

# Georgia Composite Medical Board



## Medical Practice Act

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# CHAPTER 34. PHYSICIANS, ACUPUNCTURE, PHYSICIAN ASSISTANTS, CANCER AND GLAUCOMA TREATMENT, RESPIRATORY CARE, CLINICAL PERFUSIONISTS, AND ORTHOTICS AND PROSTHETICS PRACTICE

## ARTICLE 1. GEORGIA COMPOSITE MEDICAL BOARD O.C.G.A.

### § 43-34-1. Definitions.

As used in this chapter, the term:

- (1) "Board" means the Georgia Composite Medical Board.
- (2) "Physician" means a person licensed to practice medicine pursuant to Article 2 of this chapter.
- (3) "To practice medicine," "the practice of medicine," or "practicing medicine" shall have the same meaning as in paragraph (3) of Code Section 43-34-21.

**HISTORY:** Code 1981, § 43-34-1, enacted by Ga. L. 2009, p. 859, § 1/ HB 509.

### § 43-34-2. Creation of board; members; physician assistants advisory committee; review of qualifications

(a) A board is established to be known as the Georgia Composite Medical Board. The board shall be composed of 15 members, all of whom shall be citizens of the United States and residents of this state. All appointments to the board shall be made by the Governor and confirmed by the Senate.

(b) Thirteen of the members shall be actively practicing physicians of integrity and ability and shall hold unrestricted licenses to practice medicine in this state. Eleven of the 13 physician members shall be graduates of reputable medical schools conferring the M.D. degree; the other two physician members shall be graduates of reputable osteopathic medical schools conferring the D.O. degree. All of the physician members shall have been engaged in the active practice of their profession within this state for a period of at least five years prior to their appointment. Any vacancy occurring in a post held by a holder of the D.O. degree shall be filled by a D.O. and any vacancy occurring in a post held by an M.D. degree shall be filled by an M.D.

(c) The fourteenth and fifteenth members of the board shall have no connection whatsoever with the practice of medicine and may vote only on matters relating to administration and policy which do not directly relate to practical and scientific examination of physicians in this state.

(d) Any member of the board may be removed from his or her position and generate an open position on the board:

(1) By a majority vote of the members of the board if a member of the board misses three or more consecutive meetings or misses more than one-third of all meetings including meetings conducted by teleconference, without a valid medical reason or reasons deemed excusable, which removal shall not be effective unless approved by the Governor; or

(2) By the Governor if the board member:

- (A) Has willfully neglected his or her duty as a board member;
- (B) Has been convicted of a crime involving moral turpitude;
- (C) Has been convicted of a felony;
- (D) Is no longer in the active practice of medicine, if a physician member;
- (E) Is no longer a resident of the State of Georgia; or

(F) Has received any restriction of his or her medical license in Georgia or any other state, if a physician member.

(e) (1) The board shall appoint a Physician Assistants Advisory Committee composed of four physicians, at least two of whom shall be members of the board, and four licensed physician assistants, who shall each serve for terms of office of two years and until their successors are appointed and qualified. The committee shall review matters to come before the board which relate to physician assistants, including but not limited to applicants for physician assistant licensure and re-licensure and education requirements therefor, and proposed board regulations concerning physician assistants. The committee shall periodically make recommendations to the board regarding matters reviewed. Each member of the advisory committee shall be entitled to the same expense allowances, mileage allowances, and reimbursement as members of the board as provided for in this chapter.

(2) The committee shall appoint a physician assistant in an advisory capacity to the board. The advisory person shall serve at the pleasure of the committee as an ex officio adviser to the board in all matters relating to physician assistants and shall share in the privileges and benefits of the board without a vote.

(f) The board shall review applicants' qualifications for licensure, certification, or permitting pursuant to this chapter.

(g) Reserved.

**HISTORY:** Ga. L. 1913, p. 101, § 2; Ga. L. 1918, p. 173, § 1; Code 1933, § 84-902; Ga. L. 1963, p. 285, § 1; Ga. L. 1970, p. 301, § 2; Ga. L. 1971, p. 689, § 1; Ga. L. 1974, p. 1156, § 2; Ga. L. 1977, p. 334, § 1; Ga. L. 1979, p. 382, §§ 1, 2; Code 1981, § 43-34-21; Ga. L. 1982, p. 2266, § 3; Ga. L. 1983, p. 3, § 32; Ga. L. 1984, p. 1465, § 1; Ga. L. 1986, p. 304, § 1; Ga. L. 1990, p. 1903, § 10; Ga. L. 1992, p. 1153, § 1; Ga. L. 1992, p. 2062, § 3; Ga. L. 1997, p. 935, § 1; Ga. L. 1999, p. 296, § 25; Code 1981, § 43-34-2, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509; Ga. L. 2010, p. 543, § 1/ SB 252.

### **§ 43-34-3. Terms of office; representation of geographic regions; vacancies**

(a) The members of the Composite State Board of Medical Examiners, now known as the Georgia Composite Medical Board, in office on June 30, 2009, shall continue to serve out their respective terms and until their respective successors are appointed and qualified. The two new board members added as of July 1, 2009, pursuant to Code Section 43-34-2 shall be appointed by the Governor to serve as members of the board for terms of office beginning on July 1, 2009. The terms of office of the two new members shall be for two years and three years, respectively, with the Governor to specify the initial term of office for each new member at the time of his or her appointment. Upon the expiration of such initial terms, successors to such members of the board whose terms of office expire shall serve for terms of four years each.

(b) Terms of office of members of the board shall be four years. Members of the board shall serve for the terms specified and until their respective successors are appointed and qualified. All reappointments and new appointments shall be made so that the various geographic regions of the state shall be represented. Any vacancy that may occur in the board as a result of death, resignation, relocation from the state, or other cause shall be filled for the unexpired term in the same manner as regular appointments are made.

**HISTORY:** Ga. L. 1909, p. 123, § 1; Ga. L. 1913, p. 101, § 3; Ga. L. 1918, p. 173, § 3; Code 1933, §§ 84-903, 84-1201; Ga. L. 1939, p. 226, § 1; Ga. L. 1963, p. 285, § 2; Ga. L. 1970, p. 301, § 3; Ga. L. 1971, p. 689, § 1; Ga. L. 1979, p. 382, § 3; Code 1981, § 43-34-22; Ga. L. 1997, p. 935, § 1.1; Ga. L. 1998, p. 128, § 43; Ga. L. 1999, p. 296, § 12; Code 1981, § 43-34-3, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-4. Oath of board members; certificate of appointment**

Immediately and before entering upon the duties of office, the members of the board shall take the constitutional oath of office and shall file the same in the office of the Governor, who, upon receiving the oath of office, shall issue to each member a certificate of appointment.

**HISTORY:** Ga. L. 1913, p. 101, § 4; Code 1933, § 84-904; Code 1981, § 43-34-23; Code 1981, § 43-34-4, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-5. Election of board officers; reimbursement of members; meetings; powers and duties; no restriction on licenses**

(a) The board shall meet and shall annually elect a chairperson and vice chairperson. Each member of the board may receive the expense allowance as provided by subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a personal car as that received by other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier within the state. Each board member shall also be reimbursed for any conference or meeting registration fee incurred in the performance of his or her duties as a board member. For each day's service outside of the state as a board member, such member shall receive actual expenses as an expense allowance as well as the mileage allowance for the use of a personal car equal to that received by other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier or by rental motor vehicle. Expense vouchers submitted by board members are subject to approval of the chairperson and executive director. Out-of-state travel by board members must be approved by the board chairperson and the executive director.

(b) The board shall hold regular meetings each month, unless in the discretion of the chairperson it is deemed unnecessary for a particular month. Called meetings may be held at the discretion of the chairperson. The board shall have the following powers and duties:

(1) To adopt, amend, and repeal such rules and regulations in accordance with this chapter necessary for the proper administration and enforcement of this chapter;

(2) To adopt a seal by which the board shall authenticate the acts of the board;

(3) To establish a pool of qualified physicians to act as peer reviewers and expert witnesses and to appoint or contract with physicians professionally qualified by education and training, medical associations, or other professionally qualified organizations to serve as peer reviewers; provided, however, that no licensing, investigative, or disciplinary duties or functions of the board may be delegated to any medical association or related entity by contract or otherwise;

(4) To employ a medical director and other staff to implement this chapter and provide necessary and appropriate support who shall be subject to the same confidentiality requirements of the board;

(5) To keep a docket of public proceedings, actions, and filings;

(6) To set its office hours;

(7) To set all reasonable fees by adoption of a schedule of fees approved by the board. The board shall set such fees sufficient to cover costs of operation;

(8) To establish rules regarding licensure and certification status, including but not limited to inactive status, as the board deems appropriate;

(9) To issue, deny, or reinstate the licenses, certificates, or permits of duly qualified applicants for licensure, certification, or permits under this chapter;

(10) To revoke, suspend, issue terms and conditions, place on probation, limit practice, fine, require additional medical training, require medical community service, or otherwise sanction licensees, certificate holders, or permit holders;

(11) To renew licenses, certificates, and permits and set renewal and expiration dates and application and other deadlines;

(12) To approve such examinations as are necessary to determine competency to practice under this chapter;

(13) To set examination standards, approve examinations, and set passing score requirements;

(14) To adopt necessary rules concerning proceedings, hearings, review hearings, actions, filings, depositions, and motions related to uncontested cases;

(15) To initiate investigations for the purposes of discovering violations of this chapter;

(16) To administer oaths, subpoena witnesses and documentary evidence including medical records, and take testimony in all matters relating to its duties;

(17) To conduct hearings, reviews, and other proceedings according to Chapter 13 of Title 50;

(18) To conduct investigative interviews;

(19) To issue cease and desist orders to stop the unlicensed practice of medicine or other profession licensed, certified, or permitted under this chapter and impose penalties for such violations;

(20) To request injunctive relief or refer cases for criminal prosecution to appropriate enforcement authorities;

(21) To release investigative or applicant files to another enforcement agency or lawful licensing authority in another state;

(22) To sue and be sued in a court of competent jurisdiction; and

(23) To enter into contracts.

(c) A license issued by the board shall not be limited or restricted to a particular medical specialty.

**HISTORY:** Ga. L. 1913, p. 101, § 5; Ga. L. 1933, p. 197, § 1; Code 1933, § 84-905; Ga. L. 1962, p. 611, § 1; Ga. L. 1974, p. 1156, § 3; Code 1981, § 43-34-24; Ga. L. 1999, p. 296, § 13; Code 1981, § 43-34-5, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-5.1. Professional health program for monitoring and rehabilitation of impaired health care professionals; definitions; authorization; confidentiality; costs**

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

(1) "Entity" means an organization or medical professional association which conducts professional health programs.

(2) "Health care professional" means any individual licensed, certified, or permitted by the board under this chapter.

(3) "Impaired" means the inability of a health care professional to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

(4) "Professional health program" means a program established for the purposes of monitoring and rehabilitation of impaired health care professionals.

(b) The board shall be authorized to conduct a professional health program to provide monitoring and rehabilitation of impaired health care professionals in this state. To this end, the board shall be authorized to enter into a contract with an entity for the purpose of establishing and conducting such professional health program, including but not limited to:

(1) Monitoring and rehabilitation of impaired health care professionals; Performing duties related to paragraph (13) of subsection (a) of Code Section 43-34- 8; and

(2) Performing such other related activities as determined by the board.

(c) Notwithstanding the provisions of Code Sections 43-34-7 and 43-34-8, the board shall be authorized to provide pertinent information regarding health care professionals, as determined by the board and in its sole

discretion, to the entity for its purposes in conducting a professional health program pursuant to this Code section.

(d) All information, interviews, reports, statements, memoranda, or other documents furnished to the entity by the board or other source or produced by the entity and any findings, conclusions, recommendations, or reports resulting from the monitoring or rehabilitation of health care professionals pursuant to this Code section are declared to be privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records. All such records of the entity shall be confidential and shall be used by such entity and its employees and agents only in the exercise of the proper function of the entity pursuant to its contract with the board. Such information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the entity and any findings, conclusions, recommendations, or reports resulting from the monitoring or rehabilitation of health care professionals shall not be available for court subpoenas or for discovery proceedings.

(e) An impaired health care professional who participates in a professional health program conducted pursuant to this Code section shall bear all costs associated with such participation.

(f) Any entity that contracts with the board pursuant to this Code section shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, for the performance of any functions or duties under the contract if performed in accordance with the terms of such contract and the provisions of this Code section.

**HISTORY:** Code 1981, § 43-34-5.1, enacted by Ga. L. 2010, p. 543, § 2/SB 252.

**§ 43-34-6. Board as an independent agency; executive director; meetings and hearings; licenses, certificates, and permits; investigations; venue; credit to veterans; annual report**

(a) The board shall not be under the jurisdiction of the Secretary of State but shall be an independent state agency attached to the Department of Community Health for administrative purposes only, as provided in Code Section 50-4-3, except that such department shall prepare and submit the budget for the board. The board shall have with respect to all matters within the jurisdiction of the board as provided under this chapter the powers, duties, and functions of professional licensing boards as provided in Chapter 1 of this title.

(b) The board shall appoint and fix the compensation of an executive director of such board who shall serve at the pleasure of the board. Any reference in this chapter to the executive director shall mean the executive director appointed pursuant to this subsection.

(c) Meetings and hearings of the board shall be held at the site of the office of the board or at such other site as may be specified by the chairperson of the board. A majority of the

members of the board shall constitute a quorum for the transaction of business of the board.

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

(e) The board, through the executive director, may hire investigators for the purpose of conducting investigations. Any person so employed shall be considered to be a peace officer and shall have all powers, duties, and status of a peace officer of this state; provided, however, that such investigators shall only be authorized, upon written approval of the executive director, notwithstanding Code Sections 16-11-126 and 16-11-129, to carry firearms in the performance of their duties and exercise the powers of arrest in the performance of their duties.

(f) The venue of any action involving members of the board shall be the county in which is found the primary office of the governmental entity of which the defendant is an officer. The executive director of the board shall not be considered a member of the board in determining the venue of any such action and no court shall have jurisdiction of any such action solely by virtue of the executive director residing or maintaining a residence within its jurisdiction.

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

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

(i) The executive director shall make a report no later than December 31 of each year covering the activities of the board for that calendar year, which shall be made available to any member of the General Assembly upon request.

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

**HISTORY:** Code 1981, § 43-34-24.1, enacted by Ga. L. 1999, p. 296, § 13; Ga. L. 2000, p. 1706, § 14; Ga. L. 2001, p. 1240, § 6; Code 1981, § 43-34-6, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509; Ga. L. 2010, p. 963, § 2-18/SB 308.

#### **§ 43-34-7. Maintenance of roster; confidentiality**

The executive director shall prepare and maintain a roster containing the names and business addresses of all current licensees, certificate holders, and permit holders for each of the various professions regulated by the Georgia Composite Medical Board. A copy of the roster shall be available to any person upon request at a fee prescribed by the board sufficient to cover the cost of printing and distribution. The following shall be treated as 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:

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



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

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

(4) The deliberations of the board with respect to an application, an examination, a complaint, an investigation, or a disciplinary proceeding, except as may be contained in official board minutes; provided, however, that such deliberations may be released only to another state or federal enforcement agency or lawful licensing authority. Releasing the documents pursuant to this paragraph shall not subject any otherwise privileged documents to the provisions of Article 4 of Chapter 18 of Title 50.

**HISTORY:** Code 1981, § 43-34-7, enacted by Ga. L. 2009, p. 859, § 1/ HB 509; Ga. L. 2012, p. 218, § 12/ HB 397.

**§ 43-34-8. Authority to refuse license, certificate, or permit or issue discipline; suspension; restoration; investigations; evidentiary privileges; closed hearings; immunity for reporting; failure to appear; publication of final disciplinary actions**

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

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

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

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

(4) Committed a crime involving moral turpitude, without regard to conviction; the conviction of a crime involving moral turpitude shall be evidence of the commission of such crime. As used in this paragraph, the term "conviction" shall have the meaning prescribed in paragraph (3) of this subsection. For the purpose of this chapter, a conviction or plea of

guilty or of nolo contendere to a charge or indictment by either federal or state government for income tax evasion shall not be considered a crime involving moral turpitude;

(5) Had his or her license, certificate, or permit to practice pursuant to this chapter revoked, suspended, or annulled by any lawful licensing authority; or had other disciplinary action taken against him or her by any lawful licensing authority; or been denied a license by any lawful licensing authority;

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

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

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

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

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

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

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

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

(A) In enforcing this paragraph the board may, upon reasonable grounds, require a licensee, certificate holder, permit holder, or applicant to submit to a mental or physical examination by physicians designated by the board. The expense of this examination shall be borne by the licensee, certificate holder, or permit holder or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-5-501. Every person who shall accept the privilege of practicing a profession regulated under this chapter or who shall file an application for a license to practice a profession regulated under this chapter in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board, upon the grounds that the same constitutes a privileged communication. If a licensee, certificate holder, or permit holder or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee, certificate holder, permit holder, or applicant who is prohibited from practicing pursuant to this chapter under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he or she can resume or begin practice pursuant to this chapter with reasonable skill and safety to patients;

(B) For the purposes of this paragraph, the board and any entity which has entered into a contract with the board pursuant to Code Section 43-34-5.1, if specifically provided for in such contract, may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee, certificate holder, or permit holder or applicant, including psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-5-501. Every person who shall accept the privilege of practicing pursuant to this chapter in this state or who shall file an application to practice pursuant to this chapter in this state shall be deemed to have given his or her consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board, upon the grounds that the same constitute a privileged communication; and

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

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

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

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

abandoned patient records;

(17) Entered into conduct which discredits the profession;

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

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

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

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

(22) Failed to comply with an order for child support as defined by Code Section 19-11- 9.3; it shall be incumbent upon the applicant, licensee, certificate holder, or permit holder to supply a notice of release to the board from the appropriate child support authorities within the Department of Human Services indicating that the licensee, certificate holder, permit holder, or applicant has come into compliance with an order for child support so that a license, certificate, or permit may be issued if all other conditions for the issuance of a license, certificate, or permit are met;

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

(24) Except for practice settings identified in paragraph (7) of subsection (g) of Code Section 43-34-25 and arrangements approved by the board prior to July 1, 2009, as set forth in subsection (k) of Code Section 43-34-103, been a physician that has been or is employed by one the physician:

(A) Delegates medical acts to:

(B) Enters a protocol or job description with; or

(C) Is responsible for supervising.

