(737) Piperidolate;
26985	(738) Piperocaine;
26986	(739) Pipobraman;
26987	(740) Pipradrol;
26988	(740.05) Pirbuterol;
26989	(740.1) Piroxicam;
26990	(740.5) Pitavastatin;
26991	(741) Plague vaccine;
26992	(742) Plasma protein fraction;
26993	(742.3) Plerixafor;
26994	(742.5) Plicamycin;
26995	(743) Pneumococcal polyvalent vaccine;
26996	(743.3) Podofilox;
26997	(743.5) Podophyllotoxin;
26998	(744) Poison ivy extract;
26999	(745) Poison ivy oak extract;
27000	(746) Poison ivy oak, sumac extract;
27001	(747) Poldine methylsulfate;
27002	(747.4) Polidocanol;
27003	(748) Poliomyelitis vaccine;
27004	(749) Poliovirus vaccine, Live, Oral, All;
27005	(750) Polyestradiol;
27006	(751) Polymyxin B — See exceptions;
27007	(751.5) Polytetrafluoroethylene;
27008	(752) Polythiazide;
27009	(752.2) Poractant alfa;
27010	(752.5) Porfimer;
27011	(752.7) Posaconazole;
27012	(753) Posterior pituitary;
27013	(754) Potassium acetate injection;

- 27014 (755) Potassium acid phosphate — See exceptions;
- 27015 (756) Potassium p-aminobenzoate — See exceptions;
- 27016 (757) Potassium aminosalicylate — See exceptions;
- 27017 (758) Potassium arsenite — See exceptions;
- 27018 (759) Potassium bicarbonate — See exceptions;
- 27019 (760) Potassium carbonate — See exceptions;
- 27020 (761) Potassium chloride — See exceptions;
- 27021 (762) Potassium citrate — See exceptions;
- 27022 (763) Potassium gluconate — See exceptions;
- 27023 (764) Potassium hetacillin;
- 27024 (765) Potassium iodide — See exceptions;
- 27025 (766) Reserved;
- 27026 (767) Potassium permanganate — See exceptions;
- 27027 (768) Povidone — Iodine — See exceptions;
- 27028 (768.8) Pralatrexate;
- 27029 (769) Pralidoxime;
- 27030 (769.2) Pramipexole;
- 27031 (769.3) Pramlintide;
- 27032 (769.35) Prasugrel;
- 27033 (769.4) Pravastatin;
- 27034 (769.7) Praziquantel;
- 27035 (770) Prazosin;
- 27036 (770.5) Prednicarbate;
- 27037 (771) Prednisolone;
- 27038 (772) Prednisone;
- 27039 (773) Prilocaine;
- 27040 (774) Primaquine;
- 27041 (775) Primidone;
- 27042 (776) Probenecid;
- 27043 (777) Probucol;
- 27044 (778) Procainamide;
- 27045 (779) Procaine;
- 27046 (780) Procaine penicillin;
- 27047 (781) Procaine penicillin G;
- 27048 (782) Procarbazine;
- 27049 (783) Prochlorperazine;
- 27050 (784) Procyclidine;

27051	(785) Progesterone;
27052	(785.5) Proguanil;
27053	(786) Promazine;
27054	(787) Promethazine;
27055	(788) Promethestrol;
27056	(788.5) Propafenone;
27057	(789) Propantheline;
27058	(790) Proparacaine;
27059	(791) Propenpyridamine — See exceptions;
27060	(792) Propiolactone;
27061	(793) Propiomazine;
27062	(794) Propoxycaine;
27063	(795) Propranolol;
27064	(795.5) Propylhexedrine;
27065	(796) Propylparaben;
27066	(797) Propylthiouracil;
27067	(798) Protamine sulfate injection;
27068	(799) Protein hydrolysate injection;
27069	(800) Protein, Foreign injection;
27070	(801) Proteolytic enzyme;
27071	(802) Protirelin;
27072	(803) Protokylol;
27073	(804) Protoveratrine A and B;
27074	(805) Protriptyline;
27075	(805.5) Prussian blue;
27076	(806) Reserved;
27077	(807) Pseudomonas polysaccharide complex;
27078	(808) P-ureidobenzeneearsonic acid;
27079	(809) Purified protein derivatives of tuberculin;
27080	(810) Pyrantel;
27081	(811) Pyrazinamide;
27082	(812) Pyrazolon;
27083	(813) Pyridostigmine;
27084	(814) Pyrimethamine;
27085	(815) Pyrrobutamine;
27086	(816) Pyrvinium;
27087	(816.5) Quetiapine;

- 27088 (817) Quinacrine;
- 27089 (817.5) Quinapril;
- 27090 (818) Quinestrol;
- 27091 (819) Quinethazone;
- 27092 (820) Quinidine;
- 27093 (821) Quinine hydrochloride;
- 27094 (822) Quinine and urea hydrochloride;
- 27095 (822.3) Quinupristin;
- 27096 (822.5) Rabeprazole;
- 27097 (823) Rabies anti-serum;
- 27098 (824) Rabies immune globulin, Human;
- 27099 (825) Rabies vaccine;
- 27100 (826) Radio-iodinated compounds;
- 27101 (827) Radio-iodine;
- 27102 (828) Radio-iron;
- 27103 (829) Radioisotopes;
- 27104 (830) Radiopaque media;
- 27105 (831) Ragweed pollen extract;
- 27106 (831.02) Raloxifene;
- 27107 (831.03) Raltegravir;
- 27108 (831.04) Ramelteon;
- 27109 (831.05) Ramipril;
- 27110 (831.07) Ranibizumab;
- 27111 (831.1) Ranitidine — See exceptions;
- 27112 (831.3) Ranolazine;
- 27113 (831.5) Rapacuronium;
- 27114 (831.7) Rasagiline;
- 27115 (832) Rauwolfia serpentina;
- 27116 (832.2) Reboparhamil;
- 27117 (832.5) Regadenoson;
- 27118 (833) Rescinnamine;
- 27119 (834) Reserpine;
- 27120 (835) Reserpine alkaloids;
- 27121 (836) Resorcinol monoacetate — See exceptions;
- 27122 (836.3) Retapamulin;
- 27123 (836.5) Retinoic acid, all-trans;
- 27124 (837) Rhus toxicodendron antigen;

27125	(838) Rh D immune globulin, Human;
27126	(838.5) Ribavirin;
27127	(839) Riboflavin — See exceptions;
27128	(840) Ricinoleic acid;
27129	(840.5) Rifabutin;
27130	(841) Reserved;
27131	(842) Rifampin;
27132	(842.1) Rifapentine;
27133	(842.15) Rifaximin;
27134	(842.17) Rilonacept;
27135	(842.2) Riluzole;
27136	(842.4) Rimantadine;
27137	(842.7) Rimexolone;
27138	(843) Ringer's injection;
27139	(843.2) Risedronate;
27140	(843.3) Risperidone;
27141	(843.7) Ritodrine;
27142	(843.8) Ritonavir;
27143	(843.82) Rituximab;
27144	(843.83) Rivastigmine;
27145	(843.9) Rizatriptan;
27146	(844) Rocky mountain spotted fever vaccine;
27147	(844.5) Rocuronium;
27148	(844.7) Rofecoxib;
27149	(845) Rolitetracycline;
27150	(845.1) Romidepsin;
27151	(845.15) Romiplostim;
27152	(845.3) Ropinirole;
27153	(845.5) Ropivacaine;
27154	(845.7) Rosiglitazone;
27155	(845.8) Rosuvastatin;
27156	(845.9) Rotavirus vaccine;
27157	(845.95) Rotigotine;
27158	(846) Rotoxamine;
27159	(846.5) RSVIGIV;
27160	(847) Rubella and mumps virus vaccine;
27161	(848) Rubella virus vaccine;

- 27162 (848.5) Rufinamide;
- 27163 (849) Rutin — See exceptions;
- 27164 (849.5) Sacrosidase;
- 27165 (850) Salicylazosulfapyridine;
- 27166 (850.5) Salmeterol;
- 27167 (851) Salmonella typhosa, Killed;
- 27168 (851.02) Salvinorin A;
- 27169 (851.03) Samarium SM 153 lexidronam;
- 27170 (851.04) Saneromazile;
- 27171 (851.045) Sapropterin;
- 27172 (851.05) Saquinavir;
- 27173 (851.1) Saralasin acetate;
- 27174 (851.7) Saxagliptin;
- 27175 (852) Scopolamine;
- 27176 (852.1) Secretin;
- 27177 (852.6) Selegiline;
- 27178 (853) Selenium sulfide — See exceptions;
- 27179 (853.5) Selenomethionine;
- 27180 (854) Senecio cineraria extract ophthalmic solution;
- 27181 (855) Senega fluid extract;
- 27182 (855.3) Seractide acetate;
- 27183 (855.5) Sermorelin Acetate;
- 27184 (855.6) Sertaconazole;
- 27185 (855.7) Sertraline;
- 27186 (855.74) Sevelamer;
- 27187 (855.8) Sevoflurane;
- 27188 (855.85) Sildenafil;
- 27189 (855.9) Silodosin;
- 27190 (856) Silver nitrate ophthalmic solutions or suspensions;
- 27191 (857) Silver sulfadiazine cream;
- 27192 (857.3) Simethicone coated cellulose suspension;
- 27193 (857.5) Simvastatin;
- 27194 (858) Sincalide;
- 27195 (858.3) Sinecatechins;
- 27196 (858.5) Sirolimus;
- 27197 (858.7) Sitagliptin;
- 27198 (859) Sitosterols;

- 27199 (860) Solutions for injections, All;
- 27200 (861) Smallpox vaccine;
- 27201 (862) Sodium acetate injection;
- 27202 (863) Sodium acetrizoate;
- 27203 (864) Sodium ascorbate injection;
- 27204 (865) Sodium biphosphate — See exceptions;
- 27205 (866) Sodium cacodylate;
- 27206 (867) Sodium chloride injection;
- 27207 (868) Sodium dehydrocholate;
- 27208 (869) Sodium dextrothyroxine;
- 27209 (870) Sodium estrone;
- 27210 (871) Sodium fluorescein — See exceptions;
- 27211 (872) Sodium fluoride — See exceptions;
- 27212 (873) Sodium iothalamate;
- 27213 (873.5) Sodium nitroprusside;
- 27214 (873.7) Sodium phenylbutyrate;
- 27215 (874) Sodium polystyrene sulfonate;
- 27216 (875) Sodium propionated vaginal cream;
- 27217 (876) Sodium sulfacetamide;
- 27218 (877) Sodium sulfadiazine;
- 27219 (878) Sodium sulfobromophthalein;
- 27220 (879) Sodium sulfoxone;
- 27221 (880) Sodium tetradecyl;
- 27222 (880.5) Sodium thiosulfate;
- 27223 (881) Sodium tyropanoate;
- 27224 (881.05) Solifenacin;
- 27225 (881.1) Somatrem;
- 27226 (882) Somatropin;
- 27227 (882.5) Sorafenib;
- 27228 (883) Sorbus extract;
- 27229 (883.5) Sotalol;
- 27230 (883.8) Sparfloxacin;
- 27231 (884) Sparteine;
- 27232 (885) Spectinomycin;
- 27233 (886) Spirapril;
- 27234 (887) Spironolactone;
- 27235 (888) Staphage lysate bacterial antigen;

- 27236 (889) Staphylococcus and streptococcus vaccine;
- 27237 (890) Staphylococcus toxoid;
- 27238 (890.5) Stavudine;
- 27239 (891) Stibophen;
- 27240 (892) Stinging insect antigens — Combined;
- 27241 (893) Stockes expectorant;
- 27242 (894) Stramonium;
- 27243 (895) Streptococcus antigen;
- 27244 (896) Streptokinase-streptodornase;
- 27245 (897) Streptomycin;
- 27246 (898) Strontium — See exceptions;
- 27247 (899) Strophanthin-G;
- 27248 (900) Strychnine — See exceptions;
- 27249 (901) Succimer;
- 27250 (902) Succinylcholine;
- 27251 (903) Succinylsulfathiazole;
- 27252 (903.1) Sucralfate;
- 27253 (903.2) Sulconazole;
- 27254 (904) Sulfabenzamide vaginal preparations;
- 27255 (905) Sulfacetamide;
- 27256 (906) Sulfachlorpyridazine;
- 27257 (907) Sulfacytine;
- 27258 (908) Sulfadiazine;
- 27259 (909) Sulfadimethoxine;
- 27260 (909.1) Sulfadoxine;
- 27261 (910) Sulfaethidole;
- 27262 (911) Sulfaguanidine;
- 27263 (912) Sulfamerazine;
- 27264 (913) Sulfameter;
- 27265 (914) Sulfamethazine;
- 27266 (915) Sulfamethizole;
- 27267 (916) Sulfamethoxazole;
- 27268 (917) Sulfamethoxypyridazine;
- 27269 (918) Sulfanilamide;
- 27270 (919) Sulfaphenazole;
- 27271 (920) Reserved;
- 27272 (921) Sulfapyridine;

27273 (922) Sulfasalazine;
27274 (922.5) Sulfathiazole;
27275 (923) Sulfinpyrazone;
27276 (924) Sulfisomidine;
27277 (925) Sulfisoxazole;
27278 (926) Sulfur thioglycerol;
27279 (927) Sulindac;
27280 (927.5) Sumatriptan;
27281 (927.7) Sunitinib;
27282 (928) Superinone;
27283 (928.1) Suprofen;
27284 (929) Sutilains;
27285 (930) Syrosingopine;
27286 (930.5) Tacrine;
27287 (930.7) Tacrolimus;
27288 (930.9) Tadalafil;
27289 (931) Tamoxifen;
27290 (931.1) Tamsulosin;
27291 (931.3) Tazarotene;
27292 (931.35) Tazobacam;
27293 (931.5) Technetium;
27294 (931.55) Tegaserod;
27295 (931.555) Telavancin;
27296 (931.56) Telbivudine;
27297 (931.57) Telithromycin;
27298 (931.6) Telmisartan;
27299 (931.7) Temafloxacin;
27300 (931.75) Temozolomide;
27301 (931.77) Temsirolimus;
27302 (931.8) Teniposide;
27303 (931.85) Terazosin;
27304 (931.9) Tenofovir;
27305 (931.95) Terbinafine — See exceptions;
27306 (932) Terbutaline;
27307 (932.05) Terconazole;
27308 (932.1) Terfenadine;
27309 (932.3) Teriparatide;

27310	(933) Terpin hydrate with codeine;
27311	(934) Reserved;
27312	(935) Tesamorelin;
27313	(936) Tetanus and diphtheria toxoids;
27314	(937) Tetanus antitoxin;
27315	(938) Tetanus immune globulin;
27316	(939) Tetanus toxoids;
27317	(939.5) Tetrabenazine;
27318	(940) Tetracaine;
27319	(941) Tetracycline;
27320	(942) Tetraethylammonium chloride;
27321	(943) Tetrahydrozoline — See exceptions;
27322	(943.5) Thalidomide;
27323	(944) Thallous chloride;
27324	(945) Theobromide;
27325	(945.5) Theobromine;
27326	(946) Theobromine magnesium oleate;
27327	(947) Theophylline — See exceptions;
27328	(948) Theophylline sodium glycinate;
27329	(949) Thiabendazole;
27330	(950) Thiamylal;
27331	(951) Thiethylperazine;
27332	(952) Thiopropazate;
27333	(953) Thioguanine;
27334	(954) Thioridazine;
27335	(955) Thiosalicylate;
27336	(956) Thiotepa;
27337	(957) Thiothixene;
27338	(958) Thiphenamil;
27339	(959) Thrombin;
27340	(960) Thyroglobulin;
27341	(961) Thyroid;
27342	(962) Thyrotropin;
27343	(963) Thyroxine;
27344	(964) Thyroxine fraction;
27345	(964.5) Tiagabine;
27346	(965) Ticarcillin;

