Part 1

160NJJ

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TITLE 16. CRIMES AND OFFENSES
CHAPTER 12. OFFENSES AGAINST PUBLIC HEALTH AND MORALS
ARTICLE 5. ABORTION

GO TO GEORGIA STATUTES ARCHIVE DIRECTORY

O.C.G.A. TITLE 16 Chapter 12 Article 5 (2013)

TITLE 16 Chapter 12 Article 5 NOTE

ARTICLE NOTES

CROSS REFERENCES. --Parental notification, T. 15, C. 11, A. 3.

ADMINISTRATIVE RULES AND REGULATIONS. --Performance of abortions after the first trimester of pregnancy, Official Compilation of Rules and Regulations of State of Georgia, Rules of Department of Human Resources of Physical Health, Chapter 290-5-32.

LAW REVIEWS. --For article, "The Politics of Virtue: Animals, Theology and Abortion," see *25 Ga. L. Rev. 923 (1991).* For article, "Two Decades of Reproductive Freedom Litigation and Activism in Georgia: From Doe v. Bolton to Atlanta v. Operation Rescue," see *28 Ga. St. B.J. 34 (1991).* For article, "Antiprogestin Drugs: Medical and Legal Issues," see *42 Mercer L. Rev. 971 (1991).*

For note, "The Law of Therapeutic Abortion: A Social Commentary on Proposed Reform," see 15 J. of Pub. L. 386 (1966). For note on abortion law preceding enactment of current chapter, see *20 Mercer L. Rev. 314 (1969).* For note advocating revision of former Georgia abortion statutes, see *6 Ga. L. Rev. 168 (1971).* For note, "What Do We Have Against Parents?: An Assessment of Judicial Bypass Procedures and Parental Involvement in Abortions by Minors," see *43 Ga. L. Rev. 617 (2009).*

For comment on *Doe v. Bolton, 319 F. Supp. 1048,* (N.D. Ga. 1970), as to unconstitutionality of statutory limitation on reasons for abortion, see *22 Mercer L. Rev. 461 (1971).* For comment on *Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973),* and *Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973),* see *10 Ga. St. B.J. 153 (1973).* For comment, "The Trimester Approach: How Long Can the Legal Fiction Last?," see *35 Mercer L. Rev. 891 (1984).*

OPINIONS OF THE ATTORNEY GENERAL

ONE 18 YEARS OF AGE OR OLDER MAY CONSENT TO ABORTION. --Since age of majority, and consequently age of emancipation from legal custody and control of parent is 18 years of age, a person 18 years of age or older may consent to an abortion. 1972 Op. Att'y Gen. No. 72-118.

RESEARCH REFERENCES

ALR. --Necessity, to warrant conviction of abortion, that fetus be living at time of commission of acts, *16 ALR2d 949.*

Pregnancy as element of abortion or homicide based thereon, *46 ALR2d 1393.*

Right of action for injury to or death of woman who consents to illegal abortion, *36 ALR3d 630.*

Right of minor to have abortion performed without parental consent, *42 ALR3d 1406.*

Validity of state statutes and regulations limiting or restricting public funding for abortions sought by indigent women, *20 ALR4th 1166.*

Requisites and conditions of judicial consent to minor's abortion, *23 ALR4th 1061.*

Constitutional right of prisoners to abortion services and facilities -- federal cases, *90 ALR Fed. 683.*

Title Note

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O.C.G.A. § 16-12-140 (2013)

§ 16-12-140. Criminal abortion

(a) A person commits the offense of criminal abortion when, in violation of *Code Section 16-12-141*, he or she administers any medicine, drugs, or other substance whatever to any woman or when he or she uses any instrument or other means whatever upon any woman with intent to produce a miscarriage or abortion.

(b) A person convicted of the offense of criminal abortion shall be punished by imprisonment for not less than one nor more than ten years.

HISTORY: Ga. L. 1876, p. 113, § 2; Code 1882, § 4337b; Penal Code 1895, § 81; Penal Code 1910, § 81; Code 1933, § 26-1101; Code 1933, §§ 26-1201, 26-1203, enacted by Ga. L. 1968, p. 1249, § 1; Code 1933, § 26-1204, enacted by Ga. L. 1973, p. 635, § 1; Ga. L. 2012, p. 575, § 2/HB 954.

NOTES: THE 2012 AMENDMENT, effective May 1, 2012, for purposes of promulgating rules and regulations and effective for all other purposes on January 1, 2013, in subsection (a), substituted "A person" for "Except as otherwise provided in *Code Section 16-12-141*, a person" at the beginning, and, near the middle, substituted ", in violation of *Code Section 16-12-141*, he or she" for "he" and inserted "or she".

CROSS REFERENCES. --Disciplining of physicians by Composite State Board of Medical Examiners for performing, procuring, or otherwise obtaining criminal abortion, *§ 43-34-8(a)(8)*.

EDITOR'S NOTES. --Ga. L. 2012, p. 575, § 1/HB 954, not codified by the General Assembly, provides that: "The General Assembly makes the following findings:

"(1) At least by 20 weeks after fertilization there is substantial evidence that an unborn child has the physical structures necessary to experience pain;

"(2) There is substantial evidence that, by 20 weeks after fertilization, unborn children seek to evade certain stimuli in

a manner which in an infant or an adult would be interpreted as a response to pain;

"(3) Anesthesia is routinely administered to unborn children who have developed 20 weeks or more past fertilization who undergo prenatal surgery;

"(4) Even before 20 weeks after fertilization, unborn children have been observed to exhibit hormonal stress responses to painful stimuli. Such responses were reduced when pain medication was administered directly to such unborn children;

"(4.1) Probable gestational age is an estimate made to assume the closest time to which the fertilization of a human ovum occurred and does not purport to be an exact diagnosis of when such fertilization occurred; and

"(5) It is the purpose of the State of Georgia to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain."

LAW REVIEWS. --For survey article on criminal law and procedure, see *34 Mercer L. Rev. 89 (1982).* For annual survey article discussing developments in criminal law, see *51 Mercer L. Rev. 209 (1999).* For article, "Crimes and Offenses," see *27 Ga. St. U.L. Rev. 209 (2011).* For article on the 2012 amendment of this Code section, see *29 Ga. St. U.L. Rev. 253 (2012).*

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JUDICIAL DECISIONS

CONSTITUTIONALITY. --Distinction between the sentences required by the Georgia feticide statute (life sentence) and *O.C.G.A. § 16-12-140* is rationally related to legitimate governmental purposes. *Smith v. Newsome, 815 F.2d 1386 (11th Cir. 1987).*

PREGNANT WOMAN DOES NOT HAVE ABSOLUTE CONSTITUTIONAL RIGHT to abortion upon demand. *Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973).*

VIABLE UNBORN CHILDREN HAVE RIGHT TO PROTECTION. --Viable unborn child has right under United States Constitution to protection of state through statutes prohibiting arbitrary termination of life of an unborn fetus. *Jefferson v. Griffin Spalding County Hosp. Auth., 247 Ga. 86, 274 S.E.2d 457 (1981).*

CONDUCT OF OTHERS CONTROLLED. --*O.C.G.A. § 16-12-140* is specifically directed to prevent the conduct of persons other than the pregnant woman. *Hillman v. State, 232 Ga. App. 741, 503 S.E.2d 610 (1998).*

O.C.G.A. § 16-12-140 is written in the third person, clearly indicating that at least two actions must be involved; therefore, a woman cannot be prosecuted under that statute for allegedly performing a criminal abortion on herself. *Hillman v. State, 232 Ga. App. 741, 503 S.E.2d 610 (1998).*

OPINIONS OF THE ATTORNEY GENERAL

RIGHTS UNDER ABORTION STATUTES EXTEND TO FEMALE INMATES IN STATE PRISONS. --Beyond requirements provided by abortion statute enacted in compliance with holding of *Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973)* and *Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973),* Board of Offender Rehabilitation may not regulate right of female inmates to have abortions; the board must comply with these statutory requirements in allowing and procuring abortions for female inmates; a failure to permit such abortions under prescribed conditions would lead to an infringement of the female inmates' civil rights as guaranteed under the United States Constitution. 1977 Op. Att'y Gen. No. 77-36.

RESEARCH REFERENCES

AM. JUR. 2D. --*1 Am. Jur. 2d, Abortion and Birth Control, § 116* et seq.

Am. Jur. Pleading and Practice Forms. --1 Am. Jur. Pleading and Practice Forms, Abortion, § 2.

C.J.S. --1 C.J.S., Abortion and Birth Control; Family Planning, § 1 et seq.

ALR. --Criminal responsibility of one other than subject or actual perpetrator of abortion, 4 ALR 351.
Admissibility, in prosecution based on abortion, of evidence of commission of similar crimes by accused, *15 ALR2d 1080.*
Woman upon whom abortion is committed or attempted as accomplice for purposes of rule requiring corroboration of accomplice testimony, *34 ALR3d 858.*
Right of action for injury to or death of woman who consented to illegal abortion, *36 ALR3d 630.*
Homicide based on killing of unborn child, *40 ALR3d 444; 64 ALR5th 671.*
Entrapment defense in sex offense prosecutions, *12 ALR4th 413.*
Women's reproductive rights concerning abortion, and governmental regulation thereof -- Supreme Court cases, *20 ALR Fed. 2d 1.*
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O.C.G.A. § 16-12-141 (2013)

§ 16-12-141. Restrictions on the performance of abortions; availability of records

(a) No abortion is authorized or shall be performed in violation of subsection (a) of *Code Section 31-9B-2*.

(b) (1) No abortion is authorized or shall be performed after the first trimester unless the abortion is performed in a licensed hospital, in a licensed ambulatory surgical center, or in a health facility licensed as an abortion facility by the Department of Community Health.

(2) An abortion shall only be performed by a physician licensed under Article 2 of Chapter 34 of Title 43.

(c) (1) No abortion is authorized or shall be performed if the probable gestational age of the unborn child has been determined in accordance with *Code Section 31-9B-2* to be 20 weeks or more unless the pregnancy is diagnosed as medically futile, as such term is defined in *Code Section 31-9B-1*, or in reasonable medical judgment the abortion is necessary to:

(A) Avert the death of the pregnant woman or avert serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. No such condition shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function; or

(B) Preserve the life of an unborn child.

As used in this paragraph, the term "probable gestational age of the unborn child" has the meaning provided by *Code Section 31-9B-1*.

(2) In any case described in subparagraph (A) or (B) of paragraph (1) of this subsection, the physician shall

terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function of the pregnant woman than would another available method. No such greater risk shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function. If the child is capable of sustained life, medical aid then available must be rendered.

(d) Hospital or other licensed health facility records shall be available to the district attorney of the judicial circuit in which the hospital or health facility is located.

HISTORY: Code 1933, § 26-1202, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1973, p. 635, § 1; Ga. L. 1997, p. 142, § 1; Ga. L. 2005, p. 1450, § 4/HB 197; Ga. L. 2009, p. 453, §§ 1-4, 1-6/HB 228; Ga. L. 2011, p. 705, §§ 6-3, 6-5/HB 214; Ga. L. 2012, p. 575, § 2/HB 954.

NOTES: THE 2009 AMENDMENT, effective July 1, 2009, substituted "Department of Community Health" for "Department of Human Resources" at the end of paragraph (b)(1), and in the first sentence of subsection (d); and substituted "commissioner of community health" for "commissioner of human resources" in the first sentence of subsection (d).

THE 2011 AMENDMENT, effective July 1, 2011, in the first sentence of subsection (d), substituted "commissioner of public health" for "commissioner of community health" and substituted "Department of Public Health" for "Department of Community Health".

THE 2012 AMENDMENT, effective May 1, 2012, for purposes of promulgating rules and regulations and effective for all other purposes on January 1, 2013, rewrote this Code section.

EDITOR'S NOTES. --Ga. L. 2012, p. 575, § 1/HB 954, not codified by the General Assembly, provides that: "The General Assembly makes the following findings:

"(1) At least by 20 weeks after fertilization there is substantial evidence that an unborn child has the physical structures necessary to experience pain;

"(2) There is substantial evidence that, by 20 weeks after fertilization, unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted as a response to pain;

"(3) Anesthesia is routinely administered to unborn children who have developed 20 weeks or more past fertilization who undergo prenatal surgery;

"(4) Even before 20 weeks after fertilization, unborn children have been observed to exhibit hormonal stress responses to painful stimuli. Such responses were reduced when pain medication was administered directly to such unborn children;

"(4.1) Probable gestational age is an estimate made to assume the closest time to which the fertilization of a human ovum occurred and does not purport to be an exact diagnosis of when such fertilization occurred; and

"(5) It is the purpose of the State of Georgia to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain."

ADMINISTRATIVE RULES AND REGULATIONS. --Performance of abortions after the first trimester of pregnancy, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Department of Human Resources, Chapter 290-5-32.

LAW REVIEWS. --For article, "Crimes and Offenses," see *27 Ga. St. U.L. Rev. 209 (2011).* For article on the 2011 amendment of this Code section, see *28 Ga. St. U.L. Rev. 147 (2011).* For article commenting on the 1997 amendment

of this Code section, see *14 Ga. St. U.L. Rev. 250 (1997).* For article on 2005 amendment of this Code section, see *22 Ga. St. U.L. Rev. 147 (2005).* For article on the 2012 amendment of this Code section, see *29 Ga. St. U.L. Rev. 253 (2012).*

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JUDICIAL DECISIONS

WHETHER AN ABORTION IS NECESSARY IS A PROFESSIONAL JUDGMENT that a Georgia physician will be called upon to make routinely, and such words do not make *O.C.G.A. § 16-12-141* unconstitutionally vague. *Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973).*

VIABLE UNBORN CHILD HAS RIGHT TO PROTECTION. --Viable unborn child has the right under the United States Constitution to protection of state through statutes prohibiting arbitrary termination of life of an unborn fetus. *Jefferson v. Griffin Spalding County Hosp. Auth., 247 Ga. 86, 274 S.E.2d 457 (1981).*

AS TO REQUIRED ACQUIESCENCE BY CO-PRACTITIONERS UNDER FORMER CODE 1933, § 26-1202(b)(3), the statute's connection, or lack thereof, with patient's needs and the statute's effect on physician's right to practice, see *Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973)* (decided prior to repeal and reenactment of this section by Ga. L. 1973, p. 635, § 1) (see *O.C.G.A. § 16-12-141(c)*).

OPINIONS OF THE ATTORNEY GENERAL

EDITOR'S NOTES. --In light of the similarity of the statutory provisions, opinions under former Code 1933, §§ 26-1202 and 88-1716 are included in the annotations for this Code section.

RIGHTS UNDER SECTION EXTEND TO FEMALE INMATES IN STATE PRISONS. --Beyond requirements provided by abortion statute enacted in compliance with holding of landmark, *Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973),* and *Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973),* the Board of Offender Rehabilitation may not regulate right of female inmates to have abortions; the board must comply with these statutory requirements in allowing and procuring abortions for female inmates, but a failure to permit such abortions under prescribed conditions would lead to infringement of the female inmates' civil rights as guaranteed under the United States Constitution. 1977 Op. Att'y Gen. No. 77-36.

CERTIFICATE OF LEGAL ABORTION WILL NOT REPLACE FETAL DEATH CERTIFICATE (see §§ *O.C.G.A. 31-10-18* and *31-10-19*). 1973 Op. Att'y Gen. No. 73-71 (rendered under former Code 1933, §§ 26-1202 and 88-1716).

PHYSICIAN IS IMMUNE FROM CIVIL LIABILITY FOR PERFORMING AN ABORTION WHEN REQUIREMENTS ARE MET, assuming that no restraining order has been issued. 1970 Op. Att'y Gen. No. U70-61 (rendered under former Code 1933, § 26-1202, prior to repeal and reenactment by Ga. L. 1973, p. 635, § 1).

RESEARCH REFERENCES

AM. JUR. 2D. --*1 Am. Jur. 2d, Abortion and Birth Control, § 3*.

C.J.S. --1 C.J.S., Abortion and Birth Control; Family Planning, § 1.

ALR. --Criminal responsibility of one other than subject or actual perpetrator of abortion, 4 ALR 351.
Right of action for injury to or death of woman who consented to illegal abortion, *36 ALR3d 630.*
Homicide based on killing of unborn child, *40 ALR3d 444.*
Woman's right to have abortion without consent of, or against objections of, child's father, *62 ALR3d 1097.*
Entrapment defense in sex offense prosecutions, *12 ALR4th 413.*
Medical practice in performance of legal abortion, *69 ALR4th 875.*
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O.C.G.A. § 16-12-141.1 (2013)

§ 16-12-141.1. (For effective date, see note.) Disposal of aborted fetuses; reporting requirements; penalties; public report; confidentiality of identity of physicians filing reports

(a)(1) Every hospital and clinic in which abortions are performed or occur spontaneously, and any laboratory to which the aborted fetuses are delivered, shall provide for the disposal of the aborted fetuses by cremation, interment, or other manner approved of by the commissioner of public health. The hospital, clinic, or laboratory may complete any laboratory tests necessary for the health of the woman or her future offspring prior to disposing of the aborted fetus.

(2) Each hospital, clinic, and laboratory shall report, on a form of the type and confidentiality provided for in subsection (d) of *Code Section 16-12-141*, and provided by the commissioner of public health, the manner in which it disposes of the aborted fetus. Such reports shall be made annually by December 31 and whenever the method of disposal changes. The commissioner of public health shall provide forms for reporting under this Code section.

(b) Any hospital, clinic, or laboratory violating the provisions of subsection (a) of this Code section shall be punished by a fine of not less than $1,000.00 nor more than $5,000.00.

(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known as the Department of Public Health for these purposes) shall prepare a reporting form for physicians which shall include:

(1) (For effective date, see note.) The number of females whose parent or guardian was provided the notice required in paragraph (1) of subsection (a) of Code Section 15-11-682 by the physician or such physician's agent; of that number, the number of notices provided personally under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section 15-11-682 and the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section 15-11-682; and, of each of those numbers, the number of females who, to the best of the reporting physician's information and belief, went on to obtain the abortion;

(2) (For effective date, see note.) The number of females upon whom the physician performed an abortion without providing to the parent or guardian of a minor the notice required by subsection (a) of Code Section 15-11-682; and of that number, the number of females for which subsection (b) of Code Section 15-11-682 and Code Section 15-11-686 were applicable;

(3) (For effective date, see note.) The number of abortions performed upon a female by the physician after receiving judicial authorization pursuant to subsection (b) of Code Section 15-11-682 and Code Section 15-11-684; and

(4) The same information described in paragraphs (1), (2), and (3) of this subsection with respect to females for whom a guardian or conservator has been appointed.

(d) The Department of Public Health shall ensure that copies of the reporting forms described in subsection (c) of this Code section, together with a reprint of this Code section, are provided:

(1) Within 120 days after May 10, 2005, to all health facilities licensed as an abortion facility by the Department of Human Resources (now known as the Department of Community Health for these purposes);

(2) To each physician licensed or who subsequently becomes licensed to practice medicine in this state at the same time as official notification to that physician that the physician is so licensed; and

(3) By December 1 of every year, other than the calendar year in which forms are distributed in accordance with paragraph (1) of this subsection, to all health facilities licensed as an abortion facility by the Department of Community Health.

(e) (For effective date, see note.) By February 28 of each year following a calendar year in any part of which this subsection was in effect, each physician who provided, or whose agent provided, the notice described in subsection (a) of Code Section 15-11-682 and any physician who knowingly performed an abortion upon a female or upon a female for whom a guardian or conservator had been appointed because of a finding of incompetency during the previous calendar year shall submit to the Department of Public Health a copy of the form described in subsection (c) of this Code section with the requested data entered accurately and completely.

(f) Reports that are submitted more than 30 days following the due date shall be subject to a late fee of $500.00 for that period and the same fee for each additional 30 day period or portion of a 30 day period in which they remain overdue. Any physician required to report in accordance with this Code section who submits an incomplete report or fails to submit a report for more than one year following the due date may, in an action brought by the Department of Public Health, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt.

(g) (For effective date, see note.) By June 30 of each year, the Department of Public Health shall issue a public report providing statistics for the previous calendar year compiled from all the reports covering that year submitted in accordance with this Code section for each of the items listed in subsection (c) of this Code section. The report shall also include statistics which shall be obtained by the Administrative Office of the Courts giving the total number of petitions or motions filed under subsection (b) of Code Section 15-11-682 and, of that number, the number in which the court appointed a guardian ad litem, the number in which the court appointed counsel, the number in which the judge issued an order authorizing an abortion without notification, the number in which the judge denied such an order, and, of the last, the number of denials from which an appeal was filed, the number of such appeals that resulted in the denials being affirmed, and the number of such appeals that resulted in reversals of such denials. Each report shall also provide the statistics for all previous calendar years for which such a public statistical report was required to be issued, adjusted to reflect any additional information from late or corrected reports. The Department of Public Health shall ensure that none of the information included in the public reports could reasonably lead to the identification of any individual female or of any female for whom a guardian or conservator has been appointed.

(h) The Department of Public Health may by regulation alter the dates established by paragraph (3) of subsection (d) and subsections (e) and (g) of this Code section or consolidate the forms or reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements so long as reporting forms are sent to all facilities licensed as an abortion facility by the Department of Community Health at least once every year and the report described in subsection (g) of this Code section is issued at least once each year.

(i) The Department of Public Health shall ensure that the names and identities of the physicians filing reports under this Code section shall remain confidential. The names and identities of such physicians shall not be subject to Article 4 of Chapter 18 of Title 50.

HISTORY: Code 1981, *§ 16-12-141.1*, enacted by Ga. L. 1985, p. 1421, § 1; Ga. L. 2005, p. 1450, § 5/HB 197; Ga. L. 2009, p. 453, § 1-6/HB 228; Ga. L. 2011, p. 705, §§ 6-3, 6-5/HB 214; Ga. L. 2013, p. 294, § 4-13/HB 242.

NOTES: DELAYED EFFECTIVE DATE. --Subsections (c), (e), and (g), as set out above, become effective January 1, 2014. For version of subsections (c), (e), and (g) in effect until January 1, 2014, see the 2013 amendment note.

THE 2009 AMENDMENT, effective July 1, 2009, substituted "commissioner of community health" for "commissioner of human resources" in the first sentence of paragraph (a)(1), and in the first and last sentences of paragraph (a)(2).

THE 2011 AMENDMENT, effective July 1, 2011, substituted "Department of Public Health" for "Department of Community Health" throughout this Code section, and substituted "commissioner of public health" for "commissioner of community health" in the first sentence of paragraph (a)(1), and in the first and last sentences of paragraph (a)(2).

THE 2013 AMENDMENT, effective January 1, 2014, substituted "Code Section 15-11-682" for "*Code Section 15-11-112*" three times in paragraph (c)(1), twice in paragraph (c)(2), once in paragraph (c)(3), and once in subsections (e) and (g); substituted "Code Section 15-11-686" for "*Code Section 15-11-116*" in paragraph (c)(2); and substituted "Code Section 15-11-684" for "*Code Section 15-11-114*" in paragraph (c)(3). See editor's note for applicability.

EDITOR'S NOTES. --Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: "This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions."

LAW REVIEWS. --For article on the 2011 amendment of this Code section, see *28 Ga. St. U.L. Rev. 147 (2011).*

CROSS REFERENCES. --Reporting induced termination of pregnancy, *§ 31-10-19*. Reporting of fetal deaths for vital records purposes, *§ 31-10-29*. Dead bodies generally, T. 31, C. 21.

CODE COMMISSION NOTES. --Pursuant to *Code Section 28-9-5*, in 1986, in the first sentence of paragraph (a)(2), commas were added following "shall report," "16-12-141," and "human resources" (now community health).

Pursuant to *Code Section 28-9-5*, in 2005, "May 10, 2005" was substituted for "the effective date of this subsection" in subsection (c) and in paragraph (d)(1).

Pursuant to *Code Section 28-9-5*, in 2009, "Community Health" was substituted for "Human Resources" throughout this Code section and "(now known as the Department of Community Health for these purposes)" was inserted in the introductory language of subsection (c) and in paragraph (d)(1).

ADMINISTRATIVE RULES AND REGULATIONS. --Reporting requirement for all abortions, Official Compilation

of the Rules and Regulations of the State of Georgia, Rules of Department of Human Resources, Chapter 290-5-32.

For article on 2005 amendment of this Code section, see *22 Ga. St. U.L. Rev. 147 (2005).*

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CHAPTER 12. OFFENSES AGAINST PUBLIC HEALTH AND MORALS
ARTICLE 5. ABORTION

GO TO GEORGIA STATUTES ARCHIVE DIRECTORY

O.C.G.A. § 16-12-142 (2013)

§ 16-12-142. Objections by medical facilities, physicians, or pharmacists to providing abortion-related services

(a) Nothing in this article shall require a hospital or other medical facility or physician to admit any patient under the provisions of this article for the purpose of performing an abortion. In addition, any person who states in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to participate in procedures which will result in such abortion; and the refusal of the person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against the person. The written objection shall remain in effect until the person revokes it or terminates his association with the facility with which it is filed.

(b) Any pharmacist who states in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to fill a prescription for a drug which purpose is to terminate a pregnancy; and the refusal of the person to fill such prescription shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against the person; provided, however, that the pharmacist shall make all reasonable efforts to locate another pharmacist who is willing to fill such prescription or shall immediately return the prescription to the prescription holder. The written objection shall remain in effect until the person revokes it or terminates his or her association with the facility with which it is filed. Nothing in this subsection shall be construed to authorize a pharmacist to refuse to fill a prescription for birth control medication, including any process, device, or method to prevent pregnancy and including any drug or device approved by the federal Food and Drug Administration for such purpose.

HISTORY: Code 1933, § 26-1202, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1973, p. 635, § 1; Ga. L. 2006, p. 152, § 2A/HB 1178.

NOTES: LAW REVIEWS. --For article on 2006 amendment of this Code section, see *23 Ga. St. U.L. Rev. 197 (2006).*
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O.C.G.A. § 16-12-143 (2013)

§ 16-12-143. Failure to file or maintain required written reports

A person who fails to file or maintain in complete form any of the written reports required in this article within the time set forth is guilty of a misdemeanor.

HISTORY: Code 1933, § 26-1203, enacted by Ga. L. 1973, p. 635, § 1.
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O.C.G.A. § 16-12-144 (2013)

§ 16-12-144. Partial-birth abortions

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

(1) "Fetus" means the biological offspring of human parents.

(2) "Partial-birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living human fetus before ending the life of the fetus and completing the delivery.

(b) Any person who knowingly performs a partial-birth abortion and thereby ends the life of a human fetus shall, upon conviction thereof, be punished by a fine not to exceed $5,000.00, imprisonment for not more than five years, or both. This prohibition shall not apply to a partial-birth abortion that is necessary to save the life of the mother because her life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering condition caused by or arising from the pregnancy itself, provided that no other medical procedure will suffice to save the mother's life.

(c)(1) The father of the fetus, and the maternal grandparents of the fetus if the mother has not attained the age of 18 years of age at the time of the abortion, may obtain appropriate relief in a civil action, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include:

(A) Money damages for all injuries, psychological and physical, occasioned by the violation of this Code section; and

(B) Statutory damages equal to three times the cost of the partial-birth abortion.

(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this Code section for

violating this Code section or any provision thereof, or for conspiracy or for an attempt to violate this Code section or any provision thereof.

HISTORY: Code 1981, *§ 16-12-144*, enacted by Ga. L. 1997, p. 142, § 2.

NOTES: CROSS REFERENCES. --Provision that enumeration of rights shall not exclude other inherent rights, *Ga. Const. 1983, Art. I, Sec. I, Para. XXIX*.

LAW REVIEWS. --For article commenting on the enactment of this Code section, see *14 Ga. St. U.L. Rev. 250 (1997)*.

LexisNexis 50 State Surveys, Legislation & Regulations

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JUDICIAL DECISIONS

COURT APPROVED PARTIES' CONSENT DECREE STIPULATION in plaintiff's action which challenged constitutionality of *O.C.G.A. § 16-12-144*, which stipulation provided that statute would be enforced only as to abortions performed after the point of viability; that the term "living human fetus" as used in that statute meant "viable human fetus"; and that the statute applied only to abortions in which an "intact dilation and extraction" abortion procedure was used. *Midtown Hosp. v. Miller, 36 F. Supp. 2d 1360 (N.D. Ga. 1998)*.

RESEARCH REFERENCES

ALR. --Validity, construction, and application of statutory restrictions on partial birth abortions, *76 ALR5th 637*.
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CHAPTER 7. REGULATION AND CONSTRUCTION OF HOSPITALS AND OTHER HEALTH CARE FACILITIES
ARTICLE 1. REGULATION OF HOSPITALS AND RELATED INSTITUTIONS

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O.C.G.A. § 31-7-1 (2013)

§ 31-7-1. Definitions

As used in this chapter, the term:

(1) "Board" means the Board of Community Health.

(2) "Commissioner" means the commissioner of community health.

(3) "Department" means the Department of Community Health.

(4) "Institution" means:

(A) Any building, facility, or place in which are provided two or more beds and other facilities and services that are used for persons received for examination, diagnosis, treatment, surgery, maternity care, nursing care, assisted living care, or personal care for periods continuing for 24 hours or longer and which is classified by the department, as provided for in this chapter, as either a hospital, nursing home, assisted living community, or personal care home;

(B) Any health facility wherein abortion procedures under subsections (b) and (c) of *Code Section 16-12-141* are performed or are to be performed;

(C) Any building or facility, not under the operation or control of a hospital, which is primarily devoted to the provision of surgical treatment to patients not requiring hospitalization and which is classified by the department as an ambulatory surgical treatment center;

(D) Any fixed or mobile specimen collection center or health testing facility where specimens are taken from the human body for delivery to and examination in a licensed clinical laboratory or where certain measurements such as

height and weight determination, limited audio and visual tests, and electrocardiograms are made, excluding public health services operated by the state, its counties, or municipalities;

(E) Any building or facility where human births occur on a regular and ongoing basis and which is classified by the department as a birthing center;

(F) Any building or facility which is devoted to the provision of treatment and rehabilitative care for periods continuing for 24 hours or longer for persons who have traumatic brain injury, as defined in *Code Section 37-3-1*; or

(G) Any freestanding imaging center where magnetic resonance imaging, computed tomography (CT) scanning, positron emission tomography (PET) scanning, positron emission tomography/computed tomography, and other advanced imaging services as defined by the department by rule, but not including X-rays, fluoroscopy, or ultrasound services, are conducted in a location or setting not affiliated or attached to a hospital or in the offices of an individual private physician or single group practice of physicians and conducted exclusively for patients of that physician or group practice.

The term "institution" shall exclude all physicians' and dentists' private offices and treatment rooms in which such physicians or dentists primarily see, consult with, and treat patients.

(5) "Medical facility" means any licensed general hospital, destination cancer hospital, or specialty hospital, institutional infirmary, public health center, or diagnostic and treatment center.

(6) "Permit" means a permit issued by the department upon compliance with the rules and regulations of the department.

(7) "Provisional permit" means a permit issued on a conditional basis for one of the following reasons:

(A) To allow a newly established institution a reasonable but limited period of time to demonstrate that its operational procedures equal standards specified by the rules and regulations of the department; or

(B) To allow an existing institution a reasonable length of time to comply with rules and regulations, provided the institution shall present a plan of improvement acceptable to the department.

HISTORY: Code 1933, § 88-1901, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1969, p. 715, § 3; Ga. L. 1973, p. 635, § 3; Ga. L. 1978, p. 1757, § 1; Code 1933, § 88-1913, enacted by Ga. L. 1980, p. 1040, § 2; Ga. L. 1982, p. 3, § 31; Ga. L. 1982, p. 864, §§ 1, 3; Ga. L. 1983, p. 3, § 22; Ga. L. 1989, p. 1566, § 2; Ga. L. 1990, p. 381, § 1; Ga. L. 1991, p. 94, § 31; Ga. L. 1993, p. 1445, § 4; Ga. L. 2002, p. 1324, § 1-5; Ga. L. 2003, p. 558, § 2; Ga. L. 2008, p. 12, § 2-8/SB 433; Ga. L. 2011, p. 227, § 11/SB 178.

NOTES: THE 2011 AMENDMENT, effective July 1, 2011, in subparagraph (4)(A), inserted "assisted living care," near the middle, and inserted "assisted living community," near the end.

CROSS REFERENCES. --"Personal care home" defined, *§ 31-7-12*. Conscious sedation, *§ 43-11-21*.

EDITOR'S NOTES. --Ga. L. 1993, p. 1445, § 18.1, not codified by the General Assembly, provides: "Nothing in this Act shall be construed to repeal any provision of Chapter 5 of Title 37 of the Official Code of Georgia Annotated, the 'Community Services Act for the Mentally Retarded.'"

JUDICIAL DECISIONS

CITED in *Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973); Reddix v. Chatham County Hosp. Auth., 134 Ga. App. 860, 216 S.E.2d 680 (1975); Redd v. State, 240 Ga. 753, 243 S.E.2d 16 (1978); Primary Care Physicians*

Group v. Ledbetter, 634 F. Supp. 78 (N.D. Ga. 1986); Wofford v. Glynn Brunswick Mem. Hosp., 864 F.2d 117 (11th Cir. 1989).

OPINIONS OF THE ATTORNEY GENERAL

DEPARTMENT CANNOT REGULATE ABORTION FACILITIES NOT WITHIN DEFINITION OF INSTITUTION. --Law concerning regulation of hospitals and institutions cannot be utilized by Department of Human Resources (now the Department of Community Health for these purposes) to extend regulation to abortions performed in facilities other than those embraced by the term institution. 1973 Op. Att'y Gen. No. 73-24.

CLASSIFICATION AND OPERATION BY DEPARTMENT OF GRACEWOOD AND CENTRAL STATE HOSPITALS. --Department of Human Resources (now the Department of Community Health for these purposes) has authority to classify units of Gracewood State School and Hospital and Central State Hospital as a skilled nursing home and general hospital and has ample authority to operate these institutions. 1969 Op. Att'y Gen. No. 69-243.

RESEARCH REFERENCES

AM. JUR. 2D. --*40A Am. Jur. 2d, Hospitals and Asylums, §§ 1, 17* et seq.

Am. Jur. Pleading and Practice Forms. --13B Am. Jur. Pleading and Practice Forms, Hospitals, § 2.

C.J.S. --41 C.J.S., Hospitals, § 1 et seq.

ALR. --Liability of hospital, physician, or other medical personnel for death or injury to mother or child caused by improper procedures during caesarean delivery, *76 ALR4th 1112.*

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O.C.G.A. § 31-7-2 (2013)

§ 31-7-2. Classification of institutions

The department shall classify institutions and adopt and promulgate rules and regulations applicable thereto according to the type of services rendered.

HISTORY: Ga. L. 1946, p. 34, § 1; Ga. L. 1958, p. 322, § 1; Code 1933, § 88-1904, enacted by Ga. L. 1964, p. 499, § 1.

JUDICIAL DECISIONS

DEPARTMENT REGULATIONS GOVERNING FREE-STANDING EMERGENCY CARE CLINICS VIOLATED FIRST AMENDMENT RIGHTS of plaintiff physicians since the regulations were more extensive than necessary to serve the governmental interest of prohibiting misleading advertising and were impermissibly vague in providing that facilities which used such terms as "emergency," "crisis," "sudden," "acute" or a similar meaning term fell within the regulatory ambit. *Primary Care Physicians Group v. Ledbetter, 634 F. Supp. 78 (N.D. Ga. 1986).*

OPINIONS OF THE ATTORNEY GENERAL

CLASSIFICATION AND OPERATION BY DEPARTMENT OF GRACEWOOD AND CENTRAL STATE HOSPITALS. --Department of Human Resources (now the Department of Community Health for these purposes) has authority to classify units of Gracewood State School and Hospital and Central State Hospital as a skilled nursing home and general hospital and has ample authority to operate these institutions. 1969 Op. Att'y Gen. No. 69-243.

RESEARCH REFERENCES

C.J.S. --39A C.J.S., Health and Environment, §§ 4, 6.
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O.C.G.A. § 31-7-2.1 (2013)

§ 31-7-2.1. Rules and regulations; availability of reports of cited deficiencies; disclosure of survey worksheets and documents

(a) The department shall adopt and promulgate such reasonable rules and regulations which in its judgment are necessary to protect the health and lives of patients and shall prescribe and set out the kind and quality of building, equipment, facilities, and institutional services which institutions shall have and use in order to properly care for their patients. Such rules and regulations shall include detailed quality standards for specific clinical services which shall be required to be met by an institution prior to offering the particular service. Such rules and regulations shall require that all nursing homes annually offer unless contraindicated, contingent on availability, an influenza virus vaccine to all medicare and Medicaid-eligible patients and private-pay patients in their facilities, in accordance with the rules and regulations established pursuant to this subsection. Such rules and regulations shall also require that all nursing homes annually offer unless contraindicated, contingent on availability, a pneumococcal bacteria vaccine to all medicare-eligible patients and all private-pay patients, 65 years of age or older, in their facilities, in accordance with the rules and regulations established pursuant to this subsection.

(b) The department shall compile and distribute, upon request, to interested persons a monthly list of those nursing homes and intermediate care homes surveyed, inspected, or investigated during the month, indicating each facility for which deficiencies have been cited by the department, and indicating where reports of the cited deficiencies and information regarding any sanctions imposed can be obtained. The department shall also make available the survey reports upon written request.

(c) Except as provided in *Code Sections 31-8-86* and 31-5-5, all worksheets or documents prepared or compiled by department surveyors in the course of nursing home surveys shall be provided upon written request to a nursing home which has received notice of intent to impose a remedy or sanction pursuant to *42 U.S.C. Section 1396r* or *Code Section 31-2-8*; provided, however, that the names of residents and any other information that would reveal the identities of

residents and the content of resident interviews shall not be disclosed except as provided in survey protocols of the federal Centers for Medicare and Medicaid Services. The department may charge a reasonable reproduction fee as provided in Article 4 of Chapter 18 of Title 50.

HISTORY: Code 1933, § 88-1903, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1991, p. 1603, § 1; Ga. L. 1996, p. 1024, § 1; Ga. L. 2002, p. 415, § 31; Ga. L. 2004, p. 443, § 1; Ga. L. 2008, p. 12, § 2-9/SB 433; Ga. L. 2009, p. 453, § 1-9/HB 228; Ga. L. 2011, p. 705, § 4-7/HB 214.

NOTES: THE 2011 AMENDMENT, effective July 1, 2011, substituted "*Code Section 31-2-8*" for "*Code Section 31-2-11*" in the first sentence of subsection (c).

CODE COMMISSION NOTES. --Pursuant to *Code Section 28-9-5*, in 2003, an extra "the" was deleted preceding "federal Centers for Medicare and Medicaid Services" near the end of the first sentence in subsection (c).

Pursuant to *Code Section 28-9-5*, in 2004, a hyphen was inserted twice between the words "private pay" and once between the words "Medicaid eligible" and the words "medicare eligible" in the second and third sentence of subsection (a).

Pursuant to *Code Section 28-9-5*, in 2008, "Article 4 of Chapter 18 of Title 50." was substituted for "*Code Section 50-18-70* et seq." in the last sentence of subsection (c).

U.S. CODE. --Requirements for nursing facilities, *42 U.S.C. § 1396r*.

LAW REVIEWS. --For article on the 2011 amendment of this Code section, see *28 Ga. St. U.L. Rev. 147 (2011).*

For note on 1991 amendment of this Code section, see *8 Ga. St. U.L. Rev. 74 (1992).*

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O.C.G.A. § 31-7-3 (2013)

§ 31-7-3. Requirements for permits to operate institutions

(a) Any person or persons responsible for the operation of any institution, or who may hereafter propose to establish and operate an institution and to provide specified clinical services, shall submit an application to the department for a permit to operate the institution and provide such services, such application to be made on forms prescribed by the department. No institution shall be operated in this state without such a permit, which shall be displayed in a conspicuous place on the premises. No clinical services shall be provided by an institution except as approved by the department in accordance with the rules and regulations established pursuant to *Code Section 31-7-2.1*. Failure or refusal to file an application for a permit shall constitute a violation of this chapter and shall be dealt with as provided for in Article 1 of Chapter 5 of this title. Following inspection and classification of the institution for which a permit is applied for, the department may issue or refuse to issue a permit or a provisional permit. Permits issued shall remain in force and effect until revoked or suspended; provisional permits issued shall remain in force and effect for such limited period of time as may be specified by the department. Upon conclusion of the Atlantic Cardiovascular Patient Outcomes Research Team (C-PORT) Study, the department shall consider and analyze the data and conclusions of the study and promulgate rules pursuant to *Code Section 31-7-2.1* to regulate the quality of care for therapeutic cardiac catheterization. All hospitals that participated in the study and are exempt from obtaining a certificate of need based on paragraph (22) of subsection (a) of *Code Section 31-6-47* shall apply for a permit to continue providing therapeutic cardiac catheterization services once the department promulgates the rules required by this Code section.

(b) The department may accept the certification or accreditation of an institution by the American Osteopathy Association or a nationally recognized health care accreditation body, in accordance with specific standards, as evidence of that institution's compliance with the substantially equivalent departmental requirements for issuance or renewal of a permit or provisional permit, provided that such certification or accreditation is established prior to the issuance or renewal of such permits. The department may not require an additional departmental inspection of any institution whose

certification or accreditation has been accepted by the department, except to the extent that such specific standards are less rigorous or less comprehensive than departmental requirements. Nothing contained in this Code section shall prohibit departmental inspections for violations of such standards or requirements nor shall it prohibit the revocation of or refusal to issue or renew permits, as authorized by *Code Section 31-7-4*, or for violation of any other applicable law or regulation pursuant thereto.

