

The House Committee on Health and Human Services offers the following substitute to HB 458:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for requirements on certain medical professionals relating to
3 professional boundaries and misconduct; to provide that continuing education requirements
4 include legal ethics and professionalism in the practice of dentistry; to require certain training
5 relating to sexual misconduct for members of the Georgia Composite Medical Board; to
6 provide for the refusal, suspension, or revocation of the license of a physician who has
7 committed a sexual assault on a patient; to require the completion of continuing education
8 by physicians relating to sexual misconduct; to require the development and identification
9 of educational resources and materials relating to sexual misconduct and the impacts of
10 trauma for physicians, board members, and board staff; to require medical schools and
11 osteopathic medical schools to provide training to medical students on sexual misconduct;
12 to provide for mandatory reporting by health care providers who have knowledge that a
13 physician has committed a sexual assault on a patient; to provide for limited liability; to
14 provide for fines and disciplinary action; to provide for release of investigative records by
15 law enforcement; to provide for annual reporting to the General Assembly of the number of
16 physicians investigated or disciplined for the sexual assault of patients; to provide for
17 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

H. B. 458 (SUB)

- 1 -

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended in Code Section 43-11-46.1, relating to continuing education requirements and waivers for dentists, by adding a new subsection to read as follows:

"(e) On and after January 1, 2022, continuing education requirements for dentists shall include legal ethics and professionalism in the practice of dentistry, which shall include, but shall not be limited to, education and training regarding professional boundaries; unprofessional conduct relating to the commission of acts of sexual intimacy, abuse, misconduct, or exploitation with regard to the practice of dentistry; legislative updates and changes to the laws relating to the practice of dentistry and rules, policies, and advisory opinions and rulings issued by the board; professional conduct and ethics; proper billing practices; professional liability; and risk management."

SECTION 2.

Said title is further amended in Code Section 43-34-2, relating to the creation of the Georgia Composite Medical Board, its members, physician assistants advisory committee, and review of qualifications, by revising subsection (g), which is reserved, as follows:

"(g) On and after January 1, 2022, all newly appointed board members shall be required to participate in training and education to support greater understanding of sexual misconduct, sexual boundaries, and impacts of trauma and implicit bias within three months of such appointment. All board members in office as of January 1, 2022, shall be required to participate in such training and education by March 30, 2022. Reserved."

SECTION 3.

Said title is further amended in Code Section 43-34-8, relating to the authority of the Georgia Composite Medical Board to refuse license, certificate, or permit or issue discipline, by adding a new paragraph to subsection (a) and a new subsection to read as follows:

"(15.1)(A) Pleaded guilty to committing a sexual assault on a patient; or

(B) Been found guilty by a court of law of committing a sexual assault on a patient."

"(a.2) Upon a finding by the board that the public health, safety, or welfare imperatively requires emergency action pursuant to an alleged sexual assault on a patient by a licensee, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceeding shall be promptly instituted and determined."

SECTION 4.

Said title is further amended in Code Section 43-34-11, relating to continuing education requirements for physicians, by adding a new paragraph to subsection (a) to read as follows:

"(6) On and after January 1, 2022, all physicians shall be required to receive one-time education and training, for a minimum of three hours, regarding professional boundaries and physician sexual misconduct. Such education and training shall include subject matter relating to how to proceed with basic as well as sensitive or intimate examinations and the communication with patients that is required as a component of such examinations. Such education and training shall be established by the board and shall be informed by members of the public, as best possible."

SECTION 5.

Said title is further amended by adding a new Code section to Article 1, relating to the Georgia Composite Medical Board, to read as follows:

64 "43-34-14.

65 No later than January 1, 2022, the board shall develop and identify educational resources
66 and materials for physicians, board members, and board staff to support greater
67 understanding of sexual misconduct, sexual boundaries, and impacts of trauma and implicit
68 bias. Such information shall include resources and materials to help physicians develop
69 better insight into their own behavior and its impacts on others. Resources and materials
70 shall be developed and identified in collaboration with national medical boards
71 associations, national medical associations, state physician health programs, state medical
72 associations, hospital medical staffs, other organized physician groups, and medical schools
73 and training programs."

74 **SECTION 6.**

75 Said title is further amended in Code Section 43-34-26, relating to license requirement for
76 persons engaged in practice of medicine, qualifications, evaluation program, and
77 examinations, by revising subsection (a) as follows:

78 "(a)(1)(A) Any person who wishes to obtain the right to practice medicine in this state
79 and who was not, prior to March 16, 1970, registered or licensed to practice medicine,
80 either by the State Board of Medical Examiners or the State Board of Examiners in
81 Osteopathy, shall, before it shall be lawful for him or her to practice medicine in this
82 state, make application to the board through the executive director, upon such forms
83 and in such manner as shall be adopted and prescribed by the board, and shall obtain
84 from the board a license to practice medicine. Any person who practices medicine
85 without first having obtained a license shall be deemed to have violated this article. All
86 applicants for a license to practice medicine or for a renewal of any such license which
87 has been revoked shall furnish the board with evidence of good moral character.
88 Applications from candidates to practice medicine or surgery in any of its branches

shall be accompanied by proof that the applicant is a graduate of some legally incorporated medical school or osteopathic medical school.