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

(b) (1) When the board finds that any person is unqualified to be granted a license, certificate, or permit or finds that any person should be disciplined pursuant to subsection

(a) of this Code section, the board may take any one or more of the following actions:

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

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

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

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

(E) Limit or restrict any license, certificate, or permit;

(F) Revoke any license, certificate, or permit;

(G) Impose a fine not to exceed \$3,000.00 for each violation of a law, rule, or regulation relating to the licensee, certificate holder, permit holder, or applicant;

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

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

(J) Require board approved medical education;

(K) Condition the penalty, or withhold formal disposition, which actions shall be kept confidential, unless there is a public order upon the applicant, licensee, certificate holder, or permit holder's submission to the care, counseling, or treatment by physicians or other professional persons, which may be provided pursuant to Code Section 43-34-5.1, and the completion of such care, counseling, or treatment, as directed by the board; or

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

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

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

(b.1) The board shall suspend the license, certificate, or permit of a person licensed by the board who has been certified by a federal agency and reported to the board for nonpayment or default or breach of a repayment or service obligation under any federal education loan, loan repayment, or service conditional scholarship program. Prior to the suspension, the licensee, certificate holder, or permit holder shall be entitled to notice of the board's intended action and opportunity to appear before the board according to procedures set forth in the board's rules and regulations. A suspension of a license, certificate, or permit under this subsection is not a contested case under Chapter 13 of Title 50, "Georgia Administrative

Procedure Act." A license, certificate, or permit suspended under this Code section shall not be reinstated or reissued until the person provides the board a written release issued by the reporting agency stating that the person is making payments on the loan or satisfying the service requirements in accordance with an agreement approved by the reporting agency. If the person has continued to meet all other requirements for issuance of a license, certificate, or permit during the period of suspension, reinstatement of the license, certificate, or permit shall be automatic upon receipt of the notice and payment of any reinstatement fee which the board may impose.

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

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

(e) In any hearing to determine a licensee's, certificate holder's, permit holder's, or applicant's fitness to practice pursuant to this chapter, any record relating to any patient of the licensee, certificate holder, permit holder, or applicant shall be admissible into evidence, regardless of any statutory privilege which such patient might otherwise be able to invoke. In addition, no such patient may withhold testimony bearing upon a licensee's, certificate holder's, permit holder's, or applicant's fitness to practice pursuant to this chapter on the ground of privilege between such licensee, certificate holder, permit holder, or applicant and such patient. Any testimony or written evidence relating to a patient of a licensee, certificate holder, permit holder, or applicant or to the record of any such patient shall be received by the board in camera and shall not be disclosed to the public.

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

(g) A person, partnership, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting or investigating the acts or omissions of a licensee, certificate holder, permit holder, or applicant which violate the provisions of subsection (a) of this Code section or any other provisions of law relating to a licensee's, certificate holder's, permit holder's, or applicant's fitness to practice pursuant to this chapter or for initiating or conducting proceedings against such licensee, certificate holder, permit holder, or applicant, if such report is made or action is taken in good faith without fraud or malice. Any person who testifies in good faith without fraud or malice before the board in any proceeding involving a

violation of subsection (a) of this Code section or any other law relating to a licensee's, certificate holder's, permit holder's, or applicant's fitness to practice pursuant to this chapter, or who makes a recommendation to the board in the nature of peer review, shall be immune from civil and criminal liability for so testifying.

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

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

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

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

(j) The board shall investigate a licensee's, certificate holder's, or permit holder's fitness to practice pursuant to this chapter if the board has received a notification, pursuant to Code Section 33-3-27, regarding that licensee, certificate holder, or permit holder of a medical malpractice judgment or settlement in excess of \$100,000.00 or a notification pursuant to Code Section 33-3-27 that there have been two or more previous judgments against or settlements with the licensee, certificate holder, or permit holder relating to practice pursuant to this chapter involving an action for medical malpractice. Every licensee, certificate holder, or permit holder shall notify the board of any settlement or judgment involving the licensee, certificate holder, or permit holder involving an action for medical malpractice.

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

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

(m) The voluntary surrender of a license, certificate, or permit or the failure to renew a license, certificate, or permit by the end of the established penalty period shall have the same effect as a revocation of said license, certificate, or permit, subject to reinstatement in the discretion of the board. The board may restore and reissue a license, certificate, or permit to practice under this chapter and, as a condition thereof, may impose any disciplinary sanction provided by this Code section.

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

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

**HISTORY:** Ga. L. 1909, p. 123, § 10; Civil Code 1910, § 1741; Ga. L. 1913, p. 101, § 14; Ga. L. 1918, p. 173, § 8; Code 1933, §§ 84-916, 84-1210; Ga. L. 1957, p. 129, § 1; Ga. L. 1972, p. 673, § 1; Ga. L. 1974, p. 1156, § 6; Ga. L. 1977, p. 317, § 1; Ga. L. 1980, p. 3, § 2; Code 1981, § 43-34-38; Ga. L. 1982, p. 3, § 43; Ga. L. 1982, p. 2266, § 5; Ga. L. 1983, p. 3, § 32; Ga. L. 1983, p. 670, §§ 1, 2; Ga. L. 1987, p. 407, § 2; Ga. L. 1992, p. 6, § 43; Ga. L. 1993, p. 91, § 43; Ga. L. 1999, p. 81, § 43; Ga. L. 1999, p. 296, § 25; Ga. L. 2001, p. 192, § 4; Ga. L. 2001, p. 1170, § 3; Ga. L. 2005, p. 1, § 9/SB 3; Ga. L. 2008, p. 324, § 43/SB 455; Code 1981, § 43-34-8, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2010, p. 543, § 3/SB 252; Ga. L. 2010, p. 878, § 43/HB 1387; Ga. L. 2011, p. 99, § 74/HB 24.

#### **§ 43-34-9. Prior notice and hearing in disciplinary proceedings; proceedings as constituting contested cases; subpoenas; failure to appear**

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

**HISTORY:** Ga. L. 1913, p. 101, § 14; Ga. L. 1918, p. 173, § 8; Code 1933, §§ 84-917, 84-918; Ga. L. 1974, p. 1156, § 7; Code 1981, § 43-34-37; Code 1981, § 43-34-9, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-10. Notification of conviction**

Any licensee, certificate holder, or permit holder who is convicted under the laws of this state, the United States, or any other state, territory, or country of a felony as defined in paragraph (5) of Code Section 16-1-3



shall be required to notify the board of the conviction within ten days of the conviction. The failure to notify the board of a conviction shall be considered grounds for revocation of his or her license, certificate, permit, or other authorization to conduct a profession regulated under this chapter.

**HISTORY:** Code 1981, § 43-34-10, enacted by Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-11. Continuing education requirement**

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

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

(3) The board shall be authorized to require persons seeking renewal of licensure as clinical perfusionists under Article 7 of this chapter to complete board approved continuing education. The board shall be authorized to establish the number of hours of continuing education required biennially for renewal of licensure as a clinical perfusionist and the categories in which these hours should be earned. The board shall be authorized to approve courses offered by institutions of higher learning, specialty societies, or professional organizations. Any action taken by the board pursuant to this paragraph shall be taken in conformity with the provisions of Code Section 43-34-172.

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

(2) The board shall require no more than 20 hours of continuing education annually for retired physicians who have an active license and who provide uncompensated health care services pursuant to Code Section 43-34-41 or Article 8 of Chapter 8 of Title 31; provided, however, that the board shall be authorized to require up to 40 hours of continuing education for retired physicians who have not had an active license to practice medicine for up to five years.

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

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

**HISTORY:** Code 1981, § 43-34-3, enacted by Ga. L. 1990, p. 689, § 1; Ga. L. 1996, p. 235, § 1; Ga. L. 1997, p. 403, § 1; Ga. L. 2007, p. 353, § 1/HB 626; Ga. L. 2008, p. 324, § 43/SB 455; Code 1981, § 43-34-11, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2011, p. 779, § 1D/SB 100.

#### **§ 43-34-12. Radiologist assistant defined**

(a) For purposes of this chapter, the term "radiologist assistant" means an advanced level certified diagnostic radiologic technologist who assists radiologists under levels of supervision defined by the Georgia Composite Medical Board in performing advanced diagnostic imaging procedures as determined by board rule, including, but not limited to, enteral and parenteral procedures when performed under the direction of the supervising radiologist and may include injecting diagnostic agents to sites other than intravenous, performing diagnostic aspirations and localizations, and assisting radiologists with other invasive procedures.

(b) This Code section is for definitional purposes only and shall not be construed to require any duties or obligations regarding radiology assistants that did not already exist as of June 30, 2009.

**HISTORY:** Code 1981, § 43-34-12, enacted by Ga. L. 2009, p. 859, § 1/HB 509.

## **ARTICLE 2. MEDICAL PRACTICE**

#### **§ 43-34-20. Short title**

This article shall be known as the "Medical Practice Act of the State of Georgia."

**HISTORY:** Code 1981, § 43-34-20, enacted by Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-21. Definitions**

As used in this article, the term:

(1) "Board" means the Georgia Composite Medical Board.

(2) "Physician" means a person licensed to practice medicine under this article.

(2.1) "Postgraduate training" means a program for the training of interns, residents, or postresidency fellows that is approved by the Accreditation Council for Graduate Medical Education (ACGME), American Osteopathic Association (AOA), or the board.

(3) "To practice medicine," "the practice of medicine," or "practicing medicine" means to hold oneself out to the public as being engaged in the diagnosis or treatment of disease, defects, or injuries of human beings; or the suggestion, recommendation, or prescribing of any form of treatment for the intended palliation, relief, or cure of any physical, mental, or functional ailment or defect of any person with the intention of receiving therefor, either directly or indirectly, any fee, gift, or compensation whatsoever; or the maintenance of an office for the reception, examination, and treatment of persons suffering from disease, defect, or injury of body or mind; or attaching the title "M.D.," "Oph.," "D.," "Dop.," "Surgeon," "Doctor,"

"D.O.," "Doctor of Osteopathy," "Allopathic Physician," "Osteopathic Physician," or "Physician," either alone or in connection with other words, or any other words or abbreviations to one's name, indicating that such person is engaged in the treatment or diagnosis of disease, defects, or injuries to human beings, provided that the terms "doctors of medicine," "doctors of osteopathic medicine," "doctors of medicine licensed to practice in the state," and similar terms wherever used or appearing in this article or elsewhere shall mean and include only those persons licensed under this article.

**HISTORY:** Ga. L. 1913, p. 101, § 15; Code 1933, § 84-901; Ga. L. 1970, p. 301, §§ 1, 2; Ga. L. 1972, p. 847, § 1; Ga. L. 1973, p. 877, § 1; Ga. L. 1974, p. 1156, § 1; Code 1981, § 43-34-20; Ga. L. 1982, p. 3, § 43; Ga. L. 1983, p. 3, § 32; Ga. L. 1984, p. 22, § 43; Ga. L. 1999, p. 81, § 43; Ga. L. 2000, p. 558, § 2; Code 1981, § 43-34-21, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-22. Practicing medicine without a license; titles and abbreviations; exceptions**

(a) If any person shall hold himself or herself out to the public as being engaged in the

diagnosis or treatment of disease or injuries of human beings, or shall suggest, recommend, or prescribe any form of treatment for the palliation, relief, or cure of any physical or mental ailment of any person, with the intention of receiving therefor, either directly or indirectly, any fee, gift, or compensation whatsoever, or shall maintain an office for the reception, examination, or treatment of diseased or injured human beings, or shall attach the title "M.D.," "Oph.," "D.," "Dop.," "Surgeon," "Doctor," "D.O.," "Doctor of Osteopathy," "Osteopathic Physician," or "Physician," either alone or in connection with other words, or any other word or abbreviation to his or her name indicative that he or she is engaged in the treatment of diseased, defective, or injured human beings, and shall not in any of these cases then possess a valid license to practice medicine under the laws of this state, he or she shall be deemed to be practicing medicine without complying with this article and shall be deemed in violation of this article.

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

- (1) Gratuitous services in cases of emergency;
- (2) The practice of the religious tenets or general beliefs of any church whatsoever;
- (3) The requiring of a fee for examination by opticians, at their established places of business, who do not prescribe or use drugs or medicines or attach to their names titles indicative that any such persons are engaged in the practice of medicine, as defined in this article;
- (4) The performance of their duties for the federal government by federal physicians, both military and civilian;
- (5) The consultation on special cases approved by the board in this state of regularly licensed physicians from other states or territories;
- (6) The licensed practice of dentistry, optometry, psychology, podiatry, or chiropractic;
- (7) The licensed practice of midwifery or nursing;
- (8) The utilization of a physician assistant to perform tasks approved by the board, and the performance of such tasks by the physician assistant; the delegation by a physician to a qualified person other than a physician assistant of any acts, duties, or functions which are otherwise permitted by law or established by custom; and the performance of such acts, duties, or functions by such a person other than a physician assistant; or
- (9) The performance of:
  - (A) Any medical task by a student enrolled in a medical school, osteopathic medical school, or physician assistant training program approved by the board;
  - (B) Any dental task by a student enrolled in a dental college approved by the Georgia Board of Dentistry; or
  - (C) Any nursing task by a student enrolled in a nursing program approved by the Georgia Board of Nursingwhere any such task is performed under the supervision of an authorized instructor lawfully licensed in this state to perform such tasks.

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

**HISTORY:** Ga. L. 1913, p. 101, § 6; Ga. L. 1918, p. 173, § 4; Code 1933, § 84-906; Ga. L. 1970, p. 301, § 4; Ga. L. 1972, p. 673, § 1; Code 1981, § 43-34-26; Ga. L. 1993, p. 355, § 5; Ga. L. 2004, p. 379, § 1; Code 1981, § 43-34-22, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-23. Delegation of authority to nurse or physician assistant**

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

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

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

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

(3.1) "Dispense" means to issue one or more doses of any drug in a suitable container with appropriate labeling for subsequent administration to, or use by, a patient.

(4) "Dispensing procedure" means a written document signed by a licensed pharmacist and a licensed physician which document establishes the appropriate manner under which drugs may be dispensed pursuant to this Code section.

(5) "Drug" means any dangerous drug or controlled substance.

(5.1) "Job description" shall have the same meaning as in Code Section 43-34-102.

(6) "Nurse" means a person who is a registered professional nurse licensed as such under Article 1 of Chapter 26 of this title.

(7) "Nurse protocol" means a written document mutually agreed upon and signed by a nurse and a licensed physician, by which document the physician delegates to that nurse the authority to perform certain medical acts pursuant to subsection (b) of this Code section, and which acts shall include, without being limited to, the administering and ordering of any drug.

(8) "Order" means to select a drug, medical treatment, or diagnostic study through physician delegation in accordance with a nurse protocol or a physician assistant's job description. Ordering under such delegation shall not be construed to be prescribing nor shall ordering of a drug be construed to authorize the issuance of a written prescription.

(9) "Physician assistant" means a person licensed as a physician assistant pursuant to Article 4 of this chapter, the "Physician Assistant Act."

(b) (1) (A) A physician may delegate the authority contained in subparagraph (B) of this paragraph to:

(i) A physician assistant in accordance with a job description; or

(ii) A nurse recognized by the Georgia Board of Nursing as a certified nurse midwife, certified registered nurse anesthetist, certified nurse practitioner, or clinical nurse specialist, psychiatric/mental health in accordance with a nurse protocol.