(c) The department shall require a facility licensed under this article and rules and regulations adopted pursuant thereto to have a written and regularly rehearsed disaster preparedness plan, approved by the department, for staff and residents to follow in case of fire, explosion, or other emergency, including interruption of electrical power supply, gas-heating supply, and water supply. The plan shall include written procedures for personnel to follow in an emergency including care of the resident; notification of attending physician and other persons responsible for the resident; and arrangements for transportation, for hospitalization, for alternate living arrangements, for emergency energy sources, or for other appropriate services.

(d) (1) When an application for licensure to operate a personal care home, as defined in subsection (a) of *Code Section 31-7-12*, or an assisted living community, as defined in *Code Section 31-7-12.2*, has been made, the department shall inform the office of the state long-term care ombudsman of the name and address of the applicant prior to issuing authority to operate or receive residents and shall provide to the ombudsman program an opportunity to provide to the department information relevant to the applicant's fitness to operate as a licensed personal care home or an assisted living community.

(2) The department may consider any information provided under this subsection, where verified by appropriate licensing procedures, in determining whether an applicant meets the requirements for licensing.

(3) The department shall promulgate regulations setting forth the procedures by which the long-term care ombudsman program shall report information to the department or its designee as required by this subsection, including a consistent format for the reporting of information, safeguards to protect confidentiality, and specified types of information which shall be routinely provided by the long-term care ombudsman program.

(4) Nothing in this subsection shall be construed to provide any authority to the long-term care ombudsman program to license or refuse to license the operation of a personal care home or an assisted living community.

HISTORY: Ga. L. 1946, p. 34, § 3; Ga. L. 1958, p. 322, § 3; Code 1933, § 88-1905, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1981, p. 920, § 1; Ga. L. 1983, p. 783, § 1; Ga. L. 1994, p. 1358, § 1; Ga. L. 2008, p. 12, § 2-10/SB 433; Ga. L. 2011, p. 227, § 12/SB 178; Ga. L. 2012, p. 337, § 2/SB 361.

NOTES: THE 2011 AMENDMENT, effective July 1, 2011, in paragraph (d)(1), inserted "or an assisted living community, as defined in *Code Section 31-7-12.2*," near the middle, and added "or an assisted living community" at the end; and added "or an assisted living community" at the end of paragraph (d)(4).

THE 2012 AMENDMENT, effective July 1, 2012, substituted "the American Osteopathy Association or a nationally recognized health care accreditation body" for "the Joint Commission on the Accreditation of Hospitals, the American Osteopathy Association, or other accreditation body" near the middle of the first sentence of subsection (b).

CROSS REFERENCES. --Certificate of need required for offering health care and exemptions, *§ 31-6-40* et seq.

JUDICIAL DECISIONS

PERMIT REQUIREMENT AS PREREQUISITE TO RECOVERY FOR SERVICES RENDERED. --Permit requirement is clearly a regulatory measure as to health, not a fund-raising or tax measure or mere business permit. Under these circumstances, in order to recover for services rendered, it must be shown that a hospital is properly

licensed, or is a holder of the proper permit at the time services are rendered. *Proctor v. Lanier Collection Agency & Serv., Inc., 147 Ga. App. 104, 248 S.E.2d 179 (1978),* overruled on other grounds, *Merrill Lynch v. Zimmerman, 248 Ga. 580, 285 S.E.2d 181 (1981).*

CITED in *Culverhouse v. Atlanta Ass'n for Convalescent Aged Persons, 127 Ga. App. 574, 194 S.E.2d 299 (1972); Doe v. Bolton, 410 U.S. 179, 93 S. Ct. 739, 35 L. Ed. 2d 201 (1973); Reddix v. Chatham County Hosp. Auth., 134 Ga. App. 860, 216 S.E.2d 680 (1975); Todd v. Physicians & Surgeons Community Hosp., 165 Ga. App. 656, 302 S.E.2d 378 (1983); Piedmont Healthcare, Inc. v. Ga. Dep't of Human Res., 282 Ga. App. 302, 638 S.E.2d 447 (2006).*

RESEARCH REFERENCES

AM. JUR. 2D. --*40A Am. Jur. 2d, Hospitals and Asylums, §§ 5, 6.*

C.J.S. --41 C.J.S., Hospitals, §§ 1 et seq., 8 et seq.

ALR. --Validity and construction of statute requiring establishment of "need" as precondition to operation of hospital or other facilities for the care of sick people, *61 ALR3d 278.*
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O.C.G.A. § 31-7-4 (2013)

§ 31-7-4. Denial or revocation of permits

The department may refuse to grant a permit as provided for in *Code Section 31-7-3* for the operation of any institution that does not fulfill the minimum requirements which the department may prescribe by rules and regulations, may revoke a permit which has been issued if an institution violates any of such rules and regulations, and may revoke a portion of a permit which has been issued as it relates to a specific clinical service if the quality standards established by the department pursuant to *Code Section 31-7-2.1* for such clinical service are not met; provided, however, that before any order is entered refusing a permit applied for or revoking a permit previously granted, the applicant or permit holder, as the case may be, shall be afforded an opportunity for a hearing as provided for in Article 1 of Chapter 5 of this title. All appeals from such orders and all rights of enforcement by injunction shall be governed by Article 1 of Chapter 5 of this title.

HISTORY: Ga. L. 1946, p. 34, §§ 3, 4; Ga. L. 1958, p. 322, § 3; Code 1933, § 88-1906, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 2008, p. 12, § 2-11/SB 433.

JUDICIAL DECISIONS

CITED in *Bradfield v. Hospital Auth., 226 Ga. 575, 176 S.E.2d 92 (1970).*

RESEARCH REFERENCES

AM. JUR. 2D. --*40A Am. Jur. 2d, Hospitals and Asylums, § 8* et seq.

ALR. --Validity and construction of statute requiring establishment of "need" as precondition to operation of hospital or

other facilities for the care of sick people, *61 ALR3d 278.*
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TITLE 290: DEPARTMENT OF HUMAN RESOURCES
CHAPTER 290-1 ADMINISTRATION
CHAPTER 290-1-6 ENFORCEMENT OF LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 290-1-6-.01 (2012)

290-1-6-.01 Legal Authority.

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) *Sections 31-2-6*; 31-7-1, 31-13-1, 31-22-1, 31-23-1, 49-5-12 *et seq.*

AUTHORITY: *O.C.G.A. Sec. 31-2-6.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Legal Authority" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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TITLE 290: DEPARTMENT OF HUMAN RESOURCES
CHAPTER 290-1 ADMINISTRATION
CHAPTER 290-1-6 ENFORCEMENT OF LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 290-1-6-.02 (2012)

290-1-6-.02 Title and Purposes.

These rules shall be known as the Rules and Regulations for Enforcement of Licensing Requirements. The purposes of these rules are to provide for actions by the department with respect to violations of licensing requirements by certain facilities subject to regulation by the department; to provide for inspections, investigations and examinations of such facilities; and to provide that certain facilities give notice of violations giving rise to the receipt of notice of the imposition of any sanction under federal or state laws or regulations.

AUTHORITY: *O.C.G.A. Secs. 31-2-6, 31-7-2.1, 31-7-3.2, 49-5-8.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Title and Purposes" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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TITLE 290: DEPARTMENT OF HUMAN RESOURCES
CHAPTER 290-1 ADMINISTRATION
CHAPTER 290-1-6 ENFORCEMENT OF LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 290-1-6-.03 (2012)

290-1-6-.03 Definitions.

In these rules, unless the context otherwise requires, the terms set forth herein shall mean the following:

(a) "Administrative action" means the initiation of a contested case as defined in the Georgia Administrative Procedures Act (APA), *O.C.G.A. Sec. 50-13-2(2)*.

(b) "Alter ego" means a person who acts pursuant to the control or influence of another while purporting to act independently.

(c) "Commissioner" means the Commissioner of the Department of Human Resources.

(d) "Department" means the Department of Human Resources, its agents and employees.

(e) "Document" means any book, record, paper, or other information related to initial and continued licensing.

(f) "Facility" means any agency, institution, entity or person subject to regulation by the department under Chapters 7, 13, 22, and 23 of Title 31, and under Chapter 5 of Title 49 of the Official Code of Georgia Annotated.

(g) "Final Adverse Finding" means 1) the issuance of a ruling by the Commissioner on any appeal from a decision of a hearing officer or hearing examiner pursuant to a contested case involving the imposition of a sanction; 2) when a decision of the hearing officers or hearing examiner becomes final by operation of law because no appeal is made to the Commissioner; 3) where the parties to a contested case dispose of the case by settlement; or 4) where a facility does not contest within the allotted time period a sanction imposed by the department.

(h) "Formal Order" means any ruling following an administrative or judicial hearing related to the initial or continued licensing of a facility which requires the facility to take or refrain from taking specified action. Formal orders include, but are not limited necessarily to final administrative hearing decisions and settlement agreements between the department and facilities. Additionally, formal orders, as defined herein, may include any orders issued by the Commissioner as authorized by current laws, such as *O.C.G.A. Sec. 31-7-2.2* and *O.C.G.A. Sec. 49-5-90 et seq.*, or as authorized by similar statutes enacted after the effective date of these rules.

(i) "Inspection" means any examination by the department or its representatives of a facility, including but not necessarily limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a facility is operating in compliance with licensing requirements. The term "inspection" includes any survey, monitoring visit, or other inquiry conducted for the purpose of making a compliance determination with respect to licensing requirements.

(j) "Investigation" means any examination, conducted in response to an allegation or allegations of noncompliance, by the department or its representative of a facility, including but not necessarily limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a facility has violated any licensing requirement.

(k) "License" means official authorization granted by the department pursuant to any of the provisions of law cited in Rule .01 to operate a facility. The term "license" includes any permit, registration, commission, or similar designation reflecting such authorization.

(l) "Licensee" means any person holding a license.

(m) "Licensing requirements" means any provisions of law, rule, regulation, or formal order of the department which apply to facilities with respect to initial or continued authority to operate.

(n) "Management or Control", for the purpose of imposing the sanction pursuant to Rule .04(1)(c) or .04(2)(b), means the exercise of or authority to exercise direction, administration, or oversight over a facility's operations by certain persons which include owners, directors, or administrators.

(o) "Person" means any individual, agent, representative, governing authority, firm, organization, partnership, agency, association, corporation, facility, or other entity.

AUTHORITY: *O.C.G.A. Sec. 31-2-6.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Title and Purposes" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.04 (2012)

290-1-6-.04 Enforcement.

The department shall have the authority to impose any one or more of the sanctions enumerated in paragraphs (1) and (2) of Rule .05, Sanctions, upon a finding that an applicant or licensee has:

(a) Knowingly made any verbal or written false statement of material fact: 1) in connection with the application for a license; 2) on documents submitted to the department as part of any inspection or investigation; or 3) in the falsification or alteration of facility records made or maintained by the facility;

(b) Failed or refused, without legal cause, to provide the department with access to the premises subject to regulation or information pertinent to the initial and continued licensing of the facility.

(c) Failed to comply with the licensing requirements of this state; or

(d) Failed to comply with the provisions of *O.C.G.A. Section 31-2-6* or with the provisions of these rules.

AUTHORITY: *O.C.G.A. Sec. 31-2-6.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.05 (2012)

290-1-6-.05 Sanctions.

(1) Sanctions Against Licensees. When the department finds that any licensee has violated any provision of Rule .04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the sanctions in subparagraphs (a) through (f) below.

(a) Administer a public reprimand.

1. If the sanction of public reprimand is finally imposed, as defined by a final adverse finding, the public reprimand shall consist of a notice prepared by the department that the facility has been reprimanded; such notice shall include a written report of the department's findings along with the facility's response and corrective action plan.

(i) Location of Notice. The facility shall post the notice in places readily accessible and continuously visible to persons in care and their representatives.

(ii) Timing of Notice. The facility shall post the notice on the day the notice is received by the facility and such notice shall remain posted for a period of ninety days.

(iii) During any period that the reprimand is required to be posted, the facility shall advise persons seeking services and representatives of persons seeking services of the reprimand. In response to a notice by the department of the imposition of a public reprimand, a facility may request that the department not require the facility to advise persons seeking services and representatives of persons seeking services of the reprimand if such requirement would compromise its ability to provide services, and is not feasible given the facility's range of services and the ways its services are provided. Such request must be made within ten calendar days from receipt of the notice from the department. The department upon such a convincing showing, as well as a showing that the correction of the violation has been achieved and will be sustained by the facility, may elect not to enforce this requirement. If the department elects to enforce the requirement and the facility appeals the imposition of the sanction, the issue of this requirement may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

(b) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license.

1. The department may impose the sanction of suspension for a definite period calculated by it as the period necessary for the facility to implement long-term corrective measures and for the facility to be deterred from lapsing into noncompliance in the future. As an alternative to suspending a license for a definite period, the department may suspend the license for an indefinite period in connection with the imposition of any condition or conditions reasonably calculated to elicit long-term compliance with licensing requirements which the facility must meet and demonstrate before it may regain its license.

2. If the sanction of license suspension is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department. Upon the expiration of any period of suspension, and upon a showing by the facility that it has achieved compliance with licensing requirements, the department shall reissue the facility a license. Where the license was suspended for an indefinite period in connection with conditions for the re-issuance of a license, once the facility can show that any and all conditions imposed by the department have been met, the department shall reissue the facility a license.

(c) Prohibition of Persons in Management or Control.

1. The department may prohibit a licensee from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to a revocation or denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this Rule, the twelve months period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first occurs.

(d) Revoke any license.

1. If the sanction of license revocation is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department.

(e) Impose a fine, not to exceed a total of $ 25,000, of up to $ 1,000 per day for each violation of a law, rule, regulation, or formal order related to the initial or continued licensing of a facility; provided, however, that no such fines shall exceed $ 25,000 for violations found during the same inspection and provided, further, that no fine may be imposed against any nursing facility, nursing home, or intermediate care facility which is subject to intermediate sanctions under the provisions of *42 U.S.C. Section 1396r(h)(2)(A)*, as amended, whether or not those sanctions actually are imposed. If a violation is found on two consecutive inspections there shall exist a rebuttable presumption that the violation continued throughout the period of time between each inspection.

1. Categories of Violations. Violations shall be assigned a category based upon the following criteria:

(i) Category I ($ 601-$ 1000 per violation per day): A violation or combination of violations of licensing requirements which has caused death or serious physical or emotional harm to a person or persons in care or poses an imminent and serious threat or hazard to the physical or emotional health and safety of one or more persons in care.

(ii) Category II ($ 301-$ 600 per violation per day): A violation or combination of violations of licensing requirements which has direct adverse effect on the physical or emotional health and safety of a person or persons in care.

(iii) Category III ($ 50-$ 300 per violation per day): A violation or combination of violations of licensing requirements which indirectly or over a period of time has or is likely to have an adverse effect on the physical or emotional health and safety of a person or persons in care, or a violation or violations of administrative, reporting, or notice requirements.

2. Fine Amounts. The specific amount of the fine for each violation in each category shall be determined based upon whether and when the particular or similar rule, law, or order, or the act, omission, incident, circumstance, or conduct giving rise to the violation of the same regulatory requirement, or one substantially similar thereto, has been cited by the department previously. In no case, however, shall a facility be sanctioned for a violation characterized as a subsequent or repeat violation unless the time frame identified in the acceptable plan of correction has passed and the facility nonetheless has failed to attain or maintain correction.

(i) Initial violation. If the same or a substantially similar violation has not been cited previously by the department within the past twenty-four (24) months against the facility, it shall be considered to be an initial violation. The fine amount for initial violations shall be the bottom figure in the appropriate category.

(ii) Subsequent violation. If the present violation or a substantially similar violation had been found and cited by the department as the result of the last inspection of the facility, or as the result of any one other inspection during the previous twenty-four (24) months, the violations shall be considered to be a subsequent violation. The fine amount for subsequent violations shall be in the range between the top and bottom figures of the appropriate category and other factors, such as the existence of mitigating or aggravating circumstances, shall be considered in determining the fine amount within the range.

(iii) Repeat violation. If the present violation or a substantially similar violation also had been found and cited any two other times during the past twenty-four (24) months, it shall be considered to be a repeat violation. The fine amount for repeat violations shall be the top figure in the category.

3. Limitation of Fines. A single act, omission, incident, circumstance, or conduct shall not give rise to the imposition of more than one fine even though such act, omission, incident, circumstance, or conduct may have violated more than one licensing requirement. In such a case, the fine shall be based upon the highest category in which any one violation resulting from the same act, omission, incident, circumstance, or conduct falls. Correction by the facility of cited violations tolls the continuation of the assessment of the daily fine, provided, however, that the department shall confirm that such cited violations were corrected.

4. Financial hardships. In response to a notice by the department of the imposition a fine, a facility may request that the department reduce the fine amount if the fine would cause significant financial hardship that would compromise its ability to provide care or services in compliance with licensing requirements. The department, in its discretion, upon such a convincing showing as well as a showing that correction of the violation has been achieved and will be sustained by the facility, may reduce the amount of the fine. If the department proceeds with the imposition of the fine as proposed, the issue of significant financial hardship may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

5. In taking any action to impose a fine against any licensed or registered child welfare agency, such fine shall not exceed those amounts authorized pursuant to Chapter 5 of Title 49 of the Official Code of Georgia Annotated.

(f) Limit or restrict any license as the department deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitation or restriction of a license may occur to: 1) prohibit the provision of a particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements; 2) restrict the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and/or 3) prohibit a facility from caring for persons with

specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements.

2. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department shall fully restore the facility's license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility is restored its license without delay.

(2) Sanctions Against Applicants. When the department finds that any applicant for a license has violated any provision of Rule .04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the following sanctions in subparagraphs (a) through (c) below.

(a) Refuse to grant a license (denial); provided, however, that the department may refuse to grant an initial license without holding a hearing prior to taking such action.

1. The department may deny an application for a license where the facility has failed to demonstrate compliance with licensing requirements. Additionally, the department may deny an application for a license where the applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one year of the date of an application, or where the applicant has transferred ownership or governing authority of a facility within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license. For the purpose of determining the one year denial period, the period shall begin to run from the date of the final adverse finding, or the date any stay of enforcement ceased, whichever first occurs. In further determining whether to grant or deny a license, the department may consider the applicant's overall record of compliance with licensing requirements.

(b) Prohibition of Persons in Management or Control.

1. The department may prohibit an applicant from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this rule, the twelve month period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first occurs.

(c) Limit or restrict any license as the department deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitations or restrictions of a license may occur to: 1) prohibit the provision of a particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements; 2) restrict the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and/or 3) prohibit a facility from caring for persons with specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements. Additionally, the department may restrict a license where any applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one year of the date of an application, or where the applicant has transferred ownership of governing authority of a facility within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license. For the purpose of determining the one year denial

period, the period shall begin to run from the date of the final adverse finding or the date any stay of enforcement ceased, whichever occurs first.

2. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license if one was granted. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department may issue the facility a license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility may be issued a license without delay.

(3) Standards for Taking Sanctions. In taking any of the actions pursuant to subparagraphs (1) or (2) of this rule, the department shall consider the seriousness of the violation or violations, including the circumstances, extent, and gravity of the prohibited act or acts or failure to act, and the hazard or potential hazard created to the physical or emotional health and safety of the public.

(4) Non-Compliance with Sanctions. Failure on the part of any facility to abide by any sanction, including payment of a fine, which is finally imposed against it, shall constitute grounds for the imposition of additional sanctions, including revocation.

(5) Settlements. With regard to any contested case instituted by the department pursuant to this Chapter or other provisions of law or regulation which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action so instituted by settlement. In such cases, the department, the facility, and those persons deemed by the department to be successors in interest to any settlement agreement, shall be bound by the terms specified therein. Violation thereof by any applicant or licensee, their agents, employees, or others acting on their behalf, shall constitute grounds for the imposition of any sanctions enumerated in this Chapter, including revocation.

(6) With respect to any facility classified as a nursing facility, nursing home, or intermediate care home, the department may not take an action to fine or restrict the license of any such facility based on the same act, occurrence, or omission for which:

(a) the facility has received an intermediate sanction under the provisions of *42 U.S.C. Section 1396r(h)(2)(A)*, as amended, or *42 U.S.C. Section 1395i-3(h)(2)(B)*; or

(b) such facility has been served formal notice of intent to take such a sanction which the Department of Medical Assistance, based on administrative review, or any other appropriate body, based on administrative or judicial review, determines not to impose, provided however, that nothing in this subparagraph or subparagraph (6)(a) above shall prohibit the department from using the provisions authorized by law in paragraph (5) above.

AUTHORITY: *O.C.G.A. Secs. 31-2-6, 31-7-4, 49-5-12*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Sanctions" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.06 (2012)

290-1-6-.06 Investigations and Inspections.

(1) The department shall have the authority to make public or private investigations inside or outside this state. Such investigations may be initiated at any time, in the discretion of the department, and may continue during the pendency of any action initiated by the department pursuant to Rule .05 of this Chapter.

(2) Consent to Entry and Access. An application for a license or the issuance of the same by the department constitutes consent by the applicant or licensee and the owner of the premises for the department's representatives, after displaying identification to any facility staff, to enter the facility for the purpose of conducting an investigation or an inspection.

(a) Department representatives shall be allowed reasonable and meaningful access to the facility's premises, and information pertinent to licensure including staff and persons in care. The department shall have the authority to require the production of any documents related to the initial and continued licensing of any facility.

(3) Cooperation with Inspection. Facility staff shall cooperate with any inspection or investigation conducted by the department and shall provide, without unreasonable delay, any documents which the department is entitled hereunder.

(4) Assessment of Expenses. Pursuant to the inspection, investigation, and enforcement powers given to the department by *O.C.G.A. Section 31-2-6* and other applicable laws, and the provisions of this Chapter, the department may assess against a facility reasonable and necessary expenses incurred by the department pursuant to any administrative or legal actions required by the failure of a facility to fully comply with licensing requirements. Such expenses may be assessed only pursuant to the initiation of sanction actions under this Chapter and may only be collected if such actions result in final adverse findings. A facility shall be notified of the department's action to assess expenses when the department sends a facility a notice of the sanction. If the sanction is appealed, the assessment may become an issue for consideration by the hearing examiner at any hearing held on the sanction.

(a) Reasonable and Necessary Expenses. Reasonable and necessary expenses, as used in this subparagraph, shall include, but not necessarily be limited to: hourly compensation of department representatives, commuting expenses

(including mileage at the current state reimbursement rate), and lodging and meal expenses (at the rate approved for reimbursement by the state) associated with overnight out-of-town travel; and other similar costs. Assessments shall not include attorney's fees and expenses of litigation, shall not exceed actual expenses, and shall be made only if inspections, investigations, or enforcement actions result in final adverse findings.

(b) Payment of Assessed Expenses. Expenses assessed against a facility shall be paid within thirty days of receipt of a statement of expenses. In response to an assessment, a facility may request that the department reduce the assessment or agree to a payment plan if full payment within thirty days would cause significant financial hardship that would compromise its ability to provide care or services in compliance with licensing requirements. The issue of significant financial hardship caused by the assessment may become an issue for consideration by the hearing examiner at any hearing held on the sanction.

(5) When an investigation is initiated due to an allegation of noncompliance by any person acting on his or her own or another's behalf, the outcome of the investigation shall be provided by the department to that person and to the facility upon request after the investigation is completed; provided however, that the names and identifying information regarding the complainants are classified as confidential. Nothing in this rule shall be construed to require the department to release the name or identifying information regarding a complainant without first obtaining proper authorization from such complainant. Nor shall this rule be construed to require the department to release any other confidential or privileged information without first obtaining proper authorization.

AUTHORITY: *O.C.G.A. Secs. 31-2-6, 31-5-5*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Investigations and Inspections" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.07 (2012)

290-1-6-.07 Immunity.

For any action taken or any proceeding held under this Chapter or under color of law, except for gross negligence or willful or wanton misconduct, the department, when acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

AUTHORITY: *O.C.G.A. Sec. 31-2-6.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Immunity" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.08 (2012)

290-1-6-.08 Exemptions.

In an administrative or legal proceeding under this Chapter, a person claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

AUTHORITY: *O.C.G.A. Sec. 31-2-6.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Exemptions" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.09 (2012)

290-1-6-.09 Applicability of Administrative Procedures Act.

This Chapter and all sanction actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50 of the Official Code of Georgia Annotated, the "Georgia Administrative Procedure Act." Any request for hearing in response to any sanction action undertaken pursuant to this Chapter shall be in writing and shall be submitted to the department no later than ten (10) calendar days from the date of receipt of any notice of intent by the department to impose a sanction setting forth the proposed sanction or sanctions and the basis therefore.

AUTHORITY: *O.C.G.A. Secs. 31-2-6, 50-13-18*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Applicability of Administrative Procedures Act" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.10 (2012)

290-1-6-.10 Notice of Violations.

Where a nursing home or intermediate care home is required by the provisions of *O.C.G.A. Section 31-7-3.2* to give notice of violations giving rise to the imposition of any sanction, the notice shall contain the information required by that code section and shall conform to the following requirements.

(a) Size and Format of Notice. The facility may post the Report of Licensure Inspection and Medicare/Medicaid Statement of Deficiencies, along with the notices by the department, the Department of Medical Assistance, and/or the Health Care Financing Administration of intent to impose any sanction. These may be posted in their original forms as the notice required by *O.C.G.A. Section 31-7-3.2(a)* and (b). If the facility chooses to post the notice of the agency taking the action and the Report of Licensure Inspection and Statement of Deficiencies, there shall be a conspicuous heading clearly visible from at least twenty feet away, calling the attention of the observer to them. As an alternative, the facility may post its own notice which accurately and thoroughly reflects the violations found which give rise to the sanctions imposed or proposed and which describes each sanction or notice of sanction issued by any of the abovedescribed agencies. Any such notice shall be at least 11 1/2 inches by 17 1/2 inches in size. Words and letters shall be in bold print and shall be at least one centimeter in size.

(b) Location of Notice. The facility shall post the notice in a place readily accessible and continuously visible to persons in care and their representatives.

(c) Timing of Notice. The facility shall post the notices within fourteen days after it receives notification of the imposition of a sanction for a violation which requires the notice. The notices shall remain in place until the department has determined that cited violations no longer exist, at which time the notice may be removed.

(d) Mailing of Notices. Where any person has made a written request for a copy of the notice or notices, the facility shall mail the same to the requester within five (5) business days of receipt of the request when such request is accompanied by a postage paid self addressed envelope.

AUTHORITY: *O.C.G.A. Secs. 31-2-6, 31-7-2.1, 31-7-3.2.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Notice of Violations" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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TITLE 290: DEPARTMENT OF HUMAN RESOURCES
CHAPTER 290-1 ADMINISTRATION
CHAPTER 290-1-6 ENFORCEMENT OF LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 290-1-6-.11 (2012)

290-1-6-.11 Applicability of Other Laws.

The provisions of this Chapter shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Chapter limits such grounds or actions, those other provisions shall apply.

AUTHORITY: *O.C.G.A. Secs. 31-2-6.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Applicability of Other Laws" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.12 (2012)

290-1-6-.12 Inspection Warrants.

In addition to the enforcement actions authorized by this Chapter with respect to refusal to provide the department with access to a facility, the department may make application to a court of competent jurisdiction for an inspection warrant if its representatives are denied meaningful access to the premises, staff, persons in care, and documents or other information of a licensed facility or of a facility which the department believes is required to have a license but which does not have one. Upon the grant of such a warrant, the department may gain entry and meaningful access to such facility, its staff, persons in care therein, facility documents, and other information deemed pertinent by the department to making a compliance determination, unless the warrant specifically limits the entry or access allowed to department representatives. This rule shall not be construed to require the department to seek entry and be denied the same before it may apply for an inspection warrant.

AUTHORITY: *O.C.G.A. Secs. 31-2-6, 31-5-20* et seq..

ADMINISTRATIVE HISTORY: Original Rule entitled "Inspection Warrants" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.13 (2012)

290-1-6-.13 Injunctive Relief.

The department may, without regard to the availability of other remedies, including the remedies set forth in this Chapter, seek an injunction against the continued operation of a facility without a license. The department likewise may seek injunctive relief against the continued operation of a facility in violation of licensing requirements.

AUTHORITY: *O.C.G.A. Secs. 31-2-6, 31-5-9, 49-5-12*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Injunctive Relief" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-1-6-.14 (2012)

290-1-6-.14 Severability.

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.

AUTHORITY: *O.C.G.A. Secs. 31-2-6.*

ADMINISTRATIVE HISTORY: Original Rule entitled "Severability" adopted. F. Jul. 27, 1993; eff. Aug. 16, 1993.



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Ga. Comp. R. & Regs. r. 290-5-32-.01 (2012)

290-5-32-.01 Definitions. Amended.

Unless a different meaning is required by the context or pertinent statutes, the following terms as used in these Rules and Regulations shall have the meaning hereinafter respectively ascribed to them; except, these Rules and Regulations do not apply to hospitals owned or operated by the United States Federal Government.

(a) "Induced Abortion" means the procedure by which pregnancy is purposely terminated with the intent to result in other than a live birth.

(b) "First Trimester" means the first thirteen completed weeks after the first day of the last normal menstrual cycle.

(c) "Second Trimester" means the second thirteen weeks or gestation.

(e) "Hospital" means a facility which is subject to regulation and control under *Section 31-7-1* of the Official Code of Georgia Annotated (Regulation of Hospitals and Related Institutions) as well as the Rules and Regulations duly promulgated thereunder and in particular the Rules and Regulations embodied in Chapter 290-5-6 entitled "Hospitals" duly promulgated by the Georgia Department of Human Resources, as such law and regulations now exist or may subsequently be amended.

(f) "Ambulatory Surgical Treatment Centers" means any institution, building, or facility, or part thereof, devoted primarily to the provision of surgical treatment to patients not requiring hospitalization, as provided under provisions of *Code Section 31-7-1* of the Official Code of Georgia Annotated. Such facilities do not admit patients for treatment which normally requires overnight stay, nor provide accommodations for treatment of patients for periods of twenty-four (24) hours or longer.

(g) "Abortion Facility" means a facility licensed by the Department as a hospital or ambulatory surgical treatment center.

(h) "Department" means the Department of Human Resources of the State of Georgia.

(i) "Commissioner" means the Commissioner of the Department of Human Resources of the State of Georgia.

(j) "Board" means the Board of Human Resources of the State of Georgia.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Definitions" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.01, of the same title, adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule 290-5-32-0.4-.01 repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.02 (2012)

290-5-32-.02 Regulation of Abortion Procedures Subsequent to the First Trimester. Amended.

(1) No abortion is authorized nor shall be performed after the first trimester unless the abortion is performed in an abortion facility; provided, however, that abortion procedures performed in an ambulatory surgical treatment center shall be limited to dilatation and evacuation procedures (D & E).

(2) No abortion is authorized nor shall be performed after the second trimester unless the attending physician and two consulting physicians certify in writing and make such statement a part of the medical records of the patient that said abortion is necessary in their best clinical judgment to preserve the life or health of the woman. If the product of such abortion is capable of meaningful or sustained life, medical aid then available must be rendered in order to achieve this result.

(3) Nothing in these Rules and Regulations shall require an abortion facility or physician to admit any patient for the purpose of performing an abortion. In addition, any person who shall state in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to participate in procedures which will result in such abortion, and refusal of such person to participate therein, shall not form the basis for any claim for damage or account of such refusal or for any disciplinary or recriminatory action against such person. The written objection shall remain in effect until such person shall revoke it or terminate his association with the facility with which it is filed.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Regulation of Abortion Procedures Subsequent to the First Trimester" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.02, of the same title, adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.03 (2012)

290-5-32-.03 Procedure for Filing Certificate of Abortion. Amended.

(1) In addition to the medical records requirements of Chapters 290-5-6 and 290-5-33 of the Rules and Regulations of the Georgia Department of Human Resources, the physician who performs the abortion shall file with the Commissioner of Human Resources or his designee, within ten (10) days after an abortion procedure is performed, a Certificate of Abortion. It is expressly intended that the privacy of the patient shall be preserved and, to that end, the Certificate of Abortion shall not reflect the name of the patient but shall carry the same facility number, or other identifying number reflected on the patient's medical records. A duplicate of the Certificate of Abortion will be made a part of the patient's Medical record and neither the aforesaid duplicate certificate nor the Certificate of Abortion which is filed with the Commissioner or his designee shall be revealed to the public unless the patient executes a proper authorization which permits such a release or unless the records must be made available to the District Attorney of the Judicial Circuit in which the hospital or health facility is located as provided by *Code Section 16-12-141 (d)* of the Official Code of Georgia Annotated.

(2) The Certificate of Abortion required in the above rule shall contain the following statistical data, to wit:

(a) age;

(b) race;

(c) education;

(d) county of residence;

(e) marital status;

(f) duration of pregnancy;

(g) previous pregnancy history including previous abortion(s);

(h) method of abortion;

(i) fetal defects if fetus survives; and

(j) history of use of drugs and/or alcohol.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Provisions" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.03, entitled "Procedure for Filing Certificate of Abortion," adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.04 (2012)

290-5-32-.04 Severability. Amended.

In the event that any rule, sentence, clause or phrase of any of these rules are in conflict with any superior law or, should be declared or adjudged invalid or unconstitutional, such determination or adjudication shall in no manner affect the remaining rules or portions thereof and such remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Application" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.04, entitled "Severability," adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.05 (2012)

290-5-32-.05 Enforcement. Amended.

In addition to the penal provisions of *Section 16-12-143* of the Official Code of Georgia Annotated, which states that any person who fails to file or maintain, in complete form, any of the written reports required in that Chapter (as further reflected in these rules relating to abortions) within the time set forth shall commit a misdemeanor, and *Section 16-12-140(b)* of the aforesaid Code which states that a person convicted of criminal abortion shall be punished by imprisonment for not less than one (1) nor more than ten (10) years, except that a person convicted of failure to file the forms and records required by this Chapter shall be punished under *Section 16-12-143*, the administration and enforcement of these Rules and Regulations shall be as prescribed in *Section 31-5-1* entitled "Administration and Enforcement" of the Official Code of Georgia Annotated and in conformity with the Administrative Procedure Act (*Section 50-13-1* of the Official Code of Georgia Annotated), as amended.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Procedure for Filing Certificate of Abortion" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.05, entitled "Enforcement," adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.06 (2012)

290-5-32-.06 Repealed.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed by Emergency Rule 290-5-32-0.4. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed, and Rule repealed. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.07 (2012)

290-5-32-.07 Repealed.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed by Emergency Rule 290-5-32-0.4. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed, and Rule repealed. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-33-.01 (2012)

290-5-33-.01 Definitions. Amended.

Unless a different meaning is required by the context, the following terms as used in these rules and regulations shall have the meaning hereinafter respectively ascribed to them:

(a) "Ambulatory Surgical Treatment Centers" means any institution, building, or facility, or part thereof, devoted primarily to the provision of surgical treatment to patients not requiring hospitalization, as provided under provisions of Georgia Code Section 88-1901. Such facilities do not admit patients for treatment which normally requires overnight stay, nor provide accommodations for treatment of patients for period of twenty-four (24) hours or longer;

(b) "Governing Body" and/or "Management" means the Board of Directors and/or Trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control the operation of the ambulatory surgical treatment center and who are legally responsible for its operation;

(c) "Center" means an ambulatory surgical treatment center as defined in these rules and regulations;

(d) "Board," unless otherwise indicated, shall mean the Georgia Board of Human Resources;

(e) "Commissioner" means the Commissioner of the Georgia Department of Human Resources or his designee;

(f) "Department" means the Georgia Department of Human Resources;

(g) "General Anesthesia" means any drug, element or other material administered to eliminate all sensation and which, when administered, is accompanied by a state of unconsciousness;

(h) "Licensee" means the person or body to whom the license or permit is issued and who is held responsible for compliance with all required rules, regulations, and minimum standards;

(i) "Permit" or "license" means an authorization granted by the Department to an applicant to operate an ambulatory surgical treatment center providing one or more types or classifications of services;

(j) "Provisional Permit" means an authorization granted by the Department to an applicant to operate an ambulatory surgical treatment center on a conditional basis to allow a newly established center a reasonable but limited period of time to demonstrate that operational procedures are in satisfactory compliance with these rules and regulations, or to allow an established and operating center a specified length of time to comply with these rules and regulations, provided said center shall first present a plan of improvement which is acceptable to the Department;

(k) "Plan of Improvement" means a written plan submitted to the Department by the person or persons responsible for the center, and acceptable to the Department. The plan shall identify the existing areas of noncompliance of the facility, together with the proposed procedures, methods and period of time to correct the areas of noncompliance;

(l) "Professional Staff" means the group of persons or body appointed by the Governing Body to provide patient services, and who require special licensure or registration. Normally, the professional staff will be restricted to currently licensed medical, dental, and podiatrist practitioners. Other personnel, for example, registered nurses, may be appointed to the professional staff to assist the practitioners in the development, interpretation, and enforcement of patient care policies;

(m) "Practitioner" means a physician, dentist, or podiatrist;

(n) "Physician" means an individual who is currently licensed to practice medicine, surgery or osteopathy in the State of Georgia, under the Georgia Medical Practice Act, Chapter 84-9, Georgia Laws, Ann.;

(o) "Dentist" means any person who is currently licensed to practice dentistry in the State of Georgia, under provisions of the Georgia Dentist and Dental Hygienists Act, Chapter 84-7, Georgia Laws, Ann.;

(p) "Podiatrist" (Chiropodist) means any person who is currently licensed to practice podiatry (chiropody) in the State of Georgia, under provisions of the Georgia Podiatry Act, Chapter 84-6, Georgia Laws, Ann.;

(q) "Registered Nurse," "Registered Professional Nurse," or "R.N." means a person who is currently licensed to practice as a licensed registered nurse under provisions of Chapter 84-10, Georgia Laws, Ann.;

(r) "Licensed Practical Nurse" or "L.P.N." means a person currently licensed to practice as a licensed practical nurse under provisions of Chapter 84-68, Georgia Laws, Ann.;

(s) "Private Office(s)," "Office(s)," and/or "Treatment Rooms" means any area or place established and maintained by a currently licensed individual practitioner, professional association, or group practice of such practitioners, in his/her/their private individual or private group practice, in which he/she/they primarily see(s), consult(s) with, examine(s), and/or treats private patients on a regular and on-going basis, and in the operation of which such currently licensed practitioners have full control of all financial, administrative, and professional arrangements with said patients;

(t) "Hospital" means any facility which meets the requirements of and is currently licensed as a hospital under Georgia Laws and rules and regulations pertaining thereto;

(u) "Procedure Room" means any room or area of the ambulatory surgical treatment center in which surgical procedures are performed;

(v) "Patient" means any individual who receives medical/surgical treatment in facilities governed by these regulations;

(w) "Qualified Counselor" means a person who assists the professional staff by talking with and informing patients regarding expectations and probable outcomes associated with services in an ambulatory surgical treatment center, and who possesses the following minimum qualifications: at least a bachelor's degree from an accredited college or university in nursing, psychology or social work, or in some related field, or who has special training in counseling

which is deemed acceptable by the Department; provided, however, that any such counselor shall function only under the direct supervision of the responsible practitioner.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Definitions" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule of the same title has been adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.02 (2012)

290-5-33-.02 Exemptions. Amended.

The following types of health care facilities are exempt from the requirements of these regulations:

(a) currently licensed hospitals, or a facility as specified in 290-5-33-.03 (12);

(b) a practitioner's private offices or treatment rooms in which a practitioner primarily sees, consults with, and treats patients;

(c) facilities owned and operated by the Federal Government.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Application" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Exemptions" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.03 (2012)

290-5-33-.03 Organization and Administration. Amended.

(1) Each ambulatory surgical treatment center shall be organized with an identifiable governing body that establishes the objectives, sets the policies and assumes full legal responsibilities for the overall conduct of the center and for compliance with all applicable laws and regulations pertaining to the center. The membership of the governing body shall be identified in the application to the Department for licensure.

(2) The ownership of the center shall be fully disclosed in the application to the Department. This disclosure shall include the names and addresses of all corporate officers and any person(s) having a five percent (5.0%) or more financial interest.

(3) The governing body of the center shall be responsible for appointing the professional staff and shall establish effective mechanisms for quality assurance and to ensure the accountability of the center's medical and/or dental staff and other professional personnel.

(4) The organizational objectives of the ambulatory surgical treatment center shall be clearly stated in the procedures and policies of the governing body and on the application for licensure.

(5) The governing body shall inform the Department of the name(s) of the administrator(s) to whom the responsibility for the day-to-day management of the center is delegated, including the implementation of rules and policies adopted by the governing body.

(6) Each center shall be at all times under the immediate personal and daily supervision and control of the administrator or his designated representative, whose authority, duties and responsibilities shall be defined in writing and which shall be available to the Department upon request.

(7) The Department shall be notified with a new application, or written amendment to the current application, when there are changes in location, ownership, management or operational objectives.

(8) Individual patients shall be discharged within twenty-four (24) hours of admission, in an ambulatory condition which will not endanger their continued well-being, or shall be transferred to a licensed hospital or other treatment

facility. There shall be written procedures and assigned responsibilities for implementing such procedures, including provisions for transportation. Patients requiring emergency services shall be accompanied by a member of the professional staff of the center.

(9) Each center shall have an organized professional staff which is responsible for the development of patient care policies and procedures and for maintaining the level of professional performance through a continuing program of staff education, review and evaluation of patient care.

