

House Bill 330

By: Representatives Williams of the 145th, Powell of the 32nd, Hawkins of the 27th, Newton of the 123rd, and Mathiak of the 73rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 14 and Chapter 35 of Title 43 of the Official Code of Georgia
2 Annotated, relating to professional corporations and podiatry practice, respectively, so as to
3 change certain provisions relating to the practice of podiatry; to provide for podiatrists to join
4 professional corporations with other physicians; to revise certain definitions; to authorize
5 podiatrists to perform certain surgeries utilizing conscious sedation under the direction of
6 certain medical professionals; to change certain qualifications related to the licensing of
7 podiatrists; to specifically authorize the State Board of Podiatry Examiners to conduct
8 fingerprint based criminal background checks; to provide a process for conducting such
9 criminal background checks; to limit the use, dissemination, and liability relating to
10 information obtained from criminal background checks; to provide for related matters; to
11 repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Chapter 7 of Title 14 of the Official Code of Georgia Annotated, relating to professional
15 corporations, is amended by revising subsection (a) of Code Section 14-7-4, relating to
16 professional services in which a professional corporation may engage, as follows:

17 "(a) A professional corporation may practice only one profession, but for the purpose of
18 this chapter, ~~the~~:

19 (1) The practice of architecture, professional engineering, and land surveying shall be
20 considered the practice of only one profession to the extent that existing laws permit
21 overlapping practices by members of those specific professions not inconsistent with the
22 ethics of the professions involved, ~~and to~~;

23 (2) To the extent not inconsistent with the ethics of the professions involved or otherwise
24 prohibited by law, physicians specializing in ophthalmology that are practicing within
25 their scope of practice as established by law may organize and jointly own a professional
26 corporation with optometrists that are practicing within their scope of practice as

27 established by law; provided, however, that nothing in this paragraph shall authorize
 28 optometrists to attach the title 'physician' to such optometrists' names or to the name of
 29 the professional corporation; and

30 (3) To the extent not inconsistent with the ethics of the professions involved or otherwise
 31 prohibited by law, physicians licensed as podiatrists that are practicing within their scope
 32 of practice as established by law may organize and jointly own a professional corporation
 33 with any physicians that are practicing within their own scope of practice as established
 34 by law."

35 SECTION 2.

36 Chapter 35 of Title 43 of the Official Code of Georgia Annotated, relating to podiatry
 37 practice, is amended by revising paragraphs (5) and (7) of Code Section 43-35-3, relating to
 38 definitions, as follows:

39 "(5) 'Podiatric medicine,' which includes chiropody, podiatry, and podiatric medicine and
 40 surgery, means that portion of the practice of medicine identified by the acts described
 41 in any one or more of the following:

42 (A) Charging a fee or other compensation, either directly or indirectly, for: ~~any history~~
 43 ~~or physical examination of a patient in a person's office or in a hospital, clinic, or other~~
 44 ~~similar facility prior to, incident to, and necessary for the diagnosis and treatment, by~~
 45 ~~primary medical care, surgical or other means, of diseases, ailments, injuries, cosmetic~~
 46 ~~conditions, or abnormal conditions of the human foot and leg. As used in this~~
 47 ~~subparagraph, the term 'cosmetic' means a surgical or medical procedure intended to~~
 48 ~~enhance the physical appearance or function of the foot, ankle, or leg, including, but not~~
 49 ~~limited to, skin problems such as blemishes, spider veins, and scar revisions~~

50 (i) Diagnosing and treating diseases, ailments, injuries, cosmetic conditions,
 51 abnormal conditions, or other conditions of the human foot, ankle, and leg using
 52 primary medical care, surgery, or other means;

53 (ii) Performing any history or physical examination of a patient prior to, incident to,
 54 or necessary for the diagnosis and treatment of diseases, ailments, injuries, cosmetic
 55 conditions, abnormal conditions, or other conditions of the human foot, ankle, or leg
 56 using primary medical care, surgery, or other means;

57 (B) ~~Holding oneself out to the public, either directly or indirectly, as being engaged in~~
 58 ~~the practice of podiatric medicine;~~

59 (C) ~~Displaying or using a title or abbreviation such as 'Doctor of Podiatric Medicine,'~~
 60 ~~'D.P.M.,' 'Foot Doctor,' 'Foot Specialist,' 'Foot Surgeon,' 'Foot and Ankle Surgeon,' or~~
 61 ~~other letters, designations, or symbols or signs of any type which expressly or implicitly~~

62 ~~indicate to the general public that the user renders treatment to the foot, ankle, and leg~~
 63 ~~under the provisions of this chapter;~~

64 ~~(D)(iii) Performing surgery on the foot, ankle, or leg of a patient, except that when~~
 65 ~~such surgery is performed under general:~~

66 ~~(I) General anesthesia it shall be permissible only when said surgery is performed~~
 67 ~~at a facility permitted and regulated as a hospital or ambulatory surgical treatment~~
 68 ~~center under Article 1 of Chapter 7 of Title 31 and when said general anesthesia is~~
 69 ~~administered under the direction of a duly licensed physician; and~~

70 ~~(II) Conscious sedation it shall be permissible only when said surgery is performed~~
 71 ~~at a facility permitted and regulated as a hospital or ambulatory surgical treatment~~
 72 ~~center under Article 1 of Chapter 7 of Title 31 and when said conscious sedation is~~
 73 ~~administered by a certified registered nurse anesthetist under the direction of a duly~~
 74 ~~licensed podiatrist or other duly licensed physician;~~