(B) A physician may delegate to those health care professionals identified in subparagraph (A) of this paragraph:

(i) The authority to order controlled substances selected from a formulary of such drugs established by the board and the authority to order dangerous drugs, medical treatments, and diagnostic studies;

(ii) The authority to request, receive, and sign for professional samples and to distribute professional samples to patients. The office or facility at which the health care professional identified in subparagraph (A) of this paragraph is working shall maintain a general list of the professional samples approved by the delegating physician for request, receipt, and distribution by the health care professional identified in subparagraph (A) of this paragraph as well as a complete list of the specific number and dosage of each professional sample and medication voucher received. Professional samples that are distributed by a health care professional identified in subparagraph (A) of this paragraph shall be so noted in the patient's medical record. In addition to the requirements of this Code section, all professional samples shall be maintained as required by applicable state and federal laws and regulations; and

(iii) The authority to sign, certify, and endorse all documents relating to health care provided to a patient within his or her scope of authorized practice, including, but not limited to, documents relating to physical examination forms of all state agencies and verification and evaluation forms of the Department of Human Services, the State Board of Education, local boards of education, the Department of Community Health, and the Department of Corrections; provided, however, that a health care professional identified in subparagraph (A) of this paragraph shall not have the authority to sign death certificates or assign a percentage of a disability rating.

(2) A physician may delegate to a nurse or physician assistant the authority to order dangerous drugs, medical treatments, or diagnostic studies and a nurse or physician assistant is authorized to dispense dangerous drugs, in accordance with a dispensing procedure and under the authority of an order issued in conformity with a nurse protocol or job description, if that nurse or physician assistant orders or dispenses those dangerous drugs, medical treatments, or diagnostic studies:

(A) As an agent or employee of:

(i) The Department of Public Health;

(ii) Any county board of health; or

(iii) Any organization:

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

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

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

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

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

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

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

(C) Whose services are primarily provided to the medically disadvantaged

and that nurse or physician assistant orders or dispenses such drugs in conformity with subsection (b) of Code Section 26-4-130 and the rules and regulations established pursuant thereto by the State Board of Pharmacy.

(4) Delegation of authority to a physician assistant pursuant to this subsection shall be authorized only if that delegation is contained in the job description approved for that physician assistant by the board.

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

(c) The board shall be empowered to promulgate rules and regulations governing physicians and physician assistants to carry out the intents and purposes of this Code section, including establishing criteria and standards governing physicians, physician assistants, job descriptions, and nurse protocols. The board shall be authorized to require that protocols not falling within such established criteria and standards be submitted to the board for review and approval or rejection.

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

(e) Nothing in this Code section shall be construed to limit or repeal this article and Articles

4 and 6 of this chapter, relating to physicians, osteopathic physicians, physician assistants, and respiratory therapists, or Article 1 of Chapter 26 of this title, relating to registered nurses.

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

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

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

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

**HISTORY:** Code 1981, § 43-34-26.1, enacted by Ga. L. 1989, p. 261, § 3; Ga. L. 1990, p. 8, § 43; Ga. L. 1991, p. 94, § 43; Ga. L. 1993, p. 91, § 43; Ga. L. 1997, p. 935, § 2; Ga. L. 1999, p. 81, § 43; Ga. L. 2002, p. 415, § 43; Ga. L. 2006, p. 125, § 8/SB 480; Ga. L. 2009, p. 453, § 1-4/HB 228; Code 1981, § 43-34-23, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2011, p. 441, § 1/HB 303; Ga. L. 2011, p. 705, § 6-1/HB 214.

#### **§ 43-34-24. Drug therapy management; modification by pharmacist**

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

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

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



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

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

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

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

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

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

(i) Any problems or complications encountered;

(ii) A listing of recommendations by pharmacist; and

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

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

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

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

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

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

**HISTORY:** Code 1981, § 43-34-26.2, enacted by Ga. L. 2000, p. 558, § 3; Code 1981, § 43-34-24, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

### § 43-34-24.1. Redesignated

**§ 43-34-25. Delegation of certain medical acts to advanced practice registered nurse; construction and limitations of such delegation; definitions; conditions of nurse protocol; issuance of prescription drug orders**

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

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

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

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

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

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

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

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

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

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

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

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

(12) "Physician" means a person licensed to practice medicine under this article and:

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

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

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

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

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

(b) In addition to and without limiting the authority granted pursuant to Code Section 43-34-23, a physician may delegate to an advanced practice registered nurse in accordance with a nurse protocol agreement the authority to order drugs, medical devices, medical treatments, diagnostic studies, or, in life-threatening situations, radiographic imaging tests.

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

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

(2) Contain a provision for immediate consultation between the advanced practice registered nurse and the delegating physician; if the delegating physician is not available, the delegating physician for purposes of consultation may designate another physician who concurs with the terms of the nurse protocol agreement;

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

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

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

(6) Provide for patient evaluation or follow-up examination by the delegating physician or other physician designated by the delegating physician pursuant to paragraph (2) of this

subsection, with the frequency of such evaluation or follow-up examination based on the nature, extent, and scope of the delegated act or acts as determined by the delegating physician in accordance with paragraph (3) of this subsection and accepted standards of medical practice as determined by the board;

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

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

(9) Provide that a patient who receives a prescription drug order for any controlled substance pursuant to a nurse protocol agreement shall be evaluated or examined by the delegating physician or other physician designated by the delegating physician pursuant to paragraph (2) of this subsection on at least a quarterly basis or at a more frequent interval as determined by the board.

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

(e) An advanced practice registered nurse may be authorized under a nurse protocol agreement to request, receive, and sign for professional samples and may distribute professional samples to patients. The office or facility at which the advanced practice registered nurse is working shall maintain a general list of the professional samples approved by the delegating physician for request, receipt, and distribution by the advanced practice registered nurse as well as a complete list of the specific number and dosage of each professional sample and medication voucher received. Professional samples that are distributed by an advanced practice registered nurse shall be so noted in the patient's medical record. In addition to the requirements of this Code section, all professional samples shall be maintained as required by applicable state and federal laws and regulations.

(e.1) Except for death certificates and assigning a percentage of a disability rating, an advanced practice registered nurse may be delegated the authority to sign, certify, and endorse all documents relating to health care provided to a patient within his or her scope of authorized practice, including, but not limited to, documents relating to physical examination forms of all state agencies and verification and evaluation forms of the Department of Human Services, the State Board of Education, local boards of education, the Department of Community Health, and the Department of Corrections.

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

(g) A delegating physician may not enter into a nurse protocol agreement pursuant to this Code section with more than four advanced practice registered nurses at any one time,

except this limitation shall not apply to an advanced practice registered nurse that is practicing:

- (1) In a hospital licensed under Title 31;
- (2) In any college or university as defined in Code Section 20-8-1;
- (3) In the Department of Public Health;
- (4) In any county board of health;
- (5) In any free health clinic;
- (6) In a birthing center;
- (7) In any entity:

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

(B) Which has been established under the authority of or is receiving funds pursuant to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act;

(8) In any local board of education which has a school nurse program; or

(9) In a health maintenance organization that has an exclusive contract with a medical group practice and arranges for the provision of substantially all physician services to enrollees in health benefits of the health maintenance organization.

(h) Nothing in this Code section shall be construed to create a presumption of liability, either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title 26 who, in good faith, fills a prescription drug order of an advanced practice registered nurse issued pursuant to a nurse protocol agreement.

(i) Nothing in this Code section shall be construed to apply to the practice of a certified registered nurse anesthetist.

(j) Nothing in this Code section shall be construed to require an advanced practice registered nurse to be a party to a nurse protocol agreement in order to practice as a registered professional nurse or an advanced practice registered nurse as otherwise permitted by Article 1 of Chapter 26 of this title.

(k) Nothing in this Code section shall be construed to authorize an advanced practice registered nurse to issue a prescription drug order for a Schedule I or II controlled substance or authorize refills of any drug for more than 12 months from the date of the original order except in the case of oral contraceptives, hormone replacement therapy, or prenatal vitamins which may be refilled for a period of 24 months.

(l) Nothing in this Code section shall be construed to allow an advanced practice registered nurse to perform an abortion or to administer, prescribe, or issue a drug order that is intended to cause an abortion to occur pharmacologically.

(m) The board shall have the authority to promulgate rules and regulations governing a delegating physician in order to carry out the intents and purposes of this Code section. Further, the board shall be authorized to:

(1) Require that a nurse protocol agreement shall be filed by the delegating physician with the board within a reasonable time from the date of execution;

(2) Determine, after review of a filed nurse protocol agreement, if such nurse protocol agreement fails to meet accepted standards of medical practice as established by the board; and

(3) Require the delegating physician to amend any such noncompliant nurse protocol agreement in order to meet such accepted standards.

(n) Except for practice settings identified in paragraph (7) of subsection (g) of this Code section, it shall be unlawful for a physician to be an employee of an advanced practice registered nurse, alone or in combination with others, if the physician is required to supervise the employing advanced practice registered nurse. Such conduct shall be subject to sanctions by the Georgia Board of Nursing as to the advanced practice registered nurse and the board as to the physician.

(o) An advanced practice registered nurse shall be allowed to make a pronouncement of death pursuant to authority delegated by the supervising physician of the advanced practice registered nurse and to certify such pronouncement in the same manner as a physician.

**HISTORY:** Code 1981, § 43-34-26.3, enacted by Ga. L. 2006, p. 125, § 9/SB 480; Ga. L. 2007, p. 47, § 43/SB 103; Ga. L. 2008, p. 12, § 2-35/SB 433; Ga. L. 2008, p. 324, § 43/SB 455; Ga. L. 2009, p. 453, § 1-4/HB 228; Code 1981, § 43-34-25, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2011, p. 441, § 2/HB 303; Ga. L. 2011, p. 705, § 5-27/HB 214.

#### **§ 43-34-26. License requirement for persons engaged in practice of medicine; qualifications; evaluation program; examinations**

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

(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.

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

(A) Have studied medicine at a medical school located outside of the United States, Puerto Rico, and Canada which is approved by the board; and

(B) Have completed all of the formal requirements of the foreign medical school except any postgraduate training equivalent

may substitute for the postgraduate training equivalent required by a foreign country an academic year of supervised clinical training (clinical clerkship) prior to entrance into the first year of American Medical Association approved graduate education. The supervised clinical training must be under the direction of a medical school approved by the liaison committee on medical education.

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

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

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

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

**HISTORY:** Ga. L. 1909, p. 123, § 7; Civil Code 1910, § 1738; Ga. L. 1913, p. 101, §§ 6, 8, 9; Ga. L. 1918, p. 173, §§ 4, 5; Code 1933, §§ 84-907, 84-1207; Ga. L. 1935, p. 412, § 1; Ga. L. 1941, p. 352, § 1; Ga. L. 1966, p. 232, § 1; Ga. L. 1967, p. 826, § 1; Ga. L. 1970, p. 301, § 5; Ga. L. 1972, p. 847, § 1; Ga. L. 1976, p. 403, § 1; Ga. L. 1977, p. 334, § 2; Ga. L. 1978, p. 1381, § 1; Code 1981, § 43-34-27; Ga. L. 1983, p. 881, § 1; Ga. L. 1984, p. 1067, § 1; Ga. L. 1992, p. 2062, § 4; Ga. L. 1993, p. 91, § 43; Ga. L. 1999, p. 296, §§ 22, 25; Ga. L. 2005, p. 526, § 1/ HB 608; Code 1981, § 43-34-26, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509; Ga. L. 2010, p. 878, § 43/ HB 1387.

### **§ 43-34-26.1. Influenza vaccine protocol agreements**

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

(1) "Administer" means the provision of a unit dose of influenza vaccine by a pharmacist or nurse pursuant to an influenza vaccine order contained in an influenza vaccine protocol agreement with a physician.

(2) "Adverse event" means an event that is a negative consequence of the administration of influenza vaccine by a pharmacist or nurse that results in an unintended reaction, injury, or illness, which may or may not have been preventable.



(3) "Board" means the Georgia Composite Medical Board.

(4) "Influenza vaccine" means an inactivated virus administered by injection or a live attenuated virus administered by nasal spray that is prepared for the applicable season and that is administered to produce or increase immunity to the influenza virus; provided, however, that a live attenuated virus shall not be administered pursuant to this Code section to any individual younger than 13 or older than 49 years of age; and provided, further, that a live attenuated virus shall not be administered pursuant to this Code section unless the patient or his or her parent, if a minor, has signed an informed consent that he or she does not have a contraindication to this vaccine. The informed consent form shall list the contraindications to the vaccine.

(5) "Influenza vaccine order" means a prescription drug order, contained in an influenza vaccine protocol agreement, for influenza vaccine issued by a physician for a group of patients who meet certain criteria and to be administered by a pharmacist or a nurse. An influenza vaccine order shall also mean a prescription drug order, contained in an influenza vaccine protocol agreement, for epinephrine issued by a physician for a group of patients who meet certain criteria and to be administered by a pharmacist or a nurse only upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the administration of epinephrine.

(6) "Influenza vaccine protocol agreement" means a written document mutually agreed upon and signed by a physician and a pharmacist or by a physician and a nurse, by which document the physician prescribes influenza vaccine and epinephrine, if determined appropriate by the physician, by means of an influenza vaccine order for administration by a pharmacist or a nurse.

(7) "Nurse" means a registered professional nurse as defined in paragraph (9) of Code Section 43-26-3. The term shall also mean a licensed practical nurse as defined in paragraph (5) of Code Section 43-26-32 who is regularly employed by a physician who actively engaged in the private practice of medicine.

(8) "Pharmacist" means an individual licensed under Chapter 4 of Title 26 to engage in the practice of pharmacy in the State of Georgia.

(9) "Pharmacy intern" means a pharmacy intern as defined in paragraph (19) of Code Section 26-4-5.

(10) "Physician" means an individual licensed to practice medicine and surgery pursuant to this article and whose principal place of practice is located in this state.

(b) A physician engaged in the active practice of medicine may prescribe influenza vaccine for a group of patients via an influenza vaccine order contained in an influenza vaccine protocol agreement to be administered by a pharmacist, provided the physician is registered with the vaccination registry established by the Department of Public Health pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of Immunization Transactions and Services, the pharmacist is located within the county of the physician's place of registration with the vaccination registry or a county contiguous thereto, and the pharmacist holds current certification in Basic Cardiac Life Support and has completed a course of training accredited by the Accreditation Council for Pharmacy Education or similar health authority or professional body approved by the State Board of Pharmacy. A physician

who is a party to an influenza vaccine protocol agreement may also prescribe epinephrine via an influenza vaccine order contained in an influenza vaccine protocol agreement for administration by a pharmacist upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the administration of epinephrine.

(c) A physician engaged in the active practice of medicine may prescribe influenza vaccine for a group of patients via an influenza vaccine order contained in an influenza vaccine protocol agreement to be administered by a nurse, provided the physician is registered with the vaccination registry established by the Department of Public Health pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of Immunization Transactions and Services, the nurse is located within the county of the physician's place of registration with the vaccination registry or a county contiguous thereto, and the nurse holds current certification in Basic Cardiac Life Support. A physician who is a party to an influenza vaccine protocol agreement may also prescribe epinephrine via an influenza vaccine order contained in an influenza vaccine protocol agreement for administration by a nurse upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the administration of epinephrine.

(d) An influenza vaccine protocol agreement between a physician and a pharmacist or a physician and a nurse pursuant to this Code section shall, without limitation:

(1) Contain the current names, addresses, telephone numbers, and professional license numbers of the physician and the pharmacist or nurse;

(2) Contain a provision for immediate consultation between the pharmacist or nurse and the physician. If the physician is not available, the physician for purposes of consultation may designate another physician who concurs with the terms of the influenza vaccine protocol agreement;

(3) Require the pharmacist or nurse to provide the influenza vaccine recipient with the appropriate and current Vaccine Information Statement (VIS) as provided by the federal Centers for Disease Control and Prevention;

(4) Require the pharmacist or nurse or his or her employer to retain documentation of each dose of influenza vaccine administered. Such documentation shall include, but not be limited to:

(A) The administering pharmacist's or nurse's name, address, telephone number, and professional license number;

(B) The name, dose, manufacturer, and lot number of the influenza vaccine;

(C) The vaccine recipient's name, address, date of birth, and telephone number;

(D) The date of administration and injection site;

(E) A signed and dated consent form by which the vaccine recipient acknowledges receipt of the VIS and consents to the administration of the influenza vaccine; and

(F) Any adverse events or complications that occur;

(5) Require the pharmacist or nurse to enter the patient's influenza vaccine information in the Georgia Registry of Immunization Transactions and Services within the registry's designated time frame, or as designated by the Department of Public Health;

(6) Require, as a condition of administration of the influenza vaccine, the influenza vaccine recipient to remain under the observation of the administering pharmacist or nurse for a period of not less than 15 minutes immediately subsequent to the administration of the influenza vaccine;

(7) Contain procedures to follow up on the occurrence of an adverse event or complication including, if prescribed via an influenza vaccine order contained in an influenza vaccine protocol agreement, the administration of epinephrine;

(8) Provide for prioritization of influenza vaccine recipients in the event the supply of influenza vaccine is limited; and

(9) Be renewed and, if necessary, revised or updated biennially by the physician and the pharmacist or nurse. An influenza vaccine protocol agreement that is not renewed biennially shall expire.