(10) Each center shall at all times have a professional director designated by the governing body, who shall be responsible for the direction and coordination of all professional aspects of the center programs.

(11) The practitioners applying for staff privileges shall be required to sign an agreement to abide by the staff bylaws and required State laws and rules and regulations.

(12) Nothing in these rules and regulations shall prevent a licensed hospital from organizing and providing an ambulatory surgical treatment service as a part of a licensed hospital under the controlling authority of a hospital board, so long as all hospital licensure standards are met and the provided services are included in the application under which the hospital license is granted.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Processing of Applications" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Organization and Administration" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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CHAPTER 290-5-33 AMBULATORY SURGICAL TREATMENT CENTERS

Ga. Comp. R. & Regs. r. 290-5-33-.04 (2012)

290-5-33-.04 Classifications of Services. Amended.

Each ambulatory surgical center, when applying for a permit shall designate the type(s) or classification(s) of services to be provided in or by the center. These classifications may include, but are not necessarily limited to the following: general surgery; eye, ear, nose, and throat; plastic surgery; oral and maxillofacial; obstetrical-gynecological; oncological; ophthalmological; and urological. Provided, however, that any facility providing labor and delivery services must meet the requirements of Rules and Regulations for Hospitals, Maternity and Obstetrical and Newborn Services, Chapter 290-5-6, *Rules 290-5-6-.16* and *290-5-6-.17*, dated May 10, 1977, or as later revised. The permit for a single ambulatory surgical treatment center may cover one or more types of services. Each ambulatory surgical treatment center shall provide only those services listed on the face of its permit.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Required Developmental Progress" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979.AMENDED: Rule entitled "Classifications of Services" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.05 (2012)

290-5-33-.05 Application for Permits. Amended.

(1) Any person or persons responsible for the operation of an ambulatory surgical treatment center as defined and classified in these regulations, or who may hereafter propose to establish and operate such an institution, shall submit an application to the Department for a permit to operate said institution using forms provided by the Department. No such institution shall be operated in Georgia without a valid permit which shall be displayed in a conspicuous place within the center. Failure or refusal to file an application for a permit within ninety (90) days of the effective date of these regulations shall constitute a violation of law and shall be dealt with as provided in Chapter 88-3 of the "Georgia Health Code."

(2) The applicant for a permit to operate an ambulatory surgical treatment center shall submit a completed application with character references and a certification that the applicant is able and willing to comply with the minimum standards for an ambulatory surgical treatment center and with the rules and regulations lawfully promulgated. Each application shall be accompanied by a statement from the local (city or county) fire safety authority stating that an inspection has been made of the premises and that state and local fire safety requirements have been met.

(3) The application shall include full and complete information concerning the name and address of the applicant and the classification(s) of services to be provided; the ownership of the property and operation; in case a center is organized as a corporation, the names and addresses of each officer and director of the corporation; in case the center is organized as a partnership, the names and addresses of each partner; the identity of the professional director of the facility; the days and hours the center is normally operated; and any other information which the Department may require.

(4) Ambulatory surgical treatment centers are subject to review by the State Health Planning and Development Agency, pursuant to the Georgia Certificate of Need Law. Evidence of completion of this review shall be made a part of the application for a permit.

(5) Plans for ambulatory surgical treatment centers shall be submitted to the Department for review and approved in three stages of development:

(a) schematic drawings;

(b) design-development drawings; and

(c) final working drawings and specifications.

(6) A permit shall be issued to the person or persons named only for the premises listed on the application for licensure.

(7) Permits are not transferable or assignable.

(8) Changes in ownership shall be subject to prior review and approval by the State Health Planning and Development Agency (SHPDA) pursuant to Section 1122 of the Social Security Amendment. Each planned change of ownership or lease shall be reported to the Department thirty (30) days prior to such change with an application being submitted from the proposed new owners for a new permit.

(9) Separate applications and permits are required for centers maintained in separate premises, even though they are owned or operated by the same person(s), business or corporation, and may be doing business under the same title.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Criteria for Review" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Application for Permits" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.06 (2012)

290-5-33-.06 Permits. Amended.

(1) Following inspection and classification of the institution for which application for a permit has been made, the Department may issue a permit or a provisional permit or refuse to reissue or continue a permit or provisional permit. Each permit or provisional permit shall indicate the classifications of services to be provided and patient capacity of the center.

(2) Permits issued shall mean that the Department grants authorization to the governing body of the applicant institution to operate an ambulatory surgical treatment center and signifies compliance with these rules and regulations. Permits issued shall remain in force and effect until revoked or suspended.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Decision and Appeal" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Permits" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.07 (2012)

290-5-33-.07 Provisional Permits. Amended.

Provisional permits may be issued for a limited period specified by the Department based on an acceptable written plan for correcting one or more deficiencies (plan of correction) found during an inspection; provisional permits issued shall remain in force and effect for such limited period of time as specified by the Department, unless earlier revoked due to prevailing circumstances which are not acceptable to the Department. Centers which are established and operating prior to adoption of these rules and regulations may be considered for extension of a provisional permit when needed to meet physical plant standards. If the Department's decision is that a deficiency is of such nature that it would jeopardize the life of a patient, a provisional permit will not be issued.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Provisional Permits" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.08 (2012)

290-5-33-.08 Inspections. Amended.

(1) The ambulatory surgical treatment center shall be available at all reasonable and/or scheduled operating hours for observation and examination by properly identified representatives of the Department.

(2) The governing body shall notify the Department of the anticipated opening date of a newly constructed center in order that a preopening licensure inspection of the center may be conducted to determine compliance with these rules and regulations.

(3) The administrator or his representative shall accompany the Department representative on all tours of inspection and shall sign the completed checklist.

(4) Each center shall be periodically inspected at least annually to determine whether the center is continuing to meet these requirements or is making satisfactory progress on approved plans of correction.

Authority *O.C.G.A. Sec. 31-2-6*

History. Original Rule entitled "Conflict of Interest" was filed on January 23, 1976; effective February 12, 1976. Amended: Rule repealed. Filed October 31, 1979; effective November 20, 1979. Amended: Rule entitled "Inspections" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency. Repealed: New Rule of same title adopted. F. Aug. 29, 2002; eff. Sept. 18, 2002.

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Ga. Comp. R. & Regs. r. 290-5-33-.09 (2012)

290-5-33-.09 Professional Services.

(1) All services provided by or in the center shall be provided by persons who are currently licensed to perform the services they render when such services require licensure or registration under the laws of the State of Georgia. There shall be a sufficient number of qualified staff members to adequately provide for patient needs based on services provided and the number of patients served.

(2) Each center shall have a professional director who shall be a practitioner currently licensed in Georgia, and who shall be responsible for the direction and coordination of all medical aspects of the center program.

(3) General anesthesia shall be administered by an anesthesiologist, a physician anesthetist, an oral surgeon, or a certified R.N. anesthetist under the direction and responsibility of a currently licensed physician with training and experience in anesthesia, as specified in Georgia Code 84-10A. After administration of a general anesthetic, patients shall be constantly attended (at bedside) by a person qualified as above or by an R.N. until reactive and able to summon aid.

(4) All nursing services shall be under the supervision of a registered nurse (R.N.). Each center shall have a sufficient number of currently licensed nurses present and on duty to attend to patients at all times patients are receiving treatment or recovering from treatment up to and including the time of discharge. Additional staff shall be on duty and available to assist the professional staff to adequately handle routine and emergency patient needs.

(5) Each center shall establish written procedures for emergency services which will insure that a professional staff member who has been trained in emergency resuscitation procedures shall be on duty at all times when there is a patient receiving treatment or recovering from treatment, up to and including the time of discharge.

(6) The written procedures shall provide that an appropriate practitioner be designated on call and available to provide timely response to emergencies which may occur with any patient in the center.

(7) Each center shall have a hospital affiliation agreement and/or the medical staff must have admitting privileges or other acceptable documented arrangements to insure the necessary backup for medical complications. The center

must have the capability to transfer a patient immediately to a hospital with adequate emergency room services.

(8) Each center will have effective policies and procedures for handling infection control and for recording complications which occur during or after surgery, which includes a reporting mechanism for patients who develop infections or postoperative complications after discharge.

(9) Either prior to, or at the time of admission, each patient who is admitted to the center without an appointment with a specified practitioner shall be provided (in writing) with the name, address and phone number of the practitioner who is serving him/her. The practitioner or a qualified counselor designated by the practitioner, shall explain the surgical and medical procedures, its potential complications, and postoperative complications and other alternatives to surgery; this shall be confirmed by the patient who shall sign an informed consent form as provided under Georgia Laws, Chapter 88-29. Prior to dismissal, each patient shall be provided with both verbal and written instructions for posttreatment care and procedures for obtaining emergency care, if needed during the period of recuperation.

(10) All ancillary supportive health or medical services such as radiological services, pharmaceutical services, or clinical laboratory services provided in or by the center shall be in accordance with applicable rules and regulations of the State of Georgia.

(11) Each center shall establish policies for patient care and procedures for maintaining these policies.

Authority Ga. L. 1964. pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973. p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga, L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

History. Original Rule entitled "Professional Services" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.10 (2012)

290-5-33-.10 Physical Plant and Operational Standards.

The following minimum physical plant and operational standards shall be met by an applicant or licensee as a prerequisite for the issuance and continuance of a permit to operate an ambulatory surgical treatment center. The failure of any licensee to comply with the minimum standards may result at any time in the denial, revocation, or suspension of licensure to operate an ambulatory surgical treatment center, pursuant to provisions of Georgia Code Annotated, Chapter 88-3, and these rules and regulations.

(a) Rooms and/or areas shall be planned and provided with sufficient space and equipment to provide for patient and visitor waiting area; presurgical examination and treatment; procedure rooms; patient recovery; and staff and administrative areas.

(b) The physical plant of the center shall meet all Federal, State and local laws, codes, ordinances, and regulations which apply to its location, construction, maintenance and operation.

(c) Equipment, electrical appliances, wiring, elevators, heating and cooling systems, surgery rooms and special service areas shall be constructed so as to assure the safety of all occupants. It shall be the responsibility of the governing body to assure that the center is in a safe condition at all times and that a fire inspection record is maintained on equipment, systems, and areas that may present a hazard to occupants.

(d) Except where additional requirements are specified herein, or are required by State or local ordinances or regulations, the construction of an ambulatory surgical treatment center shall meet the requirements for Health Care or Business Occupancies as specified in Chapter 10 and/or Chapter 13, as applicable, of the 1976 Life Safety Code, as currently adopted and amended by regulations of the Georgia Safety Fire Commissioner, Chapter 120-3-3, March 1, 1979, and subsequent revisions thereto.

(e) Entrances for patients shall be connected to the public right-of-way by a hard-surfaced, unobstructed walkway in good repair. Handicapped patients confined to a wheel chair or otherwise impaired shall be able to access the center building without climbing any stairs or steps. A ramp with handrails over existing stairs or steps may be utilized in meeting this requirement. A hard-surfaced, unobstructed road or driveway for use by ambulances or other emergency

fire or police vehicles shall run from at least one entrance of the building to the public right-of-way. The doorway of such entrance shall be immediately adjacent to the road or driveway.

(f) Ambulatory surgical services provided in multistory buildings shall be accessible by an elevator of adequate size to accommodate a standard wheeled litter patient and two attendants. A stairway or ramp of adequate dimensions shall be available for transfer of a patient in case of power failure.

(g) All procedure rooms shall be constructed, equipped, and maintained to assure the safety of patients and personnel. The following requirements shall apply within the patient treatment/procedure rooms and adjoining areas:

1. Procedure rooms shall be designed and located to prevent traffic through them to any other part of the center;

2. The walls and floors in procedure rooms shall be of material that will permit frequent washing and cleaning;

3. Sterilizing equipment shall be provided within the center and shall be convenient to the procedure rooms;

4. Staff dressing rooms and scrub up facilities shall be convenient to the procedure rooms, and shall include a knee or elbow operated scrub sink, soap dispenser, and brushes;

5. An equipment cleanup area with adequate plumbing, including a sink with counter, shall be provided outside the procedure room;

6. Enclosed storage facilities for sterile supplies and equipment shall be provided within the procedure areas;

7. Scrub clothing worn by personnel outside the procedure area shall be changed before returning to the procedure area;

8. Locations using flammable anesthetic agents shall comply with the following:

(i) Floors, furniture and equipment in operating rooms shall be of electrically conductive material. Conductive flooring shall extend into contiguous rooms and at least ten (10) feet into the entrance traffic area.

(ii) Clean conductive footwear testing device shall be maintained in the procedure rooms.

(iii) An anesthesia supply and equipment storage room shall be provided within the procedure area.

(iv) Separate storage enclosures shall be provided for flammable gases and combustion-supporting gases. Such enclosures shall be constructed of building material with a fire resistive rating of at least one hour and shall not communicate directly with anesthetizing locations or each other. Air shall be adequately exhausted by gravity or spark proof forced ventilation from the flammable storage enclosure to the exterior of the building at a rate of not less than two (2) changes per hour. Storage enclosures for combustion-supporting gases of less than 1500 cubic feet cylinder capacity need not be vented to the outside. Flammable materials such as fabrics, rubber and wood shall not be stored in these enclosures.

(v) Clothing generating large amounts of static electricity shall be prohibited in the procedure rooms.

9. Locations using flammable anesthetic agents shall be identified by prominently posted signs at all entrances to the procedure room and within the location signifying the type of anesthetics used.

(h) Toilet facilities shall be accessible to patients from the treatment, examining and recovery areas. Convenient handwashing facilities shall be provided for both staff and patients, and shall be provided with soap, disposable towels and dispensers. The use of common towels is prohibited.

(i) Emergency life support equipment shall be available for immediate use, in patient treatment areas. Such equipment shall include, but not necessarily be limited to the following: suction, IV fluids, oxygen, needles, intracatheters, medications, and ventilatory equipment such as ambu bags, oral and nasal airways and endotracheal tubes. Facilities providing general anesthesia shall also have a defibrillator and tracheotomy equipment and supplies.

(j) All medical gases shall be stored in accordance with Bulletin 56A of the National Fire Protection Association.

(k) All plumbing shall be designed and installed in accordance with State laws and local ordinances.

(l) The center shall be arranged and organized in such a manner as to ensure the comfort, safety, hygiene, privacy, and dignity of patients treated therein.

(m) Equipment for sterilizing instruments and supplies shall be conveniently located and of adequate capacity for the workload. Records shall be maintained to assure quality control, including date, time and temperature of each batch of sterilized supplies and equipment.

(n) Medicines shall be stored in a conveniently located cabinet with lock, and only licensed persons shall have access.

(o) Clean and soiled utility rooms shall be arranged and provided with equipment necessary for proper patient care, including sterilizers, storage cabinets and work counters.

(p) Each center shall provide one or more recovery rooms or areas staffed by qualified personnel. The recovery area shall be adequate for the numbers of patients scheduled. Separate recovery areas and/or cubicle curtains shall be provided for patient privacy, when appropriate.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Physical Plant and Operational Standards" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.11 (2012)

290-5-33-.11 Personnel.

(1) The governing body shall appoint an administrator who is responsible for the day-to-day management and operation of the center.

(2) The administrator shall designate an individual to act for him in his absence in order to provide the center with administrative direction at all times.

(3) All center personnel shall be currently licensed to perform the services they render when such services require licensure or registration under the laws of the State of Georgia.

(4) Each center shall require that each employee receives a health examination upon employment and a policy shall provide for follow-up examinations. The examination shall be in sufficient detail, including pertinent laboratory and x-ray data, to assure that the employee is physically and mentally qualified to perform the job to which he is assigned.

(5) There shall be a separate personnel folder maintained for each employee. This file shall contain all personnel information concerning the employee, including the application and qualifications for employment, physical examination (including laboratory and x-ray reports, if applicable), job description and attendance record.

(6) Fire and internal disaster drills shall be conducted at least quarterly and the results documented. There shall be an ongoing program of continuing education for all personnel concerning aspects of fire safety and the disaster plan for moving personnel and patients to safety, and for handling patient emergencies.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Personnel" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.12 (2012)

290-5-33-.12 Records.

(1) A full-time employee shall be designated responsible for establishing and maintaining medical records required to be kept by these rules and regulations.

(2) Medical records containing sufficient information to validate the diagnosis and to establish the basis upon which treatment is given shall be maintained on each patient. Contents of individual medical records shall normally contain the following at least:

(a) Admission and discharge data:

1. Name, address, birth date, sex, marital status, race, etc.

2. Date and time of admission.

3. Date and time of discharge.

4. Admitting diagnosis.

5. Final diagnosis.

6. Procedures or operations performed.

7. Condition on discharge.

8. Attending practitioner's signature.

(b) History and physical examination data:

1. Personal medical history (including all current medication that the patient is taking).

2. Family medical history.

3. Physical examination.

4. Psychiatric examination (if applicable).

(c) Treatment data:

1. Practitioner's orders.

2. Progress notes.

3. Nurse notes.

4. Medication.

5. Temperature-Pulse-Respiration (Graphic Chart; surgical purposes only).

6. Special examination(s) and reports (include x-ray and lab reports).

7. Signed informed consent form.

8. Operation record.

9. Anesthesia record (if applicable).

10. Consultation record (if applicable).

11. Tissue findings when performed.

12. Where dental services are rendered, a complete dental chart with dental diagnosis, treatment, prescription and progress notes shall be part of the clinical record.

(3) All orders on patients shall be signed by the practitioner giving them; admitting diagnosis (purpose of admission) shall be recorded prior to or at the time of admission.

(4) Medical records shall be preserved as original records, microfilms or other usable forms and shall be such as to afford a basis for complete audit of professional information. Centers shall retain all medical records, at least until the sixth anniversary of the patient's discharge. In the case of patients who have not attained majority at the time of the discharge, centers shall retain such records at least six (6) years after patient reaches age of majority. In the event a center shall cease operation, the Department shall be advised of the disposition and/or location of said records.

(5) The center shall collect, retrieve and annually summarize data from the medical record so that it may provide the Department with the following medical statistical information including:

(a) Number of visits by patients.

(b) Number of patients seen.

(c) Basis of treatment (clinical diagnosis and/or problem for which the patient was treated).

(d) Types and number of operative procedures performed.

(e) Age distribution of patients.

(f) Complications and emergencies.

(g) Number of times a patient was transferred from the center to a hospital.

(h) Pathological diagnosis.

(6) Patient records shall be current and shall be entitled to the same protection as provided for any medical records under Georgia law.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Records" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.13 (2012)

290-5-33-.13 Administrative Area and Waiting Rooms.

(1) Each center shall provide administrative space and facilities for admitting patients and other service, such as telephone and information office files and supplies, patients' personal belongings, medical records and files.

(2) A waiting room area shall be provided with a seating capacity to accommodate the number of patients and others of the public normally present in the facility at one time.

(3) The center shall have adequate and conveniently located toilets and handwashing facilities for its staff, employees, outpatients and visiting personnel.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Administrative Area and Waiting Rooms" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.14 (2012)

290-5-33-.14 Clinical Laboratory Services.

(1) Laboratory services utilized by an ambulatory surgical treatment center shall be consistent with requirements of the Clinical Laboratory Licensure Law of 1970, p. 531, et seq., and applicable amendments and regulations, which provide for clinical laboratory services to be either licensed under Rules and Regulations of the State of Georgia, Chapter 290-5-29, or to be exempt from licensure as specified in the Clinical Laboratory Licensure Law. If exemption is claimed, the application shall state the name(s) of the practitioner(s) responsible for the operation of the clinical laboratory and there shall be an affidavit by the physician that he/she is responsible for the laboratory and claims the exemption.

(2) All removed tissues shall be examined immediately by the practitioner, whose findings shall be recorded in the patient's records, in addition to reports of pathologic examinations which may be obtained later.

(3) Laboratory services shall be provided for each patient, consistent with accepted medical practice and the conditions and needs of the patient. Laboratory reports shall be made a part of patient records.

(4) A system shall be established for the collection of information on all postoperative surgical complications and infections.

(5) The center shall report to the Department all communicable diseases detected or reported for patients.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Clinical Laboratory Services" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.15 (2012)

290-5-33-.15 Housekeeping, Laundry, Maintenance and Sterile Supplies.

(1) Each center shall provide sufficient space and equipment and ensure that housekeeping and maintenance is sufficient to keep the center and equipment in a clean and tidy condition and state of good repair. Proper maintenance shall be provided as necessary to correct, prevent, or adjust faulty equipment and/or correct other undesirable conditions.

(2) Laundry service shall be provided. Separate space and facilities shall be provided for receiving, sorting, and storing soiled laundry, and for the sorting, storing and issuing of clean laundry, if reusable items are utilized.

(3) There shall be adequate space and facilities for receiving, packaging and proper sterilizing and storage of supplies and equipment, consistent with the services to be provided.

(4) Special precaution shall be taken to ensure that sterile instruments and supplies are kept separate from nonsterile instruments and supplies. Sterilization records shall be kept and sterile items shall be dated and utilized, based on established procedures.

(5) A recognized method of checking sterilizer performance shall be adopted.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Housekeeping, Laundry, Maintenance and Sterile Supplies" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.16 (2012)

290-5-33-.16 Drug Storage and Dispensing.

Each center shall provide adequate space and equipment and staff to assure that drugs are stored and administered in compliance with State and Federal laws and regulations.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964. p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Drug Storage and Dispensing" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.17 (2012)

290-5-33-.17 Blood Supply and Storage.

Each center which provides service for which blood is needed, shall provide separate refrigeration for the storage of blood and shall have a written agreement with a source for meeting its blood needs. If blood is retained overnight, such refrigeration shall be equipped with a temperature alarm device, and shall be tied in on an automatic emergency electrical power system. In all cases, refrigeration equipment shall be provided with a temperature recording device or the temperature shall be checked and recorded each day of use.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Blood Supply and Storage" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.18 (2012)

290-5-33-.18 X-Ray.

All x-ray facilities in the center shall be registered with and meet the requirements of rules and regulations governing radiological health as promulgated by the Department. X-rays and x-ray reports shall be made a part of the patient's record.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "X-Ray" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.19 (2012)

290-5-33-.19 Electrical Power.

(1) All electrical work and equipment shall be designed and installed in accordance with State and local laws and ordinances.

(2) All areas of the center shall have sufficient artificial lighting for designated purpose.

(3) Centers which utilize general anesthesia shall provide an emergency electrical system so controlled, that, after interruption of the normal electric power supply, an acceptable auxiliary power source is available and capable of being brought into use within ten seconds with sufficient voltage and frequency to reestablish essential in-house services and other emergency equipment needed to effect a prompt and efficient transfer of patients to an appropriate licensed hospital, when needed.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Electrical Power" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.20 (2012)

290-5-33-.20 Sanitation and Waste Disposal.

(1) All centers shall provide facilities for maintaining sanitary standards throughout the premises, as well as for water supply, sewerage, garbage and refuse, disposal systems. Such facilities shall meet local and State regulations.

(2) All garbage, trash and waste shall be stored and disposed of in a manner, by approved methods, that will not permit the transmission of disease, create a nuisance, or provide a breeding place for insects or rodents.

(3) Arrangements shall be made for proper disposal of all contaminated and/or infected dressings and surgical and obstetrical waste.

(4) Effective means shall be provided at all outside doors, windows and other openings to the center to prevent the entrance and harborage of flies, other insects and rodents.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Sanitation and Waste Disposal" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.21 (2012)

290-5-33-.21 Advertising.

Any advertising of the services provided in or by ambulatory surgical treatment center shall include the full name of the center and its Georgia license number, as shown on the face of the permit.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Advertising" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.22 (2012)

290-5-33-.22 Waiver of Rule.

The Department may waive any rule for a stated period of time when it is shown that the specific rule is not applicable or when a waiver is needed to permit experimentation and demonstration of new and innovative approaches to the delivery of services which will not jeopardize the health and safety of the patients, staff or others utilizing the center. Results of such experimentation and demonstration projects shall be submitted to the Department as prescribed by the plan under which the waiver is approved. The Department shall maintain a record of and make available to interested persons information on all waivers granted under this rule.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Waiver of Rule" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.23 (2012)

290-5-33-.23 Enforcement.

An ambulatory surgical treatment center which fails to comply with these rules and regulations shall be subject to revocation of its permit or provisional permit and/or other sanctions provided by law. The enforcement and administration of these rules and regulations shall be as prescribed in Chapter 88-3, Enforcement and Administrative Procedure, the "Georgia Health Code," Acts 1964, pages 499, 518, which includes provision for:

(a) the misdemeanor penalty for violation of rules and regulations promulgated under this Title;

(b) injunctive relief under appropriate circumstances; and

(c) the due process requirements of notice, hearing and appeals.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.24 (2012)

290-5-33-.24 Applicability of Regulations.

These regulations are applicable only to ambulatory surgical treatment centers and the services provided therein, and expressly do not modify or revoke any of the provisions of the published rules of the Department of Human Resources, Chapter 290-5-6 (Rules and Regulations for Hospitals), or of Chapter 290-5-32 (Rules and Regulations for Performance of Abortions After the First Trimester of Pregnancy and Reporting Requirements for all Abortions), or of revisions which may be made to said regulations.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Applicability of Regulations" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.25 (2012)

290-5-33-.25 Severability.

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof and such remaining rules or portions thereof shall remain of full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Board of Human Resources to establish rules and regulations that are constitutional and enforceable so as to safeguard the health and well-being of the people of the State.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Severability" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.26 (2012)

290-5-33-.26 Effective Date of Rules.

The effective date of these rules is March 1, 1980. This provision does not alter the provision in 290-5-33-.05 which allows ninety (90) days from the effective date of these regulations to file an application for permit.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Effective Date of Rules" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-32-.01 (2012)

290-5-32-.01 Definitions. Amended.

Unless a different meaning is required by the context or pertinent statutes, the following terms as used in these Rules and Regulations shall have the meaning hereinafter respectively ascribed to them; except, these Rules and Regulations do not apply to hospitals owned or operated by the United States Federal Government.

(a) "Induced Abortion" means the procedure by which pregnancy is purposely terminated with the intent to result in other than a live birth.

(b) "First Trimester" means the first thirteen completed weeks after the first day of the last normal menstrual cycle.

(c) "Second Trimester" means the second thirteen weeks or gestation.

(e) "Hospital" means a facility which is subject to regulation and control under *Section 31-7-1* of the Official Code of Georgia Annotated (Regulation of Hospitals and Related Institutions) as well as the Rules and Regulations duly promulgated thereunder and in particular the Rules and Regulations embodied in Chapter 290-5-6 entitled "Hospitals" duly promulgated by the Georgia Department of Human Resources, as such law and regulations now exist or may subsequently be amended.

(f) "Ambulatory Surgical Treatment Centers" means any institution, building, or facility, or part thereof, devoted primarily to the provision of surgical treatment to patients not requiring hospitalization, as provided under provisions of *Code Section 31-7-1* of the Official Code of Georgia Annotated. Such facilities do not admit patients for treatment which normally requires overnight stay, nor provide accommodations for treatment of patients for periods of twenty-four (24) hours or longer.

(g) "Abortion Facility" means a facility licensed by the Department as a hospital or ambulatory surgical treatment center.

(h) "Department" means the Department of Human Resources of the State of Georgia.

(i) "Commissioner" means the Commissioner of the Department of Human Resources of the State of Georgia.

(j) "Board" means the Board of Human Resources of the State of Georgia.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Definitions" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.01, of the same title, adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule 290-5-32-0.4-.01 repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.02 (2012)

290-5-32-.02 Regulation of Abortion Procedures Subsequent to the First Trimester. Amended.

(1) No abortion is authorized nor shall be performed after the first trimester unless the abortion is performed in an abortion facility; provided, however, that abortion procedures performed in an ambulatory surgical treatment center shall be limited to dilatation and evacuation procedures (D & E).

(2) No abortion is authorized nor shall be performed after the second trimester unless the attending physician and two consulting physicians certify in writing and make such statement a part of the medical records of the patient that said abortion is necessary in their best clinical judgment to preserve the life or health of the woman. If the product of such abortion is capable of meaningful or sustained life, medical aid then available must be rendered in order to achieve this result.

(3) Nothing in these Rules and Regulations shall require an abortion facility or physician to admit any patient for the purpose of performing an abortion. In addition, any person who shall state in writing an objection to any abortion or all abortions on moral or religious grounds shall not be required to participate in procedures which will result in such abortion, and refusal of such person to participate therein, shall not form the basis for any claim for damage or account of such refusal or for any disciplinary or recriminatory action against such person. The written objection shall remain in effect until such person shall revoke it or terminate his association with the facility with which it is filed.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Regulation of Abortion Procedures Subsequent to the First Trimester" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.02, of the same title, adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.03 (2012)

290-5-32-.03 Procedure for Filing Certificate of Abortion. Amended.

(1) In addition to the medical records requirements of Chapters 290-5-6 and 290-5-33 of the Rules and Regulations of the Georgia Department of Human Resources, the physician who performs the abortion shall file with the Commissioner of Human Resources or his designee, within ten (10) days after an abortion procedure is performed, a Certificate of Abortion. It is expressly intended that the privacy of the patient shall be preserved and, to that end, the Certificate of Abortion shall not reflect the name of the patient but shall carry the same facility number, or other identifying number reflected on the patient's medical records. A duplicate of the Certificate of Abortion will be made a part of the patient's Medical record and neither the aforesaid duplicate certificate nor the Certificate of Abortion which is filed with the Commissioner or his designee shall be revealed to the public unless the patient executes a proper authorization which permits such a release or unless the records must be made available to the District Attorney of the Judicial Circuit in which the hospital or health facility is located as provided by *Code Section 16-12-141 (d)* of the Official Code of Georgia Annotated.

(2) The Certificate of Abortion required in the above rule shall contain the following statistical data, to wit:

(a) age;

(b) race;

(c) education;

(d) county of residence;

(e) marital status;

(f) duration of pregnancy;

(g) previous pregnancy history including previous abortion(s);

(h) method of abortion;

(i) fetal defects if fetus survives; and

(j) history of use of drugs and/or alcohol.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Provisions" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.03, entitled "Procedure for Filing Certificate of Abortion," adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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CHAPTER 290-5-32 PERFORMANCE OF ABORTIONS AFTER THE FIRST TRIMESTER OF PREGNANCY AND REPORTING REQUIREMENTS FOR ALL ABORTIONS

Ga. Comp. R. & Regs. r. 290-5-32-.04 (2012)

290-5-32-.04 Severability. Amended.

In the event that any rule, sentence, clause or phrase of any of these rules are in conflict with any superior law or, should be declared or adjudged invalid or unconstitutional, such determination or adjudication shall in no manner affect the remaining rules or portions thereof and such remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Application" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.04, entitled "Severability," adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.05 (2012)

290-5-32-.05 Enforcement. Amended.

In addition to the penal provisions of *Section 16-12-143* of the Official Code of Georgia Annotated, which states that any person who fails to file or maintain, in complete form, any of the written reports required in that Chapter (as further reflected in these rules relating to abortions) within the time set forth shall commit a misdemeanor, and *Section 16-12-140(b)* of the aforesaid Code which states that a person convicted of criminal abortion shall be punished by imprisonment for not less than one (1) nor more than ten (10) years, except that a person convicted of failure to file the forms and records required by this Chapter shall be punished under *Section 16-12-143*, the administration and enforcement of these Rules and Regulations shall be as prescribed in *Section 31-5-1* entitled "Administration and Enforcement" of the Official Code of Georgia Annotated and in conformity with the Administrative Procedure Act (*Section 50-13-1* of the Official Code of Georgia Annotated), as amended.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Procedure for Filing Certificate of Abortion" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed and Emergency Rule 290-5-32-0.4-.05, entitled "Enforcement," adopted. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency rule repealed and permanent Rule of the same title adopted. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.06 (2012)

290-5-32-.06 Repealed.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13.

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed by Emergency Rule 290-5-32-0.4. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed, and Rule repealed. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-32-.07 (2012)

290-5-32-.07 Repealed.

AUTHORITY: O.C.G.A. 16-12, Art. 5; O.C.G.A. 50-13

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on September 18, 1974; effective October 8, 1974. AMENDED: Rule repealed by Emergency Rule 290-5-32-0.4. Filed July 22, 1983; effective July 20, 1983, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. AMENDED: Emergency Rule repealed, and Rule repealed. Filed October 20, 1983; effective November 9, 1983.

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Ga. Comp. R. & Regs. r. 290-5-33-.01 (2012)

290-5-33-.01 Definitions. Amended.

Unless a different meaning is required by the context, the following terms as used in these rules and regulations shall have the meaning hereinafter respectively ascribed to them:

(a) "Ambulatory Surgical Treatment Centers" means any institution, building, or facility, or part thereof, devoted primarily to the provision of surgical treatment to patients not requiring hospitalization, as provided under provisions of Georgia Code Section 88-1901. Such facilities do not admit patients for treatment which normally requires overnight stay, nor provide accommodations for treatment of patients for period of twenty-four (24) hours or longer;

(b) "Governing Body" and/or "Management" means the Board of Directors and/or Trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control the operation of the ambulatory surgical treatment center and who are legally responsible for its operation;

(c) "Center" means an ambulatory surgical treatment center as defined in these rules and regulations;

(d) "Board," unless otherwise indicated, shall mean the Georgia Board of Human Resources;

(e) "Commissioner" means the Commissioner of the Georgia Department of Human Resources or his designee;

(f) "Department" means the Georgia Department of Human Resources;

(g) "General Anesthesia" means any drug, element or other material administered to eliminate all sensation and which, when administered, is accompanied by a state of unconsciousness;

(h) "Licensee" means the person or body to whom the license or permit is issued and who is held responsible for compliance with all required rules, regulations, and minimum standards;

(i) "Permit" or "license" means an authorization granted by the Department to an applicant to operate an ambulatory surgical treatment center providing one or more types or classifications of services;

(j) "Provisional Permit" means an authorization granted by the Department to an applicant to operate an ambulatory surgical treatment center on a conditional basis to allow a newly established center a reasonable but limited period of time to demonstrate that operational procedures are in satisfactory compliance with these rules and regulations, or to allow an established and operating center a specified length of time to comply with these rules and regulations, provided said center shall first present a plan of improvement which is acceptable to the Department;

(k) "Plan of Improvement" means a written plan submitted to the Department by the person or persons responsible for the center, and acceptable to the Department. The plan shall identify the existing areas of noncompliance of the facility, together with the proposed procedures, methods and period of time to correct the areas of noncompliance;

(l) "Professional Staff" means the group of persons or body appointed by the Governing Body to provide patient services, and who require special licensure or registration. Normally, the professional staff will be restricted to currently licensed medical, dental, and podiatrist practitioners. Other personnel, for example, registered nurses, may be appointed to the professional staff to assist the practitioners in the development, interpretation, and enforcement of patient care policies;

(m) "Practitioner" means a physician, dentist, or podiatrist;

(n) "Physician" means an individual who is currently licensed to practice medicine, surgery or osteopathy in the State of Georgia, under the Georgia Medical Practice Act, Chapter 84-9, Georgia Laws, Ann.;

(o) "Dentist" means any person who is currently licensed to practice dentistry in the State of Georgia, under provisions of the Georgia Dentist and Dental Hygienists Act, Chapter 84-7, Georgia Laws, Ann.;

(p) "Podiatrist" (Chiropodist) means any person who is currently licensed to practice podiatry (chiropody) in the State of Georgia, under provisions of the Georgia Podiatry Act, Chapter 84-6, Georgia Laws, Ann.;

(q) "Registered Nurse," "Registered Professional Nurse," or "R.N." means a person who is currently licensed to practice as a licensed registered nurse under provisions of Chapter 84-10, Georgia Laws, Ann.;

(r) "Licensed Practical Nurse" or "L.P.N." means a person currently licensed to practice as a licensed practical nurse under provisions of Chapter 84-68, Georgia Laws, Ann.;

(s) "Private Office(s)," "Office(s)," and/or "Treatment Rooms" means any area or place established and maintained by a currently licensed individual practitioner, professional association, or group practice of such practitioners, in his/her/their private individual or private group practice, in which he/she/they primarily see(s), consult(s) with, examine(s), and/or treats private patients on a regular and on-going basis, and in the operation of which such currently licensed practitioners have full control of all financial, administrative, and professional arrangements with said patients;

(t) "Hospital" means any facility which meets the requirements of and is currently licensed as a hospital under Georgia Laws and rules and regulations pertaining thereto;

(u) "Procedure Room" means any room or area of the ambulatory surgical treatment center in which surgical procedures are performed;

(v) "Patient" means any individual who receives medical/surgical treatment in facilities governed by these regulations;

(w) "Qualified Counselor" means a person who assists the professional staff by talking with and informing patients regarding expectations and probable outcomes associated with services in an ambulatory surgical treatment center, and who possesses the following minimum qualifications: at least a bachelor's degree from an accredited college or university in nursing, psychology or social work, or in some related field, or who has special training in counseling

which is deemed acceptable by the Department; provided, however, that any such counselor shall function only under the direct supervision of the responsible practitioner.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Definitions" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule of the same title has been adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.02 (2012)

290-5-33-.02 Exemptions. Amended.

The following types of health care facilities are exempt from the requirements of these regulations:

(a) currently licensed hospitals, or a facility as specified in 290-5-33-.03 (12);

(b) a practitioner's private offices or treatment rooms in which a practitioner primarily sees, consults with, and treats patients;

(c) facilities owned and operated by the Federal Government.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Application" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Exemptions" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.03 (2012)

290-5-33-.03 Organization and Administration. Amended.

(1) Each ambulatory surgical treatment center shall be organized with an identifiable governing body that establishes the objectives, sets the policies and assumes full legal responsibilities for the overall conduct of the center and for compliance with all applicable laws and regulations pertaining to the center. The membership of the governing body shall be identified in the application to the Department for licensure.

(2) The ownership of the center shall be fully disclosed in the application to the Department. This disclosure shall include the names and addresses of all corporate officers and any person(s) having a five percent (5.0%) or more financial interest.

(3) The governing body of the center shall be responsible for appointing the professional staff and shall establish effective mechanisms for quality assurance and to ensure the accountability of the center's medical and/or dental staff and other professional personnel.

(4) The organizational objectives of the ambulatory surgical treatment center shall be clearly stated in the procedures and policies of the governing body and on the application for licensure.

(5) The governing body shall inform the Department of the name(s) of the administrator(s) to whom the responsibility for the day-to-day management of the center is delegated, including the implementation of rules and policies adopted by the governing body.

(6) Each center shall be at all times under the immediate personal and daily supervision and control of the administrator or his designated representative, whose authority, duties and responsibilities shall be defined in writing and which shall be available to the Department upon request.

(7) The Department shall be notified with a new application, or written amendment to the current application, when there are changes in location, ownership, management or operational objectives.

(8) Individual patients shall be discharged within twenty-four (24) hours of admission, in an ambulatory condition which will not endanger their continued well-being, or shall be transferred to a licensed hospital or other treatment

facility. There shall be written procedures and assigned responsibilities for implementing such procedures, including provisions for transportation. Patients requiring emergency services shall be accompanied by a member of the professional staff of the center.

(9) Each center shall have an organized professional staff which is responsible for the development of patient care policies and procedures and for maintaining the level of professional performance through a continuing program of staff education, review and evaluation of patient care.

(10) Each center shall at all times have a professional director designated by the governing body, who shall be responsible for the direction and coordination of all professional aspects of the center programs.

(11) The practitioners applying for staff privileges shall be required to sign an agreement to abide by the staff bylaws and required State laws and rules and regulations.

(12) Nothing in these rules and regulations shall prevent a licensed hospital from organizing and providing an ambulatory surgical treatment service as a part of a licensed hospital under the controlling authority of a hospital board, so long as all hospital licensure standards are met and the provided services are included in the application under which the hospital license is granted.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Processing of Applications" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Organization and Administration" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.04 (2012)

290-5-33-.04 Classifications of Services. Amended.

Each ambulatory surgical center, when applying for a permit shall designate the type(s) or classification(s) of services to be provided in or by the center. These classifications may include, but are not necessarily limited to the following: general surgery; eye, ear, nose, and throat; plastic surgery; oral and maxillofacial; obstetrical-gynecological; oncological; ophthalmological; and urological. Provided, however, that any facility providing labor and delivery services must meet the requirements of Rules and Regulations for Hospitals, Maternity and Obstetrical and Newborn Services, Chapter 290-5-6, *Rules 290-5-6-.16* and *290-5-6-.17*, dated May 10, 1977, or as later revised. The permit for a single ambulatory surgical treatment center may cover one or more types of services. Each ambulatory surgical treatment center shall provide only those services listed on the face of its permit.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Required Developmental Progress" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979.AMENDED: Rule entitled "Classifications of Services" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.05 (2012)

290-5-33-.05 Application for Permits. Amended.

(1) Any person or persons responsible for the operation of an ambulatory surgical treatment center as defined and classified in these regulations, or who may hereafter propose to establish and operate such an institution, shall submit an application to the Department for a permit to operate said institution using forms provided by the Department. No such institution shall be operated in Georgia without a valid permit which shall be displayed in a conspicuous place within the center. Failure or refusal to file an application for a permit within ninety (90) days of the effective date of these regulations shall constitute a violation of law and shall be dealt with as provided in Chapter 88-3 of the "Georgia Health Code."

(2) The applicant for a permit to operate an ambulatory surgical treatment center shall submit a completed application with character references and a certification that the applicant is able and willing to comply with the minimum standards for an ambulatory surgical treatment center and with the rules and regulations lawfully promulgated. Each application shall be accompanied by a statement from the local (city or county) fire safety authority stating that an inspection has been made of the premises and that state and local fire safety requirements have been met.