27347 (965.5) Ticlopidine;
27348 (966) Ticrynafen;
27349 (966.3) Tigecycline;
27350 (966.6) Tiludronate;
27351 (967) Timolol;
27352 (967.1) Tinidazole;
27353 (967.2) Tinzaparin;
27354 (967.3) Tioconazole — See exceptions;
27355 (967.5) Tiopronin;
27356 (967.55) Tiotropium;
27357 (967.57) Tipranavir;
27358 (967.6) Tirofiban;
27359 (967.7) Tizanidine;
27360 (968) Tobramycin;
27361 (968.1) Tocainide;
27362 (969) Tocamphyl;
27363 (969.6) Tocilizumab;
27364 (970) Tolazamide;
27365 (971) Tolazoline;
27366 (972) Tolbutamide;
27367 (972.5) Tolcapone;
27368 (973) Tolmetin;
27369 (973.05) Tolterodine;
27370 (973.07) Tolvaptan;
27371 (973.1) Topiramate;
27372 (973.3) Topotecan;
27373 (973.4) Toremifene;
27374 (973.5) Torsemide;
27375 (973.7) Tramadol;
27376 (973.8) Trandolapril;
27377 (973.9) Tranexamic acid;
27378 (974) Tranylcypromine;
27379 (974.4) Travoprost;
27380 (974.5) Trazodone;
27381 (974.7) Treprostinil;
27382 (975) Tretinoin;
27383 (976) Triamcinolone;

- 27384 (977) Triamterene;
- 27385 (978) Trichlormethiazide;
- 27386 (979) Trichloroacetic acid — See exceptions;
- 27387 (980) Trichloroethylene — See exceptions;
- 27388 (981) Trichlobisonium;
- 27389 (982) Triclofos;
- 27390 (983) Tridihexethyl chloride;
- 27391 (983.1) Trientine;
- 27392 (984) Triethanolamine polypeptides;
- 27393 (985) Triethylenethiophosphoramidate;
- 27394 (986) Trifluoperazine;
- 27395 (987) Triflupromazine;
- 27396 (988) Trifluridine;
- 27397 (989) Trihexyphenidyl;
- 27398 (990) Triiodothyronine;
- 27399 (990.1) Trilostane;
- 27400 (991) Trimeprazine;
- 27401 (992) Trimethadione;
- 27402 (993) Trimethaphan cansylate;
- 27403 (994) Trimethobenzamide;
- 27404 (995) Trimethoprim;
- 27405 (995.5) Trimetrexate;
- 27406 (996) Trimipramine;
- 27407 (997) Triolein;
- 27408 (998) Trioxsalen;
- 27409 (999) Tripelennamine — See exceptions;
- 27410 (1000) Triphenyltetrazolium;
- 27411 (1001) Triple sulfas;
- 27412 (1002) Triprolidine — See exceptions;
- 27413 (1002.5) Triptorelin;
- 27414 (1003) Trisulfapyrimidines;
- 27415 (1003.5) Troglitazone;
- 27416 (1004) Troleandomycin;
- 27417 (1005) Trolnitrate;
- 27418 (1006) Tromethamine;
- 27419 (1007) Tropicamide;
- 27420 (1007.3) Trospium;

27421	(1007.5) Trovafloxacin;
27422	(1008) Trypsin;
27423	(1009) Trypsin-chymotrypsin;
27424	(1010) Tuaminoheptane;
27425	(1011) Tuberculin, Purified protein derivatives;
27426	(1012) Tuberculin tine test;
27427	(1013) Tuberculin, Old;
27428	(1014) Tubocurarine;
27429	(1015) Tybamate;
27430	(1016) Typhoid and paratyphoid vaccine;
27431	(1017) Typhus vaccine;
27432	(1018) Tyropanoate;
27433	(1018.5) Ulipristal;
27434	(1019) Undecoylium;
27435	(1019.5) Unoprostone;
27436	(1020) Uracil;
27437	(1021) Urea — See exceptions;
27438	(1021.3) Urofollitropin;
27439	(1021.5) Ursodiol;
27440	(1021.6) Ustekinumab;
27441	(1021.7) Valacyclovir;
27442	(1021.8) Valdecoxib;
27443	(1022) Valethamate;
27444	(1022.2) Valganciclovir;
27445	(1023) Valproate;
27446	(1024) Valproic acid — See exceptions;
27447	(1024.3) Valrubicin;
27448	(1024.5) Valsartan;
27449	(1025) Vancomycin;
27450	(1025.5) Vardenafil;
27451	(1025.7) Varenicline;
27452	(1026) Vasopressin;
27453	(1027) VDRL antigen;
27454	(1027.1) Vecuronium bromide;
27455	(1027.3) Velaglucerase;
27456	(1027.5) Velnacrine;
27457	(1027.6) Venlafaxine;

- 27458 (1027.7) Verapamil;
- 27459 (1028) Veratrum viride;
- 27460 (1029) Versenate;
- 27461 (1029.5) Verteporfin;
- 27462 (1030) Vidarabine;
- 27463 (1030.3) Vigabatrin;
- 27464 (1031) Vinblastine;
- 27465 (1032) Vincristine;
- 27466 (1032.5) Vinorelbine;
- 27467 (1033) Vinyl ethyl — See exceptions;
- 27468 (1034) Viomycin;
- 27469 (1035) Vitamin K;
- 27470 (1036) Vitamin B12 injection;
- 27471 (1037) Vitamine with fluoride;
- 27472 (1037.5) Voriconazole;
- 27473 (1037.7) Vorinostat;
- 27474 (1038) Warfarin;
- 27475 (1039) Wargarin;
- 27476 (1039.1) Xylocaine;
- 27477 (1040) Yellow fever vaccine;
- 27478 (1041) Yohimbine;
- 27479 (1042) 4-chloro-3, 5-xylenol — See exceptions;
- 27480 (1042.01) Zafirlukast;
- 27481 (1042.02) Zalcitabine;
- 27482 (1042.03) Zanamivir;
- 27483 (1042.05) Zidovudine;
- 27484 (1042.4) Zileuton;
- 27485 (1042.7) Zinc acetate — See exceptions;
- 27486 (1042.75) Ziprasidone;
- 27487 (1042.8) Zoledronic Acid;
- 27488 (1042.9) Zolmitriptan;
- 27489 (1042.92) Zonisamide;
- 27490 (1043) Devices that require a prescription:
 - 27491 (A) Cellulose, Oxadized, Regenerated (surgical absorbable hemostat) — See
 - 27492 exceptions;
 - 27493 (B) Diaphragms for vaginal use;
 - 27494 (C) Hemodialysis solutions;

- 27495 (D) Hemodialysis kits;
- 27496 (E) Lippes loop intrauterine;
- 27497 (F) Saf-T-Coil intrauterine device;
- 27498 (G) Intrauterine devices, All;
- 27499 (H) Absorbable hemostat;
- 27500 (I) Gonorrhea test kit.
- 27501 (c) The following are exceptions to and exemptions from subsection (b) of this Code
- 27502 section:
- 27503 (1) Atropine sulfate — where the oral dose is less than 1/200 gr. per unit;
- 27504 (2) Bacitracin cream or ointment for topical use;
- 27505 (3) Belladonna or belladonna alkaloids when in combination with other drugs and the
- 27506 dosage unit is less than 0.1 mg. of the alkaloids or its equivalent;
- 27507 (3.5) Bantoquatam — when used with a strength of 5 percent or less in topical
- 27508 preparations;
- 27509 (4) Beta carotene — all forms occurring in food products or lotions;
- 27510 (5) Bromelain, pancreatic enzymes, trypsin and bile extract — when labeled properly as
- 27511 digestive aids with appropriate dosage and in compliance with FDA labeling and
- 27512 restrictions;
- 27513 (6) Brompheniramine — where a single dosage unit is 4 mg. or less but with no more
- 27514 than 3 mg. of the dextrorotary optical isomer of racemic brompheniramine per released
- 27515 dose;
- 27516 (6.2) Butenafine — when used with a strength of 1 percent or less as a topical
- 27517 preparation;
- 27518 (6.4) Butoconazole — when used with a strength up to 2 percent in a vaginal
- 27519 preparation;
- 27520 (6.45) Capsaicin — when in an external analgesic with concentration of 0.25 percent or
- 27521 less;
- 27522 (6.5) Cetirizine — when a single dosage unit is either 1mg per 1ml or less or 10mg or
- 27523 less;
- 27524 (6.7) Chlorhexadine — when used with a strength up to 4 percent in a topical skin
- 27525 product;
- 27526 (7) Chlorpheniramine — where a single dosage unit is 12 mg. or less;
- 27527 (7.1) Cimetidine — when a single dosage unit is 200 mg. or less;
- 27528 (7.3) Clemastine — where a single dose is 1.34 mg. or less;
- 27529 (7.5) Clotrimazole — when a single vaginal insert is 200 mg. or less or with a strength
- 27530 up to 2 percent in a topical skin, topical vaginal, or vaginal product;

- 27531 (7.8) Cromolyn — when used as cromolyn sodium in a nasal solution of 4 percent or less
 27532 in strength;
- 27533 (7.9) Dexbrompheniramine — when a single dosage unit is 6 mg. or less;
- 27534 (8) Diphenhydramine — up to 12.5 mg. in each 5 cc's when used in cough preparations
 27535 and up to 50 mg. per single dose when used as a nighttime sleep aid or used as an
 27536 antihistamine and labeled in compliance with FDA requirements;
- 27537 (8.5) Docosanol — when used in 10 percent topical preparation to treat fever blisters,
 27538 cold sores, or fever blisters and cold sores.
- 27539 (9) Doxylamine succinate — where a single dosage form is 25 mg. or less and when
 27540 labeled to be used as a nighttime sedative;
- 27541 (9.3) Edetate — when used in any form other than an oral or parenteral;
- 27542 (9.5) Famotidine — when a single dosage unit is 20 mg. or less;
- 27543 (9.6) Fexofenadine – when packaged for distribution as an over-the-counter (OTC) drug
 27544 product;
- 27545 (9.7) Fluoride — when used with a strength up to 1,500 parts per million in an oral care
 27546 or dentifrice product;
- 27547 (9.8) Glycine — when used with a strength up to 1.5 percent in an irrigation solution,
 27548 when used in a topical skin product;
- 27549 (10) Hydrocortisone topical skin preparations up to 1.0 percent in strength;
- 27550 (11) Hydroxocobalamin, riboflavin, niacinamide, ergocalciferol (maximum of 400 I.U.
 27551 per day), Folic acid (maximum of 0.4 mg. per day), and magnesium gluconate — when
 27552 as a source of vitamins and dietary supplement but must bear such labels and adhere to
 27553 such restrictions of FDA regulations;
- 27554 (11.1) Ibuprofen — where a single dose is 200 mg. or less;
- 27555 (11.6) Reserved;
- 27556 (12) Insulin — all injectable products which do not require a prescription drug order and
 27557 bear a label which indicates 'Rx Use Only' or are otherwise listed under subsection (b) of
 27558 this Code section; and no injectable insulin product may be sold except by a pharmacy
 27559 issued a permit by the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
 27560 Regulation or by a medical practitioner authorized to dispense medications;
- 27561 (12.3) Ketoconazole — when used with a strength of 1 percent or less in topical
 27562 preparations;
- 27563 (12.5) Ketoprofen — when a single dosage unit is 12.5 mg. or less;
- 27564 (12.7) Ketotifen – when used with a strength of 0.025 percent or less in an ophthalmic
 27565 solution;
- 27566 (12.9) Lansoprazole – when a single dosage unit is 15 mg. or less;
- 27567 (13) Lidocaine topical ointment, 25 mg./gm. or less;

- 27568 (13.5) Loperamide — where a single dose is either 1 mg. per 5 ml. or 2 mg. per dosage
27569 unit;
- 27570 (13.7) Loratadine — when used in a single dose of 10 mg. or less, including doses used
27571 in combination with other drugs provided for under this subsection;
- 27572 (14) Meclizine — 25 mg. or less;
- 27573 (14.1) Miconazole — when used as antifungal powder or cream, or both, and containing
27574 not more than 4 percent of miconazole, or when used as a vaginal insert and containing
27575 not more than 1,200 mg. of miconazole;
- 27576 (14.2) Minoxidil — when used with a strength of 5 percent or less in topical
27577 preparations;
- 27578 (14.3) Naphazoline — when used in an ophthalmic solution in a concentration of 0.027
27579 percent or less in combination with a pheniramine concentration of 0.315 percent or less;
- 27580 (14.5) Naproxen — where a single dosage unit is 220 mg. or less;
- 27581 (15) Neomycin sulfate ointment or cream for topical use;
- 27582 (15.5) Nicotine resin complex (polacrilex) — when used as oral chewing gum where a
27583 single dose (piece of gum) is 4 mg. or less;
- 27584 (15.55) Nicotine transdermal system — when used in a strength of 21 mg. or less per
27585 transdermal patch (transdermal delivery system);
- 27586 (16) Nitrous oxide — air products suppliers shall not sell medical grade nitrous oxide to
27587 other than licensed practitioners or medical suppliers; industrial grade nitrous oxide shall
27588 only be sold when mixed with not less than 100 parts per million of sulfur dioxide and
27589 used as a fuel additive for combustion engines or when used in industrial laboratory
27590 equipment;
- 27591 (16.3) Nizatidine — when a single dosage unit is 75 mg. or less;
- 27592 (16.8) Nonoxynol — when used with a strength up to 12.5 percent or 1 gram per dose
27593 in a vaginal product;
- 27594 (16.9) Omeprazole — when a single dosage unit is 20.6 mg. or less;
- 27595 (16.95) Orlistat — when a single dosage unit is 60 mg. or less;
- 27596 (17) Oxygen — compressed oxygen which is not labeled 'CAUTION: Federal law
27597 prohibits dispensing without prescription' or similar wording;
- 27598 (17.3) Permethrin — when used as a topical preparation in a strength of 1 percent or less;
- 27599 (17.5) Phenazopyridine — where a single dose is 100 mg. or less, as approved by the
27600 federal Food and Drug Administration;
- 27601 (18) Pheniramine — when the oral dose is 25 mg. or less, or when used in an ophthalmic
27602 solution in a concentration of 0.315 percent or less in combination with a naphazoline
27603 concentration of 0.027 percent or less;

- 27604 (19) Polymyxin B when in combination with other drugs in an ointment or cream for
27605 topical use;
- 27606 (20) Any potassium electrolyte when manufactured for use as a dietary supplement, food
27607 additive for industrial, scientific, or commercial use, or when added to other drug
27608 products when the product is not intended as a potassium supplement but must bear such
27609 labels and adhere to such restrictions of FDA regulations;
- 27610 (21) Povidone — Iodine solutions and suspensions;
- 27611 (22) Reserved;
- 27612 (23) Reserved;
- 27613 (23.5) Ranitidine — when a single dosage unit is 150 mg. or less;
- 27614 (24) Rutin — where the dosage unit is less than 60 mg.;
- 27615 (25) Selenium sulfide suspension 1 percent or less in strength;
- 27616 (25.1) Strychnine — when used in combination with other active ingredients in a rodent
27617 killer, and when not bearing a label containing the words 'CAUTION: Federal law
27618 prohibits dispensing without prescription' or other similar wording;
- 27619 (25.5) Terbinafine — when used with a strength of 1 percent or less in a topical
27620 antifungal cream;
- 27621 (26) Tetrahydrozoline for ophthalmic or topical use;
- 27622 (27) Theophylline preparations alone or in combination with other drugs prepared for
27623 and approved for OTC (over the counter) sale by FDA; example — tedral tablets (plain)
27624 or oral suspension;
- 27625 (27.5) Tioconazole — when used with a strength of 1 percent or less in topical
27626 preparations or when used with a strength of 6.5 percent or less in vaginal preparations;
- 27627 (28) Tripeleminamine cream or ointment for topical use;
- 27628 (28.5) Triprolidine — when a single dose is 5 mg. or less when combined in the same
27629 preparation as one or more other drug products for use as an antihistamine or
27630 decongestant or an antihistamine and decongestant;
- 27631 (29) Urea — except when the manufacturer's label contains the wording 'CAUTION:
27632 Federal law prohibits dispensing without prescription' or similar wording;
- 27633 (29.5) Zinc acetate — when used in topical preparations;
- 27634 (30) Any drug approved by FDA for animal use and the package does not bear the
27635 statement 'CAUTION: Federal law prohibits dispensing without prescription' or similar
27636 wording; or
- 27637 (31) Loperamide Oral Liquid (1.00 mg/5.00 ml).
- 27638 (d) The following list of compounds or preparations may be purchased without a
27639 prescription, provided the products are manufactured for industrial, scientific, or