(e) A pharmacist who is a party to an influenza vaccine protocol agreement pursuant to this Code section shall not delegate the administration of influenza vaccine to any individual other than a pharmacy intern under the direct supervision of the pharmacist whether or not any such other individual is under the supervision, direct or otherwise, of the pharmacist.

(f) A nurse who is a party to an influenza vaccine protocol agreement pursuant to this Code section shall not delegate the administration of influenza vaccine to any individual, whether or not any such individual is under the supervision, direct or otherwise, of the nurse; provided, however, notwithstanding the requirement of employment by a physician in paragraph (7) of subsection (a) of this Code section, a registered professional nurse who is a party to an influenza protocol agreement pursuant to this Code section may delegate the administration of influenza vaccine to a licensed practical nurse under the direct on-site supervision of the registered professional nurse.

(g) Notwithstanding any law to the contrary, a nurse acting pursuant to an influenza vaccine protocol agreement as provided in this Code section may possess and transport influenza vaccine and epinephrine.

(h) A pharmacist or nurse administering influenza vaccines pursuant to an influenza vaccine protocol agreement authorized by this Code section shall maintain policies and procedures for the handling and disposal of used or contaminated equipment and supplies.

(i) Nothing in this Code section shall be construed to authorize a physician to prescribe any vaccines or other drugs pursuant to an influenza vaccine protocol agreement or influenza vaccine order contained in an influenza vaccine protocol agreement other than influenza vaccines and epinephrine.

(j) A delegating physician may not enter into an influenza vaccine protocol agreement with more than ten pharmacists or nurses, or any combination thereof, at any one time; provided, however, and notwithstanding the geographic limitations provided in subsections

(b) and (c) of this Code section, a delegating physician may enter into an influenza vaccine protocol agreement with more than ten pharmacists or nurses, or any combination thereof,

at any one time so long as the pharmacists or nurses are in the same public health district as established pursuant to Code Section 31-3-15 and are employees or agents of the same corporate entity.

(k) It shall be unlawful for a physician who is employed by a pharmacist or nurse to enter into an influenza vaccine protocol agreement or otherwise delegate medical acts to such pharmacist or nurse. It shall be unlawful for a physician who is employed by a pharmacy to enter into an influenza vaccine protocol agreement or otherwise delegate medical acts to a pharmacist or nurse who is also employed by such pharmacy.

(l) The board shall have the authority to promulgate rules and regulations governing a physician who is a party to an influenza vaccine protocol agreement in order to carry out the intent and purposes of this Code section. Further, the board shall:

(1) Require that the influenza vaccine protocol agreement be filed by the physician with the board and be made available by the board for public inspection; and

(2) Promulgate by rule an approved standard protocol template that may be utilized as an influenza vaccine protocol agreement and make such template available on the board's website.

(m) Nothing in this Code section shall be construed to require a physician to enter into an influenza vaccine protocol agreement. A public or private managed care system, health plan, hospital, insurance company, or similar entity shall not require a physician, pharmacist, or nurse to enter into an influenza vaccine protocol agreement as a condition for participation in or reimbursement from such entity.

(n) No physician who complies with the provisions of this Code section shall be subject to criminal or civil liability or discipline for unprofessional conduct for:

(1) Entering into an influenza vaccine protocol agreement with a pharmacist or nurse;

(2) Issuing an influenza vaccine order contained in an influenza vaccine protocol agreement with a pharmacist or nurse; or

(3) The acts or omissions of a pharmacist or nurse pursuant to an influenza vaccine protocol agreement including the administration of influenza vaccine or epinephrine.

Nothing in this subsection shall be interpreted as altering liability of an employer for acts of his or her employees.

(o) This Code section shall not apply to any activities conducted within a hospital or within any other facility or entity owned, operated, or leased by a hospital.

(p) This Code section shall not be interpreted as limiting the authority of any authorized person to dispense or administer influenza vaccine or other medications.

(q) No influenza vaccine protocol agreement entered into pursuant to this Code section shall permit a pharmacist or nurse to administer an influenza vaccine to any child under the age of 13 without an individual prescription from a physician, and consent of the child's parent or legal guardian shall be a condition precedent to the administration of an influenza vaccine to a child under the age of 18.

**HISTORY:** Code 1981, § 43-34-26.1, enacted by Ga. L. 2009, p. 184, § 1/ HB 217; Ga. L. 2010, p. 530, § 1/ HB 1154; Ga. L. 2010, p. 878, § 43/ HB 1387; Ga. L. 2011, p. 705, § 6-3/ HB 214; Ga. L. 2011, p. 752, § 43/ HB 142.

### **§ 43-34-26.2. Redesignated**

### **§ 43-34-26.3. Redesignated**

### **§ 43-34-27. Licensing aliens; licensing Canadian medical school graduates**

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

**HISTORY:** Ga. L. 1925, p. 89, § 1; Code 1933, § 84-1208; Ga. L. 1966, p. 346, § 2; Code 1933, § 84-907.5, enacted by Ga. L. 1971, p. 223, § 2; Ga. L. 1977, p. 334, § 6; Ga. L. 1980, p. 3, § 1; Code 1981, § 43-34-28; Code 1981, § 43-34-27, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-28. Reciprocity**

The board may grant a license without examination to licensees of boards of other states requiring equal or higher qualifications.

**HISTORY:** Ga. L. 1913, p. 101, § 12; Ga. L. 1918, p. 173, § 7; Code 1933, § 84-914; Ga. L. 1962, p. 611, § 2; Ga. L. 1966, p. 232, § 2; Ga. L. 1967, p. 826, § 2; Ga. L. 1969, p. 718, § 2; Ga. L. 1970, p. 301, § 11; Code 1981, § 43-34-29; Ga. L. 1984, p. 1067, § 2; Code 1981, § 43-34-28, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-29. Issuance of teacher's license to licensed physicians of other states and foreign countries; renewal**

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

**HISTORY:** Code 1981, § 43-34-29.1, enacted by Ga. L. 1987, p. 407, § 1; Code 1981, § 43-34-29, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

## § 43-34-29.1. Administrative medicine licenses; definitions; requirements; rules of board

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

(1) "Administrative medicine" means administration or management utilizing the medical and clinical knowledge, skill, and judgment of a licensed physician capable of affecting the health and safety of the public or any person but shall not include the practice of medicine.

(2) "Administrative medicine license" means a license issued pursuant to this Code section to engage in the practice of administrative medicine.

(b) An applicant for an administrative medicine license shall meet all of the requirements for issuance of a license under Code Section 43-34-26.

(c) An administrative medicine licensee shall be subject to the provisions of this article and the rules of the board in the same manner as a person holding full licensure under this article; provided, however, that such licensee shall not be authorized to engage in the practice of medicine.

(d) The board shall adopt rules for the issuance of an administrative medicine license that limits the licensee to the practice of administrative medicine. The board's rules adopted pursuant to this Code section shall include the following provisions:

- (1) Eligibility for the license;
- (2) Issuance and renewal of the license;
- (3) The fees applicable to the license;
- (4) Continuing education requirements; and
- (5) The scope of practice of a person who holds the license.

(e) An individual with an administrative medicine license who seeks to practice medicine under an unrestricted license shall demonstrate to the satisfaction of the board that the licensee has the clinical competence to practice medicine under an unrestricted license and meets all applicable eligibility requirements for a license as required pursuant to Code Section 43-34-26 and by the board, which may include, but not be limited to, requiring the licensee to pass any examination or examinations the board deems necessary and requiring clinical experience.

(f) This Code section shall have no effect on any person holding an unrestricted license issued pursuant to this article prior to July 1, 2013; provided, however, that the license of any physician who has agreed to a board order restricting the license to administrative medicine based solely on the failure to meet the licensure requirement to be engaged in the active practice of medicine, upon request of the physician, may be converted to an administrative medicine license and the board order regarding such physician shall be terminated, provided that the only requirement of the order is the restriction to administrative medicine.

**HISTORY:** Code 1981, § 43-34-29.1, enacted by Ga. L. 2013, p. 836, § 1/HB 317.

## **§ 43-34-29.2. Educational certificates for out-of-state physicians participating in educational training requiring patient care**

The board may issue, in its discretion, an educational certificate to a licensed physician of another state or foreign country to participate in educational training in this state that requires patient care, in accordance with board rules.

**HISTORY:** Code 1981, § 43-34-29.2, enacted by Ga. L. 2013, p. 836, § 1/ HB 317.

## **§ 43-34-30. Out-of-state physicians entering state for consultation; establishment of offices by out-of-state physicians**

Licensed physicians of other states and foreign countries may be permitted to enter this state for consultation with any licensed physician of this state. A physician from another state or from a foreign country shall not be permitted to establish offices in this state for the practice of his or her profession, either temporary or permanent, or practice under another physician's license, unless he or she obtains a license from the board.

**HISTORY:** Ga. L. 1939, p. 319, § 1a; Code 1981, § 43-34-31; Ga. L. 1983, p. 3, § 32; Code 1981, § 43-34-30, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509; Ga. L. 2010, p. 878, § 43/ HB 1387.

## **§ 43-34-31. Practice of medicine from foreign jurisdiction by electronic means; exceptions; patient records; confidentiality**

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

(b) This Code section shall not apply to:

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

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

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

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

(A) Provides consultation services in the case of an emergency;

(B) Provides consultation services without compensation, remuneration, or other expectation thereof; or

(C) Provides consultation services to a medical school which is located within this state and approved by the board; or

(3) The acts of a physician or osteopathic physician located in another state or foreign country when invited as a guest of any medical school or osteopathic medical school approved by the board or a state medical society or component thereof, for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, provided that such physician or osteopathic physician is licensed to practice medicine or osteopathic medicine in the state or foreign country in which he or she is located.

(c) This Code section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this state.

(d) All persons subject to the provisions of this Code section shall be required to comply with all applicable requirements of the laws of this state relating to the maintenance of patient records and the confidentiality of patient information, regardless of where such physician or health care provider may be located and regardless of where or how the records of any patient located in this state are maintained.

**HISTORY:** Code 1981, § 43-34-31.1, enacted by Ga. L. 1997, p. 697, § 1; Code 1981, § 43-34-31, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-31.1. Redesignated**

#### **§ 43-34-32. Temporary licenses**

The executive director, with the approval of the chairperson of the board, may in his or her discretion issue a temporary license to an applicant, which license shall have the same force and effect as a permanent license until the next regular meeting of the board when the temporary license shall become void.

**HISTORY:** Ga. L. 1913, p. 101, § 10; Ga. L. 1918, p. 173, § 10; Code 1933, § 84-912; Ga. L. 1999, p. 296, § 25; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-33. Institutional licenses**

(a) Notwithstanding any other law to the contrary, under exceptional circumstances the board may consider applications from institutions on behalf of physicians who are graduates of international medical schools who the institution wishes to employ but who do not have independent licenses to practice medicine in the State of Georgia. The board shall review the credentials of physicians to ensure that they have adequate training and experience and have confirmation of supervisory oversight of any such physician, prior to awarding any such institutional license. The institutional license shall be jointly awarded to the institution and the physician, indicating that the license to practice medicine is limited to that institution and under proper medical supervision in accordance with this Code section. The



institutional license may be renewable biennially, so long as the licensee remains in the employ of the institution requesting the license, provided that such institutional license shall not be prima-facie evidence that the holder thereof meets the minimum basic requirements for examination by the board or for the issuance of a permanent license to practice medicine.

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

(c) Any physician applying for an institutional license who meets all other requirements of the board must also furnish documentation of one year of American Medical Association or American Osteopathic Association approved postgraduate training (internship or residency), or other training acceptable to the board.

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

**HISTORY:** Ga. L. 1939, p. 319, § 2; Ga. L. 1950, p. 362, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 179, § 1; Ga. L. 1955, p. 575, § 1; Ga. L. 1958, p. 619, § 1; Ga. L. 1970, p. 301, § 13; Ga. L. 1977, p. 332, § 2; Ga. L. 1977, p. 334, § 9; Ga. L. 1978, p. 223, § 1; Ga. L. 1983, p. 720, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-34. Limited provisional licenses**

A person who held a valid provisional license on or before April 16, 1979, shall be able to renew such license annually without any one-time-only renewal limitation, as long as such person continues to meet the other requirements specified in this article and does not otherwise violate this article.

**HISTORY:** Ga. L. 1974, p. 1156, § 9; Ga. L. 1977, p. 334, § 10; Ga. L. 1979, p. 1023, § 1; Ga. L. 1980, p. 321, § 1; Ga. L. 1982, p. 3, § 43; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-35. Issuance of license upon presentation of evidence of required qualifications**

The board shall issue licenses to practice medicine to all persons who shall furnish satisfactory evidence of attainments and qualifications under this article and the rules and regulations of the board. Such license shall give absolute authority to the person to whom it is issued to practice medicine in this state unless restricted as otherwise authorized by law.

**HISTORY:** Ga. L. 1909, p. 123, § 6; Civil Code 1910, § 1737; Ga. L. 1913, p. 101, § 13; Code 1933, §§ 84-915, 84-1206; Ga. L. 1956, p. 691, § 3; Ga. L. 1966, p. 232, § 3; Ga. L. 1967, p. 826, § 3; Ga. L. 1970, p. 301, § 12; Ga. L. 1974, p. 1156, § 5; Ga. L. 1982, p. 2266, § 4; Ga. L. 1999, p. 296, § 25; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-36. Passing upon good standing and reputation of medical and osteopathic colleges**

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

**HISTORY:** Ga. L. 1913, p. 101, § 9; Ga. L. 1918, p. 173, § 5; Code 1933, § 84-910; Ga. L. 1970, p. 301, § 9; Code 1981, § 43-34-40; Code 1981, § 43-34-36, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-37. Persons authorized to perform artificial insemination; civil liability of physician or surgeon**

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

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

**HISTORY:** Code 1933, § 74-101.1, enacted by Ga. L. 1964, p. 166, § 1; Code 1981, § 43-34-42; Code 1981, § 43-34-37, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2010, p. 878, § 43/HB 1387.

### **§ 43-34-38. Access to medical treatment; experimental and nonconventional medical treatments**

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

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

(c) A person licensed to practice medicine under this article may provide any medical treatment to an

individual described in subsection (b) of this Code section if:

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

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

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

**HISTORY:** Code 1981, § 43-34-42.1, enacted by Ga. L. 1997, p. 1100, § 1; Code 1981, § 43-34-38, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-39. Injunctions; violations of article as constituting nuisance**

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

**HISTORY:** Ga. L. 1957, p. 129, § 2; Ga. L. 1970, p. 301, § 14; Code 1981, § 43-34-43; Code 1981, § 43-34-39, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-40. Fraudulently obtaining or selling records; fraudulent use of terms**

Any person who shall buy, sell, or fraudulently obtain any diploma, license, record, or registration to practice osteopathic medicine, illegally obtained or signed, or issued unlawfully or under fraudulent representation; or who shall use any of the forms or letters, "Osteopathy," "Osteopath," "Osteopathist," "Diplomate in Osteopathy," "D.O.," "D.Sc.O.," "Osteopathic Physician," "Doctor of Osteopathy," or any other title or letters, either alone or with other qualifying words or phrases, under such circumstances as to induce the belief that the person who uses such term or terms is engaged in the practice of osteopathic medicine, or anyone who shall hold himself or herself out as practicing any other nondrug-giving school of medical practice, without having complied with this article, shall be guilty of a felony.

**HISTORY:** Ga. L. 1909, p. 123, § 11; Penal Code 1910, § 470; Code 1933, § 84-9918; Code 1981, § 43-34-44; Code 1981, § 43-34-40, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-41. Special licenses for volunteers**

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

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

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

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

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

(c) The special licensee shall be permitted to practice medicine only in the noncompensated employ of persons that provide medical services only to indigent patients in medically underserved or critical need population areas of the state, as determined by the board, or pursuant to Article 8 of Chapter 8 of Title 31.

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

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

(f) If at the time application is made for the special license the physician is not in compliance with the continuing medical education requirements established by the board, such person must document such compliance before a special license is issued.

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

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

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

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

**HISTORY:** Code 1981, § 43-34-45.1, enacted by Ga. L. 1999, p. 266, § 1.1; Ga. L. 2002, p. 639, § 1; Ga. L. 2005, p. 1463, § 4/HB 166; Ga. L. 2008, p. 354, § 5/HB 1222; Code 1981, § 43-34-41, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-42. Penalty**

(a) Any person who practices medicine without complying with this article or who otherwise violates any provision of this article shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of \$1,000.00 per each violation or by imprisonment from two to five years, or both.

(b) Any person presenting or attempting to file as his or her own the diploma or certificate or credentials of another or who shall give false or forged evidence of any kind to the board or any member thereof in connection with an application for a license to practice medicine or who shall practice medicine under a false or assumed name or who shall falsely impersonate any other practitioner of a like or different name shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of \$5,000.00 or by imprisonment from two to five years, or both.