(3) The application shall include full and complete information concerning the name and address of the applicant and the classification(s) of services to be provided; the ownership of the property and operation; in case a center is organized as a corporation, the names and addresses of each officer and director of the corporation; in case the center is organized as a partnership, the names and addresses of each partner; the identity of the professional director of the facility; the days and hours the center is normally operated; and any other information which the Department may require.

(4) Ambulatory surgical treatment centers are subject to review by the State Health Planning and Development Agency, pursuant to the Georgia Certificate of Need Law. Evidence of completion of this review shall be made a part of the application for a permit.

(5) Plans for ambulatory surgical treatment centers shall be submitted to the Department for review and approved in three stages of development:

(a) schematic drawings;

(b) design-development drawings; and

(c) final working drawings and specifications.

(6) A permit shall be issued to the person or persons named only for the premises listed on the application for licensure.

(7) Permits are not transferable or assignable.

(8) Changes in ownership shall be subject to prior review and approval by the State Health Planning and Development Agency (SHPDA) pursuant to Section 1122 of the Social Security Amendment. Each planned change of ownership or lease shall be reported to the Department thirty (30) days prior to such change with an application being submitted from the proposed new owners for a new permit.

(9) Separate applications and permits are required for centers maintained in separate premises, even though they are owned or operated by the same person(s), business or corporation, and may be doing business under the same title.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Criteria for Review" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Application for Permits" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.06 (2012)

290-5-33-.06 Permits. Amended.

(1) Following inspection and classification of the institution for which application for a permit has been made, the Department may issue a permit or a provisional permit or refuse to reissue or continue a permit or provisional permit. Each permit or provisional permit shall indicate the classifications of services to be provided and patient capacity of the center.

(2) Permits issued shall mean that the Department grants authorization to the governing body of the applicant institution to operate an ambulatory surgical treatment center and signifies compliance with these rules and regulations. Permits issued shall remain in force and effect until revoked or suspended.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Decision and Appeal" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Permits" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.07 (2012)

290-5-33-.07 Provisional Permits. Amended.

Provisional permits may be issued for a limited period specified by the Department based on an acceptable written plan for correcting one or more deficiencies (plan of correction) found during an inspection; provisional permits issued shall remain in force and effect for such limited period of time as specified by the Department, unless earlier revoked due to prevailing circumstances which are not acceptable to the Department. Centers which are established and operating prior to adoption of these rules and regulations may be considered for extension of a provisional permit when needed to meet physical plant standards. If the Department's decision is that a deficiency is of such nature that it would jeopardize the life of a patient, a provisional permit will not be issued.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on January 23, 1976; effective February 12, 1976. AMENDED: Rule repealed. Filed October 31, 1979; effective November 20, 1979. AMENDED: Rule entitled "Provisional Permits" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.08 (2012)

290-5-33-.08 Inspections. Amended.

(1) The ambulatory surgical treatment center shall be available at all reasonable and/or scheduled operating hours for observation and examination by properly identified representatives of the Department.

(2) The governing body shall notify the Department of the anticipated opening date of a newly constructed center in order that a preopening licensure inspection of the center may be conducted to determine compliance with these rules and regulations.

(3) The administrator or his representative shall accompany the Department representative on all tours of inspection and shall sign the completed checklist.

(4) Each center shall be periodically inspected at least annually to determine whether the center is continuing to meet these requirements or is making satisfactory progress on approved plans of correction.

Authority *O.C.G.A. Sec. 31-2-6*

History. Original Rule entitled "Conflict of Interest" was filed on January 23, 1976; effective February 12, 1976. Amended: Rule repealed. Filed October 31, 1979; effective November 20, 1979. Amended: Rule entitled "Inspections" adopted. Filed January 22, 1980; effective March 1, 1980, as specified by the Agency. Repealed: New Rule of same title adopted. F. Aug. 29, 2002; eff. Sept. 18, 2002.

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CHAPTER 290-5 PUBLIC HEALTH
CHAPTER 290-5-33 AMBULATORY SURGICAL TREATMENT CENTERS

Ga. Comp. R. & Regs. r. 290-5-33-.09 (2012)

290-5-33-.09 Professional Services.

(1) All services provided by or in the center shall be provided by persons who are currently licensed to perform the services they render when such services require licensure or registration under the laws of the State of Georgia. There shall be a sufficient number of qualified staff members to adequately provide for patient needs based on services provided and the number of patients served.

(2) Each center shall have a professional director who shall be a practitioner currently licensed in Georgia, and who shall be responsible for the direction and coordination of all medical aspects of the center program.

(3) General anesthesia shall be administered by an anesthesiologist, a physician anesthetist, an oral surgeon, or a certified R.N. anesthetist under the direction and responsibility of a currently licensed physician with training and experience in anesthesia, as specified in Georgia Code 84-10A. After administration of a general anesthetic, patients shall be constantly attended (at bedside) by a person qualified as above or by an R.N. until reactive and able to summon aid.

(4) All nursing services shall be under the supervision of a registered nurse (R.N.). Each center shall have a sufficient number of currently licensed nurses present and on duty to attend to patients at all times patients are receiving treatment or recovering from treatment up to and including the time of discharge. Additional staff shall be on duty and available to assist the professional staff to adequately handle routine and emergency patient needs.

(5) Each center shall establish written procedures for emergency services which will insure that a professional staff member who has been trained in emergency resuscitation procedures shall be on duty at all times when there is a patient receiving treatment or recovering from treatment, up to and including the time of discharge.

(6) The written procedures shall provide that an appropriate practitioner be designated on call and available to provide timely response to emergencies which may occur with any patient in the center.

(7) Each center shall have a hospital affiliation agreement and/or the medical staff must have admitting privileges or other acceptable documented arrangements to insure the necessary backup for medical complications. The center

must have the capability to transfer a patient immediately to a hospital with adequate emergency room services.

(8) Each center will have effective policies and procedures for handling infection control and for recording complications which occur during or after surgery, which includes a reporting mechanism for patients who develop infections or postoperative complications after discharge.

(9) Either prior to, or at the time of admission, each patient who is admitted to the center without an appointment with a specified practitioner shall be provided (in writing) with the name, address and phone number of the practitioner who is serving him/her. The practitioner or a qualified counselor designated by the practitioner, shall explain the surgical and medical procedures, its potential complications, and postoperative complications and other alternatives to surgery; this shall be confirmed by the patient who shall sign an informed consent form as provided under Georgia Laws, Chapter 88-29. Prior to dismissal, each patient shall be provided with both verbal and written instructions for posttreatment care and procedures for obtaining emergency care, if needed during the period of recuperation.

(10) All ancillary supportive health or medical services such as radiological services, pharmaceutical services, or clinical laboratory services provided in or by the center shall be in accordance with applicable rules and regulations of the State of Georgia.

(11) Each center shall establish policies for patient care and procedures for maintaining these policies.

Authority Ga. L. 1964. pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973. p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga, L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

History. Original Rule entitled "Professional Services" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.10 (2012)

290-5-33-.10 Physical Plant and Operational Standards.

The following minimum physical plant and operational standards shall be met by an applicant or licensee as a prerequisite for the issuance and continuance of a permit to operate an ambulatory surgical treatment center. The failure of any licensee to comply with the minimum standards may result at any time in the denial, revocation, or suspension of licensure to operate an ambulatory surgical treatment center, pursuant to provisions of Georgia Code Annotated, Chapter 88-3, and these rules and regulations.

(a) Rooms and/or areas shall be planned and provided with sufficient space and equipment to provide for patient and visitor waiting area; presurgical examination and treatment; procedure rooms; patient recovery; and staff and administrative areas.

(b) The physical plant of the center shall meet all Federal, State and local laws, codes, ordinances, and regulations which apply to its location, construction, maintenance and operation.

(c) Equipment, electrical appliances, wiring, elevators, heating and cooling systems, surgery rooms and special service areas shall be constructed so as to assure the safety of all occupants. It shall be the responsibility of the governing body to assure that the center is in a safe condition at all times and that a fire inspection record is maintained on equipment, systems, and areas that may present a hazard to occupants.

(d) Except where additional requirements are specified herein, or are required by State or local ordinances or regulations, the construction of an ambulatory surgical treatment center shall meet the requirements for Health Care or Business Occupancies as specified in Chapter 10 and/or Chapter 13, as applicable, of the 1976 Life Safety Code, as currently adopted and amended by regulations of the Georgia Safety Fire Commissioner, Chapter 120-3-3, March 1, 1979, and subsequent revisions thereto.

(e) Entrances for patients shall be connected to the public right-of-way by a hard-surfaced, unobstructed walkway in good repair. Handicapped patients confined to a wheel chair or otherwise impaired shall be able to access the center building without climbing any stairs or steps. A ramp with handrails over existing stairs or steps may be utilized in meeting this requirement. A hard-surfaced, unobstructed road or driveway for use by ambulances or other emergency

fire or police vehicles shall run from at least one entrance of the building to the public right-of-way. The doorway of such entrance shall be immediately adjacent to the road or driveway.

(f) Ambulatory surgical services provided in multistory buildings shall be accessible by an elevator of adequate size to accommodate a standard wheeled litter patient and two attendants. A stairway or ramp of adequate dimensions shall be available for transfer of a patient in case of power failure.

(g) All procedure rooms shall be constructed, equipped, and maintained to assure the safety of patients and personnel. The following requirements shall apply within the patient treatment/procedure rooms and adjoining areas:

1. Procedure rooms shall be designed and located to prevent traffic through them to any other part of the center;

2. The walls and floors in procedure rooms shall be of material that will permit frequent washing and cleaning;

3. Sterilizing equipment shall be provided within the center and shall be convenient to the procedure rooms;

4. Staff dressing rooms and scrub up facilities shall be convenient to the procedure rooms, and shall include a knee or elbow operated scrub sink, soap dispenser, and brushes;

5. An equipment cleanup area with adequate plumbing, including a sink with counter, shall be provided outside the procedure room;

6. Enclosed storage facilities for sterile supplies and equipment shall be provided within the procedure areas;

7. Scrub clothing worn by personnel outside the procedure area shall be changed before returning to the procedure area;

8. Locations using flammable anesthetic agents shall comply with the following:

(i) Floors, furniture and equipment in operating rooms shall be of electrically conductive material. Conductive flooring shall extend into contiguous rooms and at least ten (10) feet into the entrance traffic area.

(ii) Clean conductive footwear testing device shall be maintained in the procedure rooms.

(iii) An anesthesia supply and equipment storage room shall be provided within the procedure area.

(iv) Separate storage enclosures shall be provided for flammable gases and combustion-supporting gases. Such enclosures shall be constructed of building material with a fire resistive rating of at least one hour and shall not communicate directly with anesthetizing locations or each other. Air shall be adequately exhausted by gravity or spark proof forced ventilation from the flammable storage enclosure to the exterior of the building at a rate of not less than two (2) changes per hour. Storage enclosures for combustion-supporting gases of less than 1500 cubic feet cylinder capacity need not be vented to the outside. Flammable materials such as fabrics, rubber and wood shall not be stored in these enclosures.

(v) Clothing generating large amounts of static electricity shall be prohibited in the procedure rooms.

9. Locations using flammable anesthetic agents shall be identified by prominently posted signs at all entrances to the procedure room and within the location signifying the type of anesthetics used.

(h) Toilet facilities shall be accessible to patients from the treatment, examining and recovery areas. Convenient handwashing facilities shall be provided for both staff and patients, and shall be provided with soap, disposable towels and dispensers. The use of common towels is prohibited.

(i) Emergency life support equipment shall be available for immediate use, in patient treatment areas. Such equipment shall include, but not necessarily be limited to the following: suction, IV fluids, oxygen, needles, intracatheters, medications, and ventilatory equipment such as ambu bags, oral and nasal airways and endotracheal tubes. Facilities providing general anesthesia shall also have a defibrillator and tracheotomy equipment and supplies.

(j) All medical gases shall be stored in accordance with Bulletin 56A of the National Fire Protection Association.

(k) All plumbing shall be designed and installed in accordance with State laws and local ordinances.

(l) The center shall be arranged and organized in such a manner as to ensure the comfort, safety, hygiene, privacy, and dignity of patients treated therein.

(m) Equipment for sterilizing instruments and supplies shall be conveniently located and of adequate capacity for the workload. Records shall be maintained to assure quality control, including date, time and temperature of each batch of sterilized supplies and equipment.

(n) Medicines shall be stored in a conveniently located cabinet with lock, and only licensed persons shall have access.

(o) Clean and soiled utility rooms shall be arranged and provided with equipment necessary for proper patient care, including sterilizers, storage cabinets and work counters.

(p) Each center shall provide one or more recovery rooms or areas staffed by qualified personnel. The recovery area shall be adequate for the numbers of patients scheduled. Separate recovery areas and/or cubicle curtains shall be provided for patient privacy, when appropriate.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Physical Plant and Operational Standards" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.11 (2012)

290-5-33-.11 Personnel.

(1) The governing body shall appoint an administrator who is responsible for the day-to-day management and operation of the center.

(2) The administrator shall designate an individual to act for him in his absence in order to provide the center with administrative direction at all times.

(3) All center personnel shall be currently licensed to perform the services they render when such services require licensure or registration under the laws of the State of Georgia.

(4) Each center shall require that each employee receives a health examination upon employment and a policy shall provide for follow-up examinations. The examination shall be in sufficient detail, including pertinent laboratory and x-ray data, to assure that the employee is physically and mentally qualified to perform the job to which he is assigned.

(5) There shall be a separate personnel folder maintained for each employee. This file shall contain all personnel information concerning the employee, including the application and qualifications for employment, physical examination (including laboratory and x-ray reports, if applicable), job description and attendance record.

(6) Fire and internal disaster drills shall be conducted at least quarterly and the results documented. There shall be an ongoing program of continuing education for all personnel concerning aspects of fire safety and the disaster plan for moving personnel and patients to safety, and for handling patient emergencies.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Personnel" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.12 (2012)

290-5-33-.12 Records.

(1) A full-time employee shall be designated responsible for establishing and maintaining medical records required to be kept by these rules and regulations.

(2) Medical records containing sufficient information to validate the diagnosis and to establish the basis upon which treatment is given shall be maintained on each patient. Contents of individual medical records shall normally contain the following at least:

(a) Admission and discharge data:

1. Name, address, birth date, sex, marital status, race, etc.

2. Date and time of admission.

3. Date and time of discharge.

4. Admitting diagnosis.

5. Final diagnosis.

6. Procedures or operations performed.

7. Condition on discharge.

8. Attending practitioner's signature.

(b) History and physical examination data:

1. Personal medical history (including all current medication that the patient is taking).

2. Family medical history.

3. Physical examination.

4. Psychiatric examination (if applicable).

(c) Treatment data:

1. Practitioner's orders.

2. Progress notes.

3. Nurse notes.

4. Medication.

5. Temperature-Pulse-Respiration (Graphic Chart; surgical purposes only).

6. Special examination(s) and reports (include x-ray and lab reports).

7. Signed informed consent form.

8. Operation record.

9. Anesthesia record (if applicable).

10. Consultation record (if applicable).

11. Tissue findings when performed.

12. Where dental services are rendered, a complete dental chart with dental diagnosis, treatment, prescription and progress notes shall be part of the clinical record.

(3) All orders on patients shall be signed by the practitioner giving them; admitting diagnosis (purpose of admission) shall be recorded prior to or at the time of admission.

(4) Medical records shall be preserved as original records, microfilms or other usable forms and shall be such as to afford a basis for complete audit of professional information. Centers shall retain all medical records, at least until the sixth anniversary of the patient's discharge. In the case of patients who have not attained majority at the time of the discharge, centers shall retain such records at least six (6) years after patient reaches age of majority. In the event a center shall cease operation, the Department shall be advised of the disposition and/or location of said records.

(5) The center shall collect, retrieve and annually summarize data from the medical record so that it may provide the Department with the following medical statistical information including:

(a) Number of visits by patients.

(b) Number of patients seen.

(c) Basis of treatment (clinical diagnosis and/or problem for which the patient was treated).

(d) Types and number of operative procedures performed.

(e) Age distribution of patients.

(f) Complications and emergencies.

(g) Number of times a patient was transferred from the center to a hospital.

(h) Pathological diagnosis.

(6) Patient records shall be current and shall be entitled to the same protection as provided for any medical records under Georgia law.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Records" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.13 (2012)

290-5-33-.13 Administrative Area and Waiting Rooms.

(1) Each center shall provide administrative space and facilities for admitting patients and other service, such as telephone and information office files and supplies, patients' personal belongings, medical records and files.

(2) A waiting room area shall be provided with a seating capacity to accommodate the number of patients and others of the public normally present in the facility at one time.

(3) The center shall have adequate and conveniently located toilets and handwashing facilities for its staff, employees, outpatients and visiting personnel.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Administrative Area and Waiting Rooms" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.14 (2012)

290-5-33-.14 Clinical Laboratory Services.

(1) Laboratory services utilized by an ambulatory surgical treatment center shall be consistent with requirements of the Clinical Laboratory Licensure Law of 1970, p. 531, et seq., and applicable amendments and regulations, which provide for clinical laboratory services to be either licensed under Rules and Regulations of the State of Georgia, Chapter 290-5-29, or to be exempt from licensure as specified in the Clinical Laboratory Licensure Law. If exemption is claimed, the application shall state the name(s) of the practitioner(s) responsible for the operation of the clinical laboratory and there shall be an affidavit by the physician that he/she is responsible for the laboratory and claims the exemption.

(2) All removed tissues shall be examined immediately by the practitioner, whose findings shall be recorded in the patient's records, in addition to reports of pathologic examinations which may be obtained later.

(3) Laboratory services shall be provided for each patient, consistent with accepted medical practice and the conditions and needs of the patient. Laboratory reports shall be made a part of patient records.

(4) A system shall be established for the collection of information on all postoperative surgical complications and infections.

(5) The center shall report to the Department all communicable diseases detected or reported for patients.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Clinical Laboratory Services" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.15 (2012)

290-5-33-.15 Housekeeping, Laundry, Maintenance and Sterile Supplies.

(1) Each center shall provide sufficient space and equipment and ensure that housekeeping and maintenance is sufficient to keep the center and equipment in a clean and tidy condition and state of good repair. Proper maintenance shall be provided as necessary to correct, prevent, or adjust faulty equipment and/or correct other undesirable conditions.

(2) Laundry service shall be provided. Separate space and facilities shall be provided for receiving, sorting, and storing soiled laundry, and for the sorting, storing and issuing of clean laundry, if reusable items are utilized.

(3) There shall be adequate space and facilities for receiving, packaging and proper sterilizing and storage of supplies and equipment, consistent with the services to be provided.

(4) Special precaution shall be taken to ensure that sterile instruments and supplies are kept separate from nonsterile instruments and supplies. Sterilization records shall be kept and sterile items shall be dated and utilized, based on established procedures.

(5) A recognized method of checking sterilizer performance shall be adopted.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Housekeeping, Laundry, Maintenance and Sterile Supplies" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.16 (2012)

290-5-33-.16 Drug Storage and Dispensing.

Each center shall provide adequate space and equipment and staff to assure that drugs are stored and administered in compliance with State and Federal laws and regulations.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964. p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Drug Storage and Dispensing" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.17 (2012)

290-5-33-.17 Blood Supply and Storage.

Each center which provides service for which blood is needed, shall provide separate refrigeration for the storage of blood and shall have a written agreement with a source for meeting its blood needs. If blood is retained overnight, such refrigeration shall be equipped with a temperature alarm device, and shall be tied in on an automatic emergency electrical power system. In all cases, refrigeration equipment shall be provided with a temperature recording device or the temperature shall be checked and recorded each day of use.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Blood Supply and Storage" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.18 (2012)

290-5-33-.18 X-Ray.

All x-ray facilities in the center shall be registered with and meet the requirements of rules and regulations governing radiological health as promulgated by the Department. X-rays and x-ray reports shall be made a part of the patient's record.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "X-Ray" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.19 (2012)

290-5-33-.19 Electrical Power.

(1) All electrical work and equipment shall be designed and installed in accordance with State and local laws and ordinances.

(2) All areas of the center shall have sufficient artificial lighting for designated purpose.

(3) Centers which utilize general anesthesia shall provide an emergency electrical system so controlled, that, after interruption of the normal electric power supply, an acceptable auxiliary power source is available and capable of being brought into use within ten seconds with sufficient voltage and frequency to reestablish essential in-house services and other emergency equipment needed to effect a prompt and efficient transfer of patients to an appropriate licensed hospital, when needed.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Electrical Power" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.20 (2012)

290-5-33-.20 Sanitation and Waste Disposal.

(1) All centers shall provide facilities for maintaining sanitary standards throughout the premises, as well as for water supply, sewerage, garbage and refuse, disposal systems. Such facilities shall meet local and State regulations.

(2) All garbage, trash and waste shall be stored and disposed of in a manner, by approved methods, that will not permit the transmission of disease, create a nuisance, or provide a breeding place for insects or rodents.

(3) Arrangements shall be made for proper disposal of all contaminated and/or infected dressings and surgical and obstetrical waste.

(4) Effective means shall be provided at all outside doors, windows and other openings to the center to prevent the entrance and harborage of flies, other insects and rodents.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Sanitation and Waste Disposal" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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CHAPTER 290-5 PUBLIC HEALTH
CHAPTER 290-5-33 AMBULATORY SURGICAL TREATMENT CENTERS

Ga. Comp. R. & Regs. r. 290-5-33-.21 (2012)

290-5-33-.21 Advertising.

Any advertising of the services provided in or by ambulatory surgical treatment center shall include the full name of the center and its Georgia license number, as shown on the face of the permit.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Advertising" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.22 (2012)

290-5-33-.22 Waiver of Rule.

The Department may waive any rule for a stated period of time when it is shown that the specific rule is not applicable or when a waiver is needed to permit experimentation and demonstration of new and innovative approaches to the delivery of services which will not jeopardize the health and safety of the patients, staff or others utilizing the center. Results of such experimentation and demonstration projects shall be submitted to the Department as prescribed by the plan under which the waiver is approved. The Department shall maintain a record of and make available to interested persons information on all waivers granted under this rule.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Waiver of Rule" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.23 (2012)

290-5-33-.23 Enforcement.

An ambulatory surgical treatment center which fails to comply with these rules and regulations shall be subject to revocation of its permit or provisional permit and/or other sanctions provided by law. The enforcement and administration of these rules and regulations shall be as prescribed in Chapter 88-3, Enforcement and Administrative Procedure, the "Georgia Health Code," Acts 1964, pages 499, 518, which includes provision for:

(a) the misdemeanor penalty for violation of rules and regulations promulgated under this Title;

(b) injunctive relief under appropriate circumstances; and

(c) the due process requirements of notice, hearing and appeals.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Enforcement" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.24 (2012)

290-5-33-.24 Applicability of Regulations.

These regulations are applicable only to ambulatory surgical treatment centers and the services provided therein, and expressly do not modify or revoke any of the provisions of the published rules of the Department of Human Resources, Chapter 290-5-6 (Rules and Regulations for Hospitals), or of Chapter 290-5-32 (Rules and Regulations for Performance of Abortions After the First Trimester of Pregnancy and Reporting Requirements for all Abortions), or of revisions which may be made to said regulations.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Applicability of Regulations" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.25 (2012)

290-5-33-.25 Severability.

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof and such remaining rules or portions thereof shall remain of full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Board of Human Resources to establish rules and regulations that are constitutional and enforceable so as to safeguard the health and well-being of the people of the State.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Severability" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 290-5-33-.26 (2012)

290-5-33-.26 Effective Date of Rules.

The effective date of these rules is March 1, 1980. This provision does not alter the provision in 290-5-33-.05 which allows ninety (90) days from the effective date of these regulations to file an application for permit.

AUTHORITY: Ga. L. 1964, pp. 499, 507, 522, 565, 611, 612, 613; Ga. L. 1964, p. 338, as amended; Ga. L. 1966, pp. 310, 311, 312; Ga. L. 1972, pp. 1069, 1070, 1071, 1072; Ga. L. 1973, p. 635 et seq.; Ga. L. 1978, pp. 1757, 1758; Ga. L. 1978, p. 941 et seq.; and Ga. L. 1979, p. 1109 et seq.

ADMINISTRATIVE HISTORY: Original Rule entitled "Effective Date of Rules" was filed on January 22, 1980; effective March 1, 1980, as specified by the Agency.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-1 ORGANIZATION

Ga. Comp. R. & Regs. r. 360-1-.01 (2012)

360-1-.01 Organization of Board.

The Georgia Composite Medical Board shall consist of thirteen physicians and two consumers appointed by the Governor and confirmed by the Senate. The Board shall elect a chairperson and vice chairperson. The public may obtain information and submit requests at the office of the Board. Board minutes shall not become official until approved by the Board.

Authority O.C.G.A. *Secs. 43-34-21, 43-34-24.1*.

History. Original Rule entitled "Organization of Board" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed:** New Rule of same title adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Amended:** F. May 18, 2000; eff. June 7, 2000. **Repealed:** New Rule of same title adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.

ADMINISTRATIVE HISTORY

The Administrative History following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. -- filed

eff. -- effective

R. -- Rule (Abbreviated only at the beginning of the control number)

Ch.-- Chapter (Abbreviated only at the beginning of the control number)

ER. -- Emergency Rule

Rev. -- Revised

Chapter 360-1 entitled "Organization" has been adopted. Filed and effective June 30, 1965.

Chapter 360-2 entitled "License Requirements" has been adopted. Filed and effective June 30, 1965.

Chapter 360-3 entitled "Hospital Internship" has been adopted. Filed and effective June 30, 1965.

Chapter 360-4 entitled "Reciprocity and Foreign Graduates" has been adopted. Filed and effective June 30, 1965.

Chapters 360-1, 360-2, 360-3, and 360-4 have been repealed and new Chapters adopted. Filed October 2, 1970; effective October 22, 1970.

Rule 360-2-.04 has been repealed and a new Rule adopted. *Rule 360-4-.01* has been amended. Filed October 7, 1971; effective October 27, 1971.

Chapter 360-5 entitled "Physician's Assistant" has been adopted. Filed September 11, 1972; effective October 1, 1972.

Rule 360-5-.03 has been amended. Filed February 20, 1973; effective March 12, 1973.

Emergency Rule 360-3-0.1-.01 has been adopted. Filed and effective October 29, 1973, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to expedite registration for licenses. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 360-3-0.1-.01 has been repealed and Rule 360-3- .01 has been amended. Filed November 27, 1973; effective December 17, 1973.

Rules 360-2-.02, .03, .05 have been repealed and new Rules adopted. Filed March 28, 1974; effective April 17, 1974.

Rule 360-5-.03 has been amended. Filed July 17, 1974; effective August 6, 1974.

Rule 360-5-.04 has been amended. Filed September 16, 1974; effective October 6, 1974.

Rule 360-1-.02 has been adopted. Filed October 25, 1974; effective

November 14, 1974.

Chapter 360-6 entitled "Acupuncture" has been adopted. Filed November 20, 1974; effective December 10, 1974.

Rule 360-5-.07 has been amended. Filed December 5, 1974; effective December 25, 1974.

Chapter 360-7 entitled "Provisional Licenses" has been adopted. Filed December 16, 1974; effective January 5, 1975.

Rule 360-5-.03 has been amended. Filed April 7, 1975; effective April 27, 1975.

Rules 360-2-.02, .03 have been amended. *Rule 360-2-.04* has been repealed. Filed June 30, 1975; effective July 20, 1975.

Rule 360-5-.03 has been amended. *Rule 360-6-.01* has been repealed and a new Rule adopted. Filed October 3, 1975; effective October 23, 1975.

Rules 360-2-.01, .03, .05, .06, .07 and 360-5-.06 have been repealed and new Rules adopted. *Rules 360-3-.01* and *360-5-.03* have been amended. Filed January 26, 1976; effective February 15, 1976.

Chapter 360-8 entitled "Procedural Rules" has been adopted. Filed March 30, 1976; effective April 19, 1976.

Emergency Rule Chapter 360-9-0.2 has been adopted. Filed and effective July 29, 1976, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to expedite registration for licenses. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 360-1-.03 has been adopted. *Rule 360-2-.03* has been repealed and a new Rule adopted. Filed September 23, 1976; effective October 13, 1976.

Chapter 360-9 entitled "Registration and Fees (Orthotist; Orthotist Assistant)" superseding Emergency Rule Chapter 360-9- 0.2 has been adopted. Filed October 20, 1976; effective November 9, 1976.

Rule 360-5-.07 has been amended. Filed February 14, 1977; effective March 6, 1977.

Chapter 360-10 entitled "Institutional Licenses" has been adopted. Filed August 22, 1977; effective September 11, 1977.

Rule 360-2-.03 has been repealed and a new Rule adopted. Filed December 13, 1977; effective January 2, 1978.

Emergency Rule Chapter 360-11-0.3 has been adopted. Filed and effective January 25, 1978, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to comply with the Ambulance Service Act. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 360-11 entitled "Advanced Emergency Medical Technicians and Cardiac Technicians" has been adopted superseding Emergency Rule Chapter 360-11-0.3. Filed April 24, 1978; effective May 14, 1978.

Rule 360-2-.05 has been amended. Filed August 17, 1978; effective September 6, 1978.

Rules 360-11-.02, .05 have been repealed and new Rules adopted. Filed July 10, 1980; effective July 30, 1980.

Chapter 360-12 entitled "Controlled Substances Therapeutic Research Program" has been adopted. Filed April 23, 1981; effective May 13, 1981.

Chapter 360-5 has been repealed and a new Chapter adopted. Filed December 4, 1981; effective January 1, 1982, as specified by the Agency.

Rules 360-11-.03, .04, .09 have been repealed and new Rules adopted. Filed April 21, 1982; effective May 11, 1982.

Rules 360-11-.02, .05 have been repealed and new Rules adopted. *Rule 360-11-.10* has been adopted. Filed June 21, 1982; effective July 11, 1982.

Rule 360-9-.02 has been repealed and a new Rule adopted. Filed June 28, 1982; effective July 18, 1982.

Rules 360-1-.01, 360-2-.01, .02, .03, .05, .07, 360-3-.01, 360-4-.01 have been repealed and new Rules adopted. *Rules 360-2-.09,* .10 have been adopted. Filed December 15, 1982; effective January 4, 1983.

Rule 360-2-.09 has been amended. Filed May 13, 1983; effective July 1, 1983, as specified by the Agency.

Rules 360-11-.01, .07 have been amended. Filed June 18, 1984; effective July 1, 1984, as specified by the Agency.

Rule 360-11-.02, .08, .09 have been amended. *Rules 360-11-.03,* .04, .05, .06, .10 have been repealed and new Rules adopted. Filed June 18, 1984; effective July 13, 1984, as specified by the Agency. *Rule 360-2-.05* has been amended. Filed October 15, 1984; effective November 4, 1984.

Rules 360-2-.02, 360-3-.01 have been amended. *Rule 360-2-.03* has been repealed and a new Rule adopted. Filed January 16, 1985; effective February 5, 1985.

Rule 360-5-.04 has been amended. Filed April 8, 1985; effective April 28, 1985.

Rules 360-2-.01, .02, 360-3-.01, 360-4-.01, 360-7-.01 have been amended. *Rule 360-2-.06,* .07 have been repealed and new Rules adopted. Chapter 360-10 has been repealed. Filed June 17, 1985; effective July 7, 1985.

Rules 360-5-.03, .04, .06, .07 have been amended. Filed September 6, 1985; effective September 26, 1985.

Rule 360-5-.07 has been amended. Filed August 11, 1986; effective August 31, 1986.

Emergency Rule Chapter 360-13-0.4 has been adopted. Filed September 10, 1986; effective September 4, 1986, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to implement the "Respiratory Care Practices Act". (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 360-13 entitled "Respiratory Care Professionals, Technicians and Therapists" superseding Emergency Rule Chapter 360-13- 0.4 has been adopted. Filed December 18, 1986; effective January 7, 1987.

Rules 360-2-.02, .03, .05, .07, .09, 360-7-.01, 360-12-.03 have been amended. Chapter 360-9 has been repealed and a new Chapter adopted. Chapter 360-10 entitled "Institutional Licenses" has been adopted. Filed May 20, 1988; effective June 9, 1988.

Chapter 360-11 has been amended. Filed May 20, 1988; effective June 30, 1988, as specified by the Agency.

Rules 360-5-.02, .03, .04, .06 have been amended. *Rules 360-5-.08,* .09 have been adopted. Filed July 15, 1988; effective August 4, 1988. Emergency Rule 360-2-0.5-.07 has been adopted. Filed July 28, 1988; effective July 26, 1988, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to extend the late renewal to protect the welfare of patients. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 360-13-.02 has been amended. *Rule 360-13-.03* has been repealed. Filed September 14, 1988; effective October 4, 1988.

Rule 360-13-.04 has been amended. Filed October 19, 1988; effective November 8, 1988.

Rule 360-2-.09 has been amended. Filed November 17, 1988; effective December 7, 1988.

Chapter 360-14 entitled "Informed Consent" has been adopted. Filed November 14, 1988; effective January 1, 1989, as specified by the Agency.

Emergency Rules 360-11-0.6-.09 and 360-13-0.7-.04 have been adopted. Filed January 18, 1989; effective January 12, 1989, to remain in effect for 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. Said Emergency Rules were adopted to extend the late renewal to protect the welfare of patients. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Rule 360-11-.06 has been amended. Filed June 13, 1989; effective July 3, 1989.

Rule 360-2-.05 has been amended. Filed July 28, 1989; effective September 1, 1989, as specified by the Agency.

Rules 360-2-.01, .09 and 360-9-.02 have been amended. Filed April 9, 1990; effective April 29, 1990.

Rule 360-2-.07 has been amended. Filed June 11, 1990; effective July 1, 1990.

Rule 360-5-.07 has been amended. Filed February 11, 1991; effective March 3, 1991.

Rules 360-2-.02 and *360-3-.01* have been amended. Filed July 12, 1991; effective August 1, 1991.

Emergency Rule 360-2-0.8-.09 has been adopted. Filed August 9, 1991; effective August 8, 1991, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to protect the health, safety and welfare of patients from transmission of Human Immunodeficiency Virus and Hepatitis B Virus during exposure prone invasive procedures. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 360-15 entitled "Continuing Education" has been adopted. Filed September 11, 1991; effective October 1, 1991.

Rule 360-2-.09 has been amended. Filed November 8, 1991; effective November 28, 1991.

Rules 360-5-.10, .11 have been adopted. Filed April 6, 1992; effective April 26, 1992.

Chapter 360-3 has been repealed and a new Chapter 360-3, entitled "Reciprocity," containing *Rule 360-3-.01,* adopted. Filed October 2, 1970; effective October 22, 1970.

Chapter 360-4 has been repealed and a new Chapter 360-4, entitled "Foreign Graduates," containing *Rule 360-4-.01,* adopted. Filed October 2, 1970; effective October 22, 1970.

Rule 360-2-.04 has been repealed and a new Rule adopted. Filed October 7, 1971; effective October 27, 1971.

Rule 360-4-.01 has been amended. Filed October 7, 1971; effective October 27, 1971.

Chapter 360-5, entitled "Physician's Assistant" containing *Rules 360-5-.01* through *360-5-.08,* has been adopted. Filed

September 11, 1972; effective October 1, 1972.

Rule 360-5-.03 has been amended. Filed February 20, 1973; effective March 12, 1973.

Emergency Rule 360-3-0.1-.01(2) has been adopted. Filed and effective on October 29, 1973, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to expedite registration for licenses. (The Emergency Rule will not be published, copies may be obtained from the Agency.)

Rule 360-3-.01 has been amended superseding Emergency Rule 360-3-0.1-.01(2). Filed November 27, 1973; effective December 17, 1973.

Rules 360-2-.02, 360-2-.03 and *360-2-.05* have been repealed and new Rules adopted. Filed March 28, 1974; effective April 17, 1974.

Rule 360-5-.03 has been amended. Filed July 17, 1974; effective August 6, 1974.

Rule 360-5-.04 has been amended. Filed September 16, 1974; effective October 6, 1974.

Rule 360-13-.05(2) has been amended. Filed May 15, 1992; effective June 4, 1992.

Rule 360-15-.01 has been amended. Filed June 5, 1992; effective June 25, 1992.

Rule 360-3-.01 has been amended. Filed January 15, 1993; effective February 4, 1993.

Emergency Rule 360-13-0.9-.03 entitled "Exemptions to Licensure Requirements" was filed June 4, 1993; effective June 3, 1993, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to exempt properly trained Nurses (R.N.s and L.P.N.s) and physicians assistants from being required to register as respiratory therapists. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rules 360-2-.01 and *360-5-.03* have been amended; Rule 360-13- .03 entitled "Exemptions to Licensure Requirements" has been adopted. Filed August 9, 1993; effective August 29, 1993.

Chapter 360-13 has been amended. Filed January 12, 1994; effective February 1, 1994.

Rules 360-11-.04, .09 have been repealed and new Rules adopted; 360-11-.11, .12 have been adopted. Filed April 11, 1994; effective May 1, 1994.

Rule 360-13-.10 has been adopted. Filed June 9, 1995; effective June 29, 1995.

Rule 360-5-.10 has been amended and 360-5-.12 adopted. Filed September 11, 1995; effective October 1, 1995.

Rule 360-2-.02 has been amended. Filed December 12, 1995; effective January 1, 1996.

Chapter 360-3 has been repealed. Filed June 14, 1996; effective July 4, 1996.

Rule 360-13-.07 has been amended. Filed January 13, 1997; effective February 2, 1997.

Rule 360-11-.05 has been amended. Filed March 17, 1997; effective April 6, 1997.

Rules 360-5-.02, .03, .04, .06, .08, .09, .10 have been amended. Filed March 18, 1998; effective April 9, 1998.

Rule 360-13-.07 has been amended. Filed May 11, 1998; effective May 31, 1998.

Rules 360-2-.02, 360-11-.03 have been amended and 360-2-.11 adopted. Filed October 8, 1998; effective October 28, 1998.

Chapters 360-16 thru 360-26 have been adopted. Filed October 26, 1999; effective November 15, 1999.

Rule 360-6-.01 has been amended. *Rules 360-6-.02* to .17 have been adopted. Filed November 20, 2000; effective December 10, 2000.

Chapter 360-6 has been repealed and a new Chapter adopted. Filed January 16, 2001; effective February 5, 2001.

Rules 360-2-.01, .02, .03, 360-6-.03, .10 have been amended. Filed June 11, 2001; effective July 1, 2001.

Rule 360-5-.07 has been amended. Filed December 17, 2001; effective January 6, 2002.

Chapters 360-2 and 360-3 have been repealed and new Chapters adopted. Filed January 24, 2002; effective February 13, 2002.

Chapter 360-4 has been repealed. Chapter 360-27 entitled "Patients' Rights" has been adopted. Filed April 8, 2002; effective April 28, 2002.

Rule 360-2-.01 has been amended. Filed November 18, 2002; effective December 8, 2002.

Chapter 360-28 entitled "Physician Profiles" has been adopted. Filed January 2, 2003; effective January 22, 2003.

Rules 360-28-.05, .06, and .08 have been amended. Filed April 18, 2003; effective May 8, 2003.

Chapter 360-4 entitled "Clinical Perfusionist Licensure" has been adopted. Filed July 11, 2003; effective July 31, 2003.

Chapter 360-13 has been repealed and a new Chapter adopted. Filed August 14, 2003; effective September 3, 2003.

Rules 360-3-.02, 360-15-.01 and .02 have been amended. Filed September 18, 2003; effective October 8, 2003.

Rule 360-2-.08 has been repealed and a new Rule adopted. Filed January 23, 2004; effective February 12, 2004.

Rules 360-2-.01 and .02 have been amended. Filed February 18, 2004; effective March 9, 2004.

Rule 360-13-.07 has been repealed and a new Rule adopted. Filed March 10, 2004; effective March 30, 2004.

Rule 360-6-.05 has been repealed and a new Rule adopted. Filed May 26, 2004; effective June 15, 2004.

Rule 360-13-.10 has been amended. Filed June 11, 2004; effective July 1, 2004.

Rules 360-2-.05, 360-6-.11 and *360-15-.02* have been amended. Filed July 8, 2004; effective July 28, 2004.

Rules 360-2-.09 to .12 have been adopted. Filed July 29, 2004; effective August 18, 2004.

Rule 360-4-.03 has been repealed and a new Rule adopted. Filed August 13, 2004; effective September 2, 2004.

Rule 360-2-.01 has been amended. Filed October 28, 2004; effective November 27, 2004.

Rule 360-3-.02 has been amended. *Rules 360-5-.13* and *360-6-.18* have been adopted. Filed December 10, 2004; effective December 30, 2004.

Chapter 360-29 entitled "Bad Checks" has been adopted. Filed January 26, 2005; effective February 15, 2005.

Rules 360-4-.06 and .07 have been amended. Filed March 9, 2005; effective March 29, 2005.

Rule 360-2-.02 has been repealed and a new Rule adopted. *Rule 360-3-.02* has been amended. Chapter 360-30 entitled "Federal Student Loan Default" has been adopted. Filed May 10, 2005; effective May 30, 2005.

Rule 360-13-.10 has been amended. Filed August 29, 2005; effective September 18, 2005.

Rule 360-2-.05 has been amended. *Rules 360-15-.01* and *360-16-.01* have been repealed and new Rules adopted. Filed September 7, 2005; effective September 27, 2005.