75 ~~(E)(iv) Performing amputations of the toe; or~~

76 ~~(F)(v) Performing amputations distal to and including the tarsometatarsal joint of the~~
 77 ~~foot but only when performed in a facility permitted and regulated as a hospital or~~
 78 ~~ambulatory surgical treatment center under Article 1 of Chapter 7 of Title 31 and~~
 79 ~~when performed by a podiatrist who is certified by the board in meeting the~~
 80 ~~requirements which shall be established by regulations of the board which have been~~
 81 ~~jointly approved by the board and the Georgia Composite Medical Board.;~~

82 ~~(B) Holding oneself out to the public, either directly or indirectly, as being engaged in~~
 83 ~~the practice of podiatric medicine; or~~

84 ~~(C) Displaying or using a title or abbreviation such as 'Doctor of Podiatric Medicine,'~~
 85 ~~'D.P.M., 'Foot Doctor,' 'Foot Specialist,' 'Foot Surgeon,' 'Foot and Ankle Surgeon,' or~~
 86 ~~other letters, designations, or symbols or signs of any type which expressly or implicitly~~
 87 ~~indicate to the general public that the user renders treatment to the foot, ankle, and leg~~
 88 ~~under the provisions of this chapter.~~

89 ~~As used in this paragraph, the term 'cosmetic' means a surgical or medical procedure~~
 90 ~~intended to enhance the physical appearance or function of the foot, ankle, or leg,~~
 91 ~~including, but not limited to, skin problems such as blemishes, spider veins, and scar~~
 92 ~~revisions."~~

93 ~~"(7) 'Podiatrist' means a physician and surgeon of the human foot, ankle, and leg who is~~
 94 ~~subject to this chapter."~~

95 **SECTION 3.**

96 Said chapter is further amended by revising Code Section 43-35-12, relating to qualifications
 97 for licensing to practice podiatry, as follows:

98 "43-35-12.

99 A license to practice podiatric medicine shall be issued to any person who:

- 100 (1) Is a graduate of an accredited college of podiatric medicine approved by the board;
- 101 (2) Holds a doctoral degree or its equivalent;
- 102 (3) Satisfactorily passes a board approved examination, if an examination is required by
- 103 the board;
- 104 (4) Successfully completes postdoctoral training of no less than 12 months as a resident
- 105 in podiatric medicine and surgery in a program or institution approved by, and in good
- 106 standing with, the board;
- 107 (5) Has attained the age of 21 years;
- 108 (6) Has satisfactory results, as determined by the board, from a criminal background
- 109 check conducted by the Georgia Crime Information Center and the Federal Bureau of
- 110 Investigation pursuant to Code Section 43-35-12.1
- 111 ~~(6)~~(7) Is not disqualified to receive a license under the provisions of Code Section
- 112 43-35-16; and
- 113 ~~(7)~~(8) Pays ~~the~~ any required ~~fee~~ fees to the board.

114 **SECTION 4.**

115 Said chapter is further amended by adding a new Code section to read as follows:

116 "43-35-12.1.

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

- 118 (1) 'Criminal background check' means a search of the criminal records maintained by
- 119 GCIC and the Federal Bureau of Investigation to determine whether an individual has a
- 120 criminal record.
- 121 (2) 'Criminal record' means any of the following:
- 122 (A) A conviction of a crime;
- 123 (B) An arrest, charge, and sentencing for a crime when:
- 124 (i) A plea of nolo contendere was entered to the charge;
- 125 (ii) First offender treatment without adjudication of guilt pursuant to the charge was
- 126 granted; or
- 127 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
- 128 or
- 129 (C) An arrest and charge for a crime if the charge is pending, unless the time for
- 130 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 131 (3) 'GCIC' means the Georgia Crime Information Center established under Article 2 of
- 132 Chapter 3 of Title 35.

133 (b) Notwithstanding any other provisions of law to the contrary, the board shall have the
134 authority to require a criminal background check on any person seeking a license or a
135 renewal of license to practice podiatric medicine. Such person shall furnish fingerprints
136 in such form and of such quality as GCIC and the Federal Bureau of Investigation deem
137 acceptable for submission. Upon receipt of such fingerprints, GCIC shall search its own
138 records and promptly transmit such fingerprints to the Federal Bureau of Investigation for
139 a search of the bureau's records. GCIC shall notify the board in writing of any criminal
140 record or if there is no such finding.

141 (c) A person who has submitted fingerprints pursuant to this Code section may request an
142 inspection, modification, correction, or supplementation of his or her criminal record
143 information pursuant to Code Section 35-3-37, if he or she believes such information to be
144 inaccurate, incomplete, or misleading.

145 (d) The board shall perform criminal background checks either under agreement with
146 GCIC or contract with GCIC and the appropriate law enforcement agencies which have
147 access to GCIC and Federal Bureau of Investigation information to have such agencies
148 perform criminal background checks for the board. The board and such appropriate law
149 enforcement agencies may charge reasonable fees for performing criminal background
150 checks.

151 (e) Neither GCIC, the board, any law enforcement agency, the Secretary of State, nor the
152 employees of the office of the Secretary of State, or any such entities shall be responsible
153 for the accuracy of information nor have any liability for defamation, invasion of privacy,
154 negligence, or any other claim provided in connection with any dissemination of
155 information or determination based thereon pursuant to this chapter.

156 (f) All information received from GCIC or the Federal Bureau of Investigation shall be
157 privileged, shall be used exclusively for purposes related to licensure under this chapter,
158 and shall not be released or otherwise disclosed to any other person or agency except to any
159 person or agency which otherwise has a legal right to inspect licensing files. All such
160 information collected by the board shall be maintained pursuant to applicable laws and
161 rules or regulations of GCIC and the Federal Bureau of Investigation. Penalties for the
162 unauthorized release or disclosure of any such information shall be as prescribed pursuant
163 to applicable laws and rules or regulations of GCIC and the Federal Bureau of
164 Investigation."

165 **SECTION 5.**

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