- 27640 commercial sale or use, unless they are intended for human use or contain on the label
- 27641 'CAUTION: Federal law prohibits dispensing without prescription' or similar wording:
- 27642 (1) Aminosalicylate;
- 27643 (2) Aminosalicylate calcium;
- 27644 (3) Aminosalicylate potassium;
- 27645 (4) Aminosalicylate sodium;
- 27646 (5) Aminosalicylic acid;
- 27647 (6) Barium;
- 27648 (7) Beta-carotene;
- 27649 (8) Bismuth sodium tartrate;
- 27650 (9) Cadmium sulfide;
- 27651 (10) Calcium disodium edetate;
- 27652 (11) Cellulose, Oxadized, Regenerated;
- 27653 (12) Chlorabutanol;
- 27654 (13) Chloranil;
- 27655 (14) Chloroacetic acid;
- 27656 (15) Chloroform;
- 27657 (16) Colchicine;
- 27658 (17) Dapsone;
- 27659 (18) Dimethyl sulfoxide;
- 27660 (19) Disodium edetate;
- 27661 (20) Edetate disodium;
- 27662 (21) Ether;
- 27663 (22) Ethoxazene;
- 27664 (23) Ethyl chloride;
- 27665 (24) Fluoride;
- 27666 (25) Formaldehyde;
- 27667 (26) Gold thiosulfate;
- 27668 (27) Hexachlorophene;
- 27669 (28) Iodobenzoic acid;
- 27670 (29) Iopanoic acid;
- 27671 (30) Lindane;
- 27672 (31) Lithium carbonate;
- 27673 (32) Mandelic acid;
- 27674 (33) Mannitol;
- 27675 (34) Mercury bichloride;
- 27676 (35) Nitroprusside;

- 27677 (36) Potassium aminosalicylate;
- 27678 (37) Potassium p-aminobenzoate;
- 27679 (37.5) Potassium perchlorate;
- 27680 (38) Potassium permanganate;
- 27681 (39) Resorcinol monoacetate;
- 27682 (40) Selenium sulfide;
- 27683 (41) Sodium biphosphate;
- 27684 (42) Sodium fluorescein;
- 27685 (43) Sodium fluoride;
- 27686 (44) Strontium;
- 27687 (45) Trichloroacetic acid;
- 27688 (46) Trichloroethylene;
- 27689 (47) Valproic acid;
- 27690 (48) Vinyl ether;
- 27691 (49) 4-chloro-3, 5-xylenol.
- 27692 (e) The ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation may delete
- 27693 drugs from the dangerous drug list set forth in this Code section. In making such deletions
- 27694 the board shall consider, with respect to each drug, the following factors:
- 27695 (1) The actual or relative potential for abuse;
- 27696 (2) The scientific evidence of its pharmacological effect, if known;
- 27697 (3) The state of current scientific knowledge regarding the drug;
- 27698 (4) The history and current pattern of abuse, if any;
- 27699 (5) The scope, duration, and significance of abuse;
- 27700 (6) Reserved;
- 27701 (7) The potential of the drug to produce psychic or physiological dependence liability;
- 27702 and
- 27703 (8) Whether such drug is included under the Federal Food, Drug, and Cosmetic Act, 52
- 27704 Stat. 1040 (1938), 21 U.S.C. Section 301, et seq., as amended.
- 27705 16-13-72.
- 27706 Except as provided for in this article, it shall be unlawful for any person, firm, corporation,
- 27707 or association to sell, give away, barter, exchange, distribute, or possess in this state any
- 27708 dangerous drug, except under the following conditions:
- 27709 (1) A drug manufacturer, wholesaler, distributor, or supplier holding a license or
- 27710 registration issued in accordance with the Federal Food, Drug, and Cosmetic Act and
- 27711 authorizing the holder to possess dangerous drugs may possess dangerous drugs within
- 27712 this state but may not distribute, sell, exchange, give away, or by any other means supply

27713 dangerous drugs without a permit issued by the ~~State Board of Pharmacy~~ director. Any
 27714 drug manufacturer, wholesaler, distributor, or supplier holding a permit issued by the
 27715 ~~State Board of Pharmacy~~ director may sell, give away, exchange, or distribute dangerous
 27716 drugs within this state, but only to a pharmacy, pharmacist, a practitioner of the healing
 27717 arts, and educational institutions licensed by the state, or to a drug wholesaler, distributor,
 27718 or supplier, and only if such distribution is made in the normal course of employment;

27719 (2) A pharmacy may possess dangerous drugs, but the same shall not be sold, given
 27720 away, bartered, exchanged, or distributed except by a licensed pharmacist in accordance
 27721 with this article;

27722 (3) A pharmacist may possess dangerous drugs but may sell, give away, barter,
 27723 exchange, or distribute the same only when he compounds or dispenses the same upon
 27724 the prescription of a practitioner of the healing arts. No such prescription shall be refilled
 27725 except upon the authorization of the practitioner who prescribed it;

27726 (4) A practitioner of the healing arts may possess dangerous drugs and may sell, give
 27727 away, barter, exchange, or distribute the same in accordance with Code Section 16-13-74;

27728 (4.1) A physician in conformity with Code Section 43-34-23 may delegate to a nurse or
 27729 a physician assistant the authority to possess vaccines and such other drugs as specified
 27730 by the physician for adverse reactions to those vaccines, and a nurse or physician
 27731 assistant may possess such drugs pursuant to that delegation; provided, however, that
 27732 nothing in this paragraph shall be construed to restrict any authority of nurses or
 27733 physician assistants existing under other provisions of law;

27734 (4.2) A registered professional nurse licensed under Article 1 of Chapter 26 of Title 43
 27735 who is employed or engaged by a licensed home health agency may possess sterile saline,
 27736 sterile water, and diluted heparin for use as intravenous maintenance for use in a home
 27737 health setting, and such nurse may administer such items to patients of the home health
 27738 agency upon the order of a licensed physician. The ~~State Board of Pharmacy~~ Georgia
 27739 Board of Licensing and Regulation shall be authorized to adopt regulations governing the
 27740 storage, quantity, use, and administration of such items; provided, however, nothing in
 27741 this paragraph or in such regulations shall be construed to restrict any authority of nurses
 27742 existing under other provisions of law;

27743 (4.3) Possession, planting, cultivation, growing, or harvesting of *Salvia divinorum* or
 27744 *Salvia divinorum* A strictly for aesthetic, landscaping, or decorative purposes;

27745 (5) A manufacturer's sales representative may distribute a dangerous drug as a
 27746 complimentary sample only upon the written request of a practitioner. The request must
 27747 be made for each distribution and shall contain the names and addresses of the supplier
 27748 and the requestor and the name and quantity of the specific dangerous drug requested.
 27749 The written request shall be preserved by the manufacturer for a period of two years; and

27750 (6) Such person, firm, corporation, or association shall keep a complete and accurate
 27751 record of all dangerous drugs received, purchased, manufactured, sold, dispensed, or
 27752 otherwise disposed of and shall maintain such records for at least two years or in
 27753 conformance with any other state or federal law or rule issued by the ~~State Board of~~
 27754 ~~Pharmacy~~ Georgia Board of Licensing and Regulation.

27755 16-13-72.1.

27756 (a) A permit issued by the ~~State Board of Pharmacy~~ director under paragraph (1) of Code
 27757 Section 16-13-72 may be suspended or revoked by the ~~State Board of Pharmacy~~ director
 27758 upon a finding that the drug manufacturer, wholesaler, distributor, or supplier:

27759 (1) Has furnished false or fraudulent material information in any application filed under
 27760 this article;

27761 (2) Has been convicted of a felony under any state or federal law relating to any
 27762 controlled substance or has been convicted of a felony or misdemeanor under any state
 27763 or federal law relating to any dangerous drug;

27764 (3) Has violated any provision of this article or the rules and regulations promulgated
 27765 under this article; or

27766 (4) Has failed to maintain sufficient controls against diversion of dangerous drugs into
 27767 other than legitimate medical, scientific, or industrial channels.

27768 (b) The ~~State Board of Pharmacy~~ director may limit revocation or suspension of a permit
 27769 to the particular dangerous drug with respect to which grounds for revocation or suspension
 27770 exist.

27771 (c) Instead of suspending or revoking a permit as authorized by subsection (a) or (b) of this
 27772 Code section, the ~~State Board of Pharmacy~~ director may impose a fine in an amount not
 27773 to exceed \$1,500.00.

27774 (d) If the ~~State Board of Pharmacy~~ director suspends or revokes a permit, all dangerous
 27775 drugs owned or possessed by the permittee at the time of suspension or the effective date
 27776 of the revocation order shall be placed under seal. No disposition may be made of drugs
 27777 under seal until the time for taking an appeal has elapsed or until all appeals have been
 27778 concluded unless a court, upon application therefor, orders the sale of perishable drugs and
 27779 the deposit of the proceeds of the sale with the court. Upon a revocation order becoming
 27780 final, all dangerous drugs shall be forfeited to the state.

27781 16-13-73.

27782 (a) Whenever a pharmacist dispenses a dangerous drug, he shall, in each case, place upon
 27783 the container the following information:

27784 (1) Name of the patient;

- 27785 (2) Name of the physician prescribing the drug;
 27786 (3) The expiration date, if any, of the drug;
 27787 (4) Name and address of the pharmacy from which the drug was dispensed; and
 27788 (5) The date of the prescription.
- 27789 (b) Any pharmacist who dispenses a dangerous drug and fails to place the label required
 27790 by subsection (a) of this Code section upon the container of such drug shall be guilty of a
 27791 misdemeanor.
- 27792 16-13-74.
- 27793 (a) All written prescription drug orders for dangerous drugs shall be dated as of, and be
 27794 signed on, the date when issued and shall bear the name and address of the patient, together
 27795 with the name and strength of the drug, the quantity to be dispensed, complete directions
 27796 for administration, the printed name, address, and telephone number of the practitioner, and
 27797 the number of permitted refills. A prescription drug order for a dangerous drug is not
 27798 required to bear the DEA permit number of the prescribing practitioner. A prescription
 27799 drug order for a dangerous drug may be prepared by the practitioner or the practitioner's
 27800 agent. The practitioner's signature must appear on each prescription prepared by the
 27801 practitioner or the practitioner's agent and the nature of the practitioner's signature must
 27802 meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the
 27803 ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation, or both such
 27804 guidelines and regulations. Any practitioner who shall dispense dangerous drugs shall
 27805 comply with the provisions of Code Section 16-13-73.
- 27806 (b) Any practitioner of the healing arts who fails to comply with subsection (a) of this
 27807 Code section shall be guilty of a misdemeanor.
- 27808 16-13-75.
- 27809 (a) Possession and control of controlled substances or dangerous drugs by anyone other
 27810 than the individuals specified in Code Section 16-13-35 or 16-13-72 shall be legal only if
 27811 such drugs are in the original container in which they were dispensed by the pharmacist or
 27812 the practitioner of the healing arts and are labeled according to Code Section 26-3-8.
- 27813 (b) The possession, filling, and use of canisters for remote automated medication systems
 27814 pursuant to subsection (i) of Code Section 16-13-41 shall not be considered a violation of
 27815 this Code section.
- 27816 16-13-76.
- 27817 No person shall obtain or attempt to obtain any dangerous drug by use of a fictitious name
 27818 or by the giving of a false address.

- 27819 16-13-77.
- 27820 Nothing in this article shall be construed to prohibit the administration of dangerous drugs
27821 by or under the direction of a practitioner of the healing arts.
- 27822 16-13-78.
- 27823 (a) No person shall obtain or attempt to obtain any dangerous drug or attempt to procure
27824 the administration of any such drug by:
- 27825 (1) Fraud, deceit, misrepresentation, or subterfuge;
- 27826 (2) The forgery or alteration of any prescription or of any written order;
- 27827 (3) The concealment of a material fact; or
- 27828 (4) The use of a false name or the giving of a false address.
- 27829 (b) Any person violating subsection (a) of this Code section shall be guilty of a
27830 misdemeanor.
- 27831 (c) Nothing in this Code section shall apply to drug manufacturers or their agents or
27832 employees when such manufacturers or their agents or employees are authorized to engage
27833 in and are actually engaged in investigative activities directed toward the safeguarding of
27834 the manufacturer's trademark.
- 27835 16-13-78.1.
- 27836 (a) No person shall prescribe or order the dispensing of a dangerous drug, except a
27837 registered practitioner who is:
- 27838 (1) Licensed or otherwise authorized by this state to prescribe dangerous drugs;
- 27839 (2) Acting in the usual course of his professional practice; and
- 27840 (3) Prescribing or ordering such dangerous drug for a legitimate medical purpose.
- 27841 (b) Any person violating subsection (a) of this Code section shall be guilty of a
27842 misdemeanor.
- 27843 16-13-78.2.
- 27844 Except as authorized by this article, it is unlawful for any person to possess, have under his
27845 control, manufacture, deliver, distribute, dispense, administer, sell, or possess with intent
27846 to distribute a counterfeit substance. Any person who violates this Code section shall be
27847 guilty of a misdemeanor.
- 27848 16-13-79.
- 27849 (a) Except as provided in subsections (b), (c), and (d) of this Code section, any person who
27850 violates this article shall be guilty of a misdemeanor.

27851 (b) Any person who distributes or possesses with the intent to distribute nitrous oxide for
 27852 any use other than for a medical treatment prescribed by the order of a licensed medical
 27853 practitioner, except as provided for by paragraph (16) of subsection (c) of Code Section
 27854 16-13-71, shall be guilty of a felony and upon conviction thereof shall be punished by
 27855 imprisonment for not less than one year nor more than three years or by a fine not to
 27856 exceed \$5,000.00 or both.

27857 (c) Any person who distributes or possesses with the intent to distribute to any person
 27858 under 18 years of age nitrous oxide for any use other than for a medical treatment
 27859 prescribed by the order of a licensed medical practitioner, except as provided for by
 27860 paragraph (16) of subsection (c) of Code Section 16-13-71, shall be guilty of a felony and
 27861 upon conviction thereof shall be punished for not less than two years nor more than six
 27862 years or by a fine not to exceed \$10,000.00 or both.

27863 (d) This article shall not apply to any person who possesses, distributes, sells, or uses
 27864 nitrous oxide for food preparation in a restaurant, for food service, or in household
 27865 products."

27866 **SECTION 2-9.**

27867 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 27868 revising Code Section 20-3-250.26, relating to no limitation by part on professional licensing
 27869 board's authority, as follows:

27870 "20-3-250.26.

27871 Nothing in this part shall be construed to limit a professional licensing board's the authority
 27872 of the Georgia Board of Licensing and Regulation, as granted by Title 43; to regulate and
 27873 govern the curriculum, course requirements, instructor qualifications, and other educational
 27874 activities of nonpublic postsecondary educational institutions."

27875 **SECTION 2-10.**

27876 Said title is further amended by revising Code Section 20-5-45, relating to directors of library
 27877 systems and duties and responsibilities, as follows:

27878 "20-5-45.