Rules 360-2-.08 and *360-3-.02* have been amended. Filed February 10, 2006; effective March 2, 2006.

Rules 360-4-.06 and .07 have been amended. Filed February 21, 2006; effective March 13, 2006.

Rule 360-13-.07 has been amended. *Rule 360-13-.10* has been repealed and a new Rule adopted. Filed April 12, 2006; effective May 2, 2006.

Rules 360-5-.06 and .10 have been repealed and new Rules adopted. *Rules 360-26-.04* to .06 have been adopted. Filed May 12, 2006; effective June 1, 2006.

Rule 360-13-.10 has been repealed and a new Rule adopted. Filed June 28, 2006; effective July 18, 2006.

Rule 360-2-.02 has been amended. Filed July 21, 2006; effective August 10, 2006.

Rule 360-2-.05 has been amended. Filed August 8, 2006; effective August 28, 2006.

Chapter 360-31 entitled "Orthotists and Prosthetists" has been adopted. Filed September 19, 2006; effective October 9, 2006.

Rules 360-4-.10, *360-13-.14*, and .15 have been adopted. *Rules 360-5-.09* and *360-6-.11* have been amended. Filed October 16, 2006; effective November 5, 2006.

Rule 360-19-.03 has been repealed and a new Rule adopted. Filed November 6, 2006; effective November 26, 2006.

Chapter 360-32 entitled "Nurse Protocol Agreements Pursuant to *O.C.G.A. Section 43-34-26.3*" adopted. Filed December 12, 2006; effective January 1, 2007.

Rules 360-32-.01, *360-32-.03* to *360-32-.05* have been amended. *Rules 360-32-.02* and *360-32-.06* have been repealed and new Rules adopted. *Rule 360-32-.07* has been adopted. Filed March 12, 2007; effective April 1, 2007.

Rule 360-5-.09 has been amended. Filed July 31, 2007; effective August 20, 2007.

*Rules 360-2-.02, 360-3-.02, 360-5-.05, 360-6-.03,*and .06 have been amended. Filed September 19, 2007; effective October 9, 2007.

Rule 360-6-.03(1)(c) has been amended. *Rule 360-6-.09* has been repealed and a new Rule adopted. Chapter 360-11 has been repealed. Filed December 14, 2007; effective January 3, 2008.

Rules 360-2-.13 and *360-5-.14* have been adopted. *Rules 360-5-.03*, .06, 360-6-.05, 360-28-.03, .09, and 360-32-.02 have been amended. *Rule 360-27-.02* has been repealed and a new Rule adopted. Filed June 23, 2008; effective July 13, 2008.

Rules 360-2-.02, .05, 360-31-.09, and 360-32-.02 have been amended. *Rules 360-16-.01* and *360-31-.13* have been repealed and new Rules adopted. Filed September 16, 2008; effective October 6, 2008.

Rules 360-3-.02, 360-4-.06, and .07 have been amended. *Rule 360-15-.01* has been repealed and a new Rule adopted. Filed November 10, 2008; effective November 30, 2008.

Rule 360-31-.04 has been repealed and a new Rule adopted. Filed February 11, 2009; effective March 3, 2009.

Rule 360-15-.01 has been repealed and a new Rule adopted. Filed March 10, 2009; effective March 30, 2009.

Rules 360-2-.08 and *360-32-.04* have been amended. Filed April 3, 2009; effective April 23, 2009.

Rules 360-6-.01, .03 to .06, .08, .10, .13, .15, .16, .18, 360-13-.01, .03, .05, .07, .09 to .12, 360-32-.01, .02, .04, .05, and .07 have been repealed and new Rules adopted. *Rule 360-6-.02* has been amended. Chapter 360-7 has been repealed and a new Chapter adopted. Filed October 6, 2009; effective October 26, 2009.

Chapters 360-1 and 360-10 have been repealed and new Chapters adopted. Chapter 360-8 has been repealed. Filed November 12, 2009; effective December 2, 2009.

Chapter 360-11 entitled "Flu Vaccine Protocols" has been adopted. Filed December 21, 2009; effective January 10, 2010.

Rules 360-17-.01 to .03, .06, 360-19-.03, 360-20-.02, 360-22-.04, 360-23-.01, .02, 360-24-.02, 360-25-.01, 360-27-.01, and .02 have been repealed and new Rules adopted. *Rule 360-24-.03* has been repealed. Filed January 13, 2010; effective February 2, 2010.

Rules 360-3-.01 to *360-3-.04* have been repealed and new Rules adopted. *Rule 360-3-.05* has been adopted. Filed May 18, 2010; effective June 7, 2010.

Rules 360-14-.02, 360-15-.01, 360-18-.04, 360-21-.01, .02, 360-26-.01, .02, 360-29-.01, .02, and .03 have been repealed and new rules adopted. *Rule 360-14-.05(3)* has been amended. Chapter 360-16 has been repealed and a new chapter adopted. *Rule 360-26-.06* has been repealed and a new rule and title adopted. *Rule 360-30-.01* subsection (1) has been repealed and new 360-30-.01 subsection (1) has been adopted. Filed July 9, 2010; effective July 29, 2010.

Chapter 360-5 has been repealed and a new Chapter entitled "Physician's Assistants" adopted. Filed January 18, 2011; effective February 7, 2011.

Chapter 360-11 has been repealed and a new Chapter entitled "Professional Health Program" adopted. Filed July 5, 2011; effective July 25, 2011.

Rule 360-3-.02 has been amended. Filed January 13, 2012; effective February 2, 2012.

Rule 360-3-.06 entitled "Pain Management" has been adopted. Filed January 13, 2012; effective February 2, 2012.

Rules 360-5-.03, .05, .11, .12 and .13 have been amended. Filed January 13, 2012; effective February 2, 2012.

Rules 360-2-.01 to .13, 360-4-.06, .07, .09, .11, 360-6-.02, .07, .11, .14, 360-13-.01, 360-31-.01 to .11 and .13 have been repealed and new Rules adopted. *Rules 360-31-.12*, .14, and .15 have been repealed. F. May 11, 2012; eff. May 31, 2012.

Rule 360-2-.14 has been adopted. *Rule 360-15-.01* has been amended. F. Nov. 9, 2012; eff. Nov. 29, 2012.

Rules 360-2-.05 and .07 have been amended. F. Nov. 13, 2012; eff. Dec. 3, 2012.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-1 ORGANIZATION

Ga. Comp. R. & Regs. r. 360-1-.02 (2012)

360-1-.02 Executive Director.

The Board may appoint by a two thirds majority vote a person to serve as Executive Director of the Board.

(a) The Executive Director shall be vested with the following powers:

1. To carry out investigations and to hire investigators for the purpose of conducting investigations;

2. To hire such personnel as the board approves and deems necessary to carry out its function and with Board approval to appoint professional qualified persons to serve as members of peer review committees;

3. Under the direction of the Board, to aid in the enforcement of Chapter 34 of Title 43 and in the prosecution of all persons charged with violations of its provisions;

4. To make, or cause to be made through employees or agents of the Board, such investigations as the Board may deem necessary or advisable in the enforcement of Chapter 34 of Title 43;

5. To issue subpoenas, to compel access to documents or other materials that theChairperson of the Board, or the Vice Chairperson if the Chairperson is not available, deems related to the fitness of any licensee or applicant to practice;

6. To authorize the issuance of notices of hearing by the Attorney General on behalf of the Board; and

7. 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.

Authority O.C.G.A. *Secs.43-34-2*, *43-34-5*, *43-34-6*, *43-34-21*, *43-34-24.1*, 43-34-35.43-34-37.

History. Original Rule entitled "Executive Director" adopted. F. Oct. 25, 1974; eff. Nov. 14, 1974. **Amended:** F. May 18, 2000; eff. June 7, 2000. **Repealed:** New Rule of same title adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-1 ORGANIZATION

Ga. Comp. R. & Regs. r. 360-1-.03 (2012)

360-1-.03 Repealed.

Authority *O.C.G.A. Secs.43-1-4, 43-34-24.1*.

History. Original Rule entitled "Medical Coordinator" adopted. F. Sept. 23, 1976; eff. Oct. 13, 1976. **Repealed:** F. May 18, 2000; eff. June 7, 2000.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-2 LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 360-2-.01 (2012)

360-2-.01 Requirements for Licensure.

(1) An applicant for a medical license must provide:

(a) An affidavit that the applicant is a United States citizen, a legal permanent resident of the United States, or that he/she is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act. If the applicant is not a U.S.citizen, he/she must submit documentation that will determine his/her qualified alien status. The Board participates in the **DHS-USCIS SAVE** (Systematic Alien Verification for Entitlements or "SAVE") program for the purpose of verifying citizenship and immigration status information of non-citizens. If the applicant is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act, he/she must provide the alien number issued by the Department of Homeland Security or other federal immigration agency.

(b) An application that is complete, including all required documentation, signatures, seals, and fees. An application shall expire one year from the date of receipt. Any subsequent application must be accompanied by submission of appropriate documentation and application fee.

(c) Evidence of good moral character. Reference Forms shall be valid for six months from the date of signature. If the application is not approved during the six-month period, the Board may require a new and more current reference.

(d) Verification of licensure from every state in which the applicant has ever held any type of medical license.

(e) Verification of a passing score on one of the following examinations approved by the Board:

i. Steps 1, 2 and 3 of the United States Medical Licensing Examination (USMLE) ii. Federation Licensing Examination (FLEX taken on or before June 1, 1985) (combined scores from different FLEX administrations between January 1, 1978 and January 1,1985 are not accepted)

iii. FLEX Components I and II (FLEX taken after June 1, 1985) iv. National Board of Medical Examiners (NBME)

v. State Medical Board of Examinations taken before June 30, 1973 vi. Medical Council of Canada Qualifying Examination (MCCQE) for graduates of Canadian medical schools who completed post-graduate training in Canada vii. National Board of Osteopathic Medical Examiners (NBOME) viii. Comprehensive Osteopathic Medical Licensing

Examination (COMLEX)

ix. The certifying examination of the Puerto Rico Medical Board, for graduates of Puerto Rican medical schools who completed post-graduate training in Puerto Rico.

(f) Verification of medical education by submitting an official transcript of all medical education directly to the Board from the school where such education was taken. If the transcriptis in a foreign language, a certified English translation must be furnished. The transcript shall include the dates the applicant attended the school and the grades received in all courses taken to fulfill the requirements of the degree granted. At the Board's discretion, the medical school transcript requirement may be waived and the results of the Federation of State Medical Boards (FSMB) verification service may be accepted if the applicant adequately demonstrates that all diligent efforts have been made to secure transcripts from the school. In such a case, the Board may require the applicant to appear for a personal interview before the Physician Licensure Committee of the Board.

i. Medical schools in the United States, Puerto Rico and Canadamust require a minimum of two years of pre-medical education and be approved by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association Commission on Osteopathic College accreditation (AOA COCA), or the Committee on Accreditation of Canadian Medical Schools (CACMS).

ii. A medical school located outside the United States, Puerto Rico and Canada and Fifth Pathway programs must have a program of education in the art and science of medicine leading to a medical doctor degree or the medical doctor equivalent that requires a minimum of two (2) years of pre-medical education and includes at least 130 weeks of instruction. Applicants must have official transcripts that include at least 130 weeks of instruction.

(g) Verification of post-graduate/residency training as follows:

i. Graduates of approved medical schools must show completion of one year of postgraduate training in a program approved by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA) or the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC). The Board may consider current certification of any applicant by a member board of the American Board of Medical Specialties (ABMS) as evidence that such applicant's postgraduate medical training has satisfied the requirements of this paragraph. Approved Medical Schools are those located in the United States, Puerto Rico, and Canada, those listed on the *Medical Schools Recognized by the Medical Board of California* (effective February 4, 2010, adopted by reference), and those approved by the Board.

ii. Graduates of medical schools not approved by the Board must show completion of three years of postgraduate training in a program approved by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA), the Royal College of Physicians and Surgeons of Canada (RCPSC), or the College of Family Physicians of Canada (CFPC). The Board may consider current certification of any applicant by a member board of the American Board of Medical Specialties (ABMS) as evidence that such applicant's postgraduate medical training has satisfied the requirements of this paragraph.

iii. Applicants who were licensed in another State on or before July 1, 1967 are not required to supply proof of any postgraduate/residency training.

(h) Verification of residence in the United States for one year, except for graduates of Canadian medical schools, if the applicant is an alien.

(i) Graduates of foreign medical schools outside of Canadamust provide proof of certification by the Educational Commission for Foreign Medical Graduates (ECFMG) unless they were licensed by another state before March 1, 1958. This requirement does not apply to foreign-trained students who furnish proof of the following:

(i) successful completion of AMA approved Fifth Pathway program, and

(ii) passing the ECFMG qualifying medical component examination with a score of 75 or above.

(2) The Board in its discretion may require an applicant for licensure to take and pass the Special Purposes Examination (SPEX) prepared by the Federation of State Medical Boards of the United States, or other Board-approved competency assessment. The circumstances under which the Board may require a competency examination include, but are not limited to applicants for licensure who have been the subject of disciplinary action in another state; or who would be subject to disciplinary action or corrective action in this state based upon their conduct or condition; or who have previously engaged in the practice of medicine and who have not practiced for a period greater than thirty (30) consecutive months.

(3) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure.

Authority *O.C.G.A. Secs. 43-1-17*, *43-34-5*, *43-34-21*, *43-34-24*, *43-34-24.1*, *43-34-26*, *43-34-27*, *43-34-37*, *43-34-41*.

History . Original Rule entitled "Application for Licensure" adopted. F. and eff. June 30, 1965. **Repealed**: New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed**: New Rule of same title adopted. F. Jan. 26, 1976; eff. Feb. 15, 1976. **Repealed**: New Rule of same title adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Amended**: F. June 17, 1985; eff. July 7, 1985. **Amended**: F. Apr. 9, 1990; eff. Apr. 29, 1990. **Amended**: F. Aug. 9, 1993; eff. Aug. 29, 1993. **Amended**: F. June 11, 2001; eff. July 1, 2001. **Repealed**: New Rule entitled "Requirements to Take the USMLE III" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Amended**: F. Nov. 18, 2002; eff. Dec. 8, 2002. **Amended**: F. Feb. 18, 2004; eff. Mar. 9, 2004. **Amended:** F. Oct. 28, 2004; eff. Nov. 17, 2004. **Repealed**: New Rule entitled "Requirements for Licensure" adopted. F. May 11, 2012; eff. May 31, 2012.

NOTES:

ADMINISTRATIVE HISTORY

The Administrative History following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

Chapter 360-1 entitled "Organization" has been adopted. Filed and effective June 30, 1965.

Chapter 360-2 entitled "License Requirements" has been adopted. Filed and effective June 30, 1965.

Chapter 360-3 entitled "Hospital Internship" has been adopted. Filed and effective June 30, 1965.

Chapter 360-4 entitled "Reciprocity and Foreign Graduates" has been adopted. Filed and effective June 30, 1965.

Chapters 360-1, 360-2, 360-3, and 360-4 have been repealed and new Chapters adopted. Filed October 2, 1970; effective October 22, 1970.

Rule 360-2-.04 has been repealed and a new Rule adopted. *Rule 360-4-.01* has been amended. Filed October 7, 1971; effective October 27, 1971.

Chapter 360-5 entitled "Physician's Assistant" has been adopted. Filed September 11, 1972; effective October 1, 1972.

Rule 360-5-.03 has been amended. Filed February 20, 1973; effective March 12, 1973.

Emergency Rule 360-3-0.1-.01 has been adopted. Filed and effective October 29, 1973, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to expedite registration for licenses. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Emergency Rule 360-3-0.1-.01 has been repealed and Rule 360-3- .01 has been amended. Filed November 27, 1973; effective December 17, 1973.

Rules 360-2-.02, .03, .05 have been repealed and new Rules adopted. Filed March 28, 1974; effective April 17, 1974.

Rule 360-5-.03 has been amended. Filed July 17, 1974; effective August 6, 1974.

Rule 360-5-.04 has been amended. Filed September 16, 1974; effective October 6, 1974.

Rule 360-1-.02 has been adopted. Filed October 25, 1974; effective

November 14, 1974.

Chapter 360-6 entitled "Acupuncture" has been adopted. Filed November 20, 1974; effective December 10, 1974.

Rule 360-5-.07 has been amended. Filed December 5, 1974; effective December 25, 1974.

Chapter 360-7 entitled "Provisional Licenses" has been adopted. Filed December 16, 1974; effective January 5, 1975.

Rule 360-5-.03 has been amended. Filed April 7, 1975; effective April 27, 1975.

Rules 360-2-.02, .03 have been amended. *Rule 360-2-.04* has been repealed. Filed June 30, 1975; effective July 20, 1975.

Rule 360-5-.03 has been amended. *Rule 360-6-.01* has been repealed and a new Rule adopted. Filed October 3, 1975; effective October 23, 1975.

Rules 360-2-.01, .03, .05, .06, .07 and 360-5-.06 have been repealed and new Rules adopted. *Rules 360-3-.01* and *360-5-.03* have been amended. Filed January 26, 1976; effective February 15, 1976.

Chapter 360-8 entitled "Procedural Rules" has been adopted. Filed March 30, 1976; effective April 19, 1976.

Emergency Rule Chapter 360-9-0.2 has been adopted. Filed and effective July 29, 1976, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to expedite registration for licenses. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 360-1-.03 has been adopted. *Rule 360-2-.03* has been repealed and a new Rule adopted. Filed September 23, 1976; effective October 13, 1976.

Chapter 360-9 entitled "Registration and Fees (Orthotist; Orthotist Assistant)" superseding Emergency Rule Chapter 360-9- 0.2 has been adopted. Filed October 20, 1976; effective November 9, 1976.

Rule 360-5-.07 has been amended. Filed February 14, 1977; effective March 6, 1977.

Chapter 360-10 entitled "Institutional Licenses" has been adopted. Filed August 22, 1977; effective September 11, 1977.

Rule 360-2-.03 has been repealed and a new Rule adopted. Filed December 13, 1977; effective January 2, 1978.

Emergency Rule Chapter 360-11-0.3 has been adopted. Filed and effective January 25, 1978, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to comply with the Ambulance Service Act. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 360-11 entitled "Advanced Emergency Medical Technicians and Cardiac Technicians" has been adopted superseding Emergency Rule Chapter 360-11-0.3. Filed April 24, 1978; effective May 14, 1978.

Rule 360-2-.05 has been amended. Filed August 17, 1978; effective September 6, 1978.

Rules 360-11-.02, .05 have been repealed and new Rules adopted. Filed July 10, 1980; effective July 30, 1980.

Chapter 360-12 entitled "Controlled Substances Therapeutic Research Program" has been adopted. Filed April 23, 1981; effective May 13, 1981.

Chapter 360-5 has been repealed and a new Chapter adopted. Filed December 4, 1981; effective January 1, 1982, as specified by the Agency.

Rules 360-11-.03, .04, .09 have been repealed and new Rules adopted. Filed April 21, 1982; effective May 11, 1982.

Rules 360-11-.02, .05 have been repealed and new Rules adopted. *Rule 360-11-.10* has been adopted. Filed June 21, 1982; effective July 11, 1982.

Rule 360-9-.02 has been repealed and a new Rule adopted. Filed June 28, 1982; effective July 18, 1982.

Rules 360-1-.01, 360-2-.01, .02, .03, .05, .07, 360-3-.01, 360-4-.01 have been repealed and new Rules adopted. *Rules 360-2-.09*, .10 have been adopted. Filed December 15, 1982; effective January 4, 1983.

Rule 360-2-.09 has been amended. Filed May 13, 1983; effective July 1, 1983, as specified by the Agency.

Rules 360-11-.01, .07 have been amended. Filed June 18, 1984; effective July 1, 1984, as specified by the Agency.

Rule 360-11-.02, .08, .09 have been amended. *Rules 360-11-.03*, .04, .05, .06, .10 have been repealed and new Rules adopted. Filed June 18, 1984; effective July 13, 1984, as specified by the Agency. *Rule 360-2-.05* has been amended. Filed October 15, 1984; effective November 4, 1984.

Rules 360-2-.02, 360-3-.01 have been amended. *Rule 360-2-.03* has been repealed and a new Rule adopted. Filed January 16, 1985; effective February 5, 1985.

Rule 360-5-.04 has been amended. Filed April 8, 1985; effective April 28, 1985.

Rules 360-2-.01, .02, 360-3-.01, 360-4-.01, 360-7-.01 have been amended. *Rule 360-2-.06*, .07 have been repealed and new Rules adopted. Chapter 360-10 has been repealed. Filed June 17, 1985; effective July 7, 1985.

Rules 360-5-.03, .04, .06, .07 have been amended. Filed September 6, 1985; effective September 26, 1985.

Rule 360-5-.07 has been amended. Filed August 11, 1986; effective August 31, 1986.

Emergency Rule Chapter 360-13-0.4 has been adopted. Filed September 10, 1986; effective September 4, 1986, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to implement the "Respiratory Care Practices Act". (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 360-13 entitled "Respiratory Care Professionals, Technicians and Therapists" superseding Emergency Rule Chapter 360-13- 0.4 has been adopted. Filed December 18, 1986; effective January 7, 1987.

Rules 360-2-.02, .03, .05, .07, .09, 360-7-.01, 360-12-.03 have been amended. Chapter 360-9 has been repealed and a new Chapter adopted. Chapter 360-10 entitled "Institutional Licenses" has been adopted. Filed May 20, 1988; effective June 9, 1988.

Chapter 360-11 has been amended. Filed May 20, 1988; effective June 30, 1988, as specified by the Agency.

Rules 360-5-.02, .03, .04, .06 have been amended. *Rules 360-5-.08*, .09 have been adopted. Filed July 15, 1988; effective August 4, 1988. Emergency Rule 360-2-0.5-.07 has been adopted. Filed July 28, 1988; effective July 26, 1988, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to extend the late renewal to protect the welfare of patients. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rule 360-13-.02 has been amended. *Rule 360-13-.03* has been repealed. Filed September 14, 1988; effective October 4, 1988.

Rule 360-13-.04 has been amended. Filed October 19, 1988; effective November 8, 1988.

Rule 360-2-.09 has been amended. Filed November 17, 1988; effective December 7, 1988.

Chapter 360-14 entitled "Informed Consent" has been adopted. Filed November 14, 1988; effective January 1, 1989, as specified by the Agency.

Emergency Rules 360-11-0.6-.09 and 360-13-0.7-.04 have been adopted. Filed January 18, 1989; effective January 12, 1989, to remain in effect for 120 days or until the effective date of permanent Rules covering the same subject matter superseding these Emergency Rules are adopted, as specified by the Agency. Said Emergency Rules were adopted to extend the late renewal to protect the welfare of patients. (These Emergency Rules will not be published; copies may be obtained from the Agency.)

Rule 360-11-.06 has been amended. Filed June 13, 1989; effective July 3, 1989.

Rule 360-2-.05 has been amended. Filed July 28, 1989; effective September 1, 1989, as specified by the Agency.

Rules 360-2-.01, .09 and 360-9-.02 have been amended. Filed April 9, 1990; effective April 29, 1990.

Rule 360-2-.07 has been amended. Filed June 11, 1990; effective July 1, 1990.

Rule 360-5-.07 has been amended. Filed February 11, 1991; effective March 3, 1991.

Rules 360-2-.02 and *360-3-.01* have been amended. Filed July 12, 1991; effective August 1, 1991.

Emergency Rule 360-2-0.8-.09 has been adopted. Filed August 9, 1991; effective August 8, 1991, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to protect the health, safety and welfare of patients from transmission of Human Immunodeficiency Virus and Hepatitis B Virus during exposure prone invasive procedures. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Chapter 360-15 entitled "Continuing Education" has been adopted. Filed September 11, 1991; effective October 1, 1991.

Rule 360-2-.09 has been amended. Filed November 8, 1991; effective November 28, 1991.

Rules 360-5-.10, .11 have been adopted. Filed April 6, 1992; effective April 26, 1992.

Chapter 360-3 has been repealed and a new Chapter 360-3, entitled "Reciprocity," containing *Rule 360-3-.01*, adopted. Filed October 2, 1970; effective October 22, 1970.

Chapter 360-4 has been repealed and a new Chapter 360-4, entitled "Foreign Graduates," containing *Rule 360-4-.01*, adopted. Filed October 2, 1970; effective October 22, 1970.

Rule 360-2-.04 has been repealed and a new Rule adopted. Filed October 7, 1971; effective October 27, 1971.

Rule 360-4-.01 has been amended. Filed October 7, 1971; effective October 27, 1971.

Chapter 360-5, entitled "Physician's Assistant" containing *Rules 360-5-.01* through *360-5-.08*, has been adopted. Filed September 11, 1972; effective October 1, 1972.

Rule 360-5-.03 has been amended. Filed February 20, 1973; effective March 12, 1973.

Emergency Rule 360-3-0.1-.01(2) has been adopted. Filed and effective on October 29, 1973, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted in order to expedite registration for licenses. (The Emergency Rule will not be published, copies may be obtained from the Agency.)

Rule 360-3-.01 has been amended superseding Emergency Rule 360-3-0.1-.01(2). Filed November 27, 1973; effective December 17, 1973.

Rules 360-2-.02, *360-2-.03* and *360-2-.05* have been repealed and new Rules adopted. Filed March 28, 1974; effective April 17, 1974.

Rule 360-5-.03 has been amended. Filed July 17, 1974; effective August 6, 1974.

Rule 360-5-.04 has been amended. Filed September 16, 1974; effective October 6, 1974.

Rule 360-13-.05(2) has been amended. Filed May 15, 1992; effective June 4, 1992.

Rule 360-15-.01 has been amended. Filed June 5, 1992; effective June 25, 1992.

Rule 360-3-.01 has been amended. Filed January 15, 1993; effective February 4, 1993.

Emergency Rule 360-13-0.9-.03 entitled "Exemptions to Licensure Requirements" was filed June 4, 1993; effective June 3, 1993, the date of adoption, to remain in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency. Said Emergency Rule was adopted to exempt properly trained Nurses (R.N.s and L.P.N.s) and physicians assistants from being required to register as respiratory therapists. (This Emergency Rule will not be published; copies may be obtained from the Agency.)

Rules 360-2-.01 and *360-5-.03* have been amended; Rule 360-13- .03 entitled "Exemptions to Licensure Requirements" has been adopted. Filed August 9, 1993; effective August 29, 1993.

Chapter 360-13 has been amended. Filed January 12, 1994; effective February 1, 1994.

Rules 360-11-.04, .09 have been repealed and new Rules adopted; 360-11-.11, .12 have been adopted. Filed April 11, 1994; effective May 1, 1994.

Rule 360-13-.10 has been adopted. Filed June 9, 1995; effective June 29, 1995.

Rule 360-5-.10 has been amended and 360-5-.12 adopted. Filed September 11, 1995; effective October 1, 1995.

Rule 360-2-.02 has been amended. Filed December 12, 1995; effective January 1, 1996.

Chapter 360-3 has been repealed. Filed June 14, 1996; effective July 4, 1996.

Rule 360-13-.07 has been amended. Filed January 13, 1997; effective February 2, 1997.

Rule 360-11-.05 has been amended. Filed March 17, 1997; effective April 6, 1997.

Rules 360-5-.02, .03, .04, .06, .08, .09, .10 have been amended. Filed March 18, 1998; effective April 9, 1998.

Rule 360-13-.07 has been amended. Filed May 11, 1998; effective May 31, 1998.

Rules 360-2-.02, *360-11-.03* have been amended and 360-2-.11 adopted. Filed October 8, 1998; effective October 28, 1998.

Chapters 360-16 thru 360-26 have been adopted. Filed October 26, 1999; effective November 15, 1999.

Rule 360-6-.01 has been amended. *Rules 360-6-.02* to .17 have been adopted. Filed November 20, 2000; effective December 10, 2000.

Chapter 360-6 has been repealed and a new Chapter adopted. Filed January 16, 2001; effective February 5, 2001.

Rules 360-2-.01, .02, .03, 360-6-.03, .10 have been amended. Filed June 11, 2001; effective July 1, 2001.

Rule 360-5-.07 has been amended. Filed December 17, 2001; effective January 6, 2002.

Chapters 360-2 and 360-3 have been repealed and new Chapters adopted. Filed January 24, 2002; effective February 13, 2002.

Chapter 360-4 has been repealed. Chapter 360-27 entitled "Patients' Rights" has been adopted. Filed April 8, 2002; effective April 28, 2002.

Rule 360-2-.01 has been amended. Filed November 18, 2002; effective December 8, 2002.

Chapter 360-28 entitled "Physician Profiles" has been adopted. Filed January 2, 2003; effective January 22, 2003.

Rules 360-28-.05, .06, and .08 have been amended. Filed April 18, 2003; effective May 8, 2003.

Chapter 360-4 entitled "Clinical Perfusionist Licensure" has been adopted. Filed July 11, 2003; effective July 31, 2003.

Chapter 360-13 has been repealed and a new Chapter adopted. Filed August 14, 2003; effective September 3, 2003.

Rules 360-3-.02, 360-15-.01 and .02 have been amended. Filed September 18, 2003; effective October 8, 2003.

Rule 360-2-.08 has been repealed and a new Rule adopted. Filed January 23, 2004; effective February 12, 2004.

Rules 360-2-.01 and .02 have been amended. Filed February 18, 2004; effective March 9, 2004.

Rule 360-13-.07 has been repealed and a new Rule adopted. Filed March 10, 2004; effective March 30, 2004.

Rule 360-6-.05 has been repealed and a new Rule adopted. Filed May 26, 2004; effective June 15, 2004.

Rule 360-13-.10 has been amended. Filed June 11, 2004; effective July 1, 2004.

Rules 360-2-.05, 360-6-.11 and *360-15-.02* have been amended. Filed July 8, 2004; effective July 28, 2004.

Rules 360-2-.09 to .12 have been adopted. Filed July 29, 2004; effective August 18, 2004.

Rule 360-4-.03 has been repealed and a new Rule adopted. Filed August 13, 2004; effective September 2, 2004.

Rule 360-2-.01 has been amended. Filed October 28, 2004; effective November 27, 2004.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-2 LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 360-2-.02 (2012)

360-2-.02 Requirements for Step 3 of the United States Medical Licensing Examination (USMLE).

(1) Applicants applying to take USMLE Step 3 through Georgiaare required to submit an application directly to the Federation of State Medical Boards (FSMB) on forms approved by the Board.

(2) Applicants must furnish the following evidence to the FSMB:

(a) Evidence of graduation from a medical school that requires a minimum of two (2) years of pre-medical education.

(b) Evidence of passing USMLE Steps 1 and 2; and

(c) For applicants who graduated from medical school after January 1, 1967, evidence of completion of post-graduate year one (PGY-1) or a statement from the program director that the applicant is expected to complete (PGY-1) within three 3 months. Such postgraduate training must be in a program fully or provisionally accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) or the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physician of Canada (CFPC), or the Committee on Accreditation of Canadian Medical Schools (CACMS).

(d) Certification by the Educational Commission for Foreign Medical Graduates (ECFMG), if the applicant graduated from a school that is not in the United States, Puerto Rico, or Canada. This requirement does not apply to foreign-trained applicants who furnish proof of the following:

(i) Successful completion of an AMA-approved Fifth Pathway program; and

(ii) Verification of passing USMLE Steps 1 and 2; and

(iii) Official transcripts of all medical education submitted directly to the FSMB from the school where such education was taken. If the transcripts are in a foreign language, applicants must furnish certified English translations. Transcripts must include the dates the applicant attended the school and the grades received in all courses taken to fulfill the requirements of the degree granted. In the Board's discretion, the transcript may be waived and the results of the Federation of State Medical Boards (FSMB) verification service accepted if the applicant adequately demonstrates that

all diligent efforts have been made to secure transcripts from the school.

(3) Preceptorships are not approved in lieu of post-graduate training.

(4) USMLE Step 3 applicants may be required to appear for a personal interview at the discretion of the Board.

(5) Unless enrolled in an M.D./PhD or D.O./PhD program, applicants must successfully complete USMLE Steps 1, 2, and 3 within a seven (7) year period. Applicants enrolled in an M.D./PhD or D.O./PhD program must successfully complete USMLE Steps 1, 2, and 3 within a nine (9) year period.

(6) Applicants who have never been licensed, and who have failed the USMLE Step 3 a total of three (3) times since January 1, 1994 must have one year of additional Board-approved clinical training. The training must be completed prior to taking USMLE Step 3 again.

(7) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure by examination.

Authority *O.C.G.A. Secs.43-1-2*, *43-1-4*, *43-1-7*, *43-1-25*, *43-34-5*, *43-34-8*, *43-34-21*, *43-34-24*, *43-34-24.1*, *43-34-26*, *43-34-26.1*, *43-34-27*, *43-34-28*, *43-34-29*, *43-34-34*, *43-34-35*, *43-34-37*, *43-34-40*, *43-34-41*.

History .Original Rule entitled "Examinations" adopted. F. and eff. June 30, 1965. **Repealed**: New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed**: New Rule of same title adopted. F. Mar. 28, 1974; eff. Apr. 17, 1974. **Amended**: F. June 30, 1975; eff. July 20, 1975. **Repealed**: New Rule of same title adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Amended**: F. Jan. 16, 1985; eff. Feb. 5, 1985. **Amended**: F. June 17, 1985; eff. July 7, 1985. **Amended**: F. May 20, 1988; eff. June 9, 1988. **Amended**: F. July 12, 1991; eff. Aug. 1, 1991. **Amended**: F. Dec. 12, 1995; eff. Jan. 1, 1996. **Amended**: F. Oct. 8, 1998; eff. Oct. 28, 1998. **Amended**: F. June 11, 2001; eff. July 1, 2001. **Repealed**: New Rule entitled "Licensure" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Amended**: F. Feb. 18, 2004; eff. Mar. 9, 2004. **Repealed:** New Rule of same title adopted. F. May 10, 2005; eff. May 30, 2005. **Amended:** F. July 21, 2006; eff. Aug. 10, 2006. **Amended:** F. Sept. 19, 2007; eff. Oct. 9, 2007. **Amended:** F. Sept. 16, 2008; eff. Oct. 6, 2008. **Repealed**: New Rule entitled "Requirements for Step 3 of the United States Medical Licensing Examination (USMLE)" adopted. F. May 11, 2012; eff. May 31, 2012.

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Ga. Comp. R. & Regs. r. 360-2-.03 (2012)

360-2-.03 Temporary Licenses. Amended.

Temporary licenses may be issued to an applicant at the discretion of the Executive Director, with the approval of the Chairperson of the Board. Such licenses shall have the effect of a permanent license until the next regular Board meeting, when the temporary license shall become void. The temporary license fee shall be designated in the fee schedule.

Authority*O.C.G.A. Secs. 43-1-2*, *43-1-7*, *43-34-5*, *43-34-24*, *43-34-24.1*, *43-34-32*.

History. Original Rule entitled "Fees" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed:** New Rule of same title adopted. F. Mar. 28, 1974; eff. Apr. 17, 1974. **Amended:** F. June 30, 1975; eff. July 20, 1975. **Amended:** F. Jan. 26, 1976; eff. Feb. 15, 1976. **Repealed:** New Rule of same title adopted. F. Sept. 23, 1976; eff. Oct. 13, 1976. **Amended:** F. Dec. 13, 1977; eff. Jan. 2, 1978. **Repealed:** New Rule of same title adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Repealed:** New Rule of same title adopted. F. Jan. 16, 1985; eff. Feb. 5, 1985. **Amended:** F. May 20, 1988; eff. June 9, 1988. **Amended:** F. June 11, 2001; eff. July 1, 2001. **Repealed:** New Rule entitled "Temporary Licenses" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Repealed:** New Rule of same title adopted. F. May, 11, 2012; eff. May 31, 2012.

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Ga. Comp. R. & Regs. r. 360-2-.04 (2012)

360-2-.04 Duplicate Licenses.

(1) Duplicate licenses may be issued upon approval by the Board if the original license is lost, stolen, or destroyed, or if the licensee has had a legal change of name. Duplicate licenses are not issued for satellite offices.

(2) To request a duplicate license, the licensee must submit a duplicate request form stating the reason the duplicate license is requested. If the form is based on a name change, the licensee must submit a copy of the official document (marriage certificate, divorce decree or court order) indicating the name change, as well as the date and place of the change. If the name change occurred during naturalization, the application must also include the naturalization number, the name and address of the court, the date of naturalization, and the name change.

(3) All requests must include the duplicate license fee. The duplicate license fee shall be designated in the fee schedule.

Authority*O.C.G.A. Secs. 43-1-7, 43-34-5, 43-34-24, 43-34-24.1*.

History. Original Rule entitled "U.S. Citizenship" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Amended:** F. Oct. 7, 1971; eff. Oct. 27, 1971. **Repealed:** F. June 30, 1975; eff. July 20, 1975. **Amended:** New Rule entitled "Duplicate Licenses" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
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Ga. Comp. R. & Regs. r. 360-2-.05 (2012)

360-2-.05 Renewal Applications.

(1) Each licensee shall notify the Board within thirty (30) days, in writing, of all changes of address. Any mailing or notice from the Board shall be considered to be served on the licensee when sent to the licensee's last address on file with the Board.

(2) All active licenses must be renewed every two years. This may be done via the internet or through mail. A medical licensee may not practice medicine after the expiration date of the license. A license must be renewed biennially by the last day of the month in which the applicant's birthday falls, and the licensee must establish satisfaction of Board-approved continuing education requirements to be eligible for renewal.

(3) Licensees have the right to obtain a late renewal of their licenses during the three (3) month period immediately following the expiration date. During this period, the penalty for late renewal applies. A physician may not practice medicine after the expiration date of his or her license.

(4) The Board shall administratively revoke any license not renewed prior to the expiration of the late renewal period. Such revocation removes all rights and privileges to practice medicine and surgery in this State. A practitioner who is so revoked must apply for licensure to be considered for reinstatement. Revocation for failure to renew may be reported to the public and to other state licensing boards, and will be reported as a revocation for failure to renew. Revocation for failure to renew is not considered a disciplinary revocation. However, the license may only be reinstated through application.

(5) Notwithstanding the provisions of paragraph (4) of this rule, any service member as defined in *O.C.G.A. § 15-12-1* whose license to practice medicine expired while on active duty outside the state shall be permitted to practice in accordance with the expired license and shall not be charged with a violation relating to such practice on an expired license for a period of six (6) months from the date of his or her discharge from active duty or reassignment to a location within the state. Such service member shall be entitled to renew such expired license without penalty within six (6) months after the date of his or her discharge from active duty or reassignment to a location within this state. The service member must present to the Board a copy of the official military orders or a written verification signed by the service member's commanding officer to waive any charges.

(6) The fee for renewals and late renewals shall be designated in the fee schedule.

Authority *O.C.G.A. Secs.43-1-4*, *43-1-7*, *43-1-19*, *43-1-25*, *43-1-31*, *43-34-3*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *43-34-24.1*, *43-34-32*, *43-34-37*.

History. Original Rule entitled "Temporary License" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed:** New Rule of same title adopted. F. Mar. 28, 1974; eff. Apr. 17, 1974. **Repealed:** New Rule of same title adopted. F. Jan. 26, 1976; eff. Feb. 15, 1976. **Amended:** F. Aug. 17, 1978; eff. Sept. 6, 1978. **Repealed:** New Rule entitled "Temporary Licenses" adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Amended:** F. Oct. 15, 1984; eff. Nov. 4, 1984.**Amended:** F. May 20, 1988; eff. June 9, 1988. **Amended:** F. July 28, 1989; eff. Sept. 1, 1989, as specified by the Agency. **Repealed:** New Rule entitled "Renewal" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Amended:** F. July 8, 2004; eff. July 28, 2004. **Amended:** F. Sept. 7, 2005; eff. Sept. 27, 2005. **Amended:** F. Aug. 8, 2006; eff. Aug. 28, 2006. **Amended:** F. Sept. 16, 2008; eff. Oct. 6, 2008. **Repealed:** New Rule entitled "Renewal Applications" adopted. F. May 11, 2012; eff. May 31, 2012.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
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Ga. Comp. R. & Regs. r. 360-2-.06 (2012)

360-2-.06 Inactive Licensure Status. Amended.

(1) Licensee who wishes to maintain his or her medical license but who does not wish to practice medicine and surgery in this State may apply to the Board for inactive status by submitting an application and the fee. A licensee with an inactive license may not practice medicine in this State.

(2) In order to reinstate a license to practice medicine, an applicant must complete an application and pay a reinstatement fee. The applicant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in the practice of medicine and that he or she is mentally and physically able to practice medicine with reasonable skill and safety.

(3) Reinstatement of the license is within the discretion of the Board.

(4) The Board may require the passage of an examination, such as SPEX or PLAS or other competency assessments. The Board, in its discretion, may impose any remedial requirements deemed necessary.

(5) The Board may deny reinstatement for failure to demonstrate current knowledge, skill and proficiency in the practice of medicine or being mentally or physically unable to practice medicine with reasonable skill and safety or for any ground set forth in *O.C.G.A. § 43-34-8*.

(6) The denial of reinstatement is not a contested case, but the applicant shall be entitled to an appearance before the Board.

(7) The fee for reinstatement of a license shall be designated in the fee schedule.

Authority*O.C.G.A. Secs. 43-1-7*, *43-1-19*, *43-1-22*, *43-34-5*, *43-34-8*, *43-34-24*, *43-34-24.1*, *43-34-26*, *43-34-37*.

