

***** Current through the 2015 Regular Session *****

**TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 34A. PATIENT RIGHT TO KNOW**

O.C.G.A. TITLE 43 Chapter 34A (2015)

§ 43-34A-1. Short title

This chapter shall be known and may be cited as the "Patient Right to Know Act of 2001."

HISTORY: Code 1981, § 43-34A-1, enacted by Ga. L. 2001, p. 192, § 5.

§ 43-34A-2. Definitions

As used in this chapter, the term:

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

(2) "Current" means within the last six months.

(3) "Disciplinary action" means any final hospital disciplinary action or any final disciplinary action taken by the Georgia Composite Medical Board under subsection (b) of Code Section 43-34-8 within the immediately preceding ten-year period. No such disciplinary action taken prior to April 11, 2001, shall be included within the definition of this term.

(4) "Hospital" means a facility that provides inpatient and outpatient care and services for the diagnosis and treatment of medical conditions.

(5) "Hospital privileges" means permission granted by a hospital to a physician to treat patients in that hospital.

HISTORY: Code 1981, § 43-34A-2, enacted by Ga. L. 2001, p. 192, § 5; Ga. L. 2009, p. 859, §§ 2, 14/HB 509.

§ 43-34A-3. Physician profiles; dissemination to public; content and maintenance requirements; corrections; judgments prior to April 11, 2001; sealed judgments, arbitration awards, and settlements prohibited

(a) The Georgia Composite Medical Board shall create physician profiles on each physician licensed to practice in this state under Chapter 34 of this title.

(b) In creating physician profiles, the board shall by regulation establish a standard form for the collection and dissemination of such data to the public, including dissemination on the Internet.

The information may be gathered from the physician, the board, medical malpractice insurers, hospitals, medical and specialty societies, and other appropriate sources. The information shall be compiled in a form which can be disseminated to a member of the public upon request. Additionally, the board shall include in a physician's profile comments submitted by the physician regarding information published in the physician's profile. Such comments shall not exceed 100 words. The physician shall have 30 days to submit comments from the date of receipt of the profile or any amended profile if the amendment relates to malpractice, hospital staff privileges, or disciplinary action.

(c) The physician profile shall include the following information:

- (1) The full name of the physician;
- (2) Names of medical schools attended, dates of attendance, and date of graduation;
- (3) The location and dates of graduate medical education;
- (4) Specialty board certification, if applicable. The toll-free number of the American Board of Medical Specialties shall be included to verify current board certification status;
- (5) The fact that a license has been granted by reciprocity under Code Section 43-34-31, if applicable;
- (6) The number of years in practice and locations;
- (7) Current hospital privileges;
- (8) The location of primary practice setting;
- (9) If requested by the physician, identification of any translating services available at the primary practice setting;
- (10) Participation in the Medicaid program, if applicable;
- (10.1) Whether carrying any medical malpractice insurance;
- (11) Criminal convictions for felonies, irrespective of the pendency or availability of an appeal;
- (12) Felony charges to which a plea of nolo contendere was entered;
- (13) A description of any final, public disciplinary action by a regulatory board and a description of any second or subsequent final private reprimand by a regulatory board. As used in this paragraph, the term "regulatory board" refers to:
 - (A) The Georgia Composite Medical Board and its counterpart in any other state; and

(B) Any state licensing board in Georgia or in any other state;

(14) A description of any final revocation or any final disciplinary action resulting in any restriction of hospital privileges, either involuntary or by agreement, for reasons related to competence or character in the most recent ten years. No such revocation or restriction taken prior to April 11, 2001, shall be included in the physician's profile;

(15) Resignation from or nonrenewal of medical staff membership or the restriction of staff privileges at a hospital taken in lieu of or in settlement of pending disciplinary action related to competence or character in the most recent ten years. No such action taken prior to April 11, 2001, shall be included in the physician's profile;

(16) Final medical malpractice court judgments or medical malpractice arbitration awards entered on or after April 11, 2001, in which payment in excess of \$100,000.00 is awarded against the physician to the complaining party. No such judgments or awards prior to April 11, 2001, shall be included in any physician's profile. No such medical malpractice court judgments or medical malpractice arbitration awards which occurred more than ten years prior to the date of the profile shall be included in any physician profile;

(17) (A) Medical malpractice settlements, including the monetary amount of each such settlement, in which payment in excess of \$300,000.00 is made by or on behalf of and attributable to the physician to the complaining party. No such settlement occurring prior to April 11, 2001, shall be included in any physician profile. No such settlement which occurred more than ten years prior to the date of the profile shall be included in any physician profile.