27879 Every public library system shall have a director. Any person appointed as director of a
 27880 public library system must hold at least a Grade 5(b) Librarian's Professional Graduate
 27881 Certificate, as defined by the State Board ~~for the Certification of Librarians~~ of Licensing
 27882 and Regulation; provided, however, that any person who was serving as acting director of
 27883 a public library system as of July 1, 1984, shall be authorized to continue to serve as
 27884 director. The director shall be appointed by the board of trustees and shall be the
 27885 administrative head of the library system under the direction and review of the board. The

27886 director of a library system shall have duties and responsibilities which include but are not
27887 limited to the following:

27888 (1) To recommend for employment or termination other staff members, as necessary, in
27889 compliance with applicable laws and the availability of funds and to employ or terminate
27890 other staff members if so authorized by the library board;

27891 (2) To attend all meetings called by the Office of Public Library Services of the Board
27892 of Regents of the University System of Georgia or send a substitute authorized by the
27893 office director;

27894 (3) To prepare any local, state, or federal annual budgets;

27895 (4) To notify the board of trustees and the Office of Public Library Services of the Board
27896 of Regents of the University System of Georgia of any failure to comply with:

27897 (A) Policies of the board;

27898 (B) Criteria for state aid;

27899 (C) State and federal rules and regulations; and

27900 (D) All applicable local, state, or federal laws;

27901 (5) To administer the total library program, including all affiliated libraries, in
27902 accordance with policies adopted by the system board of trustees; and

27903 (6) To attend all meetings of the system board of trustees and affiliated boards of trustees
27904 or to designate a person to attend in his or her place."

27905 **SECTION 2-11.**

27906 Said title is further amended by revising Code Section 20-5-56, relating to requirement of
27907 certification of librarians, as follows:

27908 "20-5-56.

27909 All persons holding professional positions with the title of librarian must be certified by the
27910 ~~State Board for the Certification of Librarians~~ director of professional licensing pursuant
27911 to Chapter 1 of Title 43."

27912 **SECTION 2-12.**

27913 Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is
27914 amended by revising Code Section 25-2-14, relating to buildings presenting special hazards
27915 to persons or property, as follows:

27916 "25-2-14.

27917 (a)(1) Plans and specifications for all proposed buildings which come under
27918 classification in paragraph (1) of subsection (b) of Code Section 25-2-13 and which come
27919 under the jurisdiction of the office of the Commissioner pursuant to Code Section
27920 25-2-12 shall be submitted to and receive approval by either the state fire marshal, the

27921 proper local fire marshal, or state inspector before any state, municipal, or county
27922 building permit may be issued or construction started. All such plans and specifications
27923 submitted as required by this subsection shall be accompanied by a fee in the amount
27924 provided in Code Section 25-2-4.1 and shall bear the seal and Georgia registration
27925 number of the drafting architect or engineer or shall otherwise have the approval of the
27926 Commissioner.

27927 (2)(A) If the state fire marshal, the proper local fire marshal, state inspector, or
27928 designated code official cannot provide plan review within 30 business days of
27929 receiving a written application for permitting in accordance with the code official's plan
27930 submittal process, then, in lieu of plan review by personnel employed by such
27931 governing authority, any person, firm, or corporation engaged in a construction project
27932 which requires plan review, regardless if the plan review is required by subsection (a)
27933 of this Code section or by local county or municipal ordinance, shall have the option
27934 of retaining, at its own expense, a private professional provider to provide the required
27935 plan review. As used in this paragraph, the term 'private professional provider' means
27936 a professional engineer who holds a certificate of registration issued under Chapter 15
27937 of Title 43 or a professional architect who holds a certificate of registration issued
27938 under Chapter 4 of Title 43, who is not an employee of or otherwise affiliated with or
27939 financially interested in the person, firm, or corporation engaged in the construction
27940 project to be reviewed.

27941 (B) The state fire marshal, the proper local fire marshal, state inspector, or designated
27942 code official shall advise the permit applicant at the time the complete submittal
27943 application for a permit in accordance with the code official's plan submittal process is
27944 received that the state fire marshal, the proper local fire marshal, state inspector, or
27945 designated code official intends to complete the required plan review within the time
27946 prescribed by this paragraph or that the applicant may immediately secure the services
27947 of a private professional provider to complete the required plan review pursuant to this
27948 subsection. The plan submittal process shall include those procedures and approvals
27949 required by the local jurisdiction before plan review can take place. If the state fire
27950 marshal, the proper local fire marshal, state inspector, or designated code official states
27951 its intent to complete the required plan review within the time prescribed by this
27952 paragraph, the applicant shall not be authorized to use the services of a private
27953 professional provider as provided in this subsection. The permit applicant and the state
27954 fire marshal, the proper local fire marshal, state inspector, or designated code official
27955 may agree by mutual consent to extend the time period prescribed by this paragraph for
27956 plan review if the characteristics of the project warrant such an extension. However,
27957 if the state fire marshal, the proper local fire marshal, state inspector, or designated code

27958 official states its intent to complete the required plan review within the time prescribed
 27959 by this paragraph, or any extension thereof mutually agreed to by the applicant and the
 27960 state fire marshal, the proper local fire marshal, state inspector, or designated code
 27961 official and does not permit the applicant to use the services of a private professional
 27962 provider and the state fire marshal, the proper local fire marshal, state inspector, or
 27963 designated code official fails to complete such plan review in the time prescribed by
 27964 this paragraph, or any extension thereof mutually agreed to by the applicant and the
 27965 state fire marshal, the proper local fire marshal, state inspector, or designated code
 27966 official, the state fire marshal, the proper local fire marshal, state inspector, or
 27967 designated code official shall issue the applicant a project initiation permit to allow the
 27968 applicant to begin work on the project, provided that portion of the initial phase of work
 27969 is compliant with applicable codes, laws, and rules. If a full permit is not issued for the
 27970 portion requested for permitting, then the state fire marshal, the proper local fire
 27971 marshal, state inspector, or designated code official shall have an additional 20 business
 27972 days to complete the review and issue the full permit. If the plans submitted for
 27973 permitting are denied for any deficiency, the time frames and process for resubmittal
 27974 shall be governed by divisions (2)(H)(iii) through (2)(H)(v) of this subsection.

27975 (C) Any plan review or inspection conducted by a private professional provider shall
 27976 be no less extensive than plan reviews or inspections conducted by state, county, or
 27977 municipal personnel responsible for review of plans for compliance with the state's
 27978 minimum fire safety standards and, where applicable, the state's minimum accessibility
 27979 standards.

27980 (D) The person, firm, or corporation retaining a private professional provider to
 27981 conduct a plan review shall be required to pay to the state fire marshal, the proper local
 27982 fire marshal, state inspector, or designated code official which requires the plan review
 27983 the same regulatory fees and charges which would have been required had the plan
 27984 review been conducted by the state fire marshal, the proper local fire marshal, state
 27985 inspector, or designated code official.

27986 (E) A private professional provider performing plan reviews under this subsection shall
 27987 review construction plans to determine compliance with the state's minimum fire safety
 27988 standards in effect which were adopted pursuant to this chapter and, where applicable,
 27989 the state's minimum accessibility standards adopted pursuant to Chapter 3 of Title 30.
 27990 Upon determining that the plans reviewed comply with the applicable codes and
 27991 standards as adopted, such private professional provider shall prepare an affidavit or
 27992 affidavits on a form prescribed by the Safety Fire Commissioner certifying under oath
 27993 that the following is true and correct to the best of such private professional provider's

27994 knowledge and belief and in accordance with the applicable professional standard of
27995 care:

27996 (i) The plans were reviewed by the affiant who is duly authorized to perform plan
27997 review pursuant to this subsection and who holds the appropriate license or
27998 certifications and insurance coverage and insurance coverage stipulated in this
27999 subsection; and

28000 (ii) The plans comply with the state's minimum fire safety standards in effect which
28001 were adopted pursuant to this chapter and, where applicable, the state's minimum
28002 accessibility standards adopted pursuant to Chapter 3 of Title 30.

28003 (F) All private professional providers providing plan review services pursuant to this
28004 subsection shall secure and maintain insurance coverage for professional liability
28005 (errors and omissions) insurance. The limits of such insurance shall be not less than \$1
28006 million per claim and \$1 million in aggregate coverage. Such insurance may be a
28007 practice policy or project-specific coverage. If the insurance is a practice policy, it shall
28008 contain prior acts coverage for the private professional provider. If the insurance is
28009 project-specific, it shall continue in effect for two years following the issuance of the
28010 certificate of final completion for the project. The state fire marshal, the proper local
28011 fire marshal, state inspector, or designated code official may establish, for private
28012 professional providers working within their respective jurisdictions specified by this
28013 chapter, a system of registration listing the private professional providers within their
28014 areas of competency and verifying compliance with the insurance requirements of this
28015 subsection.

28016 (G) The private professional provider shall be empowered to perform any plan review
28017 required by the state fire marshal, the proper local fire marshal, state inspector, or
28018 designated code official, regardless if the plan review is required by this subsection or
28019 by local county or municipal ordinance, provided that the plan review is within the
28020 scope of such private professional provider's area of expertise and competency. This
28021 subsection shall not apply to hospitals, ambulatory health care centers, nursing homes,
28022 jails, penal institutions, airports, buildings or structures that impact national or state
28023 homeland security, or any building defined as a high-rise building in the State
28024 Minimum Standards Code, provided that interior tenant build-out projects within
28025 high-rise buildings are not exempt from this subsection, or plans related to Code
28026 Section 25-2-16 or 25-2-17 or Chapter 8, 9, or 10 of this title.

28027 (H)(i) The permit applicant shall submit a copy of the private professional provider's
28028 plan review report to the state fire marshal, the proper local fire marshal, state
28029 inspector, or designated code official. Such plan review report shall include at a
28030 minimum all of the following:

28031 (I) The affidavit of the private professional provider required pursuant to this
28032 subsection;

28033 (II) The applicable fees required for permitting;

28034 (III) Other documents deemed necessary due to unusual construction or design,
28035 smoke removal systems where applicable with engineering analysis, and additional
28036 documentation required where performance based code options are used; and

28037 (IV) Any documents required by the state fire marshal, the proper local fire
28038 marshal, state inspector, or designated code official to determine that the permit
28039 applicant has secured all other governmental approvals required by law.

28040 (ii) No more than 30 business days after receipt of a permit application and the
28041 private professional provider's plan review report required pursuant to this subsection,
28042 the state fire marshal, the proper local fire marshal, state inspector, or designated code
28043 official shall issue the requested permit or provide written notice to the permit
28044 applicant identifying the specific plan features that do not comply with the applicable
28045 codes or standards, as well as the specific reference to the relevant requirements. If
28046 the state fire marshal, the proper local fire marshal, state inspector, or designated code
28047 official does not provide a written notice of the plan deficiencies within the prescribed
28048 30 day period, the permit application shall be deemed approved as a matter of law and
28049 the permit shall be issued by the state fire marshal, the proper local fire marshal, state
28050 inspector, or designated code official on the next business day.

28051 (iii) If the state fire marshal, the proper local fire marshal, state inspector, or
28052 designated code official provides a written notice of plan deficiencies to the permit
28053 applicant within the prescribed 30 day period, the 30 day period shall be tolled
28054 pending resolution of the matter. To resolve the plan deficiencies, the permit
28055 applicant may elect to dispute the deficiencies pursuant to this chapter, the
28056 promulgated rules and regulations adopted thereunder, or, where appropriate for
28057 existing buildings, the local governing authority's appeals process or the permit
28058 applicant may submit revisions to correct the deficiencies.

28059 (iv) If the permit applicant submits revisions, the state fire marshal, the proper local
28060 fire marshal, state inspector, or designated code official shall have the remainder of
28061 the tolled 30 day period plus an additional five business days to issue the requested
28062 permit or to provide a second written notice to the permit applicant stating which of
28063 the previously identified plan features remain in noncompliance with the applicable
28064 codes or standards, with specific reference to the relevant requirements. If the state
28065 fire marshal, the proper local fire marshal, state inspector, or designated code official
28066 does not provide the second written notice within the prescribed time period, the

28067 permit shall be issued by the state fire marshal, the proper local fire marshal, state
28068 inspector, or designated code official on the next business day.

28069 (v) If the state fire marshal, the proper local fire marshal, state inspector, or
28070 designated code official provides a second written notice of plan deficiencies to the
28071 permit applicant within the prescribed time period, the permit applicant may elect to
28072 dispute the deficiencies pursuant to this chapter, the rules and regulations promulgated
28073 thereunder, or, where applicable for existing buildings, the local governing authority's
28074 appeals process or the permit applicant may submit additional revisions to correct the
28075 deficiencies. For all revisions submitted after the first revision, the state fire marshal,
28076 the proper local fire marshal, state inspector, or designated code official shall have an
28077 additional five business days to issue the requested permit or to provide a written
28078 notice to the permit applicant stating which of the previously identified plan features
28079 remain in noncompliance with the applicable codes or standards, with specific
28080 reference to the relevant requirements.

28081 (I) The state fire marshal may provide for the prequalification of private professional
28082 providers who may perform plan reviews pursuant to this subsection by rule or
28083 regulation authorized in Code Section 25-2-4. In addition, any local fire marshal, state
28084 inspector, or designated code official may provide for the prequalification of private
28085 professional providers who may perform plan reviews pursuant to this subsection;
28086 however, no additional local ordinance implementing prequalification shall become
28087 effective until notice of the proper local fire marshal, state inspector, or designated code
28088 official's intent to require prequalification and the specific requirements for
28089 prequalification have been advertised in the newspaper in which the sheriff's
28090 advertisements for that locality are published. The ordinance implementing
28091 prequalification shall provide for evaluation of the qualifications of a private
28092 professional provider only on the basis of the private professional provider's expertise
28093 with respect to the objectives of this subsection, as demonstrated by the private
28094 professional provider's experience, education, and training. Such ordinance may
28095 require a private professional provider to hold additional certifications, provided that
28096 such certifications are required by ordinance or state law for plan review personnel
28097 currently directly employed by such local governing authority.

28098 (J) Nothing in this subsection shall be construed to limit any public or private right of
28099 action designed to provide protection, rights, or remedies for consumers.

28100 (K) If the state fire marshal, the proper local fire marshal, state inspector, or designated
28101 code official determines that the building construction or plans do not comply with the
28102 applicable codes or standards, the state fire marshal, the proper local fire marshal, state
28103 inspector, or designated code official may deny the permit or request for a certificate

28104 of occupancy or certificate of completion, as appropriate, or may issue a stop-work
28105 order for the project or any portion thereof as provided by law or rule or regulation,
28106 after giving notice and opportunity to remedy the violation, if the state fire marshal, the
28107 proper local fire marshal, state inspector, or designated code official determines that
28108 noncompliance exists with state laws, adopted codes or standards, or local ordinances,
28109 provided that:

28110 (i) The state fire marshal, the proper local fire marshal, state inspector, or designated
28111 code official shall be available to meet with the private professional provider within
28112 two business days to resolve any dispute after issuing a stop-work order or providing
28113 notice to the applicant denying a permit or request for a certificate of occupancy or
28114 certificate of completion; and

28115 (ii) If the state fire marshal, the proper local fire marshal, state inspector, or
28116 designated code official and the private professional provider are unable to resolve the
28117 dispute, the matter shall be referred to the local enforcement agency's board of
28118 appeals, except as provided in Code Section 25-2-12 and appeals for those proposed
28119 buildings classified under paragraph (1) of subsection (b) of Code Section 25-2-13 or
28120 any existing building under the specific jurisdiction of the state fire marshal's office
28121 shall be made to the state fire marshal and further appeal shall be under Code Section
28122 25-2-10.

28123 (L) The state fire marshal, the proper local fire marshal, state inspector, local
28124 government, designated code official enforcement personnel, or agents of the governing
28125 authority shall be immune from liability to any person or party for any action or
28126 inaction by an owner of a building or by a private professional provider or its duly
28127 authorized representative in connection with building plan review services by private
28128 professional providers as provided in this subsection.

