

Senate Bill 323

By: Senators James of the 28th, Jones II of the 22nd, Harrell of the 40th, Wicks of the 34th, Davenport of the 17th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 31, 33, and 43 of the Official Code of Georgia Annotated, relating to health,
2 insurance, and professions and businesses, respectively, so as to provide for medically
3 necessary tests for metal allergies and metal sensitivities to be administered prior to any
4 cardiovascular, dental, or orthopedic surgery involving the insertion of a metal implant; to
5 provide for definitions; to provide for health benefit policies to cover such tests; to provide
6 for cost-sharing requirements; to provide for rules and regulations; to provide for continuing
7 education requirements for dental surgeons and surgeons; to provide for requirements for
8 certain healthcare providers; to provide for a private cause of action; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Chapter
13 1, relating to general provisions, by adding a new Code section to read as follows:

14 "31-1-26.

15 (a) The department, in consultation with the Georgia Board of Dentistry and the Georgia
16 Composite Medical Board, shall identify and compile information on metal allergies and

17 metal sensitivities to identify medically necessary and recommended tests to protect
 18 individuals prior to any cardiovascular, dental, or orthopedic surgery involving the
 19 insertion of a metal implant into a human body. Such information shall be reviewed
 20 annually and updated, if necessary.

21 (b) The information identified and compiled pursuant to subsection (a) of this Code section
 22 shall be posted in a prominent location on the department's website for the purpose of
 23 providing information to healthcare providers and the general public. Such information
 24 shall be annually distributed by the Georgia Board of Dentistry to all dental surgeons
 25 licensed to practice dentistry in this state and by the Georgia Composite Medical Board to
 26 all surgeons licensed to practice medicine in this state."

27

SECTION 2.

28 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in
 29 Chapter 24, relating to insurance generally, by adding a new Code section to read as follows:

30 "33-24-59.34.

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

32 (1) 'Cost-sharing requirement' means a deductible, coinsurance, or copayment and any
 33 maximum limitation on the application of such deductible, coinsurance, copayment, or
 34 similar out-of-pocket expense.

35 (2) 'Health benefit policy' means any individual or group plan, policy, or contract for
 36 healthcare services issued, delivered, issued for delivery, or renewed in this state which
 37 provides major medical benefits, including those contracts executed by the State of
 38 Georgia on behalf of indigents and on behalf of state employees under Article 1 of
 39 Chapter 18 of Title 45, by a healthcare corporation, health maintenance organization,
 40 preferred provider organization, accident and sickness insurer, fraternal benefit society,
 41 hospital service corporation, medical service corporation, or any similar entity and any

42 self-insured healthcare plan not subject to the exclusive jurisdiction of the Employee
43 Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq.

44 (3) 'Medically necessary' shall have the same meaning as set forth in Code Section
45 33-46-4 and shall be in accordance with guidelines established pursuant to Code Section
46 31-1-26; provided, however, that, if a patient informs a healthcare provider that he or she
47 has a metal allergy or metal sensitivity, a lymphocyte transformation test or other more
48 advanced test shall be considered medically necessary.

49 (4) 'Metal implant' means any medical device made of metal that is used to support or
50 replace any human body part, including but not limited to any bone, joint, or tooth. Such
51 term shall not include any medical injection, surgical tool, or dental filling.

52 (b) All health benefit policies issued, delivered, issued for delivery, or renewed on or after
53 July 1, 2025, shall include coverage for medically necessary tests for metal allergies and
54 metal sensitivities prior to any cardiovascular, dental, or orthopedic surgery involving the
55 insertion of a metal implant into the human body.

56 (c) The coverage provided for in subsection (b) of this Code section shall be subject to any
57 cost-sharing requirement of the covered person's health benefit policy and shall not
58 diminish or limit any other benefits provided under such policy.

59 (d) If application of the provisions of this Code section would result in health savings
60 account ineligibility under 26 U.S.C. Section 223 as it existed on January 1, 2025, then
61 such provisions shall apply only to health savings accounts with qualified high deductible
62 health plans with respect to the deductibles of such plans after an individual has satisfied
63 the minimum deductibles; provided, however, that the provisions of this Code section shall
64 apply to items or services that are preventive care.

65 (e) The Commissioner shall promulgate rules and regulations necessary to implement the
66 provisions of this Code section."

67 **SECTION 3.**

68 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
69 is amended in Chapter 11, relating to dentists, dental hygienists, and dental assistants, by
70 adding a new subsection to Code Section 43-11-46.1, relating to continuing education
71 requirements and waiver, to read as follows:

72 "(f) On and after January 1, 2025, continuing education requirements for dental surgeons
73 shall include one hour of education and training on metal allergies and metal sensitivities
74 and any medically necessary and recommended tests to be administered prior to any dental
75 surgery involving the insertion of a metal implant into a human body."

76 **SECTION 4.**

77 Said title is further amended in Chapter 34, relating to physicians, acupuncture, physician
78 assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and
79 orthotics and prosthetics practice, by adding a new paragraph to subsection (a) of Code
80 Section 43-34-11, relating to continuing education requirement and required training for
81 physicians, to read as follows:

82 "(7) On and after January 1, 2025, all surgeons shall be required to receive one hour of
83 education and training on metal allergies and metal sensitivities and any medically
84 necessary and recommended tests to be administered prior to any surgery involving the
85 insertion of a metal implant into a human body."

86 **SECTION 5.**

87 Said title is further amended in said chapter by adding a new Code section to read as follows:

88 "43-34-16.

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

90 (1) 'Healthcare provider' means a physician or other person licensed or otherwise
91 authorized to perform surgical services in this state.

- 92 (2) 'Medically necessary' shall have the same meaning as set forth in Code Section
93 33-46-4 and shall be in accordance with clinical practice guidelines established pursuant
94 to Code Section 31-1-26; provided, however, that, if a patient informs a healthcare
95 provider that he or she has a metal allergy or metal sensitivity, a lymphocyte
96 transformation test or other more advanced test shall be considered medically necessary.
- 97 (3) 'Metal implant' means any medical device made of metal that is used to support or
98 replace any human body part, including but not limited to any bone, joint, or tooth. Such
99 term shall not include any medical injection, surgical tool, or dental filling.
- 100 (b) Prior to performing any cardiovascular, dental, or orthopedic surgery involving the
101 insertion of a metal implant into a human body, a healthcare provider shall:
- 102 (1) Ask a patient if he or she has any metal allergy or metal sensitivity; and
103 (2) Perform any medically necessary tests for metal allergies and metal sensitivities.
- 104 (c) A patient aggrieved by a healthcare provider's failure to satisfy the requirements
105 provided for in subsection (b) of this Code section may bring a private cause of action
106 against such provider for damages and any other relief a court of competent jurisdiction
107 deems appropriate."

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SECTION 6.

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