History. Original Rule entitled "Recording of License" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed:** New Rule of same title adopted. F. Jan. 26, 1976; eff. Feb. 15, 1976. **Repealed:** New Rule entitled "Order for Mental or Physical Evaluation" adopted. F. June 17, 1985; eff.

July 7, 1985. **Repealed:** New Rule entitled "Inactive Licensure Status" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Repealed**: New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
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Ga. Comp. R. & Regs. r. 360-2-.07 (2012)

360-2-.07 Reinstatement.

(1) A minimum of two (2) years shall pass from the date of any revocation of a license before the Board will consider an application for reinstatement. If the Board denies any application for reinstatement, the Board may require that a minimum of two (2) years pass from the date of the denial before the Board will consider subsequent applications for reinstatement. This two-year requirement shall only apply in those instances in which the license in question was revoked for reasons other than failure to renew. (2) In order to reinstate a license to practice medicine, an applicant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in the practice of medicine and that he or she is mentally and physically able to practice medicine with reasonable skill and safety. The Board may also require the applicant to meet with the Board or a committee of the Board. In addition, the Applicant must comply with the following: (a) If the license has been expired four to six months, the applicant must submit an application for reinstatement, pay a reinstatement fee of $ 1,000.00 and provide proof of ten additional continuing education hours over the forty required for renewal;

(b) If the license has been expired over six months but not greater than one year, the applicant must submit an application for reinstatement, pay a reinstatement fee of $ 1,500.00 and provide proof of 20 hours of additional continuing education over the forty required for renewal; or

(c) If the license has been expired over one year, the applicant must submit an application for reinstatement, pay a reinstatement fee of $ 2,000.00 and provide proof of 40 hours of additional continuing education over the forty required for renewal.

(3) The Board, in its discretion, may impose any remedial requirements for applicants who have previously engaged in the practice of medicine and who have not practiced for a period greater than thirty (30) consecutive months as approved by the Board. The Board may require the passage of an examination, such as SPEX, PLAS, or other competency assessments as approved by the Board.

(4) Prior to reinstatement of a license, the Board must have received an affidavit that the applicant is a United States citizen, a legal permanent resident of the United States, or that he/she is a qualified alien or non-immigrant under

the Federal Immigration and Nationality Act. If the applicant is not a U.S.citizen, he/she must submit documentation that will determine his/her qualified alien status. The Board participates in the **DHS-USCIS SAVE** (Systematic Alien Verification for Entitlements or "SAVE") program for the purpose of verifying citizenship and immigration status information of non-citizens. If the applicant is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act, he/she must provide the alien number issued by the Department of Homeland Security or other federal immigration agency.

(5) This provision of this rule shall not be construed to limit the ability of the Board to impose sanctions for continuing to practice with an expired license.

(6) Reinstatement of the license is within the discretion of the Board.

(7) The Board may deny reinstatement for failure to demonstrate current knowledge, skill and proficiency in the practice of medicine or being mentally or physically unable to practice medicine with reasonable skill and safety or for any ground set forth in *O.C.G.A. § 43-34-8*.

(8) The denial of reinstatement is not a contested case, but the applicant shall be entitled to an appearance before the Board.

Authority *O.C.G.A. Secs.43-1-2*, *43-1-4*, *43-1-7*, *43-1-19*, *43-24-5*, 43-24-8, *43-34-9*, *43-34-24*, *43-34-24.1*, *43-34-37*.

History. Original Rule entitled "Annual Registration" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed:** New Rule entitled "Renewal Registration" adopted. F. Jan. 26, 1976; eff. Feb. 15, 1976. **Repealed:** New Rule of same title adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Repealed:** New Rule of same title adopted. F. June 17, 1985; eff. July 7, 1985. **Amended:** F. May 20, 1988; eff. June 9, 1988. **Amended:** ER. 360-2-0.5-.07 adopted. F. July 28, 1988; eff. July 26, 1988, the date of adoption. **Amended:** F. June 11, 1990; eff. July 1, 1990. **Repealed:** New Rule entitled "Reinstatement" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Repealed**: New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012. **Amended:** F. Nov. 13, 2012; eff. Dec. 3, 2012.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-2 LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 360-2-.08 (2012)

360-2-.08 Volunteers in Medicine.

(1) Definitions.

(a) For the purposes of this rule a not for profit or non-profit agency, institution, corporation or association is one that exempt from federal taxation and provides medical services for indigent patients in this State.

(b) Medically underserved areas/medically underserved populations mean those areas and populations that are designated as such by the U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care.

(c) Non-compensated employ means employment in which the physician has no expectation of payment or compensation for any medical services rendered, or any compensation or payment to the physician, either direct or indirect, monetary or in-kind, for the provision of medical services.

(2) The Board may issue in its discretion and without examination, a special medical license to qualifying physicians for the sole purpose of practicing medicine in the noncompensated employ of public, not for profit, or nonprofit agencies, institutions, corporations, or associations that provide medical services solely to indigent patients in medically underserved or critical need population areas of the State.

(3) Volunteer licenses may be issued to persons who:

(a) Possess a current license to practice medicine in good standing in any medical licensing jurisdiction in the United States; or,

(b) Have retired from the full or part-time practice of medicine and, prior to retirement, maintained a license to practice medicine in good standing in any medical-licensing jurisdiction in the United States.

(c) For purpose of this rule "good standing" shall mean that the applicant has had no disciplinary action taken against his/her license by any state, and has not let his/her license in any state expire or become inactive during an investigation by a state medical board into allegations relating to his/her practice of medicine or during a pending disciplinary action.

(4) Applicants for a volunteer license must complete an application form approved by the Board. Applications must be complete, including all required documents, signatures and seals.

(5) Applicants must furnish the following evidence:

(a) A copy of his or her medical degree, if not previously licensed in this State;

(b) Proof of licensure in good standing in the applicant's current and/or all prior licensing jurisdictions on a form approved by the Board;

(c) A notarized verification of employment form completed by the applicant's employer documenting the applicant's agreement not to receive compensation for any medical services he or she may render while practicing under this Chapter;

(d) If the employer is other than a public employer, documentation that the employer is a not for profit or non-profit agency, institution, corporation or association that provides medical services only to indigent patients in this State;

(e) Evidence of compliance with the Board's continuing medical education requirements.

(f) An affidavit that the applicant is a United States citizen, a legal permanent resident of the United States, or that he/she is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act. If the applicant is not a U.S.citizen, he/she must submit documentation that will determine his/her qualified alien status. The Board participates in the **DHS-USCIS SAVE** (Systematic Alien Verification for Entitlements or "SAVE") program for the purpose of verifying citizenship and immigration status information of non-citizens. If the applicant is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act, he/she must provide the alien number issued by the Department of Homeland Security or other federal immigration agency.

(6) Before the Board considers an application, an inquiry shall be made by the staff to the National Practitioner Data Bank (NPDB).

(7) Applicants who are not in compliance with the Board's continuing medical education requirements, but are otherwise qualified to obtain a volunteer license, shall receive a nonrenewable temporary license to practice under this rule for a period of six (6) months.

(8) The volunteer license will limit practice to the non-compensated employ of the public agency or institution, or not for profit agency, not for profit institution or not for profit association who provided notarized verification of employment pursuant to paragraph (5)(c) of this rule.

(9) Volunteer licensees are not permitted to perform any surgical procedure.

(10) Volunteer licenses are not subject to application, licensure or renewal fees.

(11) Volunteer licensees shall at all times meet the minimum standards of acceptable and prevailing medical practice. Volunteer licenses shall be subject to disciplinary provisions of *O.C.G.A. §§ 43-34-8*, as well as the Board rules governing unprofessional conduct.

(12) Except as provided in paragraph (7), volunteer licenses issued under this Chapter will expire on the last day of the month in which the applicant's birthday falls as provided by *Rule 360-2-.05*. In addition to the renewal requirements of *Rule 360-2-.05*, the renewal applicant must provide evidence of continued employment in the non-compensated employ of public, not for profit, or nonprofit agencies, institutions, corporations, or associations that provide medical services solely to indigent patients in board. Those applicants who cannot establish such continued employment are not eligible to renew their volunteer licenses.

Authority *O.C.G.A. Secs.43-1-19, 43-34-5, 43-34-24, 43-34-24.1, 43-34-37, 43-34-41, 43-34-45.1*.

History. Original Rule entitled "Refusal or Revocation of License" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule of same title adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Repealed:** New Rule entitled "Volunteers in Medicine" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Repealed:** New Rule of same title adopted. F. Jan. 23, 2004; eff. Feb. 12, 2004. **Amended:** F. Feb. 10, 2006; eff. Mar. 2, 2006. **Amended:** F. Apr. 3, 2009; eff. Apr. 23, 2009. **Repealed:** New Rule of same title adopted.F. May 11, 2012; eff. May 31, 2012.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-2 LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 360-2-.09 (2012)

360-2-.09 Temporary Postgraduate Training Permits.

(1) Definitions.

(a) "ACGME" means Accreditation Council for Graduate Medical Education.

(b) "AMA" means American Medical Association.

(c) "AOA" means the American Osteopathic Association.

(d) "Application" means an application form completed according to the instructions provided in the application, which includes all the required documentation, signatures, seals and the application fee as published in the Board's fee schedule.

(e) "Board" means the Composite State Board of Medical Examiners.

(f) "ECFMG" means Educational Commission for Foreign Medical Graduates.

(g) "Permit holder" means a person authorized to participate in a postgraduate medical training program subject to the limitations in *O.C.G.A. § 43-34-8* and *Rules 360-2-.09* through *360-2-.11*.

(h) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Board pursuant to Article 2, Chapter 34 of Title 43 of the Official Code of Georgia Annotated.

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

(j) "Temporary postgraduate training permit" means a permit issued by the Board to a graduate of a Board approved medical or osteopathic 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.

(k) "Training Institution" means an institution that sponsors and conducts a postgraduate training program approved by the ACGME, the AOA or other program approved by the Board for the training of interns, residents or postgraduate fellows.

(2) A temporary postgraduate training permit is mandatory for participation in all postgraduate medical training programs in this State, unless the individual holds a license to practice medicine in this State prior to participating in the postgraduate medical training program or has applied for a temporary postgraduate training permit.

(a) The Board shall issue temporary postgraduate training permits to applicants meeting the Board's qualifications within 45 days of receipt by the Board of a completed application.

(b) Incomplete applications that have been on file with the Board for more than 60 days shall be deemed invalid, and the applicant shall be required to submit a new application as provided in paragraph (3) of this rule.

(3) Requirements for issuance of a temporary postgraduate training permit:

(a) An affidavit that the applicant is a United States citizen, a legal permanent resident of the United States, or that he/she is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act. If the applicant is not a U.S.citizen, he/she must submit documentation that will determine his/her qualified alien status. The Board participates in the **DHS-USCIS SAVE** (Systematic Alien Verification for Entitlements or "SAVE") program for the purpose of verifying citizenship and immigration status information of non-citizens. If the applicant is a qualified alien or non-immigrant under the Federal Immigration and Nationality Act, he/she must provide the alien number issued by the Department of Homeland Security or other federal immigration agency.

(b) Submission of a fully completed application required by the Board and the application fee as published in the Board's published fee schedule.

1. The application form shall be completed according to the instructions provided in the Application. The Board will not consider an application until it is complete and the Board has received all the required documentation, signatures, seals and fees.

2. Applicants shall inform the Board in writing within 10 days of a change of address while an application is pending.

3. Application fees are nonrefundable.

4. Deposit of an application fee by the Board does not indicate acceptance of the application or that any other permit requirements have been fulfilled.

(a) Evidence satisfactory to the Board of graduation from a medical or osteopathic school approved by the ACGME, the AOA or the Liaison Committee on Medical Education; or

(b) If a graduate of a foreign medical school, evidence satisfactory to the Board of holding a valid certificate issued by ECFMG or having successfully completed a fifth pathway program established in accordance with AMA criteria and passing the ECFMG qualifying medical component examination.

(c) Certification from the Program Director on a form provided by the Board verifying the applicant's appointment to participate in a postgraduate training program that is

1. An internship or residency program accredited by the ACGME or AOA; or

2. A clinical fellowship program at an institution with a residency program accredited either by the ACGME or the AOA that is in a clinical field the same as or related to the clinical field of the fellowship program.

3. If there is a change in Program Directors during the Program year, the new Program Director must so notify the Board on a form approved by the Board for said notification.

(4) Issuance of a temporary postgraduate training permit shall not be construed to imply that the permit holder will be deemed eligible for a license to practice medicine in this State.

(5) 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 *O.C.G.A. § 43-34-8*. Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for a temporary postgraduate training permit.

Authority *O.C.G.A. Secs. 31-9-6.1*, *43-1-25*, *43-34-20*, *43-34-21*, *43-34-24*, *43-34-37*, *43-34-47*.

History. Original Rule entitled "Unprofessional Conduct Defined" adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Amended:** F. May 13, 1983; eff. July 1, 1983, as specified by the Agency. **Amended:** F. May 20, 1988; eff. June 9, 1988. **Amended:** F. Nov. 17, 1988; eff. Dec. 7, 1988. **Amended:** F. Apr. 9, 1990; eff. Apr. 29, 1990. **Amended:** ER.360-2-0.8-.09 adopted. F. Aug. 9, 1991; eff. Aug. 8, 1991, the date of adoption. **Amended:** F. Nov. 8, 1991; eff. Nov. 28, 1991. **Repealed:** F. Jan. 24, 2002; eff. Feb. 13, 2002. **Amended:** New Rule entitled "Temporary Postgraduate Training Permits" adopted. F. July 29, 2004; eff. Aug. 18, 2004. **Repealed:** New Rule of same title adopted F. May 11, 2012; eff. May 31, 2012.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-2 LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 360-2-.10 (2012)

360-2-.10 Renewal of Temporary Postgraduate Training Permits.

(1) Each permit holder shall notify the Board within thirty (30) days of all changes of address. Any mailing or notice from the Board shall be considered to be served on the permit holder when sent to the permit holder's last address on file with the Board.

(2) All temporary postgraduate training permits shall expire annually on June 30th, 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 (7) years.

(3) Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any permit requirements have been fulfilled.

(4) To be eligible for renewal, the permit holder must furnish satisfactory evidence that he or she continues to participate in the postgraduate training program indicated on the completed program director's certification form as required in *Rule 360-2-.09(3)(d).*

(5) Failure to renew a postgraduate training permit by the designated expiration date shall result in a penalty for late renewal as required by the Board. Postgraduate training permits that are not renewed within one monthof expiration shall be revoked for failure to renew and a new application with the appropriate fee shall be required.

(6) A permit holder shall not participate in postgraduate training in this State after the expiration of a postgraduate training permit.

Authority *O.C.G.A. Secs. 43-34-5*, *43-34-24*, *43-34-43*, *43-34-47*.

History. Original Rule entitled "Duplicate Licenses" adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Repealed:** F. Jan. 24, 2002; eff. Feb. 13, 2002. **Amended:** New Rule entitled "Renewal of Temporary Postgraduate Training Permits" adopted. F. July 29, 2004; eff. Aug. 18, 2004. **Repealed**: New Rule with same title adopted. F. May 11, 2012; eff. May 31, 2012.

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Ga. Comp. R. & Regs. r. 360-2-.11 (2012)

360-2-.11 Termination of Temporary Postgraduate Training Permits.

(1) A permit holder shall immediately notify the Board of withdrawal or termination from a postgraduate training program and of the reasons for said withdrawal or termination.

(2) A permit issued pursuant to *Code Section 43-34-47* and *Rules 360-2-.09* or *360-2-.10* shall automatically expire upon the permit holder's withdrawal or termination from, completion of the postgraduate training program or upon the permit holder obtaining a license to practice medicine under Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated.

(3) A permit holder who withdraws from a postgraduate training program and is accepted or appointed to participate in another postgraduate training program must apply for a new postgraduate training permit as provided in *Rule 360-2-.09(3)*; however, the Board will not issue a new postgraduate training permit as provided herein if the permit holder's postgraduate training exceeds seven years.

Authority *O.C.G.A. Secs. 43-34-5*, *43-34-24*, *43-34-37*, *43-34-43*, *43-34-47*.

History. Original Rule entitled "Reinstatement" adopted. F. Oct. 8, 1998; eff. Oct. 29, 1998. **Repealed:** F. Jan. 24, 2002; eff. Feb. 13, 2002. **Amended:** New Rule entitled "Termination of Temporary Postgraduate Training Permits" adopted. F. July 29, 2004; eff. Aug. 18, 2004. **Repealed**: New Rule with same title adopted. F. May 11, 2012; eff. May 31, 2012.

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Ga. Comp. R. & Regs. r. 360-2-.12 (2012)

360-2-.12 Reporting Requirements for Program Directors Responsible for Training Temporary Postgraduate Permit Holders.

(1) Each training institution may designate a physician, who is licensed in this State pursuant to Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, who would qualify as a Program Director to fulfill the responsibilities as set forth in this rule. Any physician who completed the Program Director Certification form required by *Rule 360-2-.09* and who fails to comply with the reporting requirements of *Rule 360-2-.12* shall be subject to disciplinary action by the Board.

(2) Program directors must report to the Board the following within 15 days of the event:

(a) a permit holder's withdrawal or termination from or completion of a postgraduate training program and the reasons for such termination or withdrawal;

(b) the occurrence of any of the events identified as grounds for disciplinary action or as violations enumerated in *O.C.G.A. § 43-34-8* or a practice restriction taken against a permit holder;

(c) any permit holder who has an unauthorized absence from the program for any length of time in excess of two weeks and the reason;

(3) At the completion of the program year, Program Directors must provide the Board with a list of permit holders participating in the Program Director's postgraduate medical training program who are recommended for advancement to the next level.

(4) At the completion of the program year, Program Directors must report to the Board whether a permit holder participating in the Program Director's postgraduate medical training program has failed to advance in the program for performance or behavioral reasons.

Authority *O.C.G.A. Secs. 43-34-5*, *43-34-24*, *43-34-43*, *43-34-47*.

History. Original Rule entitled "Reporting Requirements for Program Directors Responsible for Training Temporary Postgraduate Permit Holders" adopted. F. July 29, 2004; eff. Aug. 18, 2004. **Repealed**: New Rule with same title adopted. F. May 11, 2012; eff. May 31, 2012.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-2 LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 360-2-.13 (2012)

360-2-.13 Emergency Practice Permit.

During an event for which the Governor of the State of Georgiahas issued an executive order declaring a disaster or a state of emergency, the Board may waive some of the licensure requirements in order to permit the provision of emergency health services to the public. Before practicing medicine in Georgiaunder this provision, the applicant must receive the Board's approval of the following:

(a) an application for this emergency practice permit;

(b) proof of current and unrestricted licensure in another state;

(c) a current National Practitioner's Data Bank ("NPDB") Report and

(d) a copy of a valid government issued photo id.

All permits issued under this provision shall be valid for 90 days or until the statement of emergency or disaster has been lifted by the Governor of the State of Georgia, whichever comes first.

Authority *O.C.G.A. Secs. 38-3-51, 43-1-19, 43-34-5, 43-34-24, 43-34-28, 43-34-31, 43-34-35*.

History. Original Rule entitled "Emergency Practice Permit" adopted. F. June 23, 2008; eff. July 13, 2008. **Repealed**: New Rule with same title adopted. F. May 11, 2012; eff. May 31, 2012.

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CHAPTER 360-2 LICENSING REQUIREMENTS

Ga. Comp. R. & Regs. r. 360-2-.14 (2012)

360-2-.14 Requirements for Approval of International Medical Schools.

(1) An international medical school seeking Board approval pursuant to *O.C.G.A. 43-34-26* shall provide the Board with the following:

(a) A completed application and application fee.

(b) Completed self-assessment form that establishes or demonstrates that:

(i) MD Degree or equivalent. The medical school's educational program leads to an MD degree or the international equivalent, and the medical school's core curriculum and clinical instruction meets the standards of schools accredited by the Liaison Committee on Medical Education and one of the following:

(A) The medical school is owned and operated by the government of the country in which it is located, and the country in which it is located and the medical school's primary purpose is educating its own citizens to practice medicine in that country; or

(B) The medical school has a charter or registration by the jurisdiction in which it is domiciled and meets the standards set forth in subsections (b)(ii)-(xi) below.

(ii) Mission and objectives. The institution shall have a clearly-stated written purpose and mission statement, and have institutional objectives that are consistent with preparing graduates to provide competent medical care. These must include:

(A) Teaching, patient care, and service to the community;

(B) The expectations concerning the education students will receive; and

(C) The role of basic science and clinical research as an integral component of its mission, including the importance, processes, and evaluation of research in medical education and practice.

(iii) Organization. The institution shall be organized as a definable academic unit responsible for a resident educational program that leads to the MD degree.

(iv) Curriculum. The structure and content of the educational program shall provide an adequate foundation in the basic and clinical sciences and shall enable students to learn the fundamental principles of medicine, to acquire critical judgment skills, and to use those principles and skills to provide competent medical care.

(v) Governance. The administration and governance structure system shall allow the institution to accomplish its mission and objectives.

(vi) Faculty. The faculty shall be qualified and sufficient in number to achieve the institution's objectives. A "qualified" faculty member is a person who possesses either a credential generally recognized in the field of instruction, or a degree, professional license, or credential at least equivalent to the level of instruction being taught or evaluated. The institution shall have a formal ongoing faculty development process that will enable it to fulfill its mission and objectives.

(vii) Admission and promotion standards. The institution shall have and adhere to standards governing admission requirements and student selection and promotion that are consistent with the institution's mission and objectives.

(viii) Financial resources. The institution shall possess sufficient financial resources to accomplish its mission and objectives.

(ix) Facilities. The institution shall have, or have access to, facilities, laboratories, equipment, and library resources that are sufficient to support the educational programs offered by the institution and to enable it to fulfill its mission and objectives. If the institution utilizes affiliated institutions to provide clinical instruction, the institution shall be fully responsible for the conduct and quality of the educational program at those affiliated institutions.

(x) Records. The institution shall maintain and make available for inspection any records that relate to the institution's compliance with this section for at least five years, except that student transcripts shall be retained indefinitely.

(xi) Branch campuses. An institution with more than one campus shall have written policies and procedures governing the division and sharing of administrative and teaching responsibilities between the central administration and faculty, and the administration and faculty of the other locations. These policies shall be consistent with the institution's mission and objectives. The institution shall be fully responsible for the conduct and quality of the educational programs at these sites. If an institution operates a branch campus located within the United States or Canada, instruction received at that branch campus shall be deemed to be instruction received and evaluated at that institution. For the purpose of this section, the term "branch campus" means a site other than the main location of the institution, but does not include any hospital at which only clinical instruction is provided.

(2) The Board may, on its own or at the request of an institution, determine whether an institution meets the requirements of subsections (1)(a) and (1)(b). The Board shall have the discretion to determine whether a site visit is necessary in order to verify the accuracy and completeness of the data provided and to conduct an in-depth review of the program to determine whether the institution is in compliance with these regulations.

(3) The Board may receive, review, evaluate, and process any materials and visit the facilities of an institution seeking approval of their program, or the Board may contract with an independent company or agency to perform those services for and make recommendations to the Board. The Board shall make the final decision regarding the approval of an institution and its program. All costs related to the evaluation and review process, including costs for a site visit, must be paid by the institution under review and be negotiated with the Board or the company selected by the Board to perform the evaluation.

(4) An institution's failure to provide requested data regarding its educational program or to cooperate with a site visit team shall be grounds for disapproval of its educational program.

(5) If an institution receives and wishes to retain the Board approval of its educational program, it shall do the following:

(a) Notify the Board, in writing, no later than 30 days after making any changes to the following:

(i) Location;

(ii) Mission, purpose, or objectives;

(iii) Change of name;

(iv) Anychange in curriculum or other circumstances that would affect the institution's compliance with subsections (a) and (b);

(v) Shift of change in control. A "shift or change in control" means any change in the power or authority to manage, direct, or influence the conduct, policies, and affairs of the institution from one person or group of people to another person or group of people. This does not include the replacement of an administrator with another person, if the owner does not transfer any interest in, or relinquish any control of, the institution to that person.

(b) Every seven years, the institution shall submit to the Board documentation sufficient to establish that it remains in compliance with the requirements of this section.

(c) The documentation submitted pursuant to subsection (5)(b) shall be reviewed by the Board or its designee to determine whether the institution remains in compliance with the requirements of this section. The Board shall make the decision if the institution remains in compliance.

(6) The Board may, at any time, withdraw its determination of approval when an institution is no longer in compliance with this section. Prior to withdrawing its determination of approval, the Board shall send the institution a written notice of its intent to withdraw its approval, identifying those deficiencies upon which it is proposing to base the withdrawal, and giving the institution 120 days from the date of the notice to respond to the notice. The Board shall have the sole discretion to determine whether a site visit is necessary in order to ascertain the institution's compliance with this section. The Board shall notify the institution of its decision and the basis for that decision.

(7) The approval process outlined in this rule does not apply to medical schools that have already been classified as "Approved Medical Schools" in *Rule 360-2-.01(1)(g)(i)*. Pursuant to *Rule 360-2-.01(1)(g)(i)*, "Approved Medical Schools" are medical schools located in the United States, Puerto Rico, and Canada and those listed on the Medical Schools Recognized by the Medical Board of California (effective February 4, 2010, adopted by reference).

Authority O.C.G.A. *Sec. 43-34-26(a)(1)(B)*.

History. New Ruled entitled "Requirements for Approval of International Medical Schools" adopted. F. Nov. 9, 2012; eff. Nov. 29, 2012.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-3 INVESTIGATIONS AND DISCIPLINE

Ga. Comp. R. & Regs. r. 360-3-.01 (2012)

360-3-.01 Disciplinary Authority.

The Georgia Composite Medical Board ("Board") is authorized to deny, revoke, suspend, fine, reprimand or otherwise limit the license of a physician or physician assistant for all the grounds set forth in O.C.G.A. *§ 43-34-8* and to deny, revoke, suspend, fine, reprimand or otherwise limit the license of a physician pursuant to O.C.G.A. *§ 43-34-8*. In addition, the Board is authorized to terminate the approval of a physician's assistant and to revoke the license of a physician's assistant pursuant to O.C.G.A. *§ 43-34-107*.

Authority O.C.G.A. *Secs. 43-1-2*, *43-1-4*, *43-1-7*, *43-1-19*, *43-1-25*, *43-34-8*, *43-34-21*, *43-34-24*, *43-34-24.1*, *43-34-26.1*, *43-34-29*, *43-34-37*, *43-34-45.1*, *43-34-107*.

History. Original Rule entitled "Hospital Internship" adopted. F. and eff. June 30, 1965. **Repealed:** New Rule entitled "Reciprocity" adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. **Amended:** ER. 360-3-0.1-.01 adopted. F. and eff. Oct. 29, 1973. **Amended:** Permanent Rule adopted. F. Nov. 27, 1973; eff. Dec. 17, 1973. **Amended:** F. Jan. 26, 1976; eff. Feb. 15, 1976. **Repealed:** New Rule entitled "Reciprocity/Endorsement" adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. **Amended:** F. Jan. 16, 1985; eff. Feb. 5, 1985. **Amended:** F. June 17, 1985; eff. July 7, 1985. **Amended:** F. July 12, 1991; eff. Aug. 1, 1991. **Amended:** F. Jan. 15, 1993; eff. Feb. 4, 1993. **Repealed:** F. June 14, 1996; eff. July 4, 1996. **Amended:** New Rule entitled "License Requirements" adopted. F. July 21, 2000; eff. Aug. 10, 2000. **Repealed:** New Rule entitled "Disciplinary Authority" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Repealed:** New Rule of same title adopted. F. May 18, 2010; eff. June 7, 2010.



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CHAPTER 360-3 INVESTIGATIONS AND DISCIPLINE

Ga. Comp. R. & Regs. r. 360-3-.02 (2012)

360-3-.02 Unprofessional Conduct Defined.

O.C.G.A. *§§ 43-34-8* and *43-1-19* authorize the Board to take disciplinary action against licensees for unprofessional conduct. "Unprofessional conduct" shall include, but not be limited to, the following:

(1) Prescribing controlled substances for a known or suspected habitual drug abuser or other substance abuser in the absence of substantial justification.

(2) Writing prescriptions for controlled substances for personal use or, except for documented emergencies, for immediate family members. For purposes of this rule,

"immediate family members" include spouses, children, siblings, and parents.

(3) Prescribing, ordering, dispensing, administering, selling or giving any amphetamine, sympathomimetic amine drug or compound designated as a Schedule II Controlled

Substance under O.C.G.A. T. 16, Ch. 13, to or for any person except in the following situations:

(a) Treatment of any of the following conditions:

1. Attention deficit disorder;

2. Drug induced brain dysfunction;

3. Narcolepsy and/or hypersomnolence;

4. Epilepsy; or

5. Depression or other psychiatric diagnosis.

(b) For clinical investigations conducted (1) under protocols approved by a state medical institution permitted by the Georgia Department of Human Services (DHS) with human subject review under the guidelines of the United States Department of Health and Human Services.

(4) Pre-signing prescriptions that have the patient's name, type of medication, or quantity blank.

(5) Prescribing controlled substances (O.C.G.A. T. 16, Ch. 13, Art. 2) and/or dangerous drugs (O.C.G.A. T. 16, Ch. 13, Art. 3) for a patient based solely on a consultation via electronic means with the patient, patient's guardian or patient's agent. This shall not prohibit a licensee who is on-call or covering for another licensee from prescribing up to a 72-hour supply of medications for a patient of such other licensee nor shall it prohibit a licensee from prescribing medications when documented emergency circumstances exist.

(6) Providing treatment via electronic or other means unless a history and physical examination of the patient has been performed by a Georgialicensee. This shall not prohibit a licensee who is on call or covering for another licensee from treating and/or consulting a patient of such other licensee. Also, this paragraph shall not prohibit a patient's attending physician from obtaining consultations or recommendations from other licensed health care providers.

(7) Failing to maintain appropriate patient records whenever Schedule II, III, IV or V controlled substances are prescribed. Appropriate records, at a minimum, shall contain the following:

(a) The patient's name and address;

(b) The date, drug name, drug quantity, and patient's diagnosis necessitating the Schedule

II, III, IV, or V controlled substances prescription; and

(c) Records concerning the patient's history.

(8) Committing any act of sexual intimacy, abuse, misconduct, or exploitation of any individual related to the physician's practice of medicine regardless of consent. The rule shall apply to former patients where the licensee did not terminate in writing the physician patient relationship before engaging in a romantic or sexual relationship with the patient and/or where the licensee used or exploited the trust, knowledge, emotions or influence derived from the prior professional relationship. The Board will consider the physician patient relationship terminated if the physician has not evaluated or treated the patient for a period of at least two (2) years.

(9) Failing to comply with the provisions of O.C.G.A. Section 31-9- 6.1 and Chapter 360-

14 of the Rules of Georgia Composite Medical Board relating to informed consent, which requires that certain information be disclosed and that consent be obtained regarding any surgical procedure performed under general anesthesia, spinal anesthesia, or major regional anesthesia or an amniocentesis procedure or a diagnostic procedure that involves the intravenous injection of a contrast material.

(10) Failing to conform to the recommendation of the Centers for Disease Control for preventing transmission of the Human Immunodeficiency Virus, Hepatitis B Virus,

Hepatitis C Virus, and Tuberculosis to patients during exposure-prone invasive procedures. It is the responsibility of all persons currently licensed by the Board to maintain familiarity with these recommendations, which the Board considers the minimum standards of acceptable and prevailing medical practice.

(11) Failing to timely respond to an investigative subpoena issued by the Board.

(12) Conducting a physical examination of the breast and/or genitalia of a patient of the opposite sex without a chaperone present.

(13) Practicing medicine while mentally, physically, or chemically impaired.

(14) Failing to use such means as history, physical examination, laboratory, or radiographic studies, when

applicable, to diagnose a medical problem.

(15) Failing to use medications and other modalities based on generally accepted or approved indications, with proper precautions to avoid adverse physical reactions, habituation, or addiction in the treatment of patients. However, nothing herein shall be interpreted to prohibit investigations conducted under protocols approved by a state medical institution permitted by DHS and with human subject review under the guidelines of the United States Department of Health and Human Services.

(16) Failing to maintain patient records documenting the course of the patient's medical evaluation, treatment, and response.

(a) A physician shall be required to maintain a patient's complete medical record, which may include, but is not limited to, the following: history and physical, progress notes,

Xray reports, photographs, laboratory reports, and other reports as may be required by provision of the law. A physician shall be required to maintain a patient's complete treatment records for a period of no less than 10 years from the patient's last office visit.

(b) The requirements of this rule shall not apply to a physician who has retired from or sold his or her medical practice if:

1. such physician has notified his or her patients of retirement from or sale of practice by mail, at the last known address of his or her patients, offering to provide the patient's records or copies thereof to another provider of the patient's choice and, if the patient so requests, to the patient;

2. has caused to be published, in the newspaper of greatest circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area, a notice which shall contain the date of such retirement or sale that offers to provide the patient's records or copies thereof to another provider of the patient's choice, and if the patient so requests, to the patient; and

3. has placed in a conspicuous location in or on the fagade of the physician's office, a sign announcing said retirement or sale of the practice. The sign shall be placed 30 days prior to retirement or the sale of the practice and shall remain until the date of retirement or sale.

4. Both the notice and sign required by *Rule 360-3-.02(16)(c)* shall advise the physician's patients of their opportunity to transfer or receive their records.

(c) The period specified in this rule may be less than the length of time necessary for a physician to protect himself or herself against other adverse actions. Therefore, physicians may wish to seek advice from private counsel or their malpractice insurance carrier.

(17) Continuing to practice after the expiration date of the license.

(18) Any other practice determined to be below the minimal standards of acceptable and prevailing practice.

(19) Providing a false, deceptive or misleading statement(s) as a medical expert.

(20) Failing to report to the Board within 30 days of becoming unable to practice medicine with reasonable skill and safety by result 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.

(21) (For a physician) Delegating to unlicensed medical assistants the authority to inject botulinum toxin and dermal filler.

(22) Failing to comply with *Rule 360-3-.06*.

Authority O.C.G.A. *Secs. 16-13-41*, *16-13-74*, *31-9-6.1*, *31-33-2*, *43-1-19*, *43-1-25*, *43-34-5*, *43-34-8*, *43-34-21*, *43-34-23*, *43-34-24*, *43-34-24.1*, *43-34-25*, *43-34-37*.

History. Original Rule entitled "Unprofessional Conduct Defined" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Amended:** F. Sept. 18, 2003; eff. Oct. 8, 2003.**Amended: F. Dec. 10, 2004; eff. Dec. 30, 2004. Amended**: F. May 10, 2005; eff. May 30, 2005. **Amended: F. Feb. 10, 2006; eff. Mar. 2, 2006. Amended: F. Sept. 19, 2007; eff. Oct. 9, 2007. Amended: F. Nov. 10, 2008; eff. Nov. 30, 2008.Repealed:** New Rule of same title adopted. F. May 18, 2010; eff. June 7, 2010. **Amended.** F. Jan. 13, 2012; eff. Feb. 2, 2012.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-3 INVESTIGATIONS AND DISCIPLINE

Ga. Comp. R. & Regs. r. 360-3-.03 (2012)

360-3-.03 Related Laws and Rules.

The Georgia Composite Medical Board is authorized to take disciplinary action for violations of laws and rules and regulations which relate to or in part regulate the practice of medicine. These laws, rules and regulations include, but are not limited to, the following:

(1) The Georgia Medical Practice Act (O.C.G.A. T. 43, Ch. 34);

(2) The Georgia Controlled Substances Act (O.C.G.A. T. 16, Ch.13, Art. 2);

(3) The Georgia Dangerous Drug Act (O.C.G.A. T. 16, Ch.13, Art. 3);

(4) The Federal Controlled Substances Act (21 U.S.C. Ch. 13);

(5) The Georgia Pharmacists and Pharmacies Act (O.C.G.A. T. 26, Ch.4);

(6) The Rules of the Georgia Composite Medical Board, Ch.360, Rules and Regulations of the State of Georgia;

(7) The Rules of the GeorgiaState Board of Pharmacy, Ch. 480, Rules and Regulations of the State of Georgia, in particular those relating to the prescribing and dispensing of drugs;

(8) The Code of Federal Regulations Relating to Controlled Substances (21 C.F.R. par. 1306); and

(9) O.C.G.A. *Section 31-9-6.1* and Chapter 360-14 of the rules of the Georgia Composite Medical Board relating to informed consent.

Authority O.C.G.A. *Secs. 16-13-35*, *16-13-41*, *16-13-74*, *26-4-87*, *26-4-130*, *31-9-6.1*, *43-1-19*, *43-1-25*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *43-34-24.1*, *43-34-37*.

History. Original Rule entitled "Related Laws and Rules" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002. **Repealed:** New Rule of same title adopted. F. May 18, 2010; eff. June 7, 2010.



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Ga. Comp. R. & Regs. r. 360-3-.04 (2012)

360-3-.04 Mental or Physical Evaluations.

For the purpose of this rule person means an individual that holds a license, certificate, or permit issued by the Board or who has applied for a license, certificate, or permit.

(1) The Board may, require a licensee or applicant to submit to a mental and physical examination by a physician or evaluation program approved by the Board. Mental or physical evaluations may be performed on an inpatient or outpatient basis as directed by the Board. The costs of the evaluation are the responsibility of the person being evaluated.

Authority O.C.G.A. *Secs.43-1-25, 43-34-5, 43-34-6, 43-34-8, 43-34-24, 43-34-24.1, 43-34-37*.

History. Original Rule entitled "Mental or Physical Evaluations" adopted. F. Jan. 24, 2002; eff. Feb. 13, 2002.
Repealed: New Rule of same title adopted. F. May 18, 2010; eff. June 7, 2010.



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Ga. Comp. R. & Regs. r. 360-3-.05 (2012)

360-3-.05 Medical Assistants, Polysomnography Technologists, and Radiology Technologists.

(1) It shall be grounds for disciplinary action by the Board if a physician aids or abets another person in misrepresenting his/her credentials or engaging in unlicensed practice. Engaging in unlicensed practice includes delegation by a physician of professional responsibilities to a person who is not authorized to provide such services. A physician may delegate the performance of certain medical tasks to an unlicensed person with appropriate supervision as provided herein.

(a) Medical Assistants

1. For purposes of this rule, a medical assistant is an unlicensed person employed by the physician to whom he or she delegates certain medical tasks.

(i) A physician may delegate to a medical assistant the following medical tasks: subcutaneous and intramuscular injections; obtaining vital signs; administering nebulizer treatments; or removing sutures and changing dressings.

(ii) Physicians or physician assistants under basic job description and/or advanced practice nurses under protocol must be on-site for a medical assistant to administer subcutaneous and intramuscular injections, to administer nebulizer treatments, and to remove sutures and change dressings. It is not required for a physician to be on-site for a medical assistant to obtain vital signs.

(iii) Physician shall only allow medical assistants to provide services for which they have been properly trained. Physicians shall maintain accurate and complete records of professional services rendered.

(iv) Nothing in this rule prohibits the performance of tasks by medical assistants that would not otherwise require a license.

(b) Polysomnography

1. Definitions

(i) "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.

(ii) "Polysomnographic technologist" means any person performing polysomnography services under the supervision of a physician licensed under this article without the requirement that the technologist is licensed.

(iii) "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.

2. Delegation of Duties

(i) Physicians may delegate authority to a polysomnography technologist to perform tasks to treat, manage, control, educate, or care for patients with sleep or wake disorders or to provide diagnostic testing for patients with suspected sleep or wake disorders.

(ii) However, the physician may not delegate tasks that constitute the practice of medicine.

(c) Radiologist Assistant

1. Radiologist Assistant means an advanced level certified diagnostic radiologic technologist who assists radiologists under levels of supervision in performing advanced diagnostic imaging procedures 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.

(i) Supervision

(I) Radiology assistants shall be supervised by a physician licensed under O.C.G.A. 43-34 who has experience in performing advanced diagnostic imaging procedures.

I. Exemptions or Limitations

2. 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.

Authority O.C.G.A. *Secs. 43-34-12*, *43-34-44*, *43-34-45*.

History. Original Rule entitled "Medical Assistants, Polysomnography Technologists, and Radiology Technologists" adopted. F. May 18, 2010; eff. June 7, 2010.



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Ga. Comp. R. & Regs. r. 360-3-.06. (2012)

Rule 360-3-.06. Pain Management.

(1) Definitions. As used in this rule, the following terms shall mean:

(a) "Annual patient population" shall mean those patients seen by a clinic or practice in a twelve month calendar year, but shall not include patients that are in-patient in hospital, nursing home or hospice facilities licensed pursuant to O.C.G.A. T. 31, Ch. 7.

(b) "Board" shall mean the Georgia Composite Medical Board.

(c) "Chronic pain" shall mean pain requiring treatment which has persisted for a period of ninety days or greater in a year, but shall not include perioperative pain, i.e., pain immediately preceding and immediately following a surgical procedure, when such perioperative pain is being treated by a physician in connection with a surgical procedure.

(d) "Monitoring" means any method to assure treatment compliance including but not limited to the use of pill counts, pharmacy or prescription program verification. Monitoring must include a urine, saliva, sweat, or serum test performed on a random basis.

(e) "Terminal condition" means an incurable or irreversible condition, which would result in death in a relatively short period of time.

(2) O.C.G.A. *§ 43-34-8* authorizes the Board to take disciplinary action against licensees for unprofessional conduct, which includes conduct below the minimum standards of practice. With respect to the prescribing of controlled substances for the treatment of pain and chronic pain, the Board has determined that the minimum standards of practice include, but are not limited to the following:

(a) Physicians cannot delegate the dispensing of controlled substances to an unlicensed person.