28129 (M) Except as provided in this paragraph, no proper local fire marshal, state inspector,
28130 or designated code official shall adopt or enforce any rules, procedures, policies, or
28131 standards more stringent than those prescribed in this subsection related to private
28132 professional provider services.

28133 (N) Nothing in this subsection shall limit the authority of the state fire marshal, the
28134 proper local fire marshal, state inspector, or designated code official to issue a
28135 stop-work order for a building project or any portion of such project, as provided by
28136 law or rule or regulation authorized pursuant to Code Section 25-2-4, after giving notice
28137 and opportunity to remedy the violation, if the official determines that a condition on
28138 the building site constitutes an immediate threat to public safety and welfare.

28139 (O) When performing building code plan reviews related to determining compliance
28140 with the Georgia State Minimum Standard Codes most recently adopted by the

28141 Department of Community Affairs, the state's minimum fire safety standards adopted
28142 by the safety fire marshal, or the state's minimum accessibility standards pursuant to
28143 Chapter 3 of Title 30, a private professional provider is subject to the disciplinary
28144 guidelines of the ~~applicable professional licensing board with jurisdiction over such~~
28145 ~~private professional provider's license or certification under Chapters 4 and 15 of~~
28146 Georgia Board of Licencing and Regulation pursuant to Title 43, as applicable. Any
28147 complaint processing, investigation, and discipline that arise out of a private
28148 professional provider's performance of the adopted building, fire safety, or accessibility
28149 codes or standards plan review services shall be conducted by the ~~applicable~~
28150 ~~professional licensing board~~ director of professional licensing pursuant to Chapter 1 of
28151 Title 43 or as allowed by state rule or regulation. Notwithstanding any disciplinary
28152 rules of the ~~applicable professional licensing board with jurisdiction over such private~~
28153 ~~professional provider's license or certification under Chapters 4 and 15 of Georgia~~
28154 Board of Licensing and Regulation pursuant to Chapter 1 of Title 43, the state fire
28155 marshal, the proper local fire marshal, state inspector, or designated code official
28156 enforcement personnel may decline to accept building plan reviews submitted by any
28157 private professional provider who has submitted multiple reports which required
28158 revisions due to negligence, noncompliance, or deficiencies.

28159 (b) A complete set of approved plans and specifications shall be maintained on the
28160 construction site, and construction shall proceed in compliance with the minimum fire
28161 safety standards under which such plans and specifications were approved. The owner of
28162 any such building or structure or his authorized representative shall notify the state fire
28163 marshal, the proper local fire marshal, or state inspector upon completion of approximately
28164 80 percent of the construction thereof and shall apply for a certificate of occupancy when
28165 construction of such building or structure is completed.

28166 (c) Every building or structure which comes under classification in paragraph (1) of
28167 subsection (b) of Code Section 25-2-13 and which comes under the jurisdiction of the
28168 office of the Commissioner pursuant to Code Section 25-2-12 shall have a certificate of
28169 occupancy issued by the state fire marshal, the proper local fire marshal, or the state
28170 inspector before such building or structure may be occupied. Such certificates of occupancy
28171 shall be issued for each business establishment within the building, shall carry a charge in
28172 the amount provided in Code Section 25-2-4.1, shall state the occupant load for such
28173 business establishment or building, shall be posted in a prominent location within such
28174 business establishment or building, and shall run for the life of the building, except as
28175 provided in subsection (d) of this Code section.

28176 (d) For purposes of this chapter, any existing building or structure listed in paragraph (1)
28177 of subsection (b) of Code Section 25-2-13 and which comes under the jurisdiction of the

28178 office of the Commissioner pursuant to Code Section 25-2-12 shall be deemed to be a
 28179 proposed building in the event such building or structure is subject to substantial
 28180 renovation, a fire or other hazard of serious consequence, or a change in the classification
 28181 of occupancy. For purposes of this subsection, the term 'substantial renovation' means any
 28182 construction project involving exits or internal features of such building or structure costing
 28183 more than the building's or structure's assessed value according to county tax records at the
 28184 time of such renovation.

28185 (e) In cases where the governing authority of a municipality which is enforcing the fire
 28186 safety standards pursuant to subsection (a) of Code Section 25-2-12 contracts with the
 28187 office of the Commissioner for the enforcement of fire safety standards, the office of the
 28188 Commissioner shall not charge such municipality fees in excess of those charged in this
 28189 Code section."

28190 **SECTION 2-13.**

28191 Said title is further amended by revising subsection (f) of Code Section 25-4-3, relating to
 28192 Georgia Firefighter Standards and Training Council, establishment and organization,
 28193 advisory committee, and expenses and allowances, as follows:

28194 "(f) Each member of the council and each member of an advisory committee of the
 28195 council, in carrying out their official duties, shall be entitled to receive the same expense
 28196 and mileage allowance authorized for members of professional licensing policy boards by
 28197 subsection (f) of Code Section 43-1-2. The funds for such expenses and allowances shall
 28198 be paid from funds appropriated or available to the Department of Public Safety."

28199 **SECTION 2-14.**

28200 Part 4 of Article 1 of Chapter 2 of Title 29 of the Official Code of Georgia Annotated,
 28201 relating to standby guardians, is amended by revising Code Section 29-2-9, relating to
 28202 definitions, as follows:

28203 "29-2-9.

28204 As used in this part, the term:

28205 (1) 'Designating individual' means a parent or guardian who appoints a standby guardian.

28206 A designating individual may only be:

28207 (A) A parent of a minor, provided that he or she has physical custody of the minor and
 28208 his or her parental rights have not terminated; and provided, further, that the other
 28209 parent of the minor is deceased, has had his or her parental rights terminated, cannot be
 28210 found after a diligent search has been made, or has consented to the designation of and
 28211 service by the standby guardian; or

28212 (B) A guardian of the minor who is duly appointed and serving pursuant to court order.

28213 (2) 'Health care professional' means a person licensed to practice medicine under Chapter
 28214 34 of Title 43 or a person licensed as a registered professional nurse under Chapter 26 of
 28215 Title 43 and authorized by the Georgia Board of Nursing Licensing and Regulation to
 28216 practice as a nurse practitioner.

28217 (3) 'Health determination' means the dated, written determination by a health care
 28218 professional that a designating individual is unable to care for a minor due to the
 28219 designating individual's physical or mental condition or health including a condition
 28220 created by medical treatment.

28221 (4) 'Standby guardian' means an adult who is named by a designating individual to serve
 28222 as standby guardian of the minor."

28223 **SECTION 2-15.**

28224 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
 28225 subsection (d) of Code Section 31-2-3, relating to Board of Community Health reconstituted,
 28226 powers, functions, and duties, terms of board members, vacancies, removal, chairperson, and
 28227 expenses, as follows:

28228 "(d) Members of the board may be removed from office under the same conditions for
 28229 removal from office of members of professional licensing policy boards provided in Code
 28230 Section 43-1-17."

28231 **SECTION 2-16.**

28232 Said title is further amended by revising subsection (d) of Code Section 31-2A-1, relating to
 28233 Creation of Board of Public Health, powers, duties, and functions of Board of Community
 28234 Health transferred to the Board of Public Health, board composition and terms, vacancies,
 28235 removal, chairperson, and reimbursement of expenses, as follows:

28236 "(d) Members of the board may be removed from office under the same conditions for
 28237 removal from office of members of professional licensing policy boards provided in Code
 28238 Section 43-1-17."

28239 **SECTION 2-17.**

28240 Said title is further amended by revising subsection (d) of Code Section 31-2A-11, relating
 28241 to standards for sewage management systems, as follows:

28242 "(d) This Code section does not restrict the work of a plumber licensed by the ~~State~~
 28243 ~~Construction Industry Licensing Board~~ director of licensing pursuant to Chapter 1 of Title
 28244 43 to access any on-site sewage management system for the purpose of servicing or
 28245 repairing any plumbing system or connection to the on-site sewage management system."

28246 **SECTION 2-18.**

28247 Said title is further amended by revising Code Section 31-7-162, relating to training and
28248 experience requirements, as follows:

28249 "31-7-162.

28250 A health service provider psychologist shall meet the following criteria of training and
28251 experience:

28252 (1) The psychologist must be currently licensed by the ~~State Board of Examiners of~~
28253 ~~Psychologists~~ director of professional licensing pursuant to Chapter 1 of Title 43;

28254 (2) The psychologist must be eligible to be listed in the National Register of Health
28255 Service Providers of Psychology or have completed not less than two years, with 1,500
28256 hours each year, of supervised experience in health service of which at least one year is
28257 post doctoral and one year, which may be the post doctoral year, is in an organized health
28258 service training program;

28259 (3) A substantial portion of the supervised experience must be in an inpatient setting; and

28260 (4) Two supportive letters of recommendation from health service providers in
28261 psychology who are familiar with the applicant's work must be submitted to the medical
28262 facility or institution."

28263 **SECTION 2-19.**

28264 Said title is further amended by revising Code Section 31-7-165, relating to report of denial
28265 of staff privileges, as follows:

28266 "31-7-165.

28267 When any health service provider psychologist is denied staff privileges or is removed
28268 from the medical or professional staff, such action shall be reported by the facility to the
28269 ~~State Board of Examiners of Psychologists~~ director of professional licensing pursuant to
28270 Chapter 1 of Title 43."

28271 **SECTION 2-20.**

28272 Said title is further amended by revising Code Section 31-8-192, relating definitions, as
28273 follows:

28274 "31-8-192.

28275 As used in this article, the term:

28276 (1) 'Contract' means an agreement executed in compliance with this article between a
28277 health care provider and a governmental contractor. This contract shall allow the health
28278 care provider to deliver health care services to low-income recipients as an agent of the
28279 governmental contractor. The contract must be for volunteer, uncompensated services.

- 28280 Payments made to a health care provider from the Indigent Care Trust Fund shall not
 28281 constitute compensation under this article.
- 28282 (2) 'Department' means the Department of Public Health.
- 28283 (3) 'Disciplinary action' means any action taken by ~~a licensing board~~ the director of
 28284 professional licensing pursuant to Chapter 1 of Title 43 or the Georgia Composite
 28285 Medical Board, as applicable, to reprimand a medical practitioner included as a health
 28286 care provider pursuant to paragraph (5) of this Code section for inappropriate or
 28287 impermissible behavior.
- 28288 (4) 'Governmental contractor' means the department or its designee or designees.
- 28289 (5) 'Health care provider' or 'provider' means:
- 28290 (A) An ambulatory surgical center licensed under Article 1 of Chapter 7 of this title;
- 28291 (B) A hospital or nursing home licensed under Article 1 of Chapter 7 of this title;
- 28292 (C) A physician or physician assistant licensed under Article 2 of Chapter 34 of Title
 28293 43;
- 28294 (D) An osteopathic physician or osteopathic physician assistant licensed under Article
 28295 2 of Chapter 34 of Title 43;
- 28296 (E) A chiropractic physician licensed under Chapter 9 of Title 43;
- 28297 (F) A podiatric physician licensed under Chapter 35 of Title 43;
- 28298 (F.1) A physical therapist licensed under Chapter 33 of Title 43;
- 28299 (G) A registered nurse, nurse midwife, licensed practical nurse, or advanced registered
 28300 nurse practitioner licensed or registered under Chapter 26 of Title 43 or any facility
 28301 which employs nurses licensed or registered under Chapter 26 of Title 43 to supply all
 28302 or part of the care delivered under this article;
- 28303 (H) A midwife certified under Chapter 26 of this title;
- 28304 (I) A speech-language pathologist or audiologist licensed under Chapter 44 of Title 43;
- 28305 (J) An optometrist certified under Chapter 30 of Title 43;
- 28306 (K) A professional counselor, social worker, or marriage and family therapist licensed
 28307 under Chapter 10A of Title 43;
- 28308 (L) An occupational therapist licensed under Chapter 28 of Title 43;
- 28309 (M) A psychologist licensed under Chapter 39 of Title 43;
- 28310 (N) A dietitian licensed under Chapter 11A of Title 43;
- 28311 (O) A pharmacist licensed under Chapter 4 of Title 26;
- 28312 (P) A health maintenance organization certificated under Chapter 21 of Title 33;
- 28313 (Q) A professional association, professional corporation, limited liability company,
 28314 limited liability partnership, or other entity which provides or has members which
 28315 provide health care services;

28316 (R) A safety net clinic, which includes any other medical facility the primary purpose
 28317 of which is to deliver human dental or medical diagnostic services or which delivers
 28318 nonsurgical human medical treatment and which may include an office maintained by
 28319 a provider;

28320 (S) A dentist or dental hygienist licensed under Chapter 11 of Title 43; or

28321 (T) Any other health care professional, practitioner, provider, or facility under contract
 28322 with a governmental contractor, including a student enrolled in an accredited program
 28323 that prepares the student for licensure as any one of the professionals listed in
 28324 subparagraphs (C) through (O) of this paragraph.

28325 The term includes any nonprofit corporation qualified as exempt from federal income
 28326 taxation under Section 501(c) of the Internal Revenue Code which delivers health care
 28327 services provided by licensed professionals listed in this paragraph, any federally funded
 28328 community health center, and any volunteer corporation or volunteer health care provider
 28329 that delivers health care services.

28330 (6) 'Low-income' means:

28331 (A) A person who is Medicaid eligible under the laws of this state;

28332 (B) A person:

28333 (i) Who is without health insurance; or

28334 (ii) Who has health insurance that does not cover the injury, illness, or condition for
 28335 which treatment is sought; and

28336 whose family income does not exceed 200 percent of the federal poverty level as
 28337 defined annually by the federal Office of Management and Budget;

28338 (C) A person:

28339 (i) Who is without dental insurance; or

28340 (ii) Who has dental insurance that does not cover the injury, illness, or condition for
 28341 which treatment is sought; and

28342 whose family income does not exceed 200 percent of the federal poverty level as
 28343 defined annually by the federal Office of Management and Budget; or

28344 (D) Any client or beneficiary of the department, the Department of Human Services,
 28345 or the Department of Behavioral Health and Developmental Disabilities who
 28346 voluntarily chooses to participate in a program offered or approved by the department,
 28347 the Department of Human Services, or the Department of Behavioral Health and
 28348 Developmental Disabilities and meets the program eligibility guidelines of the
 28349 department, the Department of Human Services, or the Department of Behavioral
 28350 Health and Developmental Disabilities whose family income does not exceed 200
 28351 percent of the federal poverty level as defined annually by the federal Office of
 28352 Management and Budget.

- 28353 (7) 'Occasional-service volunteer' means a volunteer who provides one-time or
 28354 occasional volunteer service.
- 28355 (8) 'Regular-service volunteer' means a volunteer engaged in specific voluntary service
 28356 activities on an ongoing or continuous basis.
- 28357 (9) 'Restriction' means any limitation imposed by ~~a licensing board~~ the director of
 28358 professional licensing pursuant to Chapter 1 of Title 43 or the Georgia Composite
 28359 Medical Board, as applicable on a medical practitioner included as a health care provider
 28360 pursuant to paragraph (5) of this Code section.
- 28361 (10) 'Sanction' means any penalty imposed by ~~a licensing board~~ the director of
 28362 professional licensing pursuant to Chapter 1 of Title 43, the Georgia Composite Medical
 28363 Board, or other regulatory entity on a medical practitioner included as a health care
 28364 provider pursuant to paragraph (5) of this Code section.
- 28365 (11) 'Volunteer' means any person who, of his or her own free will, and in support of or
 28366 in assistance to the program of health care services provided pursuant to this article to any
 28367 governmental contractor, provides goods or clerical services, computer services, or
 28368 administrative support services, with or without monetary or material compensation.
 28369 This term shall not include a health care provider."

28370

SECTION 2-21.

28371 Said title is further amended by revising Code Section 31-8-193, relating to establishment
 28372 of program and contracts with health care providers, as follows:

28373 "31-8-193.