(B) The board by rule or regulation may establish standards for evaluating, inspecting, and approving any medical school or osteopathic medical school. The evaluation procedure may include consideration of reports from any outside agency having expertise in medical school or osteopathic medical school evaluation; provided, however, that the board shall make the final decision on approval of medical schools and osteopathic medical schools. Nothing contained in this Code section shall prevent the approval of medical schools outside of the United States or the licensing of graduates of medical schools outside of the United States if such schools and their graduates comply with the standards established in this Code section and by rule of the board.

(2) Each medical school or osteopathic medical school in good standing with the board shall have a minimum preliminary educational requirement of the completion of a two-year premedical college course. On and after June 30, 2022, each medical school or osteopathic medical school in good standing with the board shall include education and training regarding professional boundaries and physician sexual misconduct for its medical students. Such education and training shall include subject matter relating to how to proceed with basic as well as sensitive or intimate examinations and the communication with patients that is required as a component of such examinations.

(3) Graduates of board approved medical schools or osteopathic medical schools and persons who graduated on or before July 1, 1985, from medical schools or osteopathic medical schools which are not approved by the board must complete one year of a postgraduate residency training program. Persons who graduated after July 1, 1985, from medical schools or osteopathic medical schools which are not approved by the board must complete three years of residency, fellowship, or other postgraduate medical training that is approved by the Accreditation Council for Graduate Medical Education

(ACGME), the American Osteopathic Association (AOA), or the board to be eligible for a license to practice medicine in this state. Current certification of any applicant by a member board of the American Board of Medical Specialties may be considered by the board as evidence that such applicant's postgraduate medical training has satisfied the requirements of this paragraph. However, before any such person shall be eligible to receive a license to practice medicine in this state, he or she shall furnish the board with satisfactory evidence of attainments and qualifications under this Code section and the rules and regulations of the board. Nothing contained in this Code section shall be construed so as to require a person who has previously passed an examination given by the board for a license to practice medicine in this state to stand another examination.

(4) If the applicant submits proof that he or she has had postgraduate training as required in paragraph (3) of this subsection and if he or she furnishes satisfactory evidence of qualifications under this article and the rules and regulations of the board, he or she shall be eligible to receive a license from the board giving him or her absolute authority to practice medicine in this state.

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

SECTION 7.

Said title is further amended by adding a new Code section to Article 2, relating to medical practice, to read as follows:

"43-34-47.

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

(1) 'Health care provider' means:

(A) A physician;

(B) A registered professional nurse or licensed practical nurse licensed as such under Chapter 26 of this title; or

(C) A physician assistant licensed under Article 4 of this chapter.

(2) 'Sexual assault' shall have the same meaning as provided in Code Section 15-24-1.

(b) A health care provider in this state shall report the name of a physician to the board if such health care provider has knowledge that such physician has committed sexual assault on a patient. A health care provider shall not be required to duplicate a report if such health care provider has knowledge that such report has been made to the board. A health care provider shall not be required to report a physician to the board under this Code section as a result of professional knowledge obtained in the course of the health care provider-patient relationship when the physician is the patient.

(c) No health care provider required to report a physician to the board under this Code section who in good faith either reports or fails to report shall be subject to civil or criminal liability or discipline for unprofessional conduct for such action or inaction.

(d) Any health care provider required to report a physician to the board under this Code section who knowingly and willfully fails to do so shall be subject to a fine of no less than \$1,000.00 or greater than \$5,000.00 as determined by such health care provider's respective licensing board and may be subject to other disciplinary action in such respective licensing board's discretion.

(e) Law enforcement officers, when investigating cases of alleged sexual assaults on a patient by a physician, are authorized to send pertinent records on such cases to the board. Such records shall be confidential, not subject to Article 4 of Chapter 18 of Title 50, relating to open records, and shall not be disclosed without the approval of the board."

SECTION 8.

Said title is further amended by revising Code Section 43-34A-9, relating to annual report pertaining to patient right to know, as follows:

"43-34A-9.

(a) On January 1 of each year, the board shall compile a report for the Governor and General Assembly containing a statistical and comparative data analysis using information obtained from the physician profiles in addition to other information collected by the board. The board shall not be required to distribute copies of the report to the Governor or members of the General Assembly but shall provide notification of the availability of the report in the manner which it deems to be the most effective and efficient.

(b) The report shall include, but shall not be limited to, the following information:

(1) The number of physicians for which it has created physician profiles;

(2) The specialty board certification of such physicians;

(3) The geographic regions of the primary practices;

(4) The number of physicians participating in the Medicaid program; ~~and~~

(5) The number of physicians carrying any medical malpractice insurance and the specialty and current hospital privileges of the physicians not carrying such insurance and whether such physicians are actively seeing patients; and

(6) The number of physicians on whom the board has conducted investigations for committing an act of sexual assault pursuant to paragraph (15.1) of subsection (a) of Code Section 43-34-8 or an act of sexual abuse, misconduct, or exploitation of a patient pursuant to paragraph (15) of subsection (a) of Code Section 43-34-8, and the outcome of the investigation which shall include whether the board refused, revoked, or suspended a license, or issued a private or public disciplinary order. In no event shall any identifying information be included in such report for any physician on whom the board conducted an investigation."

SECTION 9.

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