**HISTORY:** Ga. L. 1913, p. 101, § 15; Code 1933, § 84-9914; Ga. L. 1976, p. 687, § 2; Code 1981, § 43-34-46; Code 1981, § 43-34-42, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-42.1. Redesignated**

**§ 43-34-43. Temporary postgraduate training permits; refusal to issue a permit; discipline of permit holders; notifications to board; authorization to adopt regulations**

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

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

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

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

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

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

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

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

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

(C) Any other information that the board requires.

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

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

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

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

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

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

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

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

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

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

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

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

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

**HISTORY:** Code 1981, § 43-34-47, enacted by Ga. L. 2004, p. 379, § 2; Code 1981, § 43-34-43, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-44. Role of medical assistants clarified**

Nothing in this article shall be construed to prohibit the performance by medical assistants of medical tasks, including subcutaneous and intramuscular injections; obtaining vital signs; administering nebulizer treatments; or other tasks approved by the board pursuant to rule, if under the supervision by a physician in his or her office; provided, however, that this shall not require on-site supervision at all times, or the performance by medical assistants of medical tasks ordered by a physician assistant or advanced practice registered nurse delegated the authority to issue such an order in accordance with law and pursuant to rules of the board.

**HISTORY:** Code 1981, § 43-34-44, enacted by Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-45. Polysomnography; practice**

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

(1) "Polysomnography" means the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. Polysomnography includes, but is not limited to, the process of analysis, monitoring, and recording of physiologic data during sleep and wakefulness to assist in the treatment of disorders, syndromes, and dysfunctions that are sleep related, manifest during sleep, or disrupt normal sleep activities. Polysomnography also includes, but is not limited to, the therapeutic and diagnostic use of low-flow oxygen, the use of positive airway pressure including continuous positive airway pressure (CPAP) and bi-level modalities, adaptive servo-ventilation, and maintenance of nasal and oral airways that do not extend into the trachea.

(2) "Polysomnographic technologist" means any person performing polysomnography services under the supervision of a person licensed under this article.

(3) "Supervision" means that the supervising physician licensed under this article shall remain available, either in person or through telephonic or electronic means, at the time that polysomnography services are provided.

(b) A physician may delegate tasks involving polysomnography to a polysomnographic technologist without regard to whether such technologist is certified or licensed as a respiratory care therapist under Article 6 of this chapter.

(c) Nothing in this Code section shall be construed to:

(1) Permit the practice of medicine as defined in this article by polysomnographic technologists;

(2) Prohibit a health care provider licensed in this state from engaging in the practice for which he or she is licensed, including, but not limited to, respiratory care professionals certified under Article 6 of this chapter; or

(3) Authorize a polysomnographic technologist to treat, manage, control, educate, or care for patients other than those with sleep or wake disorders or to provide diagnostic testing for patients other than those with suspected sleep or wake disorders.



**HISTORY:** Code 1981, § 43-34-45, enacted by Ga. L. 2009, p. 859, § 1/ HB 509.

§ 43-34-45.1. Redesignated

§ 43-34-46. Redesignated

§ 43-34-47. Redesignated

## **ARTICLE 3. ACUPUNCTURE**

§ 43-34-60. Short title

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

**HISTORY:** Code 1981, § 43-34-60, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

§ 43-34-61. Purpose

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

**HISTORY:** Code 1981, § 43-34-61, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

§ 43-34-62. Definitions

As used in this article, the term:

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

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

(3) "Board" means the Georgia Composite Medical Board.

(4) "Practice of acupuncture" means the insertion of disposable acupuncture needles and the application of moxibustion to specific areas of the human body based upon Oriental medical principles as a therapeutic modality. Dry needling is a technique of the practice of acupuncture. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, herbal, thermal, electrical, and electromagnetic treatment and the recommendation of dietary guidelines and exercise, but only if such treatments, recommendations, and exercises are based on concepts of traditional Oriental medicine and are directly related to acupuncture therapy.

**HISTORY:** Code 1981, § 43-34-62, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-63. Power and responsibility of the board**

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

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

**HISTORY:** Code 1981, § 43-34-63, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-64. Licensure requirements**

- (a) Each applicant for a license to practice acupuncture shall meet the following requirements:
  - (1) Be at least 21 years of age;
  - (2) Submit a completed application required by the board;
  - (3) Submit any fees required by the board;
  - (4) Be certified in acupuncture by a national certification agency accredited by the National Organization of Competency Assurance and approved by the board;
  - (5) Have successfully completed a nationally recognized clean needle technique course approved by the board;
  - (6) Have obtained professional liability insurance in the amount of at least \$100,000.00/\$300,000.00;
  - (7) Have passed an acupuncture examination offered by an organization accredited by the National

Organization of Competency Assurance and approved by the board; and

(8) Have successfully completed a degree in acupuncture or a formal course of study and training in acupuncture. The applicant shall submit documentation satisfactory to the board to show that such education or course of study and training was:

(A) Completed at a school that is accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or other accrediting entity approved by the board: or

(B) Completed by means of a program of acupuncture study and training that is substantially equivalent to the acupuncture education offered by an accredited school of acupuncture approved by the board.

(b) Reserved.

(c) Before any person licensed to practice acupuncture under this article, who has less than one year of postgraduate clinical experience, may practice on his or her own, such person must engage in one year of active practice under the supervision of a licensed acupuncturist with a minimum of four years active licensed clinical practice. Such supervising acupuncturist may be licensed in Georgia or any other state or country with licensing requirements substantially equal to Georgia's licensing requirements and may accumulate the required four years of active licensed clinical practice in any combination of states so long as the licensing requirements of such other states or countries are substantially equal to Georgia's licensing requirements.

(d) Each applicant for a license to perform auricular (ear) detoxification therapy as an auricular (ear) detoxification technician shall meet the following requirements:

(1) Be at least 21 years of age;

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

(3) Submit any fees required by the board;

(4) Have successfully completed a nationally recognized training program in auricular (ear) detoxification therapy for the treatment of chemical dependency as approved by the board; and

(5) Have successfully completed a nationally recognized clean needle technique course approved by the board.

(e) The practice of auricular (ear) detoxification therapy may take place in a city, county, state, federal, or private chemical dependency program approved by the board under the direct supervision of a licensed acupuncturist or a person authorized to practice acupuncture by the board who is also authorized to practice medicine under Article 2 of this chapter.

**HISTORY:** Code 1981, § 43-34-64, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2001, p. 791, § 1; Ga. L. 2006, p. 72, § 43/SB 465; Ga. L. 2007, p. 47, § 43/SB 103; Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-65. Applicant notification procedures**

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

**HISTORY:** Code 1981, § 43-34-65, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-66. License surrender upon demand; display requirements; change of address**

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

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

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

**HISTORY:** Code 1981, § 43-34-66, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-67. License renewal requirements; inactive status**

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

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

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

**HISTORY:** Code 1981, § 43-34-67, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/HB 509. § 43-34-68. Informed consent requirements

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

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

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

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

(b) The board shall develop a standard informed consent form to be used by persons licensed under this article. Such informed consent form shall include the information set forth in subsection (a) of this Code section as well as any other and additional information the board deems appropriate. The information set

forth in the informed consent form shall be in language which is easy to read and readily understandable to the consuming public.

**HISTORY:** Code 1981, § 43-34-68, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-69. Sanctions**

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

**HISTORY:** Code 1981, § 43-34-69, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-70. Advisory committee**

The board shall appoint an acupuncture advisory committee. The advisory committee shall include members of the acupuncture profession licensed to practice acupuncture under this article, persons licensed to practice medicine under Article 2 of this chapter who are acupuncturists, and such members as the board in its discretion may determine. Members shall receive no compensation for service on the committee. The committee shall have such advisory duties and responsibilities as the board may determine. Acupuncture advisory committee members must be licensed pursuant to this article.

**HISTORY:** Code 1981, § 43-34-70, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-71. Unlicensed practice; exceptions; penalties**

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

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

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

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

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

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

(3) The practice of acupuncture by any person licensed or certified to perform acupuncture in any other jurisdiction that has requirements equivalent to or more stringent than this article where such person is doing so in the course of regular instruction in an approved educational program of acupuncture or in an educational seminar of an approved professional organization of acupuncture, provided that in the latter case the practice

is supervised directly by a person licensed to practice acupuncture pursuant to this article or an acupuncturist who is licensed to practice medicine under Article 2 of this chapter.

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

**HISTORY:** Code 1981, § 43-34-71, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2002, p. 415, § 43; Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-72. Use of titles and professional designations**

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

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

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

**HISTORY:** Code 1981, § 43-34-72, enacted by Ga. L. 2000, p. 538, § 1; Ga. L. 2005, p. 60, § 43/ HB 95; Ga. L. 2009, p. 859, § 1/ HB 509.

**§§ 43-34-73 and 43-34-74. Redesignated.**

## **ARTICLE 4. PHYSICIAN ASSISTANTS**

#### **§ 43-34-100. Short title**

This article shall be known and may be cited as the "Physician Assistant Act."

**HISTORY:** Ga. L. 1972, p. 676, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-101. Legislative purpose**

(a) To alleviate the growing shortage and geographic maldistribution of health care services in this state, the General Assembly intends, by this article, to recognize physician assistants and their role in addressing this growing health care shortage.

(b) This article is intended to encourage the more effective utilization of the skills of physicians by enabling them to delegate health care tasks to such assistants where such delegation is consistent with the patient's health and welfare.

**HISTORY:** Ga. L. 1972, p. 676, § 2; Ga. L. 2009, p. 859, § 1/ HB 509.

## § 43-34-102. Definitions

As used in this article, the term:

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

(2) "Alternate supervising physician" means a physician to whom a board approved primary supervising physician has delegated the responsibility of supervising a physician assistant who is licensed to that primary supervising physician and who agrees to supervise the physician assistant for the primary supervising physician and who is on record with the board.

(3) "Board" means the Georgia Composite Medical Board.

(4) "Job description" means a document, signed by the primary supervising physician and the physician assistant, in which the primary supervising physician delegates to that physician assistant authority to perform certain medical acts and which describes the professional background and specialty of the primary supervising physician and the qualifications including related experience of the physician assistant; and includes a general description of how the physician assistant will be utilized in the practice. A job description shall not be required to contain every activity the physician deems the physician assistant qualified to perform but shall confine the activities of the physician assistant to those in the scope of practice of the primary supervising physician.

(5) "Order" means to prescribe pursuant to a job description which drug, medical device, medical treatment, or diagnostic study is appropriate for a patient and to communicate the same in writing, orally, via facsimile, or electronically.

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

(7) "Physician assistant" means a skilled person who is licensed to a supervising physician and who is qualified by academic and practical training to provide patients' services not necessarily within the physical presence but under the personal direction or supervision of the supervising physician.

(8) "Prescription drug order" means a written or oral order of a physician assistant for a drug or medical device for a specific patient. Such term includes an electronic visual image prescription drug order and an electronic data prescription drug order.

(9) "Primary supervising physician" means the physician to whom the board licenses a physician assistant pursuant to a board approved job description and who has the primary responsibility for supervising the practice of a physician assistant pursuant to that physician assistant's job description.

**HISTORY:** Ga. L. 1972, p. 676, § 3; Ga. L. 1995, p. 827, § 1; Ga. L. 2002, p. 1043, § 1; Ga. L. 2004, p. 581, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-103. Application for assistant; number of assistants; job descriptions; duties; receipt of samples; employment by nonpracticing physicians; delegated authority; temporary practice agreements; assistance during emergencies; pronouncement of death.**

(a) (1) In order to obtain licensure as a physician assistant, an applicant shall submit an application to the board. Such application shall include:

(A) Evidence submitted by the applicant of his or her good moral character; and

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

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

(ii) Evidence that the applicant has passed the Physician Assistant National Certification Examination (PANCE) administered by the National Commission for the Certification of Physician Assistants (NCCPA), or its successor, or the National Association for the Certification of Anesthesia Assistants, (NACAA) or its successor.

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

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

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

(B) A job description meeting the requirements of paragraph (4) of Code Section 43-34- 102; and

(C) A fee, established by the board; provided, however, that no fee will be required if the physician assistant is an employee of the state or a county government.

(b) (1) No primary supervising physician shall have more than four physician assistants licensed to him or her at a time; provided, however, that no physician may supervise more than two physician assistants at any one time except as provided in paragraph (2) of this subsection.

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

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

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

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

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

(3) A primary supervising physician shall designate in writing to the board such other physicians who may



serve as an alternate supervising physician for each physician assistant licensed to such primary supervising physician. The board shall have authority to approve or deny such designations in whole or in part; provided, however, a physician may be listed as an alternate supervising physician for any number of physician assistants so long as he or she only supervises as many physician assistants at any one time as allowed by paragraph (2) of this subsection.

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

(2) Nothing in this article shall prevent a primary supervising physician from submitting to the board a new or amended physician assistant job description.

(d) A physician assistant is authorized to practice in those public or private places or facilities where the supervising physician or alternate supervising physician regularly sees patients, provided that nothing in this article shall prohibit the rendering of services to a patient by a physician assistant who is not in the physical presence of the supervising physician or preclude a physician assistant from making house calls, performing hospital duties, serving as an ambulance attendant, or performing any functions authorized by the Supervising physician which the physician assistant is qualified to perform.

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

(e.1) (1) In addition to and without limiting the authority granted by Code Section 43-34- 23, a physician may delegate to a physician assistant, in accordance with a job description, the authority to issue a prescription drug order or orders for any device as defined in Code Section 26-4-5 or to issue any dangerous drug as defined in Code Section 16-13-71 or any Schedule III, IV, or V controlled substance as defined in Code Section 16-13-21 on a prescription drug order or prescription device order form as specified in paragraph (3) of this subsection. Delegation of such authority shall be contained in the job description required by this Code section. The delegating physician shall remain responsible for the medical acts of the physician assistant performing such delegated acts and shall adequately supervise the physician assistant. If an existing job description for a physician assistant does not contain such authority to order a prescription drug or device order as provided by this subsection, that physician assistant may not issue any such prescription drug or device order until a new job description delegating such authority is submitted to and approved by the board. Nothing in this Code section shall be construed to authorize the written prescription drug order of a Schedule I or II controlled substance.

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

(3) The physician assistant shall only be authorized to exercise the rights granted under this subsection using a prescription drug or device order form which includes the name, address, and telephone number of the prescribing supervising or alternate supervising physician, the patient's name and address, the drug or device prescribed, the number of refills, and directions to the patient with regard to the taking and dosage of the drug. A prescription drug order which is transmitted either electronically or via facsimile shall conform to the requirements set out in paragraphs (1) and (2) of subsection (c) of Code Section 26-4-80, respectively. Any form containing less information than that described in this paragraph shall not be offered to or

accepted by any pharmacist who is duly licensed under Title 26.

(4) The physician assistant or office staff shall notify the patient that the patient has the right to see the physician prior to any prescription drug or device order being issued by the physician assistant.

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

(6) A supervising physician or alternate supervising physician shall evaluate or examine, at least every three months, any patient receiving controlled substances.

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

(A) The physician assistant carrying out a prescription drug or device order shall document such order either in writing or by electronic means; and

(B) Except in facilities operated by the Department of Public Health, the supervising physician shall review the prescription drug or device order copy and medical record entry for prescription drug or device orders issued within the past 30 days by the physician assistant. Such review may be achieved with a sampling of no less than 50 percent of such prescription drug or device order copies and medical record entries.

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

(9) The board shall adopt rules establishing procedures to evaluate an application for a job description containing the authority to order a prescription drug or device and any other rules the board deems necessary or appropriate to regulate the practice of physician assistants, to carry out the intent and purpose of this article, or to protect the public welfare.

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

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

(12) A managed care system, health plan, hospital, insurance company, or other similar entity shall not require a physician to be a party to a job description as a condition for participation in or reimbursement from such entity.

(e.2) A physician assistant may be delegated the authority to request, receive, and sign for professional samples and may distribute professional samples to patients so long as delegation of such authority is contained in a job description and the professional samples are within the specialty of the supervising physician. The office or facility at which the physician assistant is working must maintain a general list of professional samples approved by the supervising physician for request, receipt, and distribution by the physician assistant as well as a complete list of the specific number and dosage of each professional sample received. Professional samples that are distributed by a physician assistant shall be so noted in the patient's medical record. In addition to the requirements of this Code section, all professional samples shall be maintained as required by applicable state and federal law and regulations. As used in this subsection, the term "professional samples" means complimentary doses of a drug, medication vouchers, or medical devices provided by the manufacturer for use in patient care.

(f) A physician employed by the Department of Public Health or by any institution thereof or by a local health department whose duties are administrative in nature and who does not normally provide health care to patients as such employee shall not be authorized to apply for or utilize the services of any physician assistant employed by the Department of Public Health or by any institution thereof or by a local health department.

(g) Nothing in this article shall be construed to prohibit a physician assistant from performing those acts the performance of which have been delegated to that physician assistant pursuant to and in conformity with Code Section 43-34-23.