28374 (a) The department is authorized and directed to establish a program pursuant to this article
 28375 to provide for health care services to low-income recipients. The department shall enter
 28376 into contracts to effectuate the purposes of this article. The department shall make
 28377 reasonable efforts to promote the program to ensure awareness and participation by
 28378 low-income recipients. It is the intent of the General Assembly that this program be
 28379 established as soon as is practicable after July 1, 2005, and that the program be
 28380 implemented state wide at the earliest possible date, subject to available funding.

28381 (b) A health care provider that executes a contract with a governmental contractor to
 28382 deliver health care services on or after July 1, 2005, as an agent of the governmental
 28383 contractor shall be considered a state officer or employee for purposes of Article 2 of
 28384 Chapter 21 of Title 50, while acting within the scope of duties pursuant to the contract, if
 28385 the contract complies with the requirements of this article and regardless of whether the
 28386 individual treated is later found to be ineligible. A health care provider acting under the
 28387 terms of a contract with a governmental contractor may not be named as a defendant in any

28388 action arising out of the medical care or treatment provided on or after July 1, 2005,
28389 pursuant to contracts entered into under this article. The contract must provide that:

28390 (1) The right of dismissal or termination of any health care provider delivering services
28391 pursuant to the contract is retained by the governmental contractor;

28392 (2) The governmental contractor has access to the patient records of patients provided
28393 services pursuant to this article of any health care provider delivering services pursuant
28394 to the contract;

28395 (3) Adverse incidents and information on treatment outcomes, as defined by the
28396 department and in accordance with the rules and regulations of the Department of Public
28397 Health, must be reported by any health care provider to the governmental contractor if
28398 such incidents and information pertain to a patient treated pursuant to the contract. If an
28399 incident involves a licensed professional or a licensed facility, the governmental
28400 contractor shall submit such incident reports to the appropriate department, agency, or
28401 board, which shall review each incident and determine whether it involves conduct by the
28402 licensee that is subject to disciplinary action. All patient medical records and any
28403 identifying information contained in adverse incident reports and treatment outcomes
28404 which are obtained by governmental entities pursuant to this paragraph are confidential
28405 and exempt from the provisions of Article 4 of Chapter 18 of Title 50;

28406 (4) The health care provider shall provide services to patients on a walk-in and referral
28407 basis, in accordance with the terms of the contract. The provider must accept all referred
28408 patients; provided, however, that the number of patients that must be accepted may be
28409 limited under the terms of the contract;

28410 (5) The health care provider shall not provide services to a patient unless such patient has
28411 received and signed the notice required in Code Section 31-8-194; provided, however,
28412 in cases of emergency care, the patient's legal representative shall be required to receive
28413 and sign the notice, or if such individual is unavailable, such patient shall receive and
28414 sign the notice within 48 hours after the patient has the mental capacity to consent to
28415 treatment;

28416 (6) Patient care and health care services shall be provided in accordance with the terms
28417 of the contract and with rules and regulations as established by the department pursuant
28418 to this article. Experimental procedures and clinically unproven procedures shall not be
28419 provided or performed pursuant to this article. The governmental contractor may reserve
28420 the right to approve through written protocols any specialty care services and
28421 hospitalization, except emergency care as provided for in paragraph (5) of this
28422 subsection; and

28423 (7) The provider is subject to supervision and regular inspection by the governmental
28424 contractor.

- 28425 (c) In order to enter into a contract under this Code section, a health care provider shall:
- 28426 (1) Have a current valid Georgia health professional license;
- 28427 (2) Not be under probation or suspension by the ~~applicable licensing board~~ the director
- 28428 of professional licensing pursuant to Chapter 1 of Title 43 or the Georgia Composite
- 28429 Medical Board, as applicable, or subject to other restrictions, sanctions, or disciplinary
- 28430 actions imposed by ~~the applicable licensing board~~ the director of professional licensing
- 28431 pursuant to Chapter 1 of Title 43 or the Georgia Composite Medical Board, as applicable.
- 28432 The department, in its discretion, shall determine if a past restriction, sanction, or
- 28433 disciplinary action imposed by ~~the applicable licensing board~~ the director of professional
- 28434 licensing pursuant to Chapter 1 of Title 43 or the Georgia Composite Medical Board, as
- 28435 applicable, is of such a grave and offensive nature with respect to patient safety concerns
- 28436 as to warrant refusal to enter into a contract with such health care provider pursuant to
- 28437 this subsection;
- 28438 (3) Not be subject to intermediate sanction by the Centers for Medicare and Medicaid
- 28439 Services for medicare or Medicaid violations or be subject to sanctions with regard to
- 28440 other federally funded health care programs; and
- 28441 (4) Submit to a credentialing process to determine acceptability of participation.
- 28442 (d) The provider shall not subcontract for the provision of services under this chapter.
- 28443 (e) A contract entered into pursuant to this Code section shall be effective for all services
- 28444 provided by the health care provider pursuant to this chapter, without regard to when the
- 28445 services are performed."

28446 **SECTION 2-22.**

28447 Said title is further amended by revising Code Section 31-21-5, relating to incineration or

28448 cremation of dead body or parts thereof, as follows:

28449 "31-21-5.

28450 (a) It shall be unlawful for any person to incinerate or cremate a dead body or parts

28451 thereof; provided, however, that the provisions of this subsection shall not apply to a

28452 crematory licensed by the ~~State Board of Funeral Service~~ director of professional licensing

28453 pursuant to Chapter ~~18~~ 1 of Title 43 or to a hospital, clinic, laboratory, or other facility

28454 authorized by the Department of Community Health and in a manner approved by the

28455 commissioner of community health.

28456 (b) A person who violates the provisions of subsection (a) of this Code section shall be

28457 guilty of a misdemeanor."

28458 **SECTION 2-23.**

28459 Code Section 33-24-27 of the Official Code of Georgia Annotated, relating to provision for
 28460 reimbursement for services within the lawful scope of practice of psychologists or
 28461 chiropractors, is amended by revising paragraph (1) of subsection (a) as follows:

28462 "(1) Duly licensed as a psychologist under Chapter 39 of Title 43, which provides for the
 28463 licensure of psychologists, and has a doctoral degree from an accredited educational
 28464 institution and a year of supervised experience in a setting approved by the ~~State Board~~
 28465 ~~of Examiners of Psychologists~~ Georgia Board of Licensing and Regulation;"

28466 **SECTION 2-24.**

28467 Code Section 34-9-420 of the Official Code of Georgia Annotated, relating to confidentiality
 28468 of information, is amended by revising subsection (b) as follows:

28469 "(b) Employers, laboratories, medical review officers, employee assistance programs, drug
 28470 or alcohol rehabilitation programs, and their agents who receive or have access to
 28471 information concerning test results shall keep all information confidential. Release of such
 28472 information under any other circumstance shall be solely pursuant to a written consent form
 28473 signed voluntarily by the person tested, unless such release is compelled by an agency of
 28474 the state or a court of competent jurisdiction or unless deemed appropriate by the director
 28475 of professional licensing pursuant to Chapter 1 of Title 43 or by a professional or
 28476 occupational licensing board in a related disciplinary proceeding. The consent form must
 28477 contain at a minimum:

- 28478 (1) The name of the person who is authorized to obtain the information;
 28479 (2) The purpose of the disclosure;
 28480 (3) The precise information to be disclosed;
 28481 (4) The duration of the consent; and
 28482 (5) The signature of the person authorizing release of the information."

28483 **SECTION 2-25.**

28484 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 28485 in Code Section 36-7-2, relating to election, commissioning, qualification, and removal of
 28486 county surveyor and qualifications, by revising subsection (b) as follows:

28487 "(b)(1) Every person holding the post of county surveyor must be a qualified surveyor,
 28488 licensed by the ~~State Board of Registration for Professional Engineers and Land~~
 28489 ~~Surveyors~~ director of professional licensing pursuant to Chapter 1 of Title 43, and such
 28490 person must have successfully passed the examination given by the ~~board~~ director of
 28491 professional licensing pursuant to Chapter 1 of title 43 as a prerequisite to the granting
 28492 of a license as a land surveyor; provided, however, that any person holding the position

28493 of county surveyor on March 7, 1966, whether elected or appointed, shall not be required
 28494 to meet the qualifications enumerated in this subsection so long as such person remains
 28495 in the position of county surveyor, whether reappointed or reelected to this position.

28496 (2) Paragraph (1) of this subsection shall not apply to:

28497 (A) Any county having a population of less than 17,000 inhabitants according to the
 28498 United States decennial census of 1960 or any future such census; or

28499 (B) Any person who was holding the position of county surveyor in such a county on
 28500 January 1, 1977, and who has acted continuously as county surveyor since that date, for
 28501 as long as such person remains in the position of county surveyor, notwithstanding the
 28502 fact that the population of the county has grown to exceed 17,000."

28503 **SECTION 2-26.**

28504 Said title is further amended by revising subsection (a) of Code Section 36-7-13, relating to
 28505 persons who may perform duties of office when there is no county surveyor, oath, and
 28506 liability, as follows:

28507 "(a) When there is no county surveyor, any person who is a citizen of this state and who
 28508 holds a current and valid certificate of registration as a land surveyor issued by the ~~State~~
 28509 ~~Board of Registration for Professional Engineers and Land Surveyors~~ director of
 28510 professional licensing pursuant to Chapter 1 of Title 43 may perform the duties of county
 28511 surveyor, when specifically required or appointed to do so, if first sworn to do the same
 28512 faithfully and impartially, to the best of his or her skill and knowledge."

28513 **SECTION 2-27.**

28514 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 28515 revising subsection (d) of Code Section 37-1-3, relating to the Board of Behavioral Health
 28516 and Developmental Disabilities, members, and removal, as follows:

28517 "(d) Members of the board may be removed from office under the same conditions for
 28518 removal from office of members of professional licensing policy boards provided in Code
 28519 Section 43-1-17."

28520 **SECTION 2-28.**

28521 Said title is further amended by revising subsection (h) of Code Section 37-2-36, relating to
 28522 investigations, as follows:

28523 "(h) The ombudsman shall report for investigative purposes any and all:

28524 (1) Suspected criminal activity to the appropriate law enforcement agency;

28525 (2) Suspected abuse, neglect, exploitation, or abandonment of a consumer by any person
 28526 to the appropriate federal or state regulatory authority; and

28527 (3) Suspected violations of any professional code of conduct to the ~~appropriate licensing~~
 28528 ~~board~~ director of professional licensing pursuant to Chapter 1 of Title 43 or the Georgia
 28529 Composite Medical Board, as appropriate."

28530 **SECTION 2-29.**

28531 Said title is further amended by revising subsection (c) of Code Section 37-2-45, relating to
 28532 medical review group to review the deaths of consumers, as follows:

28533 "(c) The medical review group:

28534 (1) Shall be a review organization and shall conduct reviews of deaths of consumers in
 28535 state hospitals and state operated community residential services as peer reviews pursuant
 28536 to Article 6 of Chapter 7 of Title 31;

28537 (2) Shall review, within 60 days of notice of the death, all deaths of consumers:

28538 (A) Occurring on site of a state hospital or state operated community residential
 28539 services providing services under this title;

28540 (B) In the company of staff of a state hospital or state operated community residential
 28541 services providing services under this title; or

28542 (C) Occurring within two weeks following the consumer's discharge from a state
 28543 hospital or state operated community residential services;

28544 (3) Shall have access to all clinical records of the consumer, all investigations conducted
 28545 by the department, state hospitals, or state operated community residential services
 28546 regarding the death, and all reviews of the death, including peer reviews;

28547 (4) May interview staff of the state hospitals and state operated community residential
 28548 services, and other persons involved in the events immediately preceding and involving
 28549 the death;

28550 (5) Shall determine whether the death was the result of natural causes or may have
 28551 resulted from other than natural causes;

28552 (6) Shall determine whether the death requires further investigation or review;

28553 (7) May make confidential recommendations to the ombudsman, the department, the
 28554 division, the state hospitals, and state operated community residential services regarding
 28555 consumer treatment and care, policies, and procedures, which may assist in the
 28556 prevention of deaths; and

28557 (8) Shall report to the appropriate law enforcement agency any suspected criminal
 28558 activity or suspected abuse and shall report any suspected violation of any professional
 28559 code of conduct to the director of professional licensing pursuant to chapter 1 of Title 43
 28560 or to such other appropriate licensing board as is appropriate."

28561 **SECTION 2-30.**

28562 Said title is further amended by revising subsection (d) of Code Section 37-3-41, relating to
 28563 emergency admission based on physician's certification or court order, report by
 28564 apprehending officer, entry of treatment order into patient's clinical record, and authority of
 28565 other personnel to act under statute, as follows:

28566 "(d) Any psychologist, clinical social worker, or clinical nurse specialist in
 28567 psychiatric/mental health may perform any act specified by this Code section to be
 28568 performed by a physician. Any reference in any part of this chapter to a physician acting
 28569 under this Code section shall be deemed to refer equally to a psychologist, a clinical social
 28570 worker, or a clinical nurse specialist in psychiatric/mental health acting under this Code
 28571 section. For purposes of this subsection, the term 'psychologist' means any person
 28572 authorized under the laws of this state to practice as a licensed psychologist, the term
 28573 'clinical social worker' means any person authorized under the laws of this state to practice
 28574 as a licensed clinical social worker, and the term 'clinical nurse specialist in
 28575 psychiatric/mental health' means any person authorized under the laws of this state to
 28576 practice as a registered professional nurse and who is recognized by the ~~Georgia Board of~~
 28577 ~~Nursing~~ director of professional licensing provided for in Chapter 1 of Title 43 to be
 28578 engaged in advanced nursing practice as a clinical nurse specialist in psychiatric/mental
 28579 health."

28580 **SECTION 2-31.**

28581 Said title is further amended by revising Code Section 37-7-3, relating to coordination of
 28582 state drug and alcohol abuse programs, as follows:

28583 "37-7-3.

28584 All programs conducted by state agencies with respect to drug and alcohol abuse, except
 28585 the regulation of the sale or dispensation of drugs and related products by the ~~Board of~~
 28586 ~~Pharmacy~~ Georgia Board of Licensing and Regulation pursuant to Georgia laws and the
 28587 investigation of criminal conduct pertaining to illegal drugs transferred to the Department
 28588 of Public Safety shall be coordinated by the Department of Behavioral Health and
 28589 Developmental Disabilities; provided, however, that any other state agency is not precluded
 28590 or prohibited from conducting an educational program relating to drug or alcohol abuse."

28591 **SECTION 2-32.**

28592 Said title is further amended by revising subsection (d) of Code Section 37-7-41, relating to
 28593 emergency involuntary treatment, who may certify need, delivery for examination, and report
 28594 of delivery required, as follows:

28595 "(d) Any psychologist, clinical social worker, or clinical nurse specialist in
 28596 psychiatric/mental health may perform any act specified by this Code section to be
 28597 performed by a physician. Any reference in any part of this chapter to a physician acting
 28598 under this Code section shall be deemed to refer equally to a psychologist, a clinical social
 28599 worker, or a clinical nurse specialist in psychiatric/mental health acting under this Code
 28600 section. For purposes of this subsection, the term 'psychologist' means any person
 28601 authorized under the laws of this state to practice as a licensed psychologist, the term
 28602 'clinical social worker' means any person authorized under the laws of this state to practice
 28603 as a licensed clinical social worker, and the term 'clinical nurse specialist in
 28604 psychiatric/mental health' means any person authorized under the laws of this state to
 28605 practice as a registered professional nurse and who is recognized by the ~~Georgia Board of~~
 28606 ~~Nursing~~ director of professional licensing provided for in Chapter 1 of Title 43 to be
 28607 engaged in advanced nursing practice as a clinical nurse specialist in psychiatric/mental
 28608 health."