(b) When prescribing controlled substances, a physician shall use a prescription pad that complies with state law.

(c) When initially prescribing a controlled substance for the treatment of pain or chronic pain, a physician shall have a medical history of the patient, a physical examination of the patient shall have been conducted, and informed

consent shall have been obtained. In the event of a documented emergency, a physician may prescribe an amount of medication to cover a period of not more than 72 hours without a physical examination.

(d) When a physician is treating a patient with controlled substances for pain or chronic pain for a condition that is not terminal, the physician shall obtain or make a diligent effort to obtain any prior diagnostic records relative to the condition for which the controlled substances are being prescribed and shall obtain or make a diligent effort to obtainany prior pain treatment records. The records obtained from prior treating physicians shall be maintained by the prescribing physician with the physician's medical records for a period of at least ten (10) years. If the physician has made a diligent effort and is unable to obtain prior diagnostic records, then the physician must order appropriate tests to document the condition requiring treatment for pain or chronic pain. If the physician has made a diligent effort and the prior pain treatment records are not available, then the physician must document the efforts made to obtain the records and shall maintain the documentation of the efforts in his/her patient record.

(e) When a physician determines that a patient for whom he is prescribing controlled scheduled substances is abusing the medication, then the physician shall make an appropriate referral for treatment for substance abuse.

(f) When prescribing a Schedule II or III controlled substance for 90 (ninety) days or greater for the treatment of chronic pain arising from conditions that are not terminal, a physician must have a written treatment agreement with the patient and shall require the patient to have a clinical visit at least once every three (3) months to evaluate the patient's response to treatment, compliance with the therapeutic regimen through monitoring appropriate for that patient, and any new condition that may have developed and be masked by the use of Schedule II or III controlled substances. The physician shall respond to any abnormal result of any monitoring and such response shall be recorded in the patient's record. Exceptions to the requirement of a clinical visit once every three (3) months may be made for hardship in certain cases and such hardship must be well documented in the patient record. When a physician determines that a new medical condition exists that is beyond their scope of training, he/she shall make a referral to the appropriate practitioner.

(g) Any physician who prescribes Schedule II or III substances for chronic pain for greater than 50% of that physician's annual patient population must document competence to the Board through certification or eligibility for certification in pain management or palliative medicine as approved by the Georgia Composite Medical Board ("Board"). The Board recognizes certifications in pain medicine or palliative medicine by the American Board of Medical Specialties or the American Osteopathic Association, the American Board of Pain Medicine and the American Board of Interventional Pain Physicians. If the physician does not hold this certification or eligibility he/she must demonstrate competence by biennially obtaining 20 (twenty) hours of continuing medical education ("CME") pertaining to pain management or palliative medicine. Such CME must be an AMA/AOA PRA Category I CME, a board approved CME program, or any federally approved CME. The CME obtained pursuant to this rule may count towards the CME required for license renewal.

Authority: O.C.G.A. *Secs. 31-32-2*, *31-33-2*, *16-13-21*, *16-13-41*, *16-13-74*, *26-4-130*, *43-1-19*, *43-34-5*, *43-34-8*, *43-34-11*, *43-34-21*, *43-34-23* and *43-34-25*.

History . **Amended**. New Rule entitled" Pain Management" adopted. F. Jan. 13, 2012; eff. Feb. 2, 2012.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-4 CLINICAL PERFUSIONIST LICENSURE

Ga. Comp. R. & Regs. r. 360-4-.01 (2012)

360-4-.01 Applications.

(1) The application form shall be completed according to the instructions provided in the application.

(2) Applications must be complete, including all required documentation, signatures and seals. Application files are not considered completed until all required information, documentation and fees have been received by the Board.

(3) No application will be considered by the Board until the application is complete.

(4) Applicants shall inform the Board in writing within 10 days of a change of address while an application is pending.

(5) Application fees are nonrefundable.

(6) Deposit of an application fee by the Board does not indicate acceptance of the application or that any other licensing requirements have been fulfilled.

(7) Incomplete applications that have been on file with the Board for more than one year shall be deemed invalid. No further action will take place on applications that have been incomplete for more than a year until a new application is received in accordance with the provisions of this chapter with the appropriate application fee.

O.C.G.A. *Secs. 43-34-24*, *43-34-28*, *43-34-172*.

HISTORY. Original Rule entitled "Reciprocal Relations" adopted. F. and eff. June 30, 1965. REPEALED: New Rule entitled "Foreign Graduates" adopted. F. Oct. 2, 1970; eff. Oct. 22, 1970. AMENDED: F. Oct. 2, 1971; eff. Oct. 22, 1971. REPEALED: New Rule of same title adopted. F. Dec. 15, 1982; eff. Jan. 4, 1983. AMENDED: F. June 17, 1985; eff. July 7, 1985. AMENDED: F. Mar. 3, 2000; eff. Mar. 23, 2000. REPEALED: F. Apr. 8, 2002; eff. Apr. 28, 2002. AMENDED: New Rule entitled "Applications" adopted. F. July 11, 2003; eff. July 31, 2003.



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Ga. Comp. R. & Regs. r. 360-4-.02 (2012)

360-4-.02 Licensure.

(1) Each applicant for licensure as a clinical perfusionist shall meet the requirements listed below:

(a) Must be at least 21 years of age;

(b) Submit a completed application required by the Board;

(c) Submit an application fee as published in the Board's fee schedule;

(d) Submit a fully completed certificate of education that is mailed directly from a perfusion education program, approved by the Board that has educational standards at least as stringent as those 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, which establishes that the applicant has successfully completed the perfusion education program;

(e) Evidence, in a form approved by the Board, of successful completion of the complete examination(s) given by the American Board of Cardiovascular Perfusion (ABCP) or its successor or a substantially equivalent examination approved by the Board.

(2) Notwithstanding the provisions of *Rule 360-4-.02(1),* those applicants who have applied for licensure pursuant to O.C.G.A. *§ 43-34-173(b)* shall be required to provide verification that the person was operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as the person's primary function for at least six of the eight years immediately preceding the date of application.

(a) Primary function of the applicant means that the applicant has completed a minimum of 240 cases in six of the eight years immediately preceding the date of application.

(b) Completion of said cases shall be documented by an affidavit(s) signed by either a cardiovascular surgeon(s) or a perfusionist(s) certified American Board of Cardiovascular Perfusion who acted in a supervisory capacity during said cases.

(3) The Board may waive the examination and educational requirements for any applicant who, at the time of application:

(a) Is appropriately licensed or certified in another state, territory or possession whose requirements for the license or certificate are substantially equal to the requirements for licensure in this State; or

(b) Holds a current certification as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion (ABCP) or its successor.

(c) In support of the applicant's petition, the Board must receive:

1. Directly from the appropriate authority of the state, territory or possession, verification by oath of certification, registration, licensure or other authority to engage in the practice of perfusion; or

2. Evidence in a form satisfactory to the Board of the applicant's current certification as a certified clinical perfusionist issued by the ABCP or its successor.

(4) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure.

O.C.G.A. *Secs. 43-34-172*, *43-34-173*, *43-34-176*, *43-34-179*.

HISTORY. Original Rule entitled "Foreign Graduates" adopted. F. and eff. June 30, 1965. REPEALED: F. Oct. 2, 1970; eff. Oct. 22, 1970. AMENDED: New Rule entitled "Licensure" adopted. F. July 11, 2003; eff. July 31, 2003.



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Ga. Comp. R. & Regs. r. 360-4-.03 (2012)

360-4-.03 Provisional Licenses.

(1) A provisional license may be issued to a person who:

(a) Submits a fully completed certificate of education that is mailed directly from a perfusion education program required for licensure under O.C.G.A. *§ 43-34-173* and *Rule 360-4-.02*.

(b) Files with the Board a fully completed application that is signed by any and all licensed clinical perfusionists who are to supervise the applicant upon the applicant's receipt of a provisional clinical perfusionist license;

(c) Submits payment of the application fee;

(2) 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 licensed clinical perfusionist responsible for providing such supervision and direction shall be responsible to providing a level of supervision and direction that will ensure that the holder of the provisional license performs or provides all such perfusion services in accordance with generally accepted standards of proper professional practice. Specifically the licensed clinical perfusionist providing supervision and direction for the holder of a provisional license:

(a) Shall be responsible for evaluating and documenting the professional competence, skill and experience of the holder of the provisional license;

(b) Shall be responsible for determining the nature and level of supervision required for the holder of the provisional licensee's level of competence, skill and experience;

(c) Shall not be required to provide direct, on-site supervision at all times, but shall be immediately and readily available for consultation and assistance whenever the provisional licensee is performing or providing perfusion services;

(d) Shall meet with the provisional licensee to whom he or she is providing supervision and direction at least weekly to review the provisional licensee's clinical and administrative practices. A written record of such supervision

meetings shall be kept by the supervising licensed clinical perfusionist, and shall be made available to any duly authorized representative of the Board upon request.

(3) Any change in supervision must be submitted to the Board in writing. The signature of the supervising licensed clinical perfusionist must be included in the written notice. In the event of termination of supervision, the supervising licensed perfusionist must submit written notification of termination of supervision to the Board within 14 days of when supervision has ceased. A provisional licensed clinical perfusionist shall not engage in the practice of perfusion without having a Board approved supervising licensed clinical perfusionist.

(4) A provisional license shall be valid for two years from the date it is issued and may not be renewed.

(5) If a provisional licensee fails to meet the requirements for licensure on or before the expiration date of his or her provisional license, the provisional license to practice perfusion shall be automatically revoked and surrendered to the Board. A person who holds an expired provisional license shall not engage in the practice of perfusion or represent himself or herself as a provisional licensed clinical perfusionist or licensed clinical perfusionist until such time as the Board has approved his or her application for licensure as a licensed clinical perfusionist.

Authority O.C.G.A. *Secs. 43-34-172*, *43-34-175*.

History. Original Rule entitled "Provisional Licenses" adopted. F. July 11, 2003; eff. July 31, 2003. Repealed: New Rule of same title adopted. F. Aug. 13, 2004; eff. Sept. 2, 2004.



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Ga. Comp. R. & Regs. r. 360-4-.04 (2012)

360-4-.04 Change of Name or Address.

(1) A licensee shall notify the Board in writing within 30 days after the licensee's name is legally changed. At the time of notification, the licensee shall submit a certified copy of the official document evidencing the name change. If the name change occurred during naturalization, the application must also include the naturalization number, the name and address of the court, the date of naturalization, and the name change. After receipt of the required notification and documentation, the Board will issue a duplicate license in the new name.

(2) A licensee shall notify the Board in writing within 30 days after a change in the licensee's address of record. Failure to so notify the Board of an address change is a violation of O.C.G.A. *§ 43-34-174* and grounds for disciplinary action.

(3) A licensee who utilizes a post office box as the address of record shall also provide a street address where the Board may contact the licensee.

O.C.G.A. *Secs. 43-34-172*, *43-34-174*, *43-34-179*.

HISTORY. Original Rule entitled "Change of Name or Address" adopted. F. July 11, 2003; eff. July 31, 2003.



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Ga. Comp. R. & Regs. r. 360-4-.05 (2012)

360-4-.05 Duplicate Licenses.

(1) Duplicate licenses may be issued upon approval by the Board if the original certificate is lost, stolen, or destroyed, or if the certificate holder has had a legal change of name.

(2) To request a duplicate certificate, the certificate holder must submit a notarized application stating the reason the duplicate certificate is requested. If the application is based on a name change, the certificate holder must provide the documentation required by *Rule 360-4-.04*.

(3) All applications must include the duplicate license fee. The duplicate license fee shall be designated in the fee schedule.

O.C.G.A. *Sec. 43-34-172*.

HISTORY. Original Rule entitled "Duplicate Licenses" adopted. F. July 11, 2003; eff. July 31, 2003.



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Ga. Comp. R. & Regs. r. 360-4-.06 (2012)

360-4-.06 Renewal.

(1) All active licenses must be renewed on a biennial basis. Clinical Perfusionist licenses will expire on the last day of the month in which the licensee's birthday renewal falls. In order to renew the license, the licensee must have completed the Board-approved continuing education requirements provided in *Rule 360-4-.07*.

(2) Approximately 60 days prior to the expiration date, the Board may as a courtesy, mail a notice for license renewal to the last address on file in the Board's records to every person holding a current license. Failure to receive such notification shall not relieve the licensee of the obligation to renew and pay the required fee prior to the expiration date of the license. Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any renewal requirements have been fulfilled.

(3) Failure to meet the requirements for renewal is a basis for nonrenewal.

(4) A license that is not renewed by the expiration date may be late renewed for a period of three (3) months following the expiration date. In order to late renew, the licensee must submit an application, pay the late renewal fee established by the Board and show completion of the required continuing professional education.

(5) Licenses that are not renewed within three (3) months of expiration shall be revoked for failure to renew. In order to obtain a license after revocation for failure to renew, an applicant must reapply for licensure in accordance with *rule 360-4-.02*.

(6) A person who holds an expired license shall not engage in the practice of perfusion or represent himself or herself as a licensed clinical perfusionist until such time as the Board has renewed, reinstated or relicensed such person.

Authority *O.C.G.A. Secs. 43-1-4*, *43-1-19*, *43-1-25*, *43-34-5*, *43-34-11*, *43-34-24*, *43-34-172*, *43-34-174*, *43-34-177*.

History . Original Rule entitled "Renewal" adopted. F. July 11, 2003; eff. July 31, 2003. **Amended:** F. Mar. 9, 2005; eff. Mar. 29, 2005. **Amended:** F. Feb. 21, 2006; eff. Mar. 13, 2006. **Amended:** F. Nov. 10, 2008; eff. Nov. 30, 2008. **Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-4 CLINICAL PERFUSIONIST LICENSURE

Ga. Comp. R. & Regs. r. 360-4-.07 (2012)

360-4-.07 Continuing Education Requirements.

(1) Each license must be renewed biennially by the last day of the month in which the license's birthday falls and the licensee must complete at least thirty (30) hours per biennium of continuing education in courses, programs or activities approved for continuing education credit by the American Board of Cardiovascular Perfusion.

(a) The Board accepts the following as meeting its requirement for Board approval:**A minimum of ten (10) CEUs must be earned in Category I. The remaining CEUs can be earned in Category II or Category IIICategory I -- Accredited Perfusion Meetings and Other Perfusion Related Activity.**

Perfusion meetings are those programs and seminars in which a minimum of 75% of the contact hours consists of perfusion related material. Only those meetings approved by the ABCP will qualify for Category I CEUs. Examples include:

International, national, regional, and state perfusion meetings may be used to satisfy the requirement.

Publication of perfusion related book chapter or paper in a professional journal, maximum of 5 CEU hours per item, maximum of 7 hours in a two year period.

Presentation at an international, national, regional or state perfusion meeting maximum of 5 CEU hours per item, maximum of 7 hours in a two year period.

Participation in the *ABCP Knowledge Base Survey* one CEU in a two year period.

Completion of ABCP approved Self Directed Continuing Education (SDCE) material. Self-Directed Continuing Education (SDCE) is education provided to individuals who are not physically onsite.' Rather than attending meetings or courses in person, participants may communicate at times of their own choosing by exchanging printed 17 or electronic media, or through technology that allows them to communicate in real time. This activity may be either online or in written format. Participant must take the required post-test and achieve a minimum score of 80% to receive credit.**Category II ' Non-Accredited Perfusion Meetings and Other Medical Meetings**.

Category II includes international, national, regional, state and local meetings that have not been approved for CEU

credit by the ABCP. Examples include:

International, national, regional, and state, perfusion meetings that have not been accredited by the ABCP.

Local perfusion meetings (do not require ABCP accreditation).

Any perfusion meeting NOT EQUALLY ACCESSIBLE to the general CCP community, including manufacturer-specific and company-sponsored educational activities.

International, national, regional, or local medically-related meetings.

Advanced Cardiac Life Support (ACLS).

Hospital Inservices**Category III ' Individual Education and Other Self-Study Activities Not Approved for Category I Credit.**

Credit in Category III is acquired on an hour for hour basis of the time spent in these non- accredited or non-supervised activities. Examples include:

Readingor viewing medical journals, audiovisual, or other educational material.

Participation in electronic forums.

Participation in a journal club.

Participation in degree-oriented, professionally related course work.

Presentation of perfusion topic at a nonperfusion meeting.

Clinical or didactic instructor in an accredited school of perfusion.

Participation in an ABCP survey or examination development meeting.

Participation in a site visitor's workshop or as a site visitor for perfusion program accreditation.

Membership in a professional perfusion organization at the international, national, or state level.

(2) Each licensee will be required to answer questions on the renewal form that establish compliance with the continuing education requirement. Licensees will not be required to send documentation of compliance with continuing education requirements for renewal, unless requested by the Board pursuant to *Rule 360-4-.07(4)*. False statements regarding satisfaction of continuing education on the renewal form or any other document connected with the practice of perfusion may subject the licensee to disciplinary action by the Board.

(3) Each licensee who must meet the requirements of this chapter must maintain a record of attendance and supporting documents for Board approved continuing education for a period of 5 years from the date of attendance. At a minimum, the following information must be kept:

(a) name of provider;

(b) name of program;

(c) hours of continuing education units completed; and

(d) date of completion; or

(e) approval from American Board of Cardiovascular Perfusion (ABCP) or its successor.

(4) The Board will audit a fixed percentage of randomly selected renewal applications to monitor compliance with the continuing education requirements. Any licensee so audited shall be required to furnish documentation of compliance including name of provider, name of program, continuing education hours completed and date of completion. Any licensee so audited that has been found to be out of compliance with the Board's continuing education requirements may be subject to disciplinary action.

(5) If the licensee has not complied with the continuing education requirement by the expiration of the license, his or her license shall not be renewed and the licensee shall not engage in the practice of perfusion. A licensee may late renew as provided in *Rule 360-4-.06* by presenting satisfactory evidence to the Board of completion of the continuing education requirements and the late renewal fee. Licenses that are not renewed within three months of the expiration date shall be revoked for failure to renew. Unless the provisions of *Rule 360-4-.06(6)* are applicable, an applicant must reapply for licensure in accordance with *Rule 360-4-.02* in order to obtain a license after revocation for failure to renew.

(6) Continuing education hours that are used to satisfy a deficiency may not be used for purposes of renewal of the licensed clinical perfusionist's license for the next biennium.

(7) Any licensed clinical perfusionist seeking renewal of his or her license who has not fully complied with the Board's continuing education requirements and who wishes for the Board to waive this requirement shall:

(a) Submit a written request and documentation to the Board to demonstrate that a waiver should be granted due to hardship, disability or illness; and

(b) Submit such written request to the Board prior to the expiration of the license and in a sufficient time period to receive a determination from the Board as to whether a waiver will be granted.

Authority *O.C.G.A. Secs. 43-1-25*, *43-34-5*, *43-34-11*, *43-34-24*, *43-34-172*, *43-34-174*, *50-13-9.1*.

History .Original Rule entitled "Continuing Education Requirements" adopted. F. July 11, 2003; eff. July 31, 2003. **Amended:** F. Mar. 9, 2005; eff. Mar. 29, 2005. **Amended:** F. Feb. 21, 2006; eff. Mar. 13, 2006. **Amended:** F. Nov. 10, 2008; eff. Nov. 30, 2008. **Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-4-.08 (2012)

360-4-.08 Unlicensed Practice.

(1) No person shall 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/or any facsimile of such titles in any manner to indicate or imply that the persons is a licensed clinical perfusionist, unless the person holds such an active license or is exempted under the provisions of O.C.G.A. *§ 43-34-178*.

(2) The Board may refuse the license of any applicant who has engaged in the unlicensed practice of perfusion or administer other discipline pursuant to O.C.G.A. *§ 43-34-179* upon the issuance of a license to an applicant who has engaged in the unlicensed practice of perfusion.

O.C.G.A. *Secs. 43-34-172*, *43-34-177*, *43-34-178*, *43-34-179*.

HISTORY. Original Rule entitled "Unlicensed Practice" adopted. F. July 11, 2003; eff. July 31, 2003.



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Ga. Comp. R. & Regs. r. 360-4-.09 (2012)

360-4-.09 Composition and Responsibilities of the Clinical Perfusionist Advisory Committee.

(1) The composition of the Clinical Perfusionist Advisory Committee ("Advisory Committee") shall be comprised as follows:

(a) Board members of the Composite Medical Board.

(b) At least four (4) appointees, who are licensed clinical perfusionists and representative of the clinical Perfusionist profession, and such other individuals as the Board, in its discretion, may determine.

(2) Shall serve a two year term and may be reappointed for an additional two year term by a majority vote of the Board, but may not serve more than two consecutive terms.

(3) Requirements for Perfusion Advisory Members:

(a) All appointees to the Advisory Committee with the exception of medical board members shall have on file with the Executive Director of the Board, or his/her designee, a resume and three (3) letters of recommendation, (one of which may be from a physician familiar with the appointee's practice of clinical perfusion).

(b) In order to preserve continuity on the Advisory Committee, two appointees shall serve a two-year term and two appointees shall serve a one-year term which will be considered a partial term. At the time of the appointment, each appointee will be notified in writing by the Executive Director of the Board as to the beginning and ending dates of their respective appointment terms. Each may reapply to the full Board to serve an additional term, but may not serve more than two consecutive two-year terms.

(c) In the event an Advisory Committee member is replaced during a term, the replacement member will serve the remaining time of that term as a partial term. An Advisory Committee member who serves a partial term will, after the completion of the partial term, be eligible to serve two consecutive two-year terms.

(d) Appointees shall serve without compensation from the State of Georgia for their time and expenses.

(4) The Advisory Committee shall advise the Board on matters pertaining to the appointment of the Advisory Committee members and on all matters within the purview of the Clinical Perfusionist Licensure Act. The Board, in consultation with the Advisory Committee, shall:

(a) Determine the qualifications and fitness of applicants for licensure and renewal of licensure;

(b) Adopt and revise rules consistent with the laws of the State of Georgiathat are necessary to conduct its duties and administer the Act; and

(c) Examine for, approve, issue, deny revoke, suspend and renew the license of applicants and certificate holders and conduct hearings in connection with all duties to be performed pursuant to the Act;

(5) Advisory Committee members, who are not members of the Board, must be available to meet on as an needed basis and may not miss more than three (3) consecutive meetings of the Advisory Committee, or four (4) meetings in a calendar year, without an excused absence from either the Executive Director of the Board or the Board Chairperson.

(a) The Advisory committee may recommend to the Board the removal of a member for violation of the attendance rule. Such a recommendation shall be by majority vote of the Advisory Committee.

(b) Upon receipt of a recommendation for removal, the Board may remove a member of the Advisory Committee by a majority vote.

(6) Advisory Committee vacancies may be filled by the Board. The Advisory Committee may make a recommendation on who shall be appointed to the Advisory Committee. All applicants must meet any deadline set by the Board and shall have on file with the Executive Director of the Board, or with his/her designee, a resume and three (3) letters of recommendation, (one of which may be from a physician familiar with the applicant's practice of clinical perfusion).

Authority *O.C.G.A. Secs. 43-34-5, 43-34-170, 43-34-172, 43-34-180.*

History. Original Rule entitled "Composition and Responsibilities of the Clinical Perfusionist Advisory Committee" adopted. F. July 11, 2003; eff. July 31, 2003. **Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-4-.10 (2012)

360-4-.10 Notice of Inability to Practice with Reasonable Skill and Safety.

Any person licensed to practice as a licensed clinical perfusionist or a provisional licensed clinical perfusionist shall notify the Board within 30 days of becoming unable to practice perfusion with reasonable skill and safety by reason of illness or the use of alcohol, drugs, narcotics, chemicals or any other type of material.

Authority O.C.G.A. *Secs. 43-1-19, 43-1-25, 43-34-172, 43-34-179.*

History. Original Rule entitled "Notice of Inability to Practice with Reasonable Skill and Safety" adopted. F. Oct. 16, 2006; eff. Nov. 5, 2006.



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Ga. Comp. R. & Regs. r. 360-4-.11 (2012)

360-4-.11 Temporary Licenses.

Temporary licenses may be issued to an applicant at the discretion of the Executive Director, with the approval of the Chairman of the Board. Such licenses shall have the effect of a permanent license until the next regular Board meeting, when the temporary license shall become void. The temporary license fee shall be designated in the fee schedule. The temporary license does not apply for applicants for provisional license.

Authority*O.C.G.A. Sec. 43-34-173*.

History. Original Rule entitled "Temporary Licenses" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-5-.01 (2012)

360-5-.01 Purpose.

The purpose of this Chapter is to implement the "Physician Assistant Act" of 2009, authorizing the Board to adopt rules and perform all acts necessary, proper or incidental to the efficient development of the category of health care as established therein.

Authority Ga. L. 1972, pp. 676, 680.

History. Original Rule entitled "Purpose" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Repealed:** New Rule of same title adopted. F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Repealed:** New Rule of same title adopted. F. Jan. 18, 2011; eff. Feb. 17, 2011.



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Ga. Comp. R. & Regs. r. 360-5-.02 (2012)

360-5-.02 Qualifications for Physician Assistant Licensure.

(1) An applicant for licensure as a physician assistant must show to the satisfaction of the Board the following:

(a) Good moral character as demonstrated by two (2) acceptable references from licensed physicians, who are personally acquainted with the applicant. These may not be completed by the physician(s) applying for utilization of the physician assistant.

(b) Evidence of satisfactory completion of a training program approved by the Board.

The Board has approved or will approve those physician assistant programs of training offered by accredited colleges or universities, whose graduates are eligible for the examination administered by either the NCCPA or NCCAA or their successors, and whose curriculum consists of two or more academic years, including clinical experience in health care appropriate to the task of a physician assistant.

(c) Evidence that the applicant has achieved a passing score on either:

1. The certification examination administered by the National Commission for Certification of Anesthesiologist Assistants (NCCAA) or its successor, or

2. The certification examination administered by the National Commission on Certification of Physician Assistants (NCCPA) or its successor.

(2) Applications for initial licensure or licensure thereafter as a physician assistant shall be made upon forms supplied by the Board.

(3) The forms must be completed and submitted by the physician assistant along with a recent notarized photograph of the applicant and an application fee. No fee is required if the applicant is an employee of the state or county government.

(4) Applications submitted to the Board must be completed in every detail, unless the response called for is not applicable to the applicant, and, if so, the response shall be made in that manner with accompanying explanation.

(5) All applications for licensure as a physician assistant must be completed and on file with the Board at least (5) days prior to its meeting, in order to be considered by the Physician Assistant Advisory Committee and the Board at the next meeting

(6) A completed application for licensure may be denied for any of the reasons set forth in O.C.G.A. *Section 43-34-8*.

(7) The physician assistant must certify that he or she has received, read, and is familiar with the Medical Practice Act, Physician Assistant Act and Board rules and regulations by signing the statement on the application.

(8) Upon receipt of all required documents, the board shall provide notification of approval or disapproval of the physician assistant application for licensure.

(9) An applicant must complete all requirements for licensure within one year from the date the Board receives the application. Otherwise, the applicant must submit a new application with the required fee. This one year requirement does not include references, which are valid for only six months.

(10) Temporary Practice Permits. The Board may issue a temporary permit to any applicant who has otherwise met the requirements for Board licensure and who has either applied to take the next available examination or has already taken the examination and is awaiting the results thereof, with the following conditions:

a. The applicant must request this permit in writing.

b. Unless otherwise approved by the Board for extenuating circumstances, the permit shall be valid for a maximum period of ninety (90) days, but shall expire immediately upon notification of the applicant's failure to achieve a satisfactory score on the approved certification examination required in 360-5-.02(1)(c).

Authority O.C.G.A. *Secs. 43-1-25*, *43-34-5*, *43-34-8*, *43-34-102*, *43-34-103*, *43-34-104*, *43-34-108*.

History. Original Rule entitled "Applications for Board Approval" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Repealed:** New Rule of same title adopted. F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Amended:** F. July 15, 1988; eff. Aug. 4, 1988. **Amended:** F. Mar. 18, 1998; eff. Apr. 9, 1998. **Repealed:** New Rule entitled "Qualifications for Physician Assistant Licensure" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011.



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Ga. Comp. R. & Regs. r. 360-5-.03 (2012)

360-5-.03 Application for Physician Utilization of a Physician Assistant.

(1) In order to obtain approval to supervise a physician assistant, the physician who will be responsible for the performance of the Physician Assistant shall submit an application to the Board. The application shall be made upon forms supplied by the Board and must be approved by the Board before the supervising physician(s) may delegate health care tasks to the physician assistant.

(a) The board shall have the authority to approve or deny any primary or alternate supervising physicians.

(2) The supervising physician(s) must certify that he/she has received, read, and is familiar with the Medical Practice Act, Physician Assistant Act and Board rules and regulations by signing the statement on the application.

(3) The application must include:

(a) The name of the primary supervising physician.

(b) Alternate supervising physicians, as designated by the primary supervising physician, if applicable.

1. Unlimited alternate supervising physicians may be added to the approved list by submission of the appropriate form signed by the primary supervising physician, and each alternate to the Board.

(2) An alternate supervising physician must have the following relationships with the primary supervising physician:

(i) a similar scope of practice and:

(ii) an affiliation with the primary supervisory physician's medical practice; or

(iii) An established formal call agreement.

(c) The name and location of the medical school from which the primary supervising physician was graduated and the date the degree was received.

(d) The type of practice in which the physician assistant is to provide services;

(e) A Georgiabusiness address for the practice;

(f) A current Georgiamedical license number.

(g) Evidence that the physician assistant is licensed in Georgia;

(h) A fee as required by the Board. No fee will be required if the physician assistant will be providing medical services as an employee of the state or of a county government; and

(i) A job description meeting the requirements of law and rules.

(4) Applications submitted to the Board must be completed in every detail. In order for the Board to complete disposition of the application, the Board, at its discretion, may request additional information which shall be submitted in writing by the applicant.

(5) At the option of the Board, the physician assistant and the applying supervising physician(s) may be required to appear before the Board for a personal interview. If the physician assistant has been out of practice for more than two years, the Board, at its discretion, may require refresher training, continuing education, periodic reports from primary supervising physicians, demonstration of more intense physician supervision, or any other means deemed necessary by the Board to protect the health and safety of the citizens of Georgia.

(6) The primary supervising physician shall at all times maintain on file, readily available for inspection, documentation from the Board evidencing current approval for supervision of the physician assistant, current license status of both parties, and a copy of the applicable approved job description.

(7) After receipt of required documents, the board shall provide notification of approval or disapproval of the physician's application for utilization of a Physician Assistant. (8) All applications for Board approval should be completed and on file with the Board at least fifteen (15) days prior to the meeting, in order to be considered by the Physician Assistant Advisory Committee and the Board at the next meeting.

(9) Upon termination of a physician/physician assistant relationship, the physician assistant and supervising physician are required to give notice and date of termination to the board by certified mail or appropriate verifiable method, and in order to continue practicing, the physician assistant must submit an application to the Board for a new supervisingphysician. a. An alternate supervising physician may not assume the primary supervising physician's role but must submit the appropriate form to the Board and receive its approval before delegating medical tasks to the physician assistant. Failure to notify the Board immediately may result in disciplinary action against the physician assistant and/or thephysician(s). Failure to renew the license because of expiration will not be considered anexception to the requirements of this paragraph.

Authority *O.C.G.A. Secs. 43-1-25*, *43-34-5*, *43-34-8*, *43-34-24*, *43-34-102*, *43-34-103*, *43-34-104*, *43-34-108*.

History. Original Rule entitled "Requirements for Board Approval of Physician's Assistant" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Amended:** F. Feb. 20, 1973; eff. Mar. 12, 1973. **Amended:** F. July 17, 1974; eff. Aug. 6, 1974. **Amended:** F. Apr. 7, 1975; eff. Apr. 27, 1975. **Amended:** F. Oct. 3, 1975; eff. Oct. 23, 1975. **Amended:** F. Jan. 26, 1976; eff. Feb. 15, 1976. **Repealed:** New Rule of same title adopted. F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Amended:** F. Sept. 6, 1985; eff. Sept. 26, 1985. **Amended:** F. July 15, 1988; eff. Aug. 4, 1988. **Amended:** F. Aug. 9, 1993; eff. Aug. 29, 1993. **Amended:** F. Mar. 18, 1998; Apr. 7, 1998. **Amended: F. June 23, 2008; eff. July 13, 2008.Repealed:** New Rule entitled "Application for Physician Utilization of a Physician Assistant" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011. **Amended.** F. Jan. 13, 2012; eff. Feb. 2, 2012.



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Ga. Comp. R. & Regs. r. 360-5-.04 (2012)

360-5-.04 General Job Description.

(1) The job description is a document signed and dated by both the primary supervising physician and the physician assistant whom the physician is seeking to utilize or already has approval to utilize.

(a) The job description shall include a description of the medical acts to be performed by the physician assistant. For physician assistants who do not practice as an anesthesiology assistant, attachment of the Job Description provided by the Board shall be deemed adequate compliance with this requirement. However, if the physician assistant is performing an act not covered in the Job Description, then a submission of these additional acts is necessary and express approval by the Board is required. The Job Description does not include the delivery of general, spinal or epidural anesthesia and a physician assistant performing these acts would require additional training and express Board approval.

(b) 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.

(2) Physician assistants who have completed a board approved Anesthesiologist Assistant program and will be practicing under the supervision of an anesthesiologist shall complete the job description for the Physician Anesthesiologist Assistant. All other physician assistants shall complete the General Job Description.

(3) The job description shall contain a provision for immediate consultation between the physician assistant and primary or alternate supervising physician. "Immediate consultation" means that the supervising physician shall be available for direct communication or by telephone or other means of telecommunication.

(4) In the case of an anesthesiologist assistant delivering general and/or regional anesthesia, the primary or alternate supervising physician must be immediately available in person.

(5) A physician assistant may only perform those tasks which are included in his/her job description currently on file with and approved by the Board; provided, however, that tasks outside the job description may be performed by the physician assistant under the direct supervision and in the presence of the physician(s) utilizing him.

(6) A primary supervising physician may at any time submit a new or amended physician assistant job description

to the Board.

Authority O.C.G.A. *Secs. 43-1-25*, *43-34-5*, *43-34-8*, *43-34-102*, *43-34-103*, *43-34-104*, *43-34-105*, *43-34-108*.

History. Original Rule entitled "Changes in Job Descriptions or Applying Physicians" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Amended:** F. Sept. 16, 1974; eff. Oct. 6, 1974. **Repealed:** New Rule of same title adopted. F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Amended:** F. Apr. 8, 1985; eff. Apr. 28, 1985. **Amended:** F. Sept. 6, 1985; eff. Sept. 26, 1985. **Amended:** F. July 15, 1988; eff. Aug. 4, 1988. **Amended:** F. Mar. 18, 1998; eff. Apr. 7, 1998.**Repealed:** New Rule entitled "General Job Description" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011.



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Ga. Comp. R. & Regs. r. 360-5-.05 (2012)

360-5-.05 Limitations on Physician Assistant Practice.

(1) No person shall practice as a physician assistant without a license or temporary permit from the Board, Board approval of a supervising physician, and Board approval of his/her job description.

(2) A physician employed by the Department of Community Health, an institution thereof

or by a local health department, whose duties are administrative and do not normally include providing health care to patients,shall not be authorized to supervise a physician assistant who is employed by these entities.

(3) A physician may not be an employee of the physician assistant who he/she is required to supervise unless the arrangement was approved by the Board prior to July 1, 2009.

(4) A physician may serve as primary supervising physician to only four physician assistants. A physician may be an alternate supervising physician for any number of physician assistants.

(5) A physician may not supervise more than two physician assistants at any one time except:

(a) When practicing as a member of a group practice in which other physicians of such group are primary supervising physicians. In these circumstances, a physician may supervise up to four physician assistants at any one time, or

(b) When acting as an alternate supervising physician, a physician may supervise as many as four physician assistants, who are working within the scope of practice of the alternate supervisor.

1. In an institutional setting, such as a hospital or clinic.

2. While on call for a primary supervising physician or a group practice

3. When otherwise approved by the board to act as an alternate supervising physician.

(6) A physician assistant may not perform an abortion or administer, prescribe or issue a drug order that is intended

to cause an abortion to occur pharmacologically.

(7) A physician assistant may not be utilized to perform the duties of a pharmacist licensed under Title 26, Chapter 4 of the Official Code of Georgia Annotated, relating to pharmacists, as now or hereafter amended.

(8) A physician assistant may not issue a written prescription for a Schedule II controlled substance. Provided, however, this does not preclude:

(a) a physician assistant from preparing such a prescription for administration of a Schedule II controlled substance for signature by the primary or alternate supervising physician on the date that the prescription is issued to the patient. Such prescriptions may not be pre-signed.

(b) A physician assistant from issuing a written or verbal order for a Schedule II controlled substance within a health care setting. The supervising or an alternate supervising physician must co-sign such orders in compliance with any provisions required by the location where the physician assistant is practicing.

(9) A physician assistant does not have the authority to sign death certificates or assign a percentage of a disability rating.

Authority *O.C.G.A. Secs. 43-1-19*, *43-1-25*, *43-34-5*, *43-34-8*, *43-34-23*, *43-34-102*, *43-34-103*, *43-34-104*, *43-34-108*, *43-34-109*, *43-34-110*, *43-39-5*.

History. Original Rule entitled "Time Limits for Applications" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Repealed:** New Rule of same title adopted. F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Amended:** F. Sept. 19, 2007; eff. Oct. 9, 2007.**Repealed:** New Rule entitled "Limitations on Physician Assistant Practice" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011. **Amended: F. Jan. 13, 2012; eff. Feb. 2, 2012.**



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-5 PHYSICIAN'S ASSISTANTS

Ga. Comp. R. & Regs. r. 360-5-.06 (2012)

360-5-.06 Renewal of Physician Assistant License.

(1) All physician assistant licenses must be renewed biennially on the last day of the month in which the licensee's birthday falls. In order to renew, the licensee must:

(a) Complete the renewal application;

(b) Complete the Board approved continuing education requirements;

(c) If intending to continue active practice have a Board approved primary supervising physician and approved job description, or if seeking an inactive license, meet the applicable requirements of 360-5-.08 ; and

(d) Pay a renewal fee.

(2) Approximately 60 days prior to the expiration date, the Board may as a courtesy, mail a notice for license renewal to the last address on file in the Board's records to every person holding a current license. Failure to receive such notification shall not relieve the licensee of the obligation to renew and pay the required fee prior to the expiration date of the license. Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled.

(3) Failure to renew a license by the designated expiration date shall result in a penalty fee for late renewal as determined by the Board.

(4) Failure to obtain the continuing education required for renewal may result in the denial of the application for renewal, or renewal of the license under a consent order with a fine, public or private reprimand and the requirement of additional continuing education.

(5) Licenses expired for three months or less may be late renewed by meeting all the requirements for renewal and paying a late renewal fee.

(6) Licenses that have been expired for longer than 3 months shall be deemed administratively revoked for failure to renew. Such licensees must apply for reinstatement of the license.

(7) Reinstatement of License

(a) In order to reinstate a license to practice as a physician assistant, the Board must receive:

1. A completed application;

2. A reinstatement fee as required by the Board.

(b) Reinstatement of a license to practice as a physician assistant is within the discretion of the Board. The physician assistant must be able to demonstrate to the Board's satisfaction that:

1. He or she has maintained current knowledge, skill and proficiency in the health care area related to the job description as required by O.C.G.A. *§ 43-34-103*; and

2. He or she is mentally and physically able to practice with reasonable skill and safety.

(8) A physician assistant whose license has expired may neither practice nor represent himself as a physician assistant until such time that the Board has approved his application for renewal or reinstatement.

Authority O.C.G.A. *Secs.43-1-4*, *43-1-7*, *43-1-19*, *43-1-25*, *43-34-3*, *43-34-5*, *43-34-8*, *43-34-11*, *43-34-24*, *43-34-24.1*, *43-34-102*, *43-34-103*, *43-34-107*, *43-34-108*.

History. Original Rule entitled "Renewal of Physician's Assistant Certificate" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Amended:** F. Jan. 26, 1976; eff. Feb. 15, 1976. **Repealed:** New Rule of same title adopted. F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Amended:** F. Sept. 6, 1985; eff. Sept. 26, 1985. **Amended:** F. July 15, 1988; eff. Aug. 4, 1988. **Amended:** Rule retitled "Renewal of Physician's Assistant License." F. Mar. 18, 1998; eff. Apr. 7, 1998. **Repealed:** New Rule of same title adopted. F. May 12, 2006; eff. June 1, 2006. **Amended: F. June 23, 2008; eff. July 13, 2008.Repealed:** New Rule entitled "Renewal of Physician Assistant License" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-5 PHYSICIAN'S ASSISTANTS

Ga. Comp. R. & Regs. r. 360-5-.07 (2012)

360-5-.07 Continuing Education Requirements.

(1) Physician assistants licensed to practice pursuant to *O.C.G.A. 43-34-103* shall complete Board approved continuing medical education of not less than forty (40) hours biennially. Effective with the 2009-2010 biennium, at least ten (10) hours shall be directly related to the specialty of the Board approved primary supervising physician. Physician assistants who are authorized to issue prescription drug orders shall be required as a part of the number of hours of continuing education required herein, to complete a minimum of three (3) hours in practice specific pharmaceuticals in which the physician assistant has prescription order privileges.

(a) Physician assistants who are initially licensed by the Board and who have not renewed their license for the first time shall not be required to complete the 40 hours of continuing education during their first renewal, but physician assistants who have authority to issue prescriptive drug orders shall be required to complete the 3 hours of continuing education in practice specific pharmaceuticals in which the physician assistant has prescription order privileges.