(h) A physician and a physician assistant may enter into a temporary practice agreement exempt from any filing fees with the board by which agreement the physician supervises the services provided by the physician assistant to patients at a specific facility or program that provides medical services only to indigent patients in medically underserved or critical need population areas of the state, as determined by the board, or pursuant to Article 8 of Chapter 8 of Title 31, provided that:

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

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

(3) The supervising physician and the physician assistant voluntarily and gratuitously donate their services;

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

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

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

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

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

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

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

(l) Except for death certificates and assigning a percentage of a disability rating, a physician assistant may be delegated the authority to sign, certify, and endorse all documents relating to health care provided to a patient within his or her scope of authorized practice, including, but not limited to, documents relating to physical examination forms of all state agencies and verification and evaluation forms of the Department of Human Services, the State Board of Education, local boards of education, the Department of Community Health, and the Department of Corrections.

**HISTORY:** Ga. L. 1972, p. 676, § 4; Ga. L. 1982, p. 1148, § 2; Ga. L. 1984, p. 22, § 43; Ga. L. 1984, p. 611, § 1; Ga. L. 1989, p. 261, § 4; Ga. L. 1995, p. 827, § 2; Ga. L. 1997, p. 935, § 3; Ga. L. 1999, p. 81, § 43; Ga. L. 2001, p. 788, § 1; Ga. L. 2002, p. 1043, § 2; Ga. L. 2004, p. 581, § 2; Ga. L. 2005, p. 1232, § 1/SB 173; Ga. L. 2006, p. 475, § 1/HB 873; Ga. L. 2006, p. 476, § 1/HB 832; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2010, p. 878, § 43/HB 1387; Ga. L. 2011, p. 441, § 3/HB 303; Ga. L. 2011, p. 705, § 5-26/HB 214.

#### **§ 43-34-104. Notice of approval or disapproval; issuance of license**

(a) Within a reasonable time after receipt of the documents required by this article, the board shall give to the applicant written notice of approval or disapproval of the physician assistant's application; and, if approval of the application is given, the board shall issue to the assistant a license authorizing the assistant to perform medical tasks under the direction and supervision of the physician.

(b) The board shall not approve an application unless it finds from the information forwarded with the application that the applicant has complied with the requirements in this article.

**HISTORY:** Ga. L. 1972, p. 676, § 5; Ga. L. 1997, p. 935, § 4; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-105. Performance of tasks in accordance with job description**

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

**HISTORY:** Ga. L. 1972, p. 676, § 6; Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-106. Posting notice that assistants are being utilized**

Any physician, clinic, or hospital using a physician assistant shall post a notice to that effect in a prominent place.

**HISTORY:** Ga. L. 1972, p. 676, § 10; Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-107. Termination of approval and revocation of license; notice and hearing; sanctions**

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

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

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

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

**HISTORY:** Ga. L. 1972, p. 676, § 7; Ga. L. 1982, p. 3, § 43; Ga. L. 1997, p. 935, § 5; Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-108. Powers and duties of board**

In addition to the powers specifically delegated to it in this article, the board shall have the authority to perform all acts which are necessary, proper, or incidental to the efficient development of the category of health care established by this article. The board shall have the authority to promulgate rules and regulations governing the definitions of delegation by physicians to qualified persons other than physician assistants of any acts, duties, or functions which are permitted by law or established by custom. Any power vested by law in

the board, but not implemented by specific provisions for the exercise thereof, may be executed and carried out by the board in a reasonable manner, pursuant to such rules, regulations, and procedures as the board may adopt and subject to such limitations as may be provided by law.

**HISTORY:** Ga. L. 1972, p. 676, § 8; Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-109. Involvement of supervising physician in patient's care**

When a patient receives medical services from a physician assistant, the supervising physician's involvement in the patient's care, including patient evaluation and follow-up care by the supervising physician, shall be appropriate to the nature of the practice and the acuity of the patient's medical issue, as determined by the supervising physician.

**HISTORY:** Code 1981, § 43-34-109, enacted by Ga. L. 2009, p. 859, § 1/ HB 509; Ga. L. 2011, p. 441, § 4/ HB 303.

#### **§ 43-34-110. Abortions not to be performed by physician assistants**

Nothing in this article shall be construed to allow a physician assistant to perform an abortion or to administer, prescribe, or issue a drug order that is intended to cause abortion to occur pharmacologically.

**HISTORY:** Code 1981, § 43-34-110, enacted by Ga. L. 2009, p. 859, § 1/ HB 509.

## **ARTICLE 5. USE OF MARIJUANA FOR TREATMENT OF CANCER AND GLAUCOMA**

#### **§ 43-34-120. Short title**

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

**HISTORY:** Code 1933, § 84-901A, enacted by Ga. L. 1980, p. 82, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

#### **§ 43-34-121. Legislative intent**

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

(b) The General Assembly further finds and declares that limited studies throughout the nation indicate that marijuana and certain of its derivatives possess valuable and, in some cases, unique therapeutic properties, including the ability to relieve nausea and vomiting

which routinely accompany chemotherapy and irradiation used to treat cancer patients. Marijuana also may be effective in reducing intraocular pressure in glaucoma patients who do not respond well to conventional medications.

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

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

(e) This article is limited to clinical trials and research into therapeutic applications of marijuana only for use in treating glaucoma and in treating the side effects of chemotherapeutic agents and radiation and should not be construed as either encouraging or sanctioning the social use of marijuana. Nothing in this article shall be construed to encourage the use of marijuana in lieu of or in conjunction with other accepted medical treatment, but only as an adjunct to such accepted medical treatment.

**HISTORY:** Code 1933, § 84-902A, enacted by Ga. L. 1980, p. 82, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### § 43-34-122. Definitions

As used in this article, the term:

- (1) "Board" means the Georgia Composite Medical Board.
- (2) "Marijuana" means marijuana or tetrahydrocannabinol, as defined or listed in Article 2 of Chapter 13 of Title 16.
- (3) "Physician" means a person licensed to practice medicine pursuant to Article 2 of this chapter.
- (4) "Program" means the Controlled Substances Therapeutic Research Program established pursuant to Code Section 43-34-123.
- (5) "Review board" means the Patient Qualification Review Board established pursuant to Code Section 43-34-124.

**HISTORY:** Code 1933, § 84-903A, enacted by Ga. L. 1980, p. 82, § 1; Ga. L. 1982, p. 3, § 43; Ga. L. 2009, p. 859, § 1/HB 509.



### **§ 43-34-123. Controlled Substances Therapeutic Research Program**

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

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

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

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

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

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

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

(1) The board;

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

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

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

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

**HISTORY:** Code 1933, § 84-904A, enacted by Ga. L. 1980, p. 82, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-124. Patient Qualification Review Board; members; officers; meetings; duties; exception to open meetings requirements**

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

- (1) A board certified physician in ophthalmology;
- (2) A board certified physician in surgery;
- (3) A board certified physician in internal medicine and medical oncology;
- (4) A board certified physician in psychiatry;
- (5) A board certified physician in radiology; and
- (6) A pharmacist licensed under Chapter 4 of Title 26, relating to pharmacists, pharmacy, and drugs.

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

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

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

**HISTORY:** Code 1933, § 84-905A, enacted by Ga. L. 1980, p. 82, § 1; Ga. L. 2002, p. 415, § 43; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-125. Receipt of marijuana by board; distribution; responsibility for costs of obtaining and testing marijuana**

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

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

**HISTORY:** Code 1933, § 84-906A, enacted by Ga. L. 1980, p. 82, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-126. Immunity of program participants from state prosecution for possession or use of authorized marijuana**

Patient participants in the program are immune from state prosecution for possession of marijuana as authorized by this article and under the program established in this article. A person authorized under this program shall not possess an amount of marijuana in excess of the amount prescribed under the authority of this article. The amount prescribed shall be maintained in the container in which it was placed at the time the prescription was filled.

Physician, pharmacy, and pharmacist participants in the program are immune from state prosecution for possession, distribution, and any other use of marijuana, which use is authorized such persons by this article. Any such possession, distribution, or other use not authorized by this article shall be enforced and punished as provided in Chapter 13 of Title 16, relating to controlled substances and dangerous drugs, and Chapter 4 of Title 26, relating to pharmacists and pharmacies.

**HISTORY:** Code 1933, § 84-907A, enacted by Ga. L. 1980, p. 82, § 1; Ga. L. 1992, p. 1634, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

## **ARTICLE 6. RESPIRATORY CARE**

**§ 43-34-140. (For effective date of repeal, see note.) Short title**

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

**HISTORY:** Code 1981, § 43-34-140, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-141. (For effective date of repeal, see note.) Legislative finding and declaration**

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

**HISTORY:** Code 1981, § 43-34-141, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-142. (For effective date of repeal, see note.) Definitions**

As used in this article, the term:

- (1) "Board" means the Georgia Composite Medical Board.
- (2) "Respiratory care" means the rendering of services to patients with deficiencies or

abnormalities which affect the pulmonary and cardiac systems and which services involve therapy, management, rehabilitation, diagnostic evaluation, education, or care of such patients with regard to such deficiencies or abnormalities.

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

**HISTORY:** Code 1981, § 43-34-142, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 1993, p. 1497, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-143. (For effective date of repeal, see note.) Powers and duties of board**

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

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

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

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

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

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

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

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

(8) Establish continuing education requirements.

**HISTORY:** Code 1981, § 43-34-143, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 1993, p. 1497, § 2; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-144. (For effective date of repeal, see note.) Requirements for certification; supervision**

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

(1) Is at least 18 years of age;

- (2) Has submitted a completed application as required by the board;
- (3) Has submitted any fees required by the board;
- (4) Has successfully passed the entry level examination given by the National Board for Respiratory Care, Inc., or such other examination as the board may in its discretion administer or approve; and
- (5) Has met such other requirements as may be prescribed by the board.

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

**HISTORY:** Code 1981, § 43-34-145, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 1993, p. 1497, § 4; Code 1981, § 43-34-144, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-145. (For effective date of repeal, see note.) Notice to applicant of acceptance or rejection**

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

**HISTORY:** Code 1981, § 43-34-146, enacted by Ga. L. 1986, p. 264, § 1; Code 1981, § 43-34-145, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-146. (For effective date of repeal, see note.) Ownership of certificate; posting; change of address; renewal; inactive status; board authorize to determine renewal requirements**

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

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

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

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

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

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

declared active.

(g) The board shall be authorized to:

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

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

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

**HISTORY:** Code 1981, § 43-34-147, enacted by Ga. L. 1986, p. 264, § 1; Code 1981, § 43-34-146, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-147. (For effective date of repeal, see note.) Temporary permits**

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

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

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

**HISTORY:** Code 1981, § 43-34-147.1, enacted by Ga. L. 1993, p. 1497, § 5; Ga. L. 2002, p. 415, § 43; Code 1981, § 43-34-147, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-148. (For effective date of repeal, see note.) Reciprocity**

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

**HISTORY:** Code 1981, § 43-34-147.2, enacted by Ga. L. 1993, p. 1497, § 5; Code 1981, § 43-34-148, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-149. (For effective date of repeal, see note.) Sanctions**

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

**HISTORY:** Code 1981, § 43-34-148, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 2000, p. 1706, § 19; Code 1981, § 43-34-149, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-150. (For effective date of repeal, see note.) Respiratory care advisory committee**

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

**HISTORY:** Code 1981, § 43-34-149, enacted by Ga. L. 1986, p. 264, § 1; Code 1981, § 43-34-150, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-151. (For effective date of repeal, see note.) Practice of respiratory care or representation as respiratory care professional without certification prohibited; exceptions; penalty; application of emergency care law**

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

(1) Practice respiratory care; or

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

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

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

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

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

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

(5) Persons in the military services or working in federal facilities when functioning in the course of their assigned duties;

(6) The performance of respiratory care diagnostic testing by individuals who are certified or registered as pulmonary function technologists by the National Board for Respiratory Care, or equivalent certifying agency, as recognized by the board;

(7) The delivery, assembly, setup, testing, and demonstration of oxygen and aerosol equipment upon the order of a physician licensed under Article 2 of this chapter;

(8) Persons who perform limited respiratory care procedures under the supervision of a certified respiratory care professional in a hospital or nursing home when the board has defined the competencies required to perform such limited respiratory care procedures; or

(9) Persons who perform polysomnography under Code Section 43-34-45.

(c) Any person violating the prohibition of subsection (a) of this Code section shall be guilty of a misdemeanor.

(d) Practitioners regulated under this article shall be covered pursuant to Code Section 51- 1-29.

(e) Nothing in this article shall be construed to permit the practice of medicine as defined by this chapter.

**HISTORY:** Code 1981, § 43-34-150, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 1993, p. 1497, § 6; Code 1981, § 43-34-151, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-152. (For effective date of repeal, see note.) "Georgia Administrative Procedure Act" applicable**

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

**HISTORY:** Code 1981, § 43-34-151, enacted by Ga. L. 1986, p. 264, § 1; Ga. L. 1992, p. 6, § 43; Code 1981, § 43-34-152, as redesignated by Ga. L. 2009, p. 859, § 1/ HB 509.

## **ARTICLE 7. CLINICAL PERFUSIONISTS**

**§ 43-34-170. Short title**

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

**HISTORY:** Code 1981, § 43-34-170, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-171. Definitions**

As used in this article, the term:



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

(2) "Board" means the Georgia Composite Medical Board.

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

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

(5) "Licensed clinical perfusionist" means a person licensed as such pursuant to this article.

(6) "Perfusion" means the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, or respiratory system or other organ, or a combination of such activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under the order and supervision of a physician, including, but not limited to:

(A) Extracorporeal support, including:

(i) Cardiopulmonary bypass for adult, pediatric, and neonatal patients;

(ii) Cardiopulmonary bypass for congenital and acquired cardiovascular disorders;

(iii) Extracorporeal circulatory support for renal, neurological, hepatic, and vascular surgery;

(iv) Extracorporeal resuscitation; and

(v) Extracorporeal circulation for long-term support of failing respiratory or cardiac function, or both;

(B) Associated extracorporeal support functions, including:

(i) Myocardial protection;

(ii) Hemofiltration and hemodialysis;

(iii) Anticoagulation and hemostasis monitoring, analysis, and intervention;

(iv) Thermal regulation, including hypothermia and hyperthermia;

(v) Blood gas and blood chemistry monitoring, analysis, and intervention;

(vi) Physiological monitoring, analysis, and intervention; and

(vii) Administration of blood components, pharmaceuticals, chemotherapeutics, and anesthetic agents as directed by a licensed physician;

(C) Heart failure therapy and support, including:

- (i) Ventricular assist device management;
- (ii) Intra-aortic balloon counterpulsation;
- (iii) Temporary pacemaker management;
- (iv) External counterpulsation;
- (v) Transportation of patient on extracorporeal support; and
- (vi) Periodic flow augmentation therapy;

(D) Blood management, including:

- (i) Autotransfusion;
- (ii) Platelet concentrate; and
- (iii) Nondifferentiated progenitor cell harvest; and

(E) Other clinical functions, including:

- (i) Isolated limb and organ perfusion;
- (ii) Isolated limb and organ delivery of chemotherapeutics, progenitor cells, gene therapy vectors, and related matters;
- (iii) Organ preservation;
- (iv) Thermogenic lavage;
- (v) Electrophysiological analysis; and
- (vi) Intravascular membrane oxygenation.

Nothing in this paragraph shall be construed to prevent any licensed health care professional from performing any functions for which such health care professional is legally authorized to perform.

(7) "Perfusion protocols" means perfusion related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed clinical perfusionists, and other health care professionals.

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

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

**HISTORY:** Code 1981, § 43-34-171, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2011, p. 779, § 1E/SB 100; Ga. L. 2012, p. 775, § 43/HB 942.

### **§ 43-34-172. Powers and responsibilities of board**

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

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

**HISTORY:** Code 1981, § 43-34-172, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-173. Requirements for licensure**

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

- (1) Be at least 21 years of age;
- (2) Submit a completed application required by the board;
- (3) Submit any fees required by the board;
- (4) Have successfully completed a perfusion education program approved by the board, which program has educational standards at least as stringent as programs approved by the Committee on Allied Health Education and Accreditation (CAHEA) prior to 1994 or the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor;
- (5) Pass a competency examination prepared or approved by the board and administered

to qualified applicants at least once each calendar year, which examination may be or may include the complete examination given by the American Board of Cardiovascular Perfusion (ABCP) or its successor; and

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

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

**HISTORY:** Code 1981, § 43-34-173, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-174. License to be property of board; display of license; surrender of license; renewal; expired license**

(a) A license is not the property of the holder but is the property of the board. A license to practice perfusion shall be valid for two years. The board may provide that licenses expire on various dates. A person may renew an unexpired license by submitting proof of compliance with the continuing professional education requirements prescribed by the board and paying the required renewal fee to the board before the expiration date of the license.

(b) The license holder shall:

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

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

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

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

(e) If a person's license has been expired for not more than three months, the person may renew the license by submitting proof, satisfactory to the board, of compliance with the continuing professional education requirements prescribed by the board and any penalty fee prescribed by the board.

(f) If a person's license has been expired for more than three months, the person may not renew the license. The person may obtain a new license by complying with the current requirements and procedures for obtaining a license.