28609 **SECTION 2-33.**

28610 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 28611 is amended by revising subsection (b) of Code Section 45-9-1, relating to general provisions
 28612 and disclosure of insurance or indemnification in legal action, as follows:

28613 "(a) In addition to any other compensation which may be paid to an officer, official, or
 28614 employee of any agency, board, bureau, commission, department, or authority of the
 28615 executive, judicial, or legislative branch of government of this state, each such agency,
 28616 board, bureau, commission, department, or authority is authorized, in its discretion, to
 28617 purchase policies of liability insurance or contracts of indemnity or to formulate sound
 28618 programs of self-insurance utilizing funds available to such agency, board, bureau,
 28619 commission, department, or authority, insuring or indemnifying such officers, officials, or
 28620 employees to the extent that they are not immune from liability against personal liability
 28621 for damages arising out of the performance of their duties or in any way connected
 28622 therewith. Such policies of liability insurance, contracts of indemnity, or programs of
 28623 self-insurance may also provide for reimbursement to an officer, official, or employee of
 28624 any agency, board, bureau, commission, department, or authority of ~~the~~ this state for
 28625 reasonable legal fees and other expenses incurred in the successful defense of any criminal
 28626 proceeding, including, but not limited to, any criminal cause of action, suit, investigation,
 28627 subpoena, warrant, request for documentation or property, or threat of such action whether
 28628 formal or informal where such action arises out of the performance of his or her official
 28629 duties. In addition, in the case of an officer, official, or employee who is required to
 28630 maintain a professional license, such reimbursement may also be provided for legal fees

28631 and other expenses so incurred in the successful defense of a charge arising out of the
 28632 performance of his or her official duties in proceedings before a the director of professional
 28633 licensing pursuant to Chapter 1 of Title 43 or any other professional licensing board,
 28634 disciplinary board or commission, or other similar body as may be appropriate. Legal fees
 28635 and other expenses shall be subject to adjustment by and the approval of the Attorney
 28636 General."

28637 **SECTION 2-34.**

28638 Said title is further amended by revising subsection (a) of Code Section 45-15-70, relating
 28639 to Governor authorized to provide counsel for public officials and agencies and fees and
 28640 costs to be paid by the state, as follows:

28641 "(a) When any action or proceeding is filed in any court of this state, in any federal court,
 28642 or with the director of professional licensing pursuant to Chapter 1 of Title 43 or with any
 28643 professional licensing board, disciplinary board or commission, or other similar body,
 28644 which action or proceeding is against a public officer, public official, a state board or
 28645 bureau, or against any member of such board or bureau and which action or proceeding
 28646 seeks relief against such officer, official, board, or bureau in the administration of his or
 28647 its duties, and when the state compensates or appropriates or allocates moneys to such
 28648 officer, official, board, or bureau which is used in the administration of his or its duties, and
 28649 this shall include county registrars, and when no regular counsel is provided within a
 28650 reasonable time for such officer, official, board, bureau, or county registrar by the Attorney
 28651 General, then the Governor may direct the Attorney General to provide such counsel. In
 28652 the event the Attorney General refuses to provide such counsel within a reasonable time
 28653 after having been directed by the Governor to do so, the Governor is authorized to
 28654 designate legal counsel in such case for such officer, official, board, or bureau, or any
 28655 member of such board or bureau, or county registrar."

28656 **SECTION 2-35.**

28657 Chapter 4A of Title 46 of the Official Code of Georgia Annotated, relating to provision of
 28658 energy conservation assistance to residential customers by electric and gas utilities,, is
 28659 amended by revising Code Section 46-4A-12, relating to construction of chapter, as follows:

28660 "46-4A-12.

28661 No provision of this chapter or any rules or regulations or orders hereunder shall be
 28662 construed to be a limitation:

28663 (1) On the activities of any privately or publicly owned utility which is not a covered
 28664 utility;

- 28665 (2) On the activities of covered utilities, when such activities are not subject to this
 28666 chapter;
- 28667 (3) On the activities of contractors, suppliers, or lenders, when such activities are not
 28668 subject to this chapter;
- 28669 (4) On the activities of the Division of Energy Resources of the Georgia Environmental
 28670 Finance Authority in the enforcement or administration of any program or provision of
 28671 law; and
- 28672 (5) On the power of any state or local agency in the enforcement or administration of any
 28673 provision of law it is specifically permitted or required to enforce or administer,
 28674 including, but not limited to, the Public Service Commission, the Office of Consumer
 28675 Affairs, and the ~~Construction Industry Licensing Board~~ State Board of Licensing and
 28676 Regulation."

28677 **SECTION 2-36.**

28678 Title 48 of the Official Code of Georgia Annotated, relating to revenue, is amended by
 28679 revising subsection (e) of Code Section 48-2-11, relating to delegation of certain duties, as
 28680 follows:

28681 "(e) This chapter shall not in any way affect the collection and administration activities of
 28682 those regulatory, professional, or vocational bodies or boards operated under the ~~division~~
 28683 director of the professional licensing policy boards division appointed by the Secretary of
 28684 State under Code Section 43-1-2 as provided by law or of those other regulatory bodies
 28685 where a major portion of the license fees is collected by mail."

28686 **SECTION 2-37.**

28687 Said title is further amended by revising subsection (b) of Code Section 48-7-40.30, relating
 28688 to income tax credit for certain qualified investments for limited period of time, as follows:

28689 "(b) As used in this Code section, the term:

- 28690 (1) 'Allowable credit' means the credit as it may be reduced pursuant to subparagraph (3)
 28691 of subsection (i) of this Code section.
- 28692 (2) 'Headquarters' means the principal central administrative office of a business located
 28693 in this state which conducts significant operations of such business.
- 28694 (3) 'Net income tax liability' means income tax liability reduced by all other credits
 28695 allowed under this chapter.
- 28696 (4) 'Pass-through entity' means a partnership, an S-corporation, or a limited liability
 28697 company taxed as a partnership.
- 28698 (5) 'Professional services' means those services specified in paragraph (2) of Code
 28699 Section 14-7-2 or any service which requires as a condition precedent to the rendering of

28700 such service the obtaining of a license from a the director of professional licensing
 28701 pursuant to Title 43 or from any other state licensing board pursuant to Title 43.

28702 (6) 'Qualified business' means a registered business that:

28703 (A) Is either a corporation, limited liability company, or a general or limited
 28704 partnership located in this state;

28705 (B) Was organized no more than three years before the qualified investment was made;

28706 (C) Has its headquarters located in this state at the time the investment was made and
 28707 has maintained such headquarters for the entire time the qualified business benefitted
 28708 from the tax credit provided for pursuant to this Code section;

28709 (D) Employs 20 or fewer people in this state at the time it is registered as a qualified
 28710 business;

28711 (E) Has had in any complete fiscal year before registration gross annual revenue as
 28712 determined in accordance with the Internal Revenue Code of \$500,000.00 or less on a
 28713 consolidated basis;

28714 (F) Has not obtained during its existence more than \$1 million in aggregate gross cash
 28715 proceeds from the issuance of its equity or debt investments, not including commercial
 28716 loans from chartered banking or savings and loan institutions;

28717 (G) Has not utilized the tax credit described in Code Section 48-7-40.26;

28718 (H) Is primarily engaged in manufacturing, processing, online and digital warehousing,
 28719 online and digital wholesaling, software development, information technology services,
 28720 research and development, or a business providing services other than those described
 28721 in subparagraph (I) of this paragraph; and

28722 (I) Does not engage substantially in:

28723 (i) Retail sales;

28724 (ii) Real estate or construction;

28725 (iii) Professional services;

28726 (iv) Gambling;

28727 (v) Natural resource extraction;

28728 (vi) Financial, brokerage, or investment activities or insurance; or

28729 (vii) Entertainment, amusement, recreation, or athletic or fitness activity for which
 28730 an admission or membership is charged.

28731 A business shall be substantially engaged in one of the above activities if its gross
 28732 revenue from such activity exceeds 25 percent of its gross revenues in any fiscal year or
 28733 it is established pursuant to its articles of incorporation, articles of organization, operating
 28734 agreement or similar organizational documents to engage as one of its primary purposes
 28735 such activity.

28736 (7) 'Qualified investment' means an investment by a qualified investor of cash in a
 28737 qualified business for common or preferred stock or an equity interest or a purchase for
 28738 cash of qualified subordinated debt in a qualified business; provided, however, that funds
 28739 constituting a qualified investment cannot have been raised or be raised as a result of
 28740 other tax incentive programs. Furthermore, no investment of common or preferred stock
 28741 or an equity interest or purchase of subordinated debt shall qualify as a qualified
 28742 investment if a broker fee or commission or a similar remuneration is paid or given
 28743 directly or indirectly for soliciting such investment or purchase.

28744 (8) 'Qualified investor' means an accredited investor as that term is defined by the United
 28745 States Securities and Exchange Commission who is:

28746 (A) An individual person who is a resident of this state or a nonresident who is
 28747 obligated to pay taxes imposed by this chapter; or

28748 (B) A pass-through entity which is formed for investment purposes, has no business
 28749 operations, has committed capital under management of equal to or less than \$5 million,
 28750 and is not capitalized with funds raised or pooled through private placement
 28751 memoranda directed to institutional investors. A venture capital fund or commodity
 28752 fund with institutional investors or a hedge fund shall not qualify as a qualified investor.

28753 (9) 'Qualified subordinated debt' means indebtedness that is not secured, that may or may
 28754 not be convertible into common or preferred stock or other equity interest, and that is
 28755 subordinated in payment to all other indebtedness of the qualified business issued or to
 28756 be issued for money borrowed and no part of which has a maturity date less than five
 28757 years after the date such indebtedness was purchased.

28758 (10) 'Registered' or 'registration' means that a business has been certified by the
 28759 commissioner as a qualified business at the time of application to the commissioner."

28760 **SECTION 2-38.**

28761 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
 28762 by revising subsection (d) of Code Section 49-2-2, relating to board created, qualifications
 28763 and appointment of members, terms of officers, vacancies, removal, and per diem and
 28764 expenses, as follows:

28765 "(d) Members of the board may be removed from office under the same conditions for
 28766 removal from office of members of professional licensing policy boards provided in Code
 28767 Section 43-1-17."

28768 **SECTION 2-39.**

28769 Said title is further amended by revising Code Section 49-4-152.1, relating to Medicaid
 28770 Prescription Drug Bidding and Rebate Program, as follows:

28771 "49-4-152.1.

28772 (a) The General Assembly finds that the department frequently must pay more for
28773 prescription drugs furnished to recipients of medical assistance under this article than
28774 certain health care providers pay for the same products. In order to control more effectively
28775 the costs of such drugs, the department may establish a Medicaid Prescription Drug
28776 Bidding and Rebate Program as provided in this Code section.

28777 (b) The department may request sealed bids from prescription drug manufacturers for both
28778 brand name and generic equivalent prescription drugs specified by the department. The
28779 bids shall be proposed agreements by these manufacturers to adjust prices of drugs
28780 specified by the department to a price designated as the bid price when those drugs are
28781 supplied to recipients of medical assistance under this article. If the department has
28782 accepted a bid for a drug under this Code section, the department may not reimburse a
28783 provider of such drug for any equivalent drug not so successfully bid during the term of the
28784 contract awarded with regard to the drug so bid. The department may elect not to reimburse
28785 for any multisource drugs of a drug manufacturer which does not participate in the bid
28786 process or which bids prices considered excessive by the department.

28787 (c) All prescription drugs for which bids are submitted must meet applicable standards of
28788 the U.S. Pharmacopoeia, the ~~State Board of Pharmacy~~ Georgia Board of Licensing and
28789 Regulation, and be guaranteed as meeting all requirements, regulations, and comparison
28790 data under the Federal Food, Drug, and Cosmetic Act and the regulations thereunder. The
28791 manufacturer of a drug which is bid must have an FDA approved New Drug Application
28792 or an abbreviated New Drug Application and must have a product liability insurance policy
28793 extending to pharmacy providers under this article, but the policy may condition coverage
28794 thereunder upon the provider's complying with all applicable federal and state laws and
28795 regulations promulgated thereunder.

28796 (d) Nothing in this Code section shall be construed to change the practice of pharmacies
28797 having provider agreements under this article with respect to their purchases and sales of
28798 and reimbursements for drugs furnished to recipients of medical assistance under this
28799 article. Adjustment rebates shall be made by the successfully bidding drug manufacturer
28800 to the department and be paid quarterly to the department.

28801 (e) In the event no acceptable bids are received for a drug for which a request for bid was
28802 made, the department may select a single drug supplier for the drug or establish one price
28803 for such drug which the department will reimburse therefor, but this shall not restrict the
28804 department from establishing one price for any drug upon which the department does not
28805 request bids.

28806 (f) Except when in conflict with this Code section, Article 3 of Chapter 5 of Title 50,
28807 relating to state purchases by the Department of Administrative Services, shall apply to

28808 bidding and purchasing of prescription drugs by the department pursuant to this Code
 28809 section. The prohibitions against financial interest in Code Section 50-5-78 shall be
 28810 applicable to the commissioner and other employees of the department and any violation
 28811 thereof punishable as provided in subsection (d) of that Code section. Contracts for the
 28812 purchase of prescription drugs made in violation of this Code section shall be void and of
 28813 no effect and liability therefor shall be the same as that provided in Code Section 50-5-79.
 28814 (g) The department is authorized to accept rebates from any drug manufacturer for
 28815 providing information to that manufacturer regarding utilization by Medicaid recipients of
 28816 that manufacturer's drugs as long as the anonymity of the recipients is maintained. The
 28817 department is further authorized to verify and audit claims for reimbursement for drugs
 28818 successfully bid, provide the manufacturers thereof with the information so obtained, and
 28819 to adjust the department's claim for rebates based upon that information.
 28820 (h) The provisions of this Code section shall be construed in conformity with Code Section
 28821 49-4-157."

28822 **SECTION 2-40.**

28823 Said title is further amended by revising Code Section 49-4-152.3, relating to reuse of dosage
 28824 drugs, as follows:

28825 "49-4-152.3.

28826 (a) As used in this Code section, the term:

28827 (1) 'Long-term care facility' or 'facility' means an intermediate care home, skilled nursing
 28828 home, or intermingled home subject to regulation as such by the Department of
 28829 Community Health.

28830 (2) 'Unit dosage drug' means any dangerous drug regulated under Chapter 13 of Title 16
 28831 which is individually packaged to contain only one dosage of such drug and which
 28832 includes on such packaging the brand or generic name, strength, lot number, and
 28833 expiration date of such drug.

28834 (b) Unit dosage drugs may be returned to the dispensing pharmacy for reuse. The
 28835 department and the ~~State Board of Pharmacy~~ Georgia Board of Licensing and Regulation
 28836 shall promulgate regulations which permit the reuse of prescribed but unused unit dosage
 28837 drugs for a resident of a long-term care facility other than the resident for whom the drug
 28838 was originally prescribed, but only when:

28839 (1) The cost of those drugs has been paid for or reimbursed under this article; and

28840 (2) The drugs are unused because the resident for whom the drugs were originally
 28841 prescribed:

28842 (A) Has died;

- 28843 (B) Has had such resident's prescription changed so as no longer to require those drugs;
 28844 or
 28845 (C) Otherwise no longer needs those drugs."

28846 **PART III**
 28847 **SECTION 3-1.**

28848 Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to dispensing and
 28849 electronically transmitted drug orders, is amended by revising subsection (d) as follows:

28850 "(d) Information contained in the patient medication record or profile shall be considered
 28851 confidential information as defined in this title. Confidential information may be released
 28852 to the patient or the patient's authorized representative, the prescriber or other licensed
 28853 health care practitioners then caring for the patient, another licensed pharmacist, ~~the board~~
 28854 ~~or its representative, or any other person duly authorized to receive such information~~ or the
 28855 director. In accordance with Code Section ~~24-9-40~~ 24-12-1, confidential information may
 28856 be released to others only on the written release of the patient, court order, or subpoena."