(B) Medical malpractice settlements, including the monetary amount of each such settlement, if three medical malpractice settlements have been made by or on behalf of and attributable to the physician to the complaining party and payment in excess of \$100,000.00 has been made by or on behalf of and attributable to the physician in any one or more of such settlements. No such settlement occurring prior to April 11, 2001, shall be included in any physician profile nor shall any such settlement be included for the purpose of determining whether three medical malpractice settlements have been made by or on behalf of and attributable to the physician. No such settlement which occurred more than ten years prior to the date of the profile shall be included in any physician profile nor shall any such settlement be included for the purpose of determining whether three medical malpractice settlements have been made by or on behalf of and attributable to the physician.

(C) All medical malpractice settlements, including the monetary amount of each such settlement, if four or more medical malpractice settlements have been made by or on behalf of and attributable to the physician to the complaining party, regardless of the amount of the payment made by or on behalf of and attributable to the physician in any such settlement. No such settlement occurring prior to April 11, 2001, shall be included in any physician profile nor shall any such settlement be included for the purpose of determining whether four or more medical malpractice settlements have been made by or on behalf of and attributable to the physician. No such settlement which occurred more than ten years prior to the date of the profile shall be included in any physician profile nor shall any such settlement be included for the

purpose of determining whether four or more medical malpractice settlements have been made by or on behalf of and attributable to the physician.

(D) Any disclosure under this paragraph shall be accompanied by the following statement:

"Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.";

(18) Pending malpractice claims shall not be disclosed;

(19) The board may, in its discretion, include additional statements describing the experience or pattern of awards, judgments, or settlements of the physician. Information concerning paid medical malpractice claims may be put in context by comparing an individual licensee's medical malpractice judgments, awards, or settlements to the experience of other physicians within the same specialty;

(20) Any complaint or grievance filed with the board and upon which the board took disciplinary action, including a description of the nature of the complaint and the resolution; and

(21) All violations of this chapter.

(d) The physician profile may include information relating to:

(1) Appointment to medical school faculties within the most recent ten years;

(2) Articles in professional publications and journals; and

(3) Professional or community service membership, activities, and awards.

(e) The physician profiles shall be updated by the board as required in this subsection:

(1) The profile items listed in paragraphs (11) through (17) of subsection (c) of this Code section inclusive shall be reported to the board by the physician involved within ten days of the judgment, award, settlement, revocation, resignation, or disciplinary action, and the board shall update the physician's profile with such changes within ten days of receipt of such information; and

(2) All other changes to the physician profile shall be reported by the physician to the board within 30 days of the change, and the board shall verify and update the physician profile with such new information within 15 days.

(f) The physician may request a copy of the profile and may submit corrections to the board. The board shall verify corrections and make changes to the profile within five business days of receipt of the corrected information by the board. The physician may request postcorrection publication by the board to whomever received the profile containing the error.

(g) Notwithstanding the provisions of subsection (c) of this Code section, no final medical malpractice court judgment, medical malpractice arbitration award, or medical malpractice settlement which was awarded prior to April 11, 2001, and which was sealed by order of a court prior to April 11, 2001, shall be required to be disclosed pursuant to subsection (c) of this Code section. No final medical malpractice court judgment, medical malpractice arbitration award, or medical malpractice settlement which is awarded on or after April 11, 2001, shall be confidential or sealed with regard to information which is needed to comply with the purposes of this chapter.

HISTORY: Code 1981, § 43-34A-3, enacted by Ga. L. 2001, p. 192, § 5; Ga. L. 2002, p. 415, § 43; Ga. L. 2005, p. 60, § 43/HB 95; Ga. L. 2009, p. 859, § 2/HB 509; Ga. L. 2011, p. 438, § 1/HB 147.