**HISTORY:** Code 1981, § 43-34-174, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2011, p. 779, § 1F/SB 100.

**§ 43-34-175. Issuance of provisional licensed clinical perfusionist license; supervision of licensee; renewal; revocation**

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

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

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

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

**HISTORY:** Code 1981, § 43-34-175, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2004, p. 581, § 3; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-176. Requirements for waiver of examination and educational requirements**

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

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

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

**HISTORY:** Code 1981, § 43-34-176, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-177. Engaging in practice of perfusion without license; titles; violation a misdemeanor**

(a) A person may not engage or offer to engage in perfusion or use the title or represent or imply that the person has the title of "licensed clinical perfusionist" or "provisional licensed clinical perfusionist" or use the letters "L.C.P." or "P.L.C.P." and may not use any facsimile of such titles in any manner to indicate or imply that the person is a licensed clinical perfusionist or provisional licensed clinical perfusionist unless the person holds an appropriate license issued pursuant to this article or is exempted under the provisions of

Code Section 43-34-178.

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

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

**HISTORY:** Code 1981, § 43-34-177, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-178. Nonapplicability of Code Section 43-34-177; violation**

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

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

(2) A person licensed under this title as a registered professional nurse or a licensed physician assistant or certified as a respiratory care professional under this title if:

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

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

(3) Any person performing autotransfusion who possesses appropriate training and practices within the guidelines of the American Association of Blood Banks under the supervision of a perfusionist licensed under this article or a physician licensed under Article 2 of this chapter;

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

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

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

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

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

(b) Any person violating subsection (a) of this Code section shall be guilty of a felony.

**HISTORY:** Code 1981, § 43-34-178, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-179. Sanctions by board**

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

**HISTORY:** Code 1981, § 43-34-179, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-180. Advisory committee**

The board shall appoint an advisory committee. The advisory committee shall include clinical perfusionists licensed under this article and such members as the board in its discretion may determine. Members shall receive no compensation for service on the committee. The committee shall have such advisory duties and responsibilities as the board may determine. Advisory committee members must be licensed pursuant to this article.

**HISTORY:** Code 1981, § 43-34-180, enacted by Ga. L. 2002, p. 652, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

## **ARTICLE 8. ORTHOTICS AND PROSTHETICS PRACTICE**

#### **§ 43-34-190. Short title**

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

**HISTORY:** Code 1981, § 43-34-190, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-191. Findings of General Assembly**

The General Assembly finds that the practice of orthotics and prosthetics in this state is an allied health profession recognized by the American Medical Association, with educational standards established by the Commission on Accreditation of Allied Health Education Programs. The increasing population of elderly and physically challenged individuals who need orthotic and prosthetic services requires that the orthotic and prosthetic professions be regulated to ensure the provision of high-quality services and devices. The people of this state deserve the best care available and will benefit from the assurance of initial and ongoing professional competence of the orthotists and prosthetists practicing in this state. The practice of orthotics and prosthetics serves to improve and enhance the lives of individuals with disabilities by enabling them to resume productive lives following serious illness, injury, or trauma. Unregulated dispensing of orthotic and prosthetic care does not

adequately meet the needs or serve the interests of the public. In keeping with requirements imposed on similar health disciplines, licensure of the orthotic and prosthetic professions will help ensure the health and safety of consumers, as well as maximize their functional abilities and productivity levels. This article shall be liberally construed to best carry out these subjects and purposes.

**HISTORY:** Code 1981, § 43-34-191, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-192. Definitions**

As used in this article, the term:

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

(2) "Board" means the Georgia Composite Medical Board.

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

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

(5) "Facility" means the business location where orthotic or prosthetic care is provided and which has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care. Licensed orthotists and prosthetists must be available to either provide care or supervise the provision of care by nonlicensed staff.

(6) "Level of competence" means a hierarchical position that an individual occupies within a field or profession relative to other practitioners in the profession.

(7) "Licensed orthotist" means a person licensed under this article to practice orthotics and who represents himself or herself to the public by title and description of services that includes the term "orthotic," "orthotist," "brace," or a similar title or description of services.

(8) "Licensed physician" means a person licensed to practice medicine under Article 2 of this chapter.

(9) "Licensed podiatrist" means a person licensed to practice podiatry under Chapter 35 of this title, the "Georgia Podiatry Practice Act."

(10) "Licensed prosthetist" means a person licensed under this article to practice prosthetics and who represents himself or herself to the public by title and description of services that includes the term "prosthetic," "prosthetist," "artificial limb," or a similar title or description of services.

(11) "Off-the-shelf device" means a prefabricated prosthesis or orthosis sized or modified,



or both, for use by a patient in accordance with a prescription and which does not require substantial clinical judgment and substantive alteration for appropriate use.

(12) "Orthosis" means a custom designed, fabricated, fitted, modified, or fitted and modified device to correct, support, or compensate for a neuromusculoskeletal disorder or acquired condition. Orthosis does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices that are carried in stock and sold as over-the-counter items by a drug store, department store, corset shop, or surgical supply facility.

(13) "Orthotic and prosthetic education program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs consisting of:

(A) A basic curriculum of college level instruction in math, physics, biology, chemistry, and psychology; and

(B) A specific curriculum in orthotic or prosthetic courses, including:

(i) Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic or orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management;

(ii) Subject matter related to pediatric and geriatric problems;

(iii) Instruction in acute care techniques, such as immediate and early postsurgical prosthetics and fracture bracing techniques; and

(iv) Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses.

(14) "Orthotic and prosthetic scope of practice" means a list that includes the role played by an occupant of a particular level of competence, what he or she can be expected to do and not to do, and his or her relation to others in the field. These should be based on nationally accepted standards of orthotic and prosthetic certifying agencies with accreditation by the National Commission for Certifying Agencies.

(15) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from a licensed physician or podiatrist for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

(16) "Orthotist" means an allied health professional who is specifically trained and educated to provide or manage the provision of a custom designed, fabricated, or modified and fitted external orthosis to an orthotic patient based on a clinical assessment and a physician's or podiatrist's prescription to restore physiological function or cosmesis or both and who represents himself or herself to the public by such title as providing orthotic services.

(17) "Over-the-counter device" means a prefabricated, mass produced device that is prepackaged and requires no professional advice or judgment in either size selection or use

and includes fabric or elastic supports, corsets, generic arch supports, and elastic hoses.

(18) "Person" means a natural person.

(19) "Prosthesis" means a custom designed, fabricated, fitted, modified, or fitted and modified device to replace an absent external limb for purposes of restoring physiological function or cosmesis or both. Prosthesis does not include artificial eyes, ears, fingers, or toes; dental appliances; cosmetic devices such as artificial breasts, eyelashes, or wigs; or other devices that do not have a significant impact on the musculoskeletal functions of the body.

(20) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from a licensed physician or podiatrist.

(21) "Prosthetist" means an allied health professional who is specifically trained and educated to provide or manage the provision of a custom designed, fabricated, modified, and fitted external limb prosthesis to a prosthetic patient based on a clinical assessment and a physician's or podiatrist's prescription to restore physiological function or cosmesis or both and who represents himself or herself to the public by such title as providing prosthetic services.

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

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

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

**HISTORY:** Code 1981, § 43-34-192, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/ HB 509.

### **§ 43-34-193. Construction of article**

This article shall not be construed to prohibit:

- (1) A licensed physician from engaging in the practice for which he or she is licensed;
- (2) A person licensed in this state under any other law from engaging in the practice for which he or she is licensed;
- (3) The practice of orthotics or prosthetics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;
- (4) The practice of orthotics or prosthetics by:
  - (A) A student enrolled in a school of orthotics or prosthetics; or

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

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

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

(B) The withdrawal of the application; or

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

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

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

(8) A licensed athletic trainer from engaging in his or her profession;

(9) A registered pharmacist from engaging in the practice for which he or she is registered;

(10) Any person licensed, certified, or permitted under any other article of this chapter from engaging in the practice for which he or she is licensed, certified, or permitted;

(11) The measuring, molding, or fitting of knee braces by any person;

(12) Employees or authorized representatives of an orthotic manufacturer from engaging in one or more of the following: evaluating, adjusting, measuring, designing, fabricating, assembling, fitting, servicing, training, repairing, replacing, or delivering an orthotic device under the order, direction, or prescription of a physician or health provider operating within his or her licensed scope of practice and meeting the criteria of the Part II Policy and Procedures for Orthotics and Prosthetics Services pursuant to Title XIX of the federal Social Security Act, as amended; or

(13) A board certified pedorthist from manufacturing, fabricating, dispensing, or any combination thereof custom foot orthotics or foot or ankle gauntlets.

**HISTORY:** Code 1981, § 43-34-193, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2005, p. 526, § 2/HB 608; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-194. Application for original license**

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

**HISTORY:** Code 1981, § 43-34-194, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-195. Qualifications for license**

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

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

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

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

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

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

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

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

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

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

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

**HISTORY:** Code 1981, § 43-34-195, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-196. Sanctions authorized.**

The board, in consultation with the advisory committee, may impose on a licensed orthotist or prosthetist any sanction authorized under subsection (b) of Code Section 43-34-

8 upon a finding of any conduct specified in subsection (a) of Code Section 43-34-8.

**HISTORY:** Code 1981, § 43-34-196, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-197. Supervision of assistants and technicians**

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

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

**HISTORY:** Code 1981, § 43-34-197, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2005, p. 526, § 3/HB 608; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-198. Application for license for persons currently practicing orthotics or prosthetics**

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

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

**HISTORY:** Code 1981, § 43-34-198, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-199. Order from licensed physician or podiatrist required**

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

**HISTORY:** Code 1981, § 43-34-199, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-200. Expiration date and renewal period; continuing education; procedure for restoration**

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

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

(1) Making application to the board;

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

(3) Paying the required restoration fee.

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

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

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

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

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

**HISTORY:** Code 1981, § 43-34-200, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-201. Inactive status**

A person who notifies the board on forms prescribed thereby may elect to place his or her license on an inactive status and shall, subject to rules of the board, be excused from payment of renewal fees until he or she notifies the board of his or her desire to resume active status. A person requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license as provided in Code Section 43-34-200. An orthotist or prosthetist whose license is on inactive status shall not practice orthotics or prosthetics in this state.

**HISTORY:** Code 1981, § 43-34-201, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-202. Reciprocal licensure requirements**

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

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

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

**HISTORY:** Code 1981, § 43-34-202, enacted by Ga. L. 2002, p. 1273, § 1; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-203. Advisory committee**

The board shall appoint the advisory committee. The advisory committee shall include licensed orthotists and prosthetists licensed under this article and such members as the board in its discretion may determine. Members shall receive no compensation for service on the committee. The committee shall have such advisory duties and responsibilities as the board may determine. The initial members of the advisory committee may include persons eligible for licensing under this article. Subsequent advisory committee members must be licensed pursuant to this article.

**HISTORY:** Code 1981, § 43-34-204, enacted by Ga. L. 2002, p. 1273, § 1; Code 1981, § 43-34-203, as redesignated by Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-204. Redesignated**

## **ARTICLE 9. COSMETIC LASER SERVICES**

### **§ 43-34-240. (For effective date, see note.) Short title**

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

**HISTORY:** Code 1981, § 43-34-240, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509.

### **§ 43-34-241. (For effective date, see note.) Legislative findings; purpose**

This article is enacted for the purpose of safeguarding the public health, safety, and welfare by providing for state administrative control, supervision, and regulation of the

practice of providing cosmetic laser services. It is the intention of the General Assembly that cosmetic laser services be made available and affordable to the people of this state in a safe, reliable manner. Unregulated cosmetic laser services do not adequately meet the needs or serve the interests of the public. Licensure of those performing cosmetic laser services and required education and training of such practitioners will help ensure the health and safety of consumers. The practice of providing cosmetic laser services is declared to be affected with the public interest; and this article shall be liberally construed so as to accomplish the purpose stated in this Code section.

**HISTORY:** Code 1981, § 43-34-241, enacted by Ga. L. 2007, p. 626, § 1/ HB 528; Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-242. (For effective date, see note.) Definitions**

As used in this article, the term:

(1) "Board" means the Georgia Composite Medical Board created by Code Section 43-34-2.

(2) "Consulting physician" means a person licensed to practice medicine under Article 2 of this chapter and:

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

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

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

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

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

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

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

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

(9) "Medical practitioner" means a registered professional nurse, nurse practitioner, physician assistant, or physician.



(10) "Nurse" means a registered professional nurse or nurse practitioner.

(11) "Person" means a natural person.

**HISTORY:** Code 1981, § 43-34-242, enacted by Ga. L. 2007, p. 626, § 1/ HB 528; Ga. L. 2009, p. 859, § 1/ HB 509; Ga. L. 2009, p. 989, § 1/ SB 104.

**§ 43-34-243. (For effective date, see note.) Permitted activities**

This article shall not be construed to prohibit:

- (1) A licensed physician from engaging in the practice for which he or she is licensed;
- (2) A licensed physician assistant from engaging in the practice for which he or she is licensed;
- (3) A person licensed by this state as a registered professional nurse, licensed practical nurse, or nurse practitioner from engaging in his or her profession;
- (4) A licensed esthetician from engaging in his or her profession;
- (5) A master cosmetologist from engaging in his or her profession;
- (6) Any person licensed under any other article of this chapter from engaging in the practice for which he or she is licensed;
- (7) A person licensed in this state under any other law from engaging in the practice for which he or she is licensed;
- (8) The practice of providing cosmetic laser services by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;
- (9) The practice of providing cosmetic laser services by a student enrolled in an accredited school of nursing or medical school as part of his or her training; or
- (10) Employees or authorized representatives of a manufacturer of a laser used for cosmetic laser services from engaging in one or more of the following: evaluating, adjusting, measuring, designing, fabricating, assembling, fitting, servicing, training, repairing, replacing, or delivering a laser used to provide cosmetic laser services under the order, direction, or prescription of a physician or health provider operating within his or her licensed scope of practice.

**HISTORY:** Code 1981, § 43-34-243, enacted by Ga. L. 2007, p. 626, § 1/ HB 528; Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-244. (For effective date, see note.) Two levels of license; application**

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

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

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

(A) Holds a current valid license or certificate of registration as a physician assistant, licensed practical nurse, nurse, esthetician, or master cosmetologist, or has previously held a license or certificate of registration as a medical practitioner; and

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

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

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

(A) Holds a current valid license or certificate of registration as a physician assistant or nurse or has previously held a license or certificate of registration as a medical practitioner;

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

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

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

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

(c) Any person desiring to obtain a license as an "assistant laser practitioner" who does not meet the requirements of paragraph (1) of subsection (b) of this Code section shall also be eligible for a license as an "assistant laser practitioner" if he or she makes application to the board within nine months of the effective date of this article and presents proof that he or she:

(1) Prior to the effective date of this article, obtained a minimum of 2,000 hours of experience in administering cosmetic laser service; and

(2) Has received at least two laser certificates from attending laser/intense pulsed light (IPL) courses, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

(d) Should an applicant have a current cosmetic laser practitioner license or certificate of registration in force from another state, country, territory of the United States, or the District of Columbia, where similar reciprocity is extended to this state and licensure requirements are substantially equal to those in this state, and have paid a fee and have submitted an application, the applicant may be issued a license at the appropriate level entitling him or her to practice the occupation of a cosmetic laser practitioner at that level, unless the board, in its discretion, sees fit to require a written or a practical examination subject to the terms and provisions of this article.

**HISTORY:** Code 1981, § 43-34-244, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2009, p. 989, § 2/SB 104; Ga. L. 2010, p. 878, § 43/HB 1387.

#### **§ 43-34-245. (For effective date, see note.) Expiration of licenses; license renewal**

(a) All licenses shall expire biennially unless renewed. All applications for renewal of a license shall be filed with the board prior to the expiration date, accompanied by the biennial renewal fee prescribed by the board. A license which has expired for failure of the holder to renew may only be restored after application and payment of the prescribed restoration fee within the time period established by the board and provided the applicant meets such requirements as the board may establish by rule. Any license which has not been restored within such period following its expiration may not be renewed, restored, or reissued thereafter. The holder of such a canceled license may apply for and obtain a valid license only upon compliance with all relevant requirements for issuance of a new license.

(b) As a condition of license renewal, the board shall require licensees to provide proof, in a form approved by the board, of a minimum of five hours of continuing education courses as approved by the board in the area of cosmetic laser services, equipment safety and operation, procedures, and relative skin modalities, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

**HISTORY:** Code 1981, § 43-34-245, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-246. (For effective date, see note.) Sanctions**

The board may impose on a cosmetic laser practitioner or applicant any sanction authorized under subsection (b) of Code Section 43-34-8 upon a finding of any conduct specified in subsection (a) of Code Section 43-34-8.