28857 **SECTION 3-2.**

28858 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 28859 is amended by revising paragraph (5) of subsection (b) of Code Section 43-3-24, relating to
 28860 issuance of permits to practice accountancy, as follows:

28861 "(5) An individual qualifying for the practice privilege under paragraph (1) of this
 28862 subsection may provide expert witness services in this state and shall be deemed to be in
 28863 compliance with ~~paragraph (1) of subsection (c) of Code Section 24-9-67.1~~ 24-7-702 for
 28864 purposes of such services."

28865 **SECTION 3-3.**

28866 Said title is further amended by revising paragraph (11) of subsection (a) of Code Section
 28867 43-9-12, relating to The Georgia Board of Chiropractic Examiners' refusal, suspension, or
 28868 revocation of licenses, as follows:

28869 "(11)(A) Become unable to practice chiropractic with reasonable skill and safety to
 28870 patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other
 28871 type of material, or as a result of any mental or physical condition.

28872 (B) In enforcing this paragraph, the ~~board~~ director may, upon reasonable grounds,
 28873 require a licensee or applicant to submit to a mental or physical examination by
 28874 licensed health care providers designated by the ~~board~~ director. The results of such
 28875 examination shall be admissible in any hearing before the licensing board,

28876 notwithstanding any claim of privilege under a contrary rule of law or statute,
 28877 including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every person who shall
 28878 accept the privilege of practicing chiropractic in this state or who shall file an
 28879 application for a license to practice chiropractic in this state shall be deemed to have
 28880 given his or her consent to submit to such mental or physical examination and to have
 28881 waived all objections to the admissibility of the results in any hearing before the
 28882 licensing board, upon the grounds that the same constitutes a privileged
 28883 communication. If a licensee or applicant fails to submit to such an examination when
 28884 properly directed to do so by the ~~board~~ director, unless such failure was due to
 28885 circumstances beyond his or her control, the ~~board~~ director may enter a final order ~~upon~~
 28886 ~~proper notice, hearing, and proof of such refusal~~. Any licensee or applicant who is
 28887 prohibited from practicing chiropractic under this paragraph shall at reasonable
 28888 intervals be afforded an opportunity to demonstrate to the licensing board that he or she
 28889 can resume or begin the practice of chiropractic with reasonable skill and safety to
 28890 patients.

28891 (C) For the purposes of this paragraph, the ~~board~~ director may, upon reasonable
 28892 grounds, obtain any and all records relating to the mental or physical condition of a
 28893 licensee or applicant, including psychiatric records; and such records shall be
 28894 admissible in any hearing before the licensing board, notwithstanding any privilege
 28895 under a contrary rule of law or statute, including, but not limited to, Code Section
 28896 ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing
 28897 chiropractic in this state or who shall file an application to practice chiropractic in this
 28898 state shall be deemed to have given his or her consent to the ~~board's~~ director's obtaining
 28899 any such records and to have waived all objections to the admissibility of such records
 28900 in any hearing before the licensing board, upon the grounds that the same constitutes
 28901 a privileged communication.

28902 (D) If any licensee or applicant could, in the absence of this paragraph, invoke a
 28903 privilege to prevent the disclosure of the results of the examination provided for in
 28904 subparagraph (B) of this paragraph or the records relating to the mental or physical
 28905 condition of such licensee or applicant obtained pursuant to subparagraph (C) of this
 28906 paragraph, all such information shall be received by the ~~board~~ director in camera and
 28907 shall not be disclosed to the public, nor shall any part of the record containing such
 28908 information be used against any licensee or applicant ~~in any other type of~~ except in a
 28909 proceeding before the board."

28910 **SECTION 3-4.**

28911 Said title is further amended by revising Code Section 43-18-8, relating to official records
28912 and affidavits of the State Board of Registration for Professional Geologists as evidence, as
28913 follows:

28914 "43-19-8.

28915 ~~All official records of the board, or affidavits by the division director as to the content of~~
28916 ~~such records, shall be prima-facie evidence of all matters required to be kept therein~~
28917 Reserved."

28918 **SECTION 3-5.**

28919 Said title is further amended by revising Code Section 43-28-6, relating to service of process
28920 and documents on division director and records of the State Board of Occupational Therapy
28921 as prima-facie evidence, as follows:

28922 "43-28-6.

28923 (a) All legal process and all documents required by law to be served upon or filed with the
28924 licensing board shall be served upon or filed with the ~~division~~ director at his or her office.

28925 ~~(b) All official records of the board or affidavits by the division director certifying the~~
28926 ~~content of such records shall be prima-facie evidence of all matters required to be kept~~
28927 ~~therein.~~"

28928 **SECTION 3-6.**

28929 Said title is further amended by revising Code Section 43-33-9, relating to the State Board
28930 of Physical Therapy's records as prima-facie evidence, as follows:

28931 "43-33-9.

28932 The ~~division~~ director shall be secretary of the board and shall perform such other
28933 administrative duties as may be prescribed by the licensing board. ~~In a contested case, the~~
28934 ~~division director on behalf of the board shall have the power to subpoena, throughout the~~
28935 ~~state, witnesses, designated documents, papers, books, accounts, letters, photographs,~~
28936 ~~objects, or other tangible things.~~ All legal process and all documents required by law to
28937 be served upon or filed with the board shall be served upon or filed with the ~~division~~
28938 director at his or her office. ~~All official records of the board or affidavits by the division~~
28939 ~~director certifying the content of such records shall be prima-facie evidence of all matters~~
28940 ~~required to be kept therein.~~"

28941 **SECTION 3-7.**

28942 Said title is further amended by revising paragraph (2) of subsection (a) of Code Section
28943 43-33-18, relating to refusal to grant or restore licenses, as follows:

28944 "(2) Displayed an inability or has become unable to practice as a physical therapist or as
 28945 a physical therapist assistant with reasonable skill and safety to patients by reason of
 28946 illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a
 28947 result of any mental or physical condition:

28948 (A) In enforcing this paragraph the ~~board~~ director may, upon reasonable grounds,
 28949 require a licensee or applicant to submit to a mental or physical examination by an
 28950 appropriate practitioner of the healing arts designated by the ~~board~~ director. The
 28951 expense of such mental or physical examination shall be borne by the licensee or
 28952 applicant. The results of such examination shall be admissible in any hearing before
 28953 the licensing board, notwithstanding any claim of privilege under a contrary rule of law
 28954 or statute, including, but not limited to Code Section ~~24-9-21~~ 24-5-501. Every person
 28955 who ~~shall accept~~ accepts the privilege of practicing physical therapy in this state or who
 28956 shall file an application for a license to practice physical therapy in this state shall be
 28957 deemed to have given his or her consent to submit to such mental or physical
 28958 examination and to have waived all objections to the admissibility of the results in any
 28959 hearing before the licensing board upon the grounds that the same constitutes a
 28960 privileged communication. If a licensee or applicant fails to submit to such an
 28961 examination when properly directed to do so by the ~~board~~ director, unless such failure
 28962 was due to circumstances beyond his or her control, the ~~board~~ director may enter a final
 28963 order ~~upon proper notice, hearing, and proof of such refusal in compliance with Code~~
 28964 Section 43-1-3.1. Any licensee or applicant who is prohibited from practicing physical
 28965 therapy under this paragraph shall at reasonable intervals be afforded an opportunity to
 28966 demonstrate to the ~~board~~ director that he or she can resume or begin the practice of
 28967 physical therapy with reasonable skill and safety to patients;

28968 (B) For the purposes of this paragraph, the ~~board~~ director may, upon reasonable
 28969 grounds, obtain any and all records relating to the mental or physical condition of a
 28970 licensee or applicant, including psychiatric records; and such records shall be
 28971 admissible in any hearing before the licensing board, notwithstanding any privilege
 28972 under a contrary rule of law or statute, including, but not limited to, Code Section
 28973 ~~24-9-21~~ 24-5-501. Every person who shall accept the privilege of practicing physical
 28974 therapy in this state or who shall file an application to practice physical therapy in this
 28975 state shall be deemed to have given his or her consent to the ~~board's~~ director's obtaining
 28976 any such records and to have waived all objections to the admissibility of such records
 28977 in any hearing before the licensing board upon the grounds that the same constitute a
 28978 privileged communication; and

28979 (C) If any licensee or applicant could, in the absence of this paragraph, invoke a
 28980 privilege to prevent the disclosure of the results of the examination provided for in

28981 subparagraph (A) of this paragraph or the records relating to the mental or physical
 28982 condition of such licensee or applicant obtained pursuant to subparagraph (B) of this
 28983 paragraph, all such information shall be received by the licensing board in camera and
 28984 shall not be disclosed to the public, nor shall any part of the record containing such
 28985 information be used against any licensee or applicant in any other type of proceeding;"

28986 **PART IV**

28987 **SECTION 4-1.**

28988 Chapter 50 of Title 43 of the Official Code of Georgia Annotated, relating to veterinarians
 28989 and veterinary technicians, is amended by revising Code Section 43-50-20, relating to
 28990 creation of the State Board of Veterinary Medicine, members, qualifications, vacancies,
 28991 expenses, meetings, and officers, as follows:

28992 "43-50-20.

28993 (a) There shall be a State Board of Veterinary Medicine, a professional licensing policy
 28994 board, the members of which shall be appointed by the Governor with the approval of the
 28995 Secretary of State and confirmation by the Senate. The board shall consist of ~~six~~ seven
 28996 members, each appointed for a term of five years or until his or her successor is appointed.
 28997 Five members of the board shall be duly licensed veterinarians actually engaged in active
 28998 practice for at least five years prior to appointment. The sixth member shall be appointed
 28999 from the public at large and shall in no way be connected with the practice of veterinary
 29000 medicine. The seventh member shall be a registered veterinary technician who has been
 29001 registered and actively engaged in the practice of veterinary technology for at least five
 29002 years prior to appointment. The initial appointment of the veterinary technician shall
 29003 expire on June 30 in the fifth calendar year after this subsection becomes effective;
 29004 thereafter, successors shall be appointed for a term of five years. Those members of the
 29005 State Board of Veterinary Medicine serving on ~~July 1, 2003,~~ the effective date of this
 29006 subsection shall continue to serve as members of the board until the expiration of the term
 29007 for which they were appointed. Thereafter, successors to such board members shall be
 29008 appointed in accordance with this Code section.

29009 (b) Vacancies due to death, resignation, removal, or otherwise shall be filled for the
 29010 remainder of the unexpired term in the same manner as regular appointments. No person
 29011 shall serve two consecutive five-year terms, but a person appointed for a term of less than
 29012 five years may succeed himself or herself.

29013 (c) No person may serve on the board who is, or was during the two years preceding his
 29014 or her appointment, a member of the faculty, trustees, or advisory board of a veterinary
 29015 school.

29016 (d) Each member of the board shall be reimbursed as provided for in subsection (f) of
29017 Code Section 43-1-2.

29018 (e) Any member of the board may be removed by the Governor after a hearing by the
29019 board determines cause for removal.

29020 (f) The board shall meet at least once each year at the time fixed by the board. Other
29021 necessary meetings may be called by the president of the board by giving such notice as
29022 shall be established by the board and approved by the director.

29023 (g) At its annual meeting, the board shall organize by electing a president and such other
29024 officers as may be required by the board. Officers of the board serve for terms of one year
29025 and until a successor is elected, without limitation on the number of terms an officer may
29026 serve. The president shall chair the board meetings."

29027 **SECTION 4-2.**

29028 Said chapter is further amended by revising Code Section 43-50-40, relating to renewal of
29029 licenses and registrations, reinstatement, waiver of fee, continuing education, and inactive
29030 status, as follows:

29031 "43-50-40.

29032 (a) All licenses and registrations under this article shall be renewable biennially.

29033 (b) Any person who shall practice veterinary medicine or veterinary technology after the
29034 expiration of his or her license or registration and willfully or by neglect fail to renew such
29035 license or registration shall be practicing in violation of this article, provided that any
29036 person may renew an expired license or registration within the period established by the
29037 director in accordance with Code Section 43-1-4 by making application for renewal and
29038 paying the applicable fees. After the time period established by the director has elapsed,
29039 such license or registration may be reinstated in accordance with the rules of the licensing
29040 board.

29041 (c) The licensing board may by rule waive the payment of the renewal fee of a licensed
29042 veterinarian or registered veterinary technician during the period when he or she is on
29043 active duty with any branch of the armed forces of the United States, not to exceed the
29044 longer of three years or the duration of a national emergency.

29045 (d)(1) The licensing board shall establish a program of continuing professional veterinary
29046 medical education and continuing veterinary technology education for the renewal of
29047 veterinary licenses and veterinary technician registrations. Notwithstanding any other
29048 provision of this article, no license to practice veterinary medicine or veterinary
29049 technology shall be renewed by the director until the licensed veterinarian or registered
29050 veterinary technician submits to the director satisfactory proof of his or her participation,
29051 during the biennium preceding his or her application for renewal, in approved programs

29052 of continuing education, as defined in this Code section. The amount of continuing
 29053 veterinary medical education required of licensed veterinarians by the licensing board
 29054 under this paragraph shall not be less than 30 hours and shall be established by licensing
 29055 board rule.

29056 (2) Continuing professional veterinary medical education or continuing veterinary
 29057 technology education shall consist of educational programs providing training pertinent
 29058 to the practice of veterinary medicine or veterinary technology and approved by the
 29059 licensing board under this Code section. The licensing board may approve educational
 29060 programs for persons practicing veterinary medicine or veterinary technology in this state
 29061 on a reasonable nondiscriminatory fee basis and may contract with institutions of higher
 29062 learning, professional organizations, or qualified individuals for the provision of
 29063 approved programs. In addition to such programs, the licensing board may allow the
 29064 continuing education requirement to be fulfilled by the completion of approved distance
 29065 learning courses, with the number of hours being established by licensing board rule.

29066 (3) The licensing board may, consistent with the requirements of this Code section,
 29067 promulgate rules and regulations to implement and administer this Code section,
 29068 including the establishment of a committee to prescribe standards, approve and contract
 29069 for educational programs, and set the required minimum number of hours per year.

29070 (e) The licensing board shall provide by regulation for an inactive status license or
 29071 registration for those individuals who elect to apply for such status. Persons who are
 29072 granted inactive status shall not engage in the practice of veterinary medicine or veterinary
 29073 technology and shall be exempt from the requirements of continuing veterinary medical
 29074 education during such inactivity."

29075 **SECTION 4-3.**

29076 Said chapter is further amended by adding a new article to read as follows:

29077 "ARTICLE 5

29078 43-50-90.

29079 (a) The licensing board shall work cooperatively with licensed veterinarians to establish
 29080 standards for veterinary facilities and equipment and shall promulgate rules for same.

29081 (b) The licensing board shall have the authority to establish a method to monitor veterinary
 29082 facilities, conduct investigations and hold proceedings related to alleged violations, and
 29083 take necessary enforcement action against the license of a veterinarian for violations of
 29084 rules promulgated under subsection (a) of this Code section.

29085 43-50-91.

29086 This article shall not apply to any facility owned by the federal, state, or any local
29087 government, a public or private college or university, or a zoological park or aquarium that
29088 is accredited by the American Zoo and Aquarium Association or other substantially
29089 equivalent nationally recognized accrediting agency as determined by the licensing board."

29090

PART V

29091

SECTION 5-1.

29092 Part III of this Act shall become effective on January 1, 2013. Each section of Part IV of this
29093 Act shall become effective only when funds are specifically appropriated for purposes of
29094 such sections in a General Appropriations Act making specific reference to this Act and shall
29095 become effective when funds so appropriated become available for expenditure. Those
29096 portions of Section 1-4 of this Act relating to the appointment of the members of the Georgia
29097 Board of Licensing and Regulation shall become effective upon the Governor's signature or
29098 upon this Act's becoming law without such signature. All remaining portions of this Act
29099 shall become effective on July 1, 2012.

29100

SECTION 5-2.

29101 All laws and parts of laws in conflict with this Act are repealed.