§ 43-34A-4. Requests for physician profiles; fees; confidentiality; dispersal of inaccurate profile prohibited

Any person or entity has the right to receive a physician profile from the board upon request. Requests for physician profiles shall be accepted by the board by telephone, in writing, or by e-mail. The person or entity requesting the profile shall provide the name of the physician for whom a profile is sought. The board may charge a nominal fee for copying as is permitted under subsection (c) of Code Section 50-18-71. The board shall not require the person or entity requesting a physician's profile to use a specific request form or provide a statement of reason for requesting the profile. The board shall not be required to prepare reports, summaries, or compilations of profiles not in existence at the time of the request. The board shall keep both the identity of the person or entity who requests a physician's profile and the request confidential. The board must respond to all requests within three business days by sending a copy of the physician profile to the requester. Fees may be charged in accordance with subsection (c) of Code Section 50-18-71. A physician may make available his or her current unaltered board approved profile to the patients in his or her practice. The physician may not knowingly disperse a profile that does not disclose recent disciplinary actions, criminal convictions, revocations or restriction of hospital privileges, settlements, medical malpractice judgments, or arbitration awards as set forth in paragraphs (11) through (17) of subsection (c) of Code Section 43-34A-3.

HISTORY: Code 1981, § 43-34A-4, enacted by Ga. L. 2001, p. 192, § 5; Ga. L. 2011, p. 752, § 43/HB 142.

§ 43-34A-5. Patient's right to inquire as to medical malpractice coverage and to estimation of fees; collection of payment prior to rendering of services

A patient has the right to inquire as to whether the physician carries medical malpractice insurance and as to the estimated charges for a routine office visit, routine treatments, and lab tests prior to receiving such treatment. When asked for such information, the physician or other authorized personnel shall give such information freely and without reservation or evasion. Violation of this right should be reported immediately to the board. Physicians are not

responsible for ascertaining the details of the patient's insurance coverage and explaining such information to the patient. A physician may require the payment of his or her fee or any applicable copayment in advance of delivering professional services unless otherwise prohibited by law.

HISTORY: Code 1981, § 43-34A-5, enacted by Ga. L. 2001, p. 192, § 5; Ga. L. 2011, p. 438, § 2/HB 147.

§ 43-34A-6. Right to file grievance with state board; display of declaration of rights in waiting rooms; board review of complaints; inclusion in physician profile

(a) The patient or any person that the board deems to have a legitimate interest has the right to file a grievance with the board concerning a physician, staff, office, or treatment received.

(b) A declaration of the patient's rights shall be prominently displayed in conspicuous language in the physician's waiting room. This declaration may be contained in the same notice as the right to obtain physician profiles. The declaration of rights shall contain the following statement:

"The patient has the right to file a grievance with the Georgia Composite Medical Board concerning the physician, staff, office, and treatment received. The patient should either call the board with such a complaint or send a written complaint to the board. The patient should be able to provide the physician or practice name, the address, and the specific nature of the complaint."

Such notice shall include the current phone number and address of the board.

(c) The board must review every complaint received to determine if there is sufficient evidence to warrant an investigation according to a procedure established by board regulation. Only investigated complaints upon which the board has taken disciplinary action shall be included in a physician's profile. The board must take the appropriate action as set forth in the regulations promulgated by the board. The board must respond in writing to the complaint within 60 days. In the response, the board shall inform the person whether the complaint is being referred for investigation, and if the complaint has been investigated, the results of the investigation or whether further investigation is required, and any board action taken.

HISTORY: Code 1981, § 43-34A-6, enacted by Ga. L. 2001, p. 192, § 5; Ga. L. 2009, p. 859, § 2/HB 509.

§ 43-34A-7. Violations of chapter; penalty

(a) Any physician or authorized personnel violating any provision of this chapter shall be assessed a monetary fine as determined by the board by regulation for each day or instance of violation.

(b) A record of the violation shall be maintained as part of the physician profile.

HISTORY: Code 1981, § 43-34A-7, enacted by Ga. L. 2001, p. 192, § 5.

§ 43-34A-8. Deadline for physician profiles; promulgation of chapter regulations

(a) The board shall have profiles ready and be able to respond to request for profiles no later than July 1, 2002.

(b) All regulations required under this chapter shall be promulgated by the board by July 1, 2002.

HISTORY: Code 1981, § 43-34A-8, enacted by Ga. L. 2001, p. 192, § 5.

§ 43-34A-9. Annual report

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

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

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

(2) The specialty board certification of such physicians;

(3) The geographic regions of the primary practices;

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

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

HISTORY: Code 1981, § 43-34A-9, enacted by Ga. L. 2011, p. 438, § 3/HB 147.