

House Bill 458 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 43rd, Holcomb of the 81st, Gaines of the 117th, Newton of the 123rd, and Hawkins of the 27th

A BILL TO BE ENTITLED
AN ACT

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

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

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

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

31 **SECTION 2.**

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

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

40

SECTION 3.

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

44 "(15.1)(A) Pleaded guilty to committing a sexual assault on a patient; or

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

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

51

SECTION 4.

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

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

61

SECTION 5.

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

64 "43-34-14.
65 No later than January 1, 2022, the board shall develop and identify educational resources
66 and materials for physicians, board members, and board staff to support greater
67 understanding of sexual misconduct, sexual boundaries, and impacts of trauma and implicit
68 bias. Such information shall include resources and materials to help physicians develop
69 better insight into their own behavior and its impacts on others. Resources and materials
70 shall be developed and identified in collaboration with national medical boards
71 associations, national medical associations, state physician health programs, state medical
72 associations, hospital medical staffs, other organized physician groups, and medical schools
73 and training programs."

74 **SECTION 6.**

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

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

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

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

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

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

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

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

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

134 **SECTION 7.**

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

137 "43-34-47.

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

139 (1) 'Health care provider' means:

140 (A) A physician;

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

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

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

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

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

155 (d) Any health care provider required to report a physician to the board under this Code
156 section who knowingly and willfully fails to do so shall be subject to a fine of no less than
157 \$1,000.00 or greater than \$5,000.00 as determined by such health care provider's respective
158 licensing board and may be subject to other disciplinary action in such respective licensing
159 board's discretion.

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

164 **SECTION 8.**

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

167 "43-34A-9.

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

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

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

176 (2) The specialty board certification of such physicians;

177 (3) The geographic regions of the primary practices;

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

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

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

190 **SECTION 9.**

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