**HISTORY:** Code 1981, § 43-34-246, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509.

#### **§ 43-34-247. (For effective date, see note.) Petition to restrain or enjoin unlicensed cosmetic laser practitioner**

The practice of providing cosmetic laser services is declared to be an activity affecting the public interest and involving the health, safety, and welfare of the public. Such practice when engaged in by a person who is not licensed as a cosmetic laser practitioner or otherwise licensed to practice a profession which is permitted under law to perform cosmetic laser services is declared to be harmful to the public health, safety, and welfare. The board or the district attorney of the circuit where such unlicensed practice exists, or any person or organization having an interest therein, may bring a petition to restrain and enjoin such unlicensed practice in the superior court of the county where such unlicensed person resides. It shall not be necessary in order to obtain an injunction under this Code section to allege or prove that there is no adequate remedy at law, or to allege or prove any special injury.

**HISTORY:** Code 1981, § 43-34-247, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-248. (For effective date, see note.) Agreement with consulting physician**

(a) Any facility providing cosmetic laser services other than hair removal using lasers or pulsed light devices shall have an agreement with a consulting physician who shall:

- (1) Be trained in laser modalities;
- (2) Establish proper protocols for the cosmetic laser services provided at the facility and file such protocols with the board;
- (3) Examine each patient prior to any cosmetic laser service other than hair removal using lasers or pulsed light devices being performed; provided, however, that a consulting physician may delegate the authority to perform such examination to a physician assistant who is a licensed cosmetic laser practitioner, in accordance with a job description approved by the board, or to a registered professional nurse who is also an advanced practice registered nurse as defined in paragraph (1.1) of Code Section 43-26-3 and who is a licensed cosmetic laser practitioner, pursuant to a protocol approved by the board; and provided, further, that in facilities subject to the provisions of Code Section 43-34-249.1 such delegation may be to: (A) a physician assistant who is not required to be a licensed cosmetic laser practitioner, in accordance with a job description approved by the board; or (B) a registered professional nurse who is also an advanced practice registered nurse who is not required to be a licensed cosmetic laser practitioner, in accordance with a protocol approved by the board; and
- (4) Be available for emergency consultation with the cosmetic laser practitioner or anyone employed by the facility.

(b) Any facility providing cosmetic laser services other than hair removal using lasers or pulsed light devices shall have a supervisor present at the facility or immediately available for consultation and supervision either personally or via telecommunications. The supervisor shall supervise the performance of all cosmetic laser services performed by a person other than the consulting physician. The supervisor shall be a physician licensed under this chapter who is trained in laser modalities or a senior laser practitioner.

(c) (1) Any facility providing cosmetic laser services other than hair removal using lasers or pulsed light devices shall post a sign listing the consulting physician's name, emergency contact number, his or her board certification and specialty, and the address of his or her

principal place of practice, and indicating whether he or she is presently on site at the facility.

(2) If the consulting physician is not on site for any period of time during which the facility is open, the facility shall post a sign indicating who is presently acting as the supervisor for the facility and that person's name, emergency contact number, his or her degrees and qualifications, and the type of cosmetic laser practitioner license held.

**HISTORY:** Code 1981, § 43-34-248, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2009, p. 989, § 3/SB 104; Ga. L. 2010, p. 878, § 43/HB 1387.

#### **§ 43-34-249. (For effective date, see note.) Informed consent**

(a) Prior to receiving cosmetic laser services from a cosmetic laser practitioner, a person must consent in writing to such services and shall be informed in writing of the general terms of the following:

(1) The nature and purpose of such proposed procedure;

(2) Any material risks generally recognized and associated with the cosmetic laser service to be performed which, if disclosed to a reasonably prudent person in the customer's position, could reasonably be expected to cause such prudent person to decline such proposed cosmetic laser services on the basis of the material risk of injury that could result from such proposed services;

(3) The name of, degrees and qualifications held by, and type of licenses obtained by the individual who will be performing the cosmetic laser service, and with respect to cosmetic laser services other than hair removal, the supervisor and the consulting physician;

(4) The steps to be followed after the cosmetic laser service is performed in the event of any complications; and

(5) With respect to cosmetic laser services other than hair removal, the emergency contact information for the consulting physician and the address of his or her principal place of practice.

(a.1) After receiving each cosmetic laser service other than hair removal, a person shall be informed in writing of the information required by paragraphs (4) and (5) of subsection (a) of this Code section.

(b) It shall be the responsibility of the cosmetic laser practitioner to ensure that the information required by subsections (a) and (a.1) of this Code section is disclosed and that the consent provided for in this Code section is obtained.

(c) Where the consumer is under 18 years of age, the consent of the consumer's parent or legal guardian shall be required.

(d) The board shall be required to adopt and have the authority to promulgate rules and regulations governing and establishing the standards necessary to implement this Code section specifically including but not limited to the disciplining of a cosmetic laser practitioner who fails to comply with this Code section.

(e) Nothing in this Code section shall prohibit the information provided for in this Code section from being disclosed through the use of video tapes, audio tapes, pamphlets, booklets, or other means of communication or through conversations with the cosmetic laser practitioner; provided, however, that such information is also provided in writing and attached to the consent form which the consumer signs.

**HISTORY:** Code 1981, § 43-34-249, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2009, p. 989, § 4/SB 104.

**§ 43-34-249.1. (For effective date, see note.) Waiver**

The board shall have the authority to waive the requirements of subsection (c) of Code Section 43-34-248 and paragraph (5) of subsection (a) of Code Section 43-34-249 for facilities offering cosmetic laser services which serve as a principal place of practice at which a physician regularly sees patients if medical services are regularly performed at such facilities. For purposes of this Code section, "medical services" shall mean the general and usual services and care rendered and administered by a physician.

**HISTORY:** Code 1981, § 43-34-249.1, enacted by Ga. L. 2009, p. 989, § 5/SB 104.

**§ 43-34-250. (For effective date, see note.) Advisory committee**

The board shall appoint an advisory committee. The advisory committee shall include licensed cosmetic laser practitioners licensed under this article and such members as the board in its discretion may determine. The advisory committee shall include at least one person licensed to practice medicine under this chapter and specialized in a field with expertise in the biologic behavior of the skin. Members shall receive no compensation for service on the committee. The committee shall have such advisory duties and responsibilities as the board may determine, including but not limited to consulting with the board on the issuance, denial, suspension, and revocation of licenses and the promulgation of rules and regulations under this article. The initial members of the advisory committee may include persons eligible for licensing under this article. Subsequent advisory committee members must be licensed pursuant to this article.

**HISTORY:** Code 1981, § 43-34-250, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509; Ga. L. 2009, p. 989, § 6/SB 104.

**§ 43-34-251. (For effective date, see note.) Prohibited activities**

(a) It shall be unlawful for any person licensed as a cosmetic laser practitioner to perform cosmetic laser services within any area within one inch of the nearest part of the eye socket of any consumer.

(b) It shall be unlawful for any person licensed as a cosmetic laser practitioner to administer any pharmaceutical agent or other substance by injection.

**HISTORY:** Code 1981, § 43-34-251, enacted by Ga. L. 2007, p. 626, § 1/HB 528; Ga. L. 2009, p. 859, § 1/HB 509.

**§ 43-34-252. (For effective date, see note.) Noncompliance of facility owner; penalty**

Any person who owns a facility in which cosmetic laser services are offered or performed in noncompliance with the requirements of this article shall be guilty of a misdemeanor.

**HISTORY:** Code 1981, § 43-34-252, enacted by Ga. L. 2007, p. 626, § 1/ HB 528; Ga. L. 2009, p. 859, § 1/ HB 509.

**§ 43-34-253. (For effective date, see note.) Violation; penalty**

Any person convicted of violating any provision of this article shall be guilty of a misdemeanor.

**HISTORY:** Code 1981, § 43-34-253, enacted by Ga. L. 2007, p. 626, § 1/ HB 528; Ga. L. 2009, p. 859, § 1/ HB 509.

## **ARTICLE 10. PAIN MANAGEMENT CLINIC**

**§ 43-34-280. Short title**

This article shall be known and may be cited as the "Georgia Pain Management Clinic Act."

**HISTORY:** Code 1981, § 43-34-280, enacted by Ga. L. 2013, p. 515, § 2/ HB 178.

**§ 43-34-281. Legislative intent**

(a) This article is enacted for the purpose of safeguarding the public health, safety, and welfare by providing for state administrative control, supervision, and regulation of pain management clinics. It is the intention of the General Assembly that people be able to obtain appropriate and safe medical care to treat conditions in which the control of pain is an element. However, the illegal and improper distribution of controlled substances is a growing problem in this state. Licensure and regulation of pain management clinics will better protect the public from criminal activities associated with the illegal distribution of controlled substances as well as provide for a safer place for people to obtain appropriate medical treatment by requiring certain minimum training of practitioners and by the regulation of pain management clinics.

(b) Nothing in this article shall be construed to limit the authority and regulations of the board relating to pain management as such authority and regulations existed on June 30, 2013.

**HISTORY:** Code 1981, § 43-34-281, enacted by Ga. L. 2013, p. 515, § 2/ HB 178.

**§ 43-34-282. Definitions**

As used in this article, the term:

(1) "Annual patient population" means persons seen by a clinic or practice in a 12 month calendar year but shall not include persons that are patients of a nursing home, home health agency, or hospice licensed pursuant to Chapter 7 of Title 31.

(2) "Board" means the Georgia Composite Medical Board created by Code Section 43-34-2.

(3) "Chronic pain" means physical pain treated for a period of 90 days or more in a year but shall not include perioperative pain, which shall mean pain immediately preceding and immediately following a surgical procedure, when such perioperative pain is being treated in connection with a surgical procedure by a licensed health care professional acting within the scope of his or her license.

(4) "License" means a valid and current certificate of registration issued by the board pursuant to this article which shall give the person to whom it is issued authority to engage in the practice prescribed thereon.

(5) "Licensee" means any person holding a license under this article.

(6) "Nonterminal condition" means a medical condition which is reversible, where there is a reasonable hope of recovery, and where the patient's medical prognosis is a life expectancy of two years or more.

(7) "Pain management clinic" means a medical practice advertising "treatment of pain" or utilizing "pain" in the name of the clinic or a medical practice or clinic with greater than 50 percent of its annual patient population being treated for chronic pain for nonterminal conditions by the use of Schedule II or III controlled substances. This term shall not include any clinic or practice owned, in whole or in part, or operated by a hospital licensed pursuant to Chapter 7 of Title 31 or by a health system or any ambulatory surgical center, skilled nursing facility, hospice, or home health agency licensed pursuant to Chapter 7 of Title 31.

(8) "Person" means a natural person.

(9) "Physician" means a person who possesses a current, unrestricted license to practice medicine in the State of Georgia pursuant to Article 2 of this chapter; who, during the course of his or her practice, has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled substance; and who has not, during the course of his or her practice, had board action taken against his or her medical license as a result of dependency on drugs or alcohol.

**HISTORY:** Code 1981, § 43-34-282, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

### **§ 43-34-283. Licensure requirements**

(a) On and after July 1, 2013, all pain management clinics shall be licensed by the board and shall biennially renew their license with the board. In the event that physicians in a pain management clinic practice at more than one location, each such location shall be licensed by the board, and such license shall be nontransferable.

(b) (1) All pain management clinics shall be owned by physicians licensed in this state.



(2) This subsection shall not apply to any pain management clinic in existence on June 30, 2013, which is jointly owned by one or more physician assistants or advanced practice registered nurses and one or more physicians; provided, however, that any physician assistant or advanced practice registered nurse with an ownership interest in such pain management clinic shall be subject to all requirements which owners of pain management clinics are subject to under this article.

(3) This subsection shall not apply to any pain management clinic in existence on June 30, 2013, which is not majority owned by physicians licensed in this state; provided, however, that the person or entity that owns such pain management clinic shall not operate more than one licensed pain management clinic within this state; and provided, further, that any such owner shall be subject to all requirements which owners of pain management clinics are subject to under this article.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, no person who has been convicted of a felony as defined in paragraph (3) of subsection (a) of Code Section 43-34-8 shall own or have any ownership interest in a pain management clinic.

(c) The board may establish minimum standards of continuing medical education for all physicians owning a pain management clinic. All other licensed health care professionals practicing in a pain management clinic may be subject to minimum standards of continuing education established by the respective licensing board for the health care professional.

(d) Upon the filing of an application for a license, the board may cause a thorough investigation of the applicant to be made and such investigation may include a criminal background check; provided, however, that the board shall cause a thorough investigation of a new applicant to be made, and such investigation shall include a background check. If satisfied that the applicant possesses the necessary qualifications, the board shall issue a license. However, the board may issue licenses with varying restrictions to such persons where the board deems it necessary for the purpose of safeguarding the public health, safety, and welfare.

(e) Whenever an applicable rule requires or prohibits action by a pain management clinic, responsibility shall be that of the owner and the physicians practicing in the pain management clinic, whether the owner is a sole proprietor, partnership, association, corporation, or otherwise.

(f) The board shall deny or refuse to renew a pain management clinic license if it determines that the granting or renewing of such license would not be in the public interest.

(g) No pain management clinic shall provide medical treatment or services, as defined by the board, unless a physician, a physician assistant authorized to prescribe controlled substances under an approved job description, or an advanced practice registered nurse authorized to prescribe controlled substances pursuant to a physician protocol is on-site at the pain management clinic.

(h) The board may enter into agreements with other states or with third parties for the purpose of exchanging information concerning licensure of any pain management clinic.

**HISTORY:** Code 1981, § 43-34-283, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

#### **§ 43-34-284. Denial, suspension, and revocation of licenses**

In addition to the authority granted in Code Section 43-34-8, a license obtained pursuant to this article may be denied, suspended, or revoked by the board upon finding that the licensee or a physician practicing at a licensed pain management clinic has:

- (1) Furnished false or fraudulent material information in any application filed under this chapter;
- (2) Been convicted of a crime under any state or federal law relating to any controlled substance;
- (3) Had his or her federal registration to prescribe, distribute, or dispense controlled substances suspended or revoked; or
- (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title 26.

**HISTORY:** Code 1981, § 43-34-284, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

#### **§ 43-34-285. Notice to the board upon the occurrence of certain events**

The board shall be notified immediately upon the occurrence of any of the following:

- (1) Permanent closing of a licensed pain management clinic;
- (2) Change of ownership, management, or location of a licensed pain management clinic;
- (3) Change of the physicians practicing in a licensed pain management clinic;
- (4) Any theft or loss of drugs or devices of a licensed pain management clinic;
- (5) Any known conviction of any employee of a licensed pain management clinic of any state or federal drug laws;
- (6) Any known conviction based upon charges of fraud of any employee of a licensed pain management clinic;
- (7) Disasters, accidents, theft, destruction, or loss of records of a licensed pain management clinic required to be maintained by state or federal law or the rules of the board; or
- (8) Any and all other matters and occurrences as the board may require by rule.

**HISTORY:** Code 1981, § 43-34-285, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

#### **§ 43-34-286. Registration of clinics dispensing controlled substances**

All pain management clinics that dispense controlled substances or dangerous drugs shall be registered with the Georgia State Board of Pharmacy as required by Chapter 4 of Title 26.

**HISTORY:** Code 1981, § 43-34-286, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

### **§ 43-34-287. Renewal of licenses**

(a) All licenses shall expire biennially unless renewed. All applications for renewal of a license shall be filed with the board prior to the expiration date, accompanied by the biennial renewal fee prescribed by the board. A license which has expired for failure of the holder to renew may be late renewed after application and payment of the prescribed late renewal fee within the time period established by the board and provided the applicant meets such requirements as the board may establish by rule. Any license which has not been renewed by the end of the late renewal period shall be considered revoked and subject to reinstatement at the discretion of the board after meeting such requirements as the board may establish.

(b) As a condition of license renewal, the board shall require the owners of the pain management clinic and any physicians practicing in the pain management clinic to meet such continuing education and training requirements as may be required by rule.

**HISTORY:** Code 1981, § 43-34-287, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

### **§ 43-34-288. Penalty for violation of article**

Any person who operates a pain management clinic in the State of Georgia without a license in violation of this article shall be guilty of a felony.

**HISTORY:** Code 1981, § 43-34-288, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

### **§ 43-34-289. Annual notification regarding use of Schedule II or III controlled substances**

Any hospital which operates an outpatient clinic at its main facility or at any satellite facility with greater than 50 percent of such clinic's annual patient population being treated for chronic pain for nonterminal conditions by the use of Schedule II or III controlled substances shall annually notify the board of such clinic.

**HISTORY:** Code 1981, § 43-34-289, enacted by Ga. L. 2013, p. 515, § 2/HB 178.

### **§ 43-34-290. Confidentiality of records**

Law enforcement officers, medical examiners, the Georgia Drugs and Narcotics Agency, and the Georgia Bureau of Investigation Medical Examiner's Office, when investigating deaths which may be the result of medication administered or prescribed or a procedure conducted at a pain management clinic as defined by paragraph (7) of Code Section 43-34-282 either by an individual licensed under Chapter 34 of Title 43 or by an individual under the supervision or delegated authority of such person, are authorized to send pertinent records on such deaths 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.

**HISTORY:** Code 1981, § 43-34-290, enacted by Ga. L. 2013, p. 515, § 2/HB 178.