(b) Physician assistants whose licenses are not active, such as those who are inactive or revoked are not required to complete the continuing education until such time as they are seeking reactivation or reinstatement.

(c) Except for the three hours of continuing education relating to pharmaceuticals, the Board is authorized to waive the continuing education required for renewal in cases of hardship, disability, illness, service in the United States Congress or Georgia General Assembly, military service or other circumstances as the Board deems appropriate if supported by adequate documentation acceptable to the Board.

1. Physician assistants seeking such an exemption must submit a written request and documentation to support their eligibility for such an exemption.

2. Said request for an exemption shall be submitted to the Board not less than 60 days prior to the expiration of the license to receive a determination from the Board as to whether an exemption would be granted.

(2) The Board accepts the A.M.A. (American Medical Association) Category 1, the A.O.A. (American Osteopathic Association) Category 1, A.A.A.A. (American Academy of Anesthesiologist's Assistants) Category 1, AAFP (American Academyof Family Physicians) Category I, and the A.A.P.A. (American Academyof Physician Assistants) Category 1

credit as meeting its requirement for Board approval. It is the responsibility of the physician assistant to verify approval with the source of the program, not with the Board,and the physician assistant shall verify approval before taking the course.

(3) Each licensed physician assistant must maintain records of attendance and supporting documents for continuing education for a period of 5 years from the date of attendance. At a minimum, the following must be kept:

(a) Name of Provider;

(b) Date of completion;

(c) Evidence of A.M.A. Category 1 credit; A.O.A. Category 1 credit; A.A.P.A, AAFP,

Category 1 credit; or A.A.A.A. Category 1 credit.

(4) The Board will audit a fixed percentage of randomly selected renewal applications to monitor compliance with the continuing education requirements. Any licensee so audited shall be required to furnish documentation of compliance as provided in paragraph (4) of this rule. Any licensee so audited who has been found to be out of compliance with the Board's continuing requirements may be subject to disciplinary action.

(5) If the licensee has not complied with the continuing education requirement by the expiration of the license, his/her license shall not be renewed and the licensee shall not practice as a physician assistant. A licensee may late renew during the three (3) months following the expiration date of his or her license by presenting satisfactory evidence to the Board of completion of the requisite number of hours of Board approved continuing education and the late renewal fee. Licenses that are not renewed within three (3) months following the expiration date of the license shall be revoked for failure to renew. In order to obtain a valid license after revocation for failure to renew, an applicant must apply for reinstatement.

(6) Continuing education hours that are used to satisfy a deficiency for the previous biennial renewal may not be used for purposes of renewal for the next biennium.

Authority O.C.G.A. *Secs.43-34-5*, *43-34-8*, *43-34-11*, *43-34-26.1*, *43-34-102*, *43-34-103*, *43-34-107*, *43-34-108*.

History. Original Rule entitled "Limitations Upon Use of Physician's Assistant" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Amended:** F. Dec. 5, 1974; eff. Dec. 25, 1974. **Amended:** F. Feb. 14, 1977; eff. Mar. 6, 1977. **Repealed:** New Rule of same title adopted. F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Amended:** F. Sept. 6, 1985; eff. Sept. 26, 1985. **Amended:** F. Aug. 11, 1986; eff. Aug. 31, 1986. **Amended:** Rule retitled "Limitations Upon Use of Physician's Assistants; Ordering of Dangerous Drugs, Controlled Substances, Medical Treatments and Diagnostic Studies by Physician's Assistant, Dispensing of Dangerous Drugs by Physician's Assistant in Public Health Settings" adopted. F. Feb. 11, 1991; eff. Mar. 3, 1991. **Amended:** F. Dec. 17, 2001; eff. Jan. 6, 2002. **Repealed:** New Rule entitled "Continuing Education Requirements" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-5 PHYSICIAN'S ASSISTANTS

Ga. Comp. R. & Regs. r. 360-5-.08 (2012)

360-5-.08 Inactive Status.

(1) A person who wishes to maintain his or her physician assistant license, but who does not intend to practice as a physician assistant may apply to the Board for inactive status by submitting an application and the fee as determined by the Board. An individual with an inactive license may not practice as a physician assistant in this State.

(2) In order to reactivate a license to practice as a physician assistant, the Board must receive a completed application from the licensee with evidence of 40 hours of continuing education obtained within the previous two years, and a reactivation fee. The physician assistant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in the medical arts as required by O.C.G.A. *§ 43-34-103* and that he or she is mentally and physically able to practice with reasonable skill and safety.

(a) Provided however prior to performing medical tasks, the licensee must demonstrate to the satisfaction of the Board that the completed continuing education required in the above paragraph is pertinent to the job description under which he/she will practice, as required in Continuing Education Requirements 360-05-.07.

(3) Once the license has been reactivated, the physician assistant may not practice until he/she has on file a completed job description with a primary supervising physician as provided in *Rules 360-5-.03* and *360-5-.04*. In addition, the physician assistant must demonstrate to the satisfaction of the Board that he/she has sufficient recent continuing education or training pertinent to the job description under which he/she will practice.

Authority O.C.G.A. *Secs.43-1-25, 43-34-5, 43-34-8, 43-34-11, 43-34-102, 43-34-103, 43-34-107, 43-34-108.*

History. Original Rule entitled "Grounds for Revocation or Termination of a Physician's Assistant Certificate" adopted. F. Sept. 11, 1972; eff. Oct. 1, 1972. **Repealed:** F. Dec. 4, 1981; eff. Jan. 1, 1982, as specified by the Agency. **Amended:** New Rule entitled "Remote Practice Sites" adopted. F. July 15, 1988; eff. Aug. 4, 1988. **Amended:** F. Mar. 18, 1998; eff. Apr. 7, 1998.**Repealed:** New Rule entitled "Inactive Status" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-5 PHYSICIAN'S ASSISTANTS

Ga. Comp. R. & Regs. r. 360-5-.09 (2012)

360-5-.09 Temporary Practice Agreements.

(1) Definitions

(a) "Good standing" shall mean that the person has no disciplinary action taken against him or her by any state within the previous seven (7) years and has not let his/her license in any state expire or become inactive during an investigation by a state medical board into allegations relating to his/her practice as a physician assistant or during a pending disciplinary action.

(b) "Georgia Board ' Approved Supervisory Arrangement" means when a supervising physician and a physician assistant are working under a basic job description previously submitted to and approved by the Board.

(2) Temporary Practice Agreement. A physician and a physician's assistant may enter into a temporary practice agreement where the physician supervises the services provided by the physician assistant to patients at a specific facility or program operated by an organization exempt from federal taxes pursuant to *Section 501(c)(3) of the Federal Internal Revenue Code*, provided that:

(a) Such services are provided in the State of Georgia;

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

(c) 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; and

(d) Both supervising physician and the physician assistant voluntarily and gratuitously donate their services;

(3) Requirements for the Temporary Practice Agreement.

(a) The temporary practice agreement must be for a specified period of time;

(b) The physician assistant services must be within the usual scope of practice of the supervising physician;

(c) The physician assistant and the supervising physician must be in good standing with the Board;

(d) The temporary practice agreement must be signed by both the supervising physician and the physician assistant;

(e) Prior to providing any patient services a copy of the signed temporary practice agreement must be on file at the facility or program and a copy of the agreement must have been sent to the Board; and

(f) The facility or program must notify the Board of its intent to provide patient services and utilize licensed physicians and physician assistants under the conditions set out in this subsection.

(4) Limitations. This rule does not apply to physicians and physician assistants who are in a Georgia board-approved supervisory arrangement nor preclude physician assistants from practicing under the Georgia Volunteers in Health Care Specialties Act as delineated in OCGA *Section 43-1-28*.

Authority O.C.G.A. *Secs.43-1-19*, *43-1-25*, *43-34-5*, *43-34-8*, *43-34-102*, *43-34-103*, *43-34-107*, *43-34-108*.

History. Original Rule entitled "Disciplinary Action/Revocation" adopted. F. July 15, 1988; eff. Aug. 4, 1988. **Amended:** F. Mar. 18, 1998; eff. Apr. 7, 1998. **Amended:** F. Oct. 16, 2006; eff. Nov. 5, 2006. **Amended: F. July 31, 2007; eff. Aug. 20, 2007. Repealed:** New Rule entitled "Temporary Practice Agreements" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011.



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Ga. Comp. R. & Regs. r. 360-5-.10 (2012)

360-5-.10 Emergencies.

In a state of an emergency or a public health emergency, a physician assistant may provide medical care with such supervision as is available at the immediate or local scene where a need for medical care exists or at a relief site established as part of a state or local safety plan pursuant to Chapter 3 of Title 38. Provided:

(a) The physician assistant must hold a license, certification or authorization in good standing from any state or federal jurisdiction.

(b) Services shall be provided in response to an appropriate state or local official who is implementing a state or local emergency management plan or program.

(c) The authority to practice under such guidelines shall not last longer than 48 hours, unless the Board establishes further supervision guidelines for physician assistants providing care under these circumstances.

Authority O.C.G.A. *Secs.43-1-4*, *43-1-19*, *43-34-3*, *43-34-5*, *43-34-8*, *43-34-24.1*, *43-34-102*, *43-34-103*, *43-34-107*, *43-34-108*.

History. Original Rule entitled "Continuing Education Requirements" adopted. F. Apr. 6, 1992; eff. Apr. 26, 1992. **Amended:** F. Sept. 11, 1995; eff. Oct. 1, 1995. **Amended:** F. Mar. 18, 1998; eff. Apr. 7, 1998. **Repealed:** New Rule of same title adopted. F. May 12, 2006; eff. June 1, 2006. **Repealed:** New Rule entitled "Emergencies" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011.



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Ga. Comp. R. & Regs. r. 360-5-.11 (2012)

360-5-.11 Standards for Physician Assistant Practice.

(1) A licensed physician assistant is authorized to practice in those public or private places or facilities where the primary or alternate supervising physician regularly sees patients.

(2) The physician assistant is not required to be in the presence of the physician to provide medical services, including the evaluation and treatment of new or established patients.

(3) A physician assistant may make house calls, nursing home visits, perform hospital duties, serve as an ambulance attendant or perform other functions he is qualified to perform.

(4) The physician assistant may issue a prescription drug order, and/or order and initiate medical treatment or diagnostic studies in any health care setting, as authorized by his or her supervising physician.

(5) Any physician, clinic or hospital utilizing physician assistants must post a notice to that effect in a prominent place.

(6) A physician who has been approved for supervision of a physician assistant is responsible for medical acts performed by that physician assistant.

(7) A physician assistant may pronounce death and certify such pronouncement in the same manner as a physician if he is delegated this authority by his supervising physician*; however, he or she does not have authority to sign a death certificate.*

(8) Except for assignment of a percentage of disability, a physician assistant may sign, certify and endorse all documents relating to health care provided to a patient within his or her scope of authorized practice. This includes, but is not limited to:

(a) Documents relating to physical examination forms of all state agencies;

(b) 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.

(9) 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.

Authority *O.C.G.A. Secs. 43-34-3*, *43-34-5*, *43-34-8*, *43-34-102*, *43-34-103*, *43-34-105*, *43-34-106*, *43-34-108*.

History. Original Rule entitled "Compliance" adopted. F. Apr. 6, 1992; eff. Apr. 26, 1992. **Repealed:** New Rule entitled "Standards for Physician Assistant Practice" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011. **Amended: F. Jan. 13, 2012; eff. Feb. 2, 2012.**



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Ga. Comp. R. & Regs. r. 360-5-.12 (2012)

360-5-.12 Guidelines concerning Prescriptive Authority.

(1) If authorized by his/her job description, a physician assistant may issue a prescription drug order for any medical device as defined by *Code Section 26-4-5*, 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*.

(2) Any physician assistant who has been authorized to issue a prescription drug order for controlled substances must register with the federal Drug Enforcement Administration ("DEA").

(3) A prescription drug or device order form issued by an authorized physician assistant shall, at a minimum, contain the name, address and telephone number of the primary or alternate supervising physician, the patient's name and address, the drug or device ordered, the directions to the patient for taking the medication, the dosage, the number of refills allowed, the name and DEA number (if applicable) of the physician assistant, and the signature of the physician assistant.

(4) The prescription drug order may be transmitted orally, by telephone, on paper, electronically or via facsimile. Any electronic prescription drug order must comply with the provision of O.C.G.A. Title 16, Chapter 13 and Title 26, Chapter 4. A record of the prescription must be maintained in the patient's medical record.

(5) A physician assistant may authorize refills of any drug or device for up to 12 months from the date of the original prescription unless otherwise provided by law. Scheduled III, IV or V controlled substances may not be refilled more than six months from date of original prescription.

(6) The physician assistant or office staff shall notify the patient that he has the right to see the physician prior to receiving a prescription drug or device order. Prominent signage in the office may serve this purpose.

(7) The primary or alternate supervising physician shall evaluate or examine patients receiving controlled substances at least every three months.

(8) Except in facilities operated by the Division of Public Health of the Department of

Community Health, the primary or alternate supervising physician shall review the physician assistant's

prescription drug or device orders and corresponding medical record entries within 30 days. This review may be achieved with a sampling of no less than 50 percent of the prescription drug or device orders and/or corresponding medical record entries.

(9) If authorized by the job description, a physician assistant may request, receive, sign for and distribute professional samples. Professional samples means complimentary doses of a drug, medication vouchers or medical devices provided by the manufacturer for use in patient care. If the professional samples are controlled substances, the physician assistant must also be registered with the federal Drug Enforcement Administration.

(a) The office where the physician assistant practices must maintain a general list of all professional samples that the supervising physician has approved the physician assistant to request, receive, sign for and distribute. Such samples must be consistent with the specialty of the supervising physician.

(b) A complete list of the specific drugs or devices provided to a patient by a physician assistant must be noted in the patient's medical record.

Authority *O.C.G.A. Secs. 16-13-41*, *16-13-74*, *26-4-80*, *43-34-5*, *43-34-8*, *43-34-23*, *43-34-102*, *43-34-103*, *43-34-107*, *43-34-108*.

History. Original Rule entitled "Carrying Out a Prescription Drug or Device Order" adopted. F. Sept. 11, 1995; eff. Oct. 1, 1995.**Repealed:** New Rule entitled "Guidelines concerning Prescriptive Authority" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011. **Amended: F. Jan. 13, 2012; eff. Feb. 2, 2012.**



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CHAPTER 360-5 PHYSICIAN'S ASSISTANTS

Ga. Comp. R. & Regs. r. 360-5-.13 (2012)

360-5-.13 Disciplinary Action/Revocation.

(1) When the Board finds that any person is unqualified to be granted a license or to have a license renewed, the Board may refuse to grant the license.

(2) The Board may impose on a physician assistant any disciplinary action authorized by

O.C.G.A. Sections 43-34-8, *43-34-103*, *43-34-107*, and *O.C.G.A. Section 16-13-111*, or otherwise authorized by law for any of the reasons set forth by law. In addition, the

Board may terminate the approval of a physician's utilization of a physician assistant provided in O.C.G.A. Section 3-34-107.

(3) In addition, the following may be considered by the Board as unprofessional conduct of the physician assistant:

(a) Performing duties on a routine basis by the physician assistant, without appropriate supervision by a physician approved by the Board;

(b) Routinely performing duties that are not within the scope of practice of the supervising physician.

(c) Issuing pre-signed prescriptions or prescriptions signed in blank or using pre-signed prescriptions;

(d) Signing a physician's signature on a prescription form by a physician assistant;

(e) Failing to notify the Board within 30 days of becoming unable to perform duties or provide patient services with reasonable skill and safety by reason of illness or the use of alcohol, drugs, narcotics, chemicals or any other type of material;

(f) Holding himself or herself out or permitting another to represent him or her as a licensed physician;

(g) Being convicted in any court, state or federal, of any felony or other criminal offense involving moral turpitude;

(h) Failing to notify the Board of the termination of a physician/physician assistant relationship;

(i) Failing to maintain appropriate patient records; or

(j) Failing to document professional samples that are distributed to a patient in the patient's medical record.

Authority *O.C.G.A. Secs. 16-13-111*, *43-1-22*, *43-34-5*, *43-34-8*, *43-34-23*, *43-34-24*, *43-34-24.1*, *43-34-102*, *43-34-103*, *43-34-105*, *43-34-107*, *43-34-108*.

History. Original Rule entitled "Inactive Status" adopted. F. Dec. 10, 2004; eff. Dec. 30, 2004. **Repealed:** New Rule entitled "Disciplinary Action/Revocation" adopted. F. Jan. 18, 2011; eff. Feb. 7, 2011. **Amended: F. Jan. 13, 2012; eff. Feb. 2, 2012.**



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Ga. Comp. R. & Regs. r. 360-5-.14 (2012)

360-5-.14 Repealed.

Authority *O.C.G.A. Secs. 43-1-19*, *43-34-103*, *43-34-108*.

History. Original Rule entitled "Volunteers" adopted. F. June 23, 2008; eff. July 13, 2008. **Repealed: F. Jan. 18, 2011; eff. Feb. 7, 2011.**



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-6 ACUPUNCTURE

Ga. Comp. R. & Regs. r. 360-6-.01 (2012)

360-6-.01 Acupuncture. Purpose.

The purpose of these Rules is to implement the "Acupuncture Act of Georgia" ("Act") which authorizes the Composite State Board of Medical Examiners ("Board") to adopt rules and regulations and perform all acts necessary in carrying out the program of licensure for Acupuncture and Auricular Detoxification Therapy. These rules establish the standards for licensing persons to practice acupuncture and auricular (ear) detoxification therapy and for the enforcement of such standards through disciplinary action. These rules are also intended to inform all physicians, other allied health care professionals, and all persons who desire to become licensed about the Act and its requirements.

Authority O.C.G.A. *Secs.43-34-61* to *43-34-64*.

History. Original Rule entitled "Acupuncture" adopted. F. Nov. 20, 1974; eff. Dec. 10, 1974. **Amended:** F. Oct. 3, 1975; eff. Oct. 23, 1975. **Amended:** ER.360-6-0.10-.01 entitled "Acupuncture. Purpose" adopted. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-6 ACUPUNCTURE

Ga. Comp. R. & Regs. r. 360-6-.02 (2012)

360-6-.02 Definitions.

The terms used in these Rules, promulgated pursuant to the Act, are defined as follows:

(1) "ACAOM" means the Accreditation Commission for Acupuncture and Oriental Medicine which is a nationally recognized accreditation organization that accredits programs in acupuncture and oriental medicine.

(2) "Act" means the Acupuncture Act of Georgia, *O.C.G.A. §§ 43-34-60 et seq.*

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

(4) "Advisory Committee" means the Acupuncture Advisory Committee of the Georgia Composite Medical Board.

Authority *O.C.G.A. Secs. 43-34-5*, *43-34-62* to *43-34-64*, *43-34-66*, *43-34-71*, *43-34-72*.

History. Original Rule entitled "Definitions" adopted as ER. 360-6-0.10-.02.F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Amended:** F. Oct. 6, 2009; eff. Oct. 26, 2009. **Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
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Ga. Comp. R. & Regs. r. 360-6-.03 (2012)

360-6-.03 Licensure Requirements for Acupuncture.

(1) Each applicant for licensure as an acupuncturist must meet the requirements listed below.

(a) Must be at least 21 years of age and of good moral character;

(b) Submit a completed application required by the Board. Said application shall not be considered completed until all fees have been paid and all required documents have been received by the Board;

(c) Must submit three (3) acceptable references: one reference from a licensed United States physician either MD or DO in the jurisdiction where the applicant is practicing and who is familiar with the applicant's practice and two references from practicing acupuncturists familiar with the applicant's practice.

(d) 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:

1. 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

2. 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.

(e) Have passed an acupuncture examination offered by an organization accredited by the National Organization of Competency Assurance and approved by the board;

(f) Submit proof of certification in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine;

(g) Completed successfully a clean needle technique course approved by the Board; and

(h) Submitted proof of having professional liability insurance of at least $ 100,000/$ 300,000.

1. If the licensee changes liability carriers, is canceled by a liability carrier, or cancels liability coverage, the licensee must notify the Board within thirty (30) days of the date of change or cancellation.

2. Failure to maintain liability coverage, pursuant to the Act, may result in suspension of the license for acupuncture.

(i) An applicant must submit all documentation required for the application process within twelve months from the date the Board receives the application.

(2) Every person who holds a license issued by the Board shall inform the Board of any change of address and any other change of information, including but not limited to professional liability coverage, for licensure by this Rule or the Act.

(3) The titles "Licensed Acupuncturist" and "Acupuncturist" shall only be used by persons licensed to practice acupuncture pursuant to the Act and these Rules.

Authority O.C.G.A. *Secs. 43-1-19*, *43-1-25*, *43-34-5*, *43-34-63*, *43-34-64*, *43-34-66*, *43-34-70*, *43-34-72*, *43-39-5*.

History. Original Rule entitled "Licensure Requirements for Acupuncture" adopted as ER. 360-6-0.10-.03. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency. **Amended:** Permanent Rule of same title adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Amended:** F. June 11, 2001; eff. July 1, 2001. **Amended: F. Sept. 19, 2007; eff. Oct. 9, 2007. Amended: F. Dec. 14, 2007; eff. Jan. 3, 2008. Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.04 (2012)

360-6-.04 Display of License for Acupuncture.

(1) Every person who is licensed to practice acupuncture pursuant to the Act and these Rules and who is actively practicing acupuncture or the active practice of auricular (ear) detoxification therapy as an auricular (ear) detoxification technician shall display the license issued by the Board in a public and appropriate manner.

(2) Any license or document evidencing licensure issued by the Board is the property of the Board and shall be surrendered on demand.

Authority O.C.G.A. *Secs. 43-34-63, 43-34-66.*

History. Original Rule entitled "Display of License for Acupuncture" adopted as ER. 360-6-0.10-.04.F. Aug. 10, 2000; eff. Aug. 21, 2000. **Amended:** Permanent Rule of same title adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.05 (2012)

360-6-.05 Supervised Practice of Acupuncture.

(1) Any person licensed to practice acupuncture under the Act ("practitioner") who has less than one (1) year of postgraduate clinical experience may not practice on his or her own unless and until such person has completed one (1) year of active clinical practice under the supervision of a duly licensed acupuncturist. The supervising acupuncturist ("supervisor") shall be currently licensed in Georgia and shall have four (4) years of active licensed clinical experience as an acupuncturist in Georgia or a combination of four (4) years experience in other states or countries as long as the other states or countries substantially equal or exceed Georgia's standards for licensure of acupuncturists.

(2) The supervision of postgraduate clinical practice of an acupuncture practitioner shall comply with the following provisions and guidelines.

(a) Definitions:

1. "Practitioner" is the person who is being supervised and monitored by the supervisor while performing acupuncture during postgraduate clinical practice.

2. "Supervisor" is the acupuncturist who meets the qualifications of this rule and the applicable statute who is responsible for the supervision of the practitioner during supervised postgraduate clinical practice.

3. "Supervised postgraduate clinical practice" is the practice of acupuncture performed by a practitioner under the direct supervision of an approved acupuncturist in facilities approved by the Georgia Composite Medical Board ("Board"), in consultation with the Acupuncture Advisory Committee ("Advisory Committee"), pursuant to the provisions of O.C.G.A. *§ 43-34-64(c)* and this rule.

(b) Supervisor: A supervisor shall be approved to supervise a practitioner by the Board, in consultation with the Advisory Committee. The supervisor must be licensed in Georgiaas an acupuncturist and actively practicing in this state. The supervisor shall have no less than four (4) years of active licensed clinical experience as an acupuncturist. The four (4) years of active licensed clinical experience may be four (4) combined years of active licensed practice in Georgia or in other states or countries as long the standards for licensure of acupuncturists in said states or countries are substantially equivalent to or exceed the standards of licensure in Georgia.

(c) Supervision: The supervisor and practitioner who are engaged in supervised post clinical practice shall adhere to the following guidelines:

1. Plan of supervision:

(i) The supervisor shall submit a letter of intent and a written outlined plan of supervision to the Board, which shall be reviewed and approved by the Board, in consultation with the Advisory Committee, before supervised practice is begun.

(ii) The supervisor must be present on site and available at all times while the practitioner is seeing and treating patients. The practitioner shall practice in the same office with the supervisor.

(iii) A supervisor may not enter into a plan of supervision with more than two practitioners at a time.

2. Monitoring: The supervisor shall monitor no less than one (1) supervised patient treatment performed by the practitioner no less than every other week or bi-weekly. Monitoring shall include case review, supervision of safety procedures, clean needle technique, and assessment of professionalism of the practitioner.

3. Records:

(i) Patient treatment records: The supervisor shall keep written records of the supervised patient treatments by the practitioner and shall submit a summary of the patient treatment records along with quarterly reports to the Board for its review, in consultation with the Advisory Committee. The records shall include any information relevant to patient treatment that is included in the monitoring by the supervisor of the practitioner.

(ii) Practice records:

I. For supervisory purposes, practice is defined as performing a minimum of 500 acupuncture treatments on at least 100 different patients during a one (1) year or twelve (12) months supervised clinical period. Substance abuse or detoxification treatments are not acupuncture treatments for the purposes of supervised postgraduate clinical acupuncture practice.

II. Full and complete records with all relevant and supportive documentation are to be kept at the site of treatment at all times and made available to the Board for review and inspection. Records shall include, but not be limited to, appointment schedules, patient records, treatment records, receipts, and data pertaining to invoice and payment for acupuncture treatment.

4. Reports:

(i) Quarterly reports: Quarterly reports shall be submitted to the Board by the supervisor and shall include the performance, progress and understanding of basic skills of the practitioner. The report shall also include the number of patients that the practitioner has seen per month and the number of acupuncture treatments provided by the practitioner. Quarterly reports shall be filed with the Board and are due three, six, nine, and twelve months after provisional licensure issue date.

(ii) Final supervisory report: At the end of the probationary period, a final review from the supervisor shall be submitted about the practitioner's progress with a recommendation to the Board regarding fitness of the practitioner to practice acupuncture as a solo practitioner. The report shall be reviewed by the Advisory Committee and a recommendation made by the Advisory Committee concerning Board action.

(d) Provisions regarding supervised practice may also be used as guidelines for restrictions placed upon the practice of acupuncture by persons licensed by the Board as authorized by statute.

(e) Failure to adhere to guidelines regarding supervised postgraduate clinical practice may result in sanctions, restrictions, or disciplinary actions upon licensees by the Board.

Authority O.C.G.A. *Secs. 43-34-5, 43-34-63, 43-34-64*.

History. Original Rule entitled "Supervised Practice of Acupuncture" adopted as ER. 360-6-0.10-.05.F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency. **Amended:** Permanent Rule of same title adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule of same title adopted. F. May 26, 2004; eff. June 15, 2004. **Amended: F. June 23, 2008; eff. July 13, 2008. Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.06 (2012)

360-6-.06 License Requirements for Auricular Detoxification Technician.

(1) Each applicant for a license to perform auricular (ear) detoxification therapy as an auricular (ear) detoxification technician must meet the requirements listed below. If an applicant does not meet all requirements for licensure stated in this Rule, the Board may, in its discretion, grant a license to an applicant upon the recommendation of the Advisory Committee.

(a) Be at least 21 years of age and of good moral character;

(b) Submit a completed application as required by the Board;

(c) Submit an application fee as required by the Board;

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

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

(f) Submit verification of applicant's coverage by employer's professional liability insurance.

(g) An applicant must satisfactorily complete all requirements for licensure within one year from the date the Board receives the application.

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

(3) The title "Auricular Detoxification Technician (ADT)" may only be used by persons licensed pursuant to the Act and these rules who practice auricular (ear) detoxification therapy. Licensure as an ADT does not by itself entitle a person to use the title "Acupuncturist" or "Licensed Acupuncturist."

(4) Every person who holds a license issued by the Board shall inform the Board of any change of address or any other change of information, including but not limited to a change of employment, required for licensure pursuant to the Act and these Rules.

(5) A license for an Auricular Detoxification Technician (ADT) is limited to and only valid for the employer designated at time of licensure. The ADT licensee shall be covered by the professional liability insurance of the licensee's employer.

(a) If an ADT licensee changes employers, the licensee must file a "Request To Change Employers" form with the Board and must receive permission from the Board to change employers.

(b) If an ADT licensee terminates employment with the designated employer, the ADT license becomes automatically inactive until such time a new application is made.

(6) Every person who holds a license issued by the Board as an Auricular Detoxification Technician must wear an identification badge stating their name and title at all times while rendering therapy.

Authority O.C.G.A. *Secs. 43-1-19*, *43-1-25*, *43-39-5*, *43-34-63*, *43-34-64*, *43-34-66*, *43-34-72*.

History. Original Rule entitled "License Requirements for Auricular Detoxification Specialist" adopted as ER. 360-6-0.10-.06. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency. **Amended:** Permanent Rule of same title adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Amended: F. Sept. 19, 2007; eff. Oct. 9, 2007.Repealed:** New Rule entitled "License Requirements for Auricular Detoxification Technician" adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.07 (2012)

360-6-.07 Display of License for Auricular Detoxification Technician.

(1) Every person who is licensed to practice auricular (ear) detoxification therapy pursuant to the Act and these Rules and who is actively practicing auricular (ear) detoxification therapy shall display the license issued by the Board in a public and appropriate manner.

(2) Any license or document evidencing licensure issued by the Board is the property of the Board and shall be surrendered on demand.

Authority *O.C.G.A. Secs. 43-34-63*, *43-34-66*.

History. Original Rule entitled "Display of License for Auricular Detoxification Specialist" adopted as ER. 360-6-0.10-.07. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule of same title adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule entitled "Display of License for Auricular Detoxification Technician" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-6-.08 (2012)

360-6-.08 Unlicensed Practice of Acupuncture and Auricular Detoxification Therapy Prohibited. Exemptions.

(1) No person shall:

(a) Practice acupuncture or auricular detoxification therapy in Georgiawithout a license; or

(b) Represent himself or herself to be an Acupuncturist or Auricular Detoxification Technician if he or she is not licensed under the Act.

(2) The following persons are exempt from licensure by the Board to practice acupuncture or auricular detoxification therapy in Georgia:

(a) Students who practice acupuncture as an integral part of a program of study and who are enrolled in a Board-approved acupuncture education program under the direct clinical supervision of a licensed acupuncturist with at least five years of clinical experience; or

(b) Persons who are licensed or certified to perform acupuncture in any other jurisdiction where such persons are doing so in the course of regular instruction in a Board-approved educational program of acupuncture or in an educational seminar of a Board-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 the Act or an acupuncturist who is licensed to practice medicine under Georgia law.

Authority O.C.G.A. *Secs. 43-34-63, 43-34-71*.

History. Original Rule entitled "Unlicensed Practice of Acupuncture and Auricular Detoxification Therapy Prohibited. Exemptions" adopted as ER. 360-6-0.10-.08. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency. **Amended:** Permanent Rule of same title adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.09 (2012)

360-6-.09 Physicians.

Licensed physicians desiring to practice acupuncture in Georgia shall successfully complete a Board-approved 300 hour course and notify the Board in writing of their intent to practice acupuncture no less than thirty (30) days prior to incorporating such therapies into their medical practice. Physicians authorized by the Board to perform acupuncture are entitled to the same rights and privileges as those licensed to practice acupuncture and auricular detoxification therapy.

Authority O.C.G.A. *Secs. 43-34-63*, *43-34-71*.

History. Original Rule entitled "Composition and Responsibilities of the Acupuncture Advisory Committee" adopted as ER. 360-6-0.10-.09. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency. **Amended:** Permanent Rule entitled "Physicians" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule of same title adopted. F. Dec. 14, 2007; eff. Jan. 3, 2008.



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Ga. Comp. R. & Regs. r. 360-6-.10 (2012)

360-6-.10 Composition and Responsibilities of the Acupuncture Advisory Committee.

(1) The intention and policy of the Board is to reflect the cultural diversity of the citizens of Georgiain the composition of the Acupuncture Advisory Committee ("Advisory Committee"). The Advisory Committee shall be comprised as follows:

(a) At least four (4) appointees, including one (1) individual who may be a lay person or a licensed acupuncturist, three (3) individuals who are licensed acupuncturists and representative of the acupuncture profession and other such individuals as the Board, in its discretion, may determine.

1. At time of appointment by the Board, such individuals shall be licensed to practice acupuncture;

2. All appointees to the Advisory Committee shall have on file with the Executive Director of the Board, or his/her designee, a resume and three (3) letters of recommendation, (one of which may be from a physician familiar with the appointee's practice of acupuncture);

3. In order to preserve continuity on the Advisory Committee, two (2) appointees shall serve a two year term and two (2) appointees shall serve a one year term which will be considered a partial term. At the time of appointment, each appointee will be notified in writing by the Executive Director of the Board as to the beginning and ending dates of their respective appointment terms. Each may reapply to the full Board to serve an additional term, but may not serve more than two consecutive terms;

4. In the event an Advisory Committee member is replaced during a term, the replacement member will serve the remaining time of that term as a partial term. An Advisory Committee member who serves a partial term will, after the completion of the partial term, be eligible to serve two consecutive two-year terms;

5. Appointees shall serve without compensation from the State of Georgia for their time and expenses;

(b) One (1) individual who is a licensed physician and who practices or teaches acupuncture who:

1. Shall serve a two year term and may be reappointed for an additional two year term by a majority vote of the Board, but may not serve more than two consecutive terms; and

2. Shall serve without compensation for time and expenses from the State of Georgia; and

(2) The Advisory Committee shall advise the Board on matters pertaining to the appointment of the Advisory Committee members and on all matters within the purview of the Act. The Board, in consultation with the Advisory Committee, shall:

(a) Determine the qualifications and fitness of applicants for licensure and renewal of licensure;

(b) Adopt and revise rules consistent with the laws of the State of Georgia that are necessary to conduct its duties and administer the Act; and

(c) Examine, approve, issue, deny, revoke, suspend and renew the license of applicants and licensees and conduct hearings in connection with all duties to be performed pursuant to the Act.

(3) Advisory Committee members, who are not members of the Board, must be available to meet on an as needed basis and may not miss more than three (3) consecutive meetings of the Advisory Committee, or four (4) meetings in a calendar year, without an excused absence from either the Executive Director of the Board or the Board President.

(a) The Advisory Committee may recommend to the Board the removal of a member for violation of the attendance rule. Such a recommendation shall be by majority vote of the Advisory Committee.

(b) Upon receipt of a recommendation for removal, the Board may remove a member of the Advisory Committee by a majority vote.

(4) Advisory Committee vacancies may be filled by the Board upon recommendation from the Advisory Committee by advertising on the Board's web page or by any other appropriate means. All applicants must meet any deadline set by the Board and shall have on file with the Executive Director of the Board, or with his/her designee, a resume and three (3) letters of recommendation (one of which may be from a physician familiar with the applicant's practice of acupuncture).

Authority O.C.G.A. *Secs. 43-34-63*, *43-34-67*, *43-34-69*, *43-34-70*.

History. Original Rule entitled "Renewal" adopted as ER. 360-6-0.10-.10. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule entitled "Composition and Responsibilities of the Acupuncture Advisory Committee" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Amended:** F. June 11, 2001; eff. July 1, 2001. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.11 (2012)

360-6-.11 License Renewal.

(1) All licenses issued pursuant to the Act shall be renewed on a biennial basis.

The license will expire on the last day of the month in which the applicant's birthday falls.

(2) Failure to renew a license by the expiration date shall result in a penalty for late renewal as required by the Board.

(3) Licenses not renewed within three (3) months of expiration shall be administratively revoked for failure to renew and shall be posted to the public and posted on the Board's website.

(4) Notwithstanding the provisions of paragraph (3) of this Rule, any service member as defined in *O.C.G.A. § 15-12-1* whose license expired while serving on active duty outside the state shall be permitted to practice in accordance with the expired license and shall not be charged with a violation relating to such practice on an expired license for a period of six (6) months from the date of his or her discharge from active duty or reassignment to a location within the state. Such service member shall be entitled to renew such expired license without penalty within six (6) months after the date of his or her discharge from active duty or reassignment to a location within this state. The service member must present to the Board a copy of the official military orders or written verification signed by the service member's commanding officer to waive any charges.

(5) To be eligible for renewal, a licensee must furnish satisfactory evidence of having met Board approved continuing education requirements, including a minimum of one hour concerning infectious disease.

(6) Licensees must certify on the renewal form that they have read, understand and are familiar with the Centers for Disease Control and Prevention (CDC) guidelines for preventing the transmission of the Human Immuno-deficiency virus, Hepatitis B and C and other infectious diseases.

(7) Licensees are subject to audit to determine compliance with the continuing education requirements as stipulated in rules promulgated by the Board.

(8) Failure to maintain continuing education requirements is a basis for non-renewal and revocation of license

issued pursuant to the Act.

Authority *O.C.G.A. Secs. 43-1-4*, *43-1-31*, 43-23-24.1, *43-34-24.1*, *43-34-61*, *43-34-63*, *43-34-67*.

History. Original Rule entitled "Disposal of Biohazard Material and Clean Needle Inventory Records and Used Needle Inventory Records" adopted as ER. 360-6-0.10-.11. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule entitled "License Renewal" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Amended:** F. July 8, 2004; eff. July 28, 2004. **Amended: F. Oct. 16, 2006; eff. Nov. 5, 2006.Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-6-.12 (2012)

360-6-.12 Disposal of Biohazard Material and Clean Needle Inventory Records and Used Needle Inventory Records.

(1) The practice of acupuncture and auricular (ear) detoxification is found to affect the public health, safety and welfare and is a proper subject of regulation.

(2) As acupuncture and auricular (ear) detoxification are prolonged invasive procedures of the human skin utilizing sharp instruments, all necessary precautions should be taken for the prevention of the transmission of the Human Immuno-deficiency Virus, (the virus known to cause Acquired Immune Deficiency Syndrome), Hepatitis B and C and other infectious diseases. Persons licensed under this Act and those exempt individuals practicing acupuncture should take all measures to conform to the most current recommendations of the Centers for Disease Control and Prevention (CDC) for preventing transmission of Human Immuno-deficiency Virus, Hepatitis B and C and other infectious diseases to patients during prolonged invasive procedures that are contained in the Morbidity and Mortality Weekly Report 1991; 40 (No. RR-8) pages 1-9. It is the responsibility of all persons currently licensed by the Board to maintain familiarity with these recommendations, which are considered by the Board to be the minimum standards of acceptable and prevailing medical practice. Failing to meet these minimum standards will be considered by the Board to be unprofessional conduct and subject to review and disciplinary action by the Board.

(3) Disposable acupuncture needles are considered a biohazard waste material and must be disposed of in accordance with all applicable federal and state laws, rules and regulations. To further ensure the public health and safety of the citizens of Georgia, persons licensed under this Act and exempt individuals practicing acupuncture must keep accurate medical and office records that reflect the following detailed information:

(a) Invoices for the purchase of disposable needles; and

(b) Documentive disposal of all needles and method of disposal.

(4) Records pertaining to needle purchase and needle disposal must be kept for a period of no less than five (5) years and are to be surrendered to the Board, when requested in writing by an authorized representative of the Board or requested by an agent of the Board, in reference to a complaint, allegation and/or investigation of the Board.

(5) All licensees licensed pursuant to this Act must file a notarized document, devised and approved by the Board,

acknowledging that they have read, understand and are familiar with the Centers for Disease Control and Prevention (CDC) guidelines for preventing the transmission of the Human Immuno-deficiency virus, Hepatitis B and C and other infectious diseases. This document must be filed with the Board at the time of application and at each renewal cycle.

O.C.G.A. *Secs. 43-34-61*, *43-34-63*.

HISTORY. Original Rule entitled "Temporary Permits" adopted as ER. 360-6-0.10-.12. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. AMENDED: Permanent Rule entitled "Disposal of Biohazard Material and Clean Needle Inventory Records and Used Needle Inventory Records" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. REPEALED: New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001.



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Ga. Comp. R. & Regs. r. 360-6-.13 (2012)

360-6-.13 Temporary Permits.

Temporary permits for the license of acupuncturists and auricular (ear) detoxification technicians may be issued by the Board.

Authority O.C.G.A. *Sec. 43-34-63*.

History. Original Rule entitled "Chiropractors Must Meet Acupuncturist Licensure Requirements" adopted as ER. 360-6-0.10-.13. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule entitled "Temporary Permits" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.14 (2012)

360-6-.14 Chiropractors Must Meet Acupuncturists Licensure Requirements.

As stated in *O.C.G.A. 43-9-16* and as amended by Section 1.1 of the Act, chiropractors who wish to practice acupuncture must meet the licensing requirements of the Act and the acupuncture rules promulgated by the Board. Chiropractor applicants must be licensed to practice as a chiropractor in the State of Georgia, have an active chiropractic license and be in good standing with the Georgia Board of Chiropractic Examiners. In compliance with the intent of the Georgia General Assembly, nothing in these rules shall be construed to prohibit a chiropractor who is licensed under Article 3 to perform acupuncture in Georgiafrom engaging in the practice of acupuncture. The Georgia Composite Medical Board, and no other examining board, shall have sole, exclusive and original jurisdiction over such chiropractors who have been granted a license to practice acupuncture in this State for the purpose of establishing standards for licensure of acupuncturists and for the enforcement of such standards of acupuncture through disciplinary action.

Authority *O.C.G.A. Sec. 43-34-63*.

History. Original Rule entitled "Unlicensed Practice" adopted as ER. 360-6- 0.10-.14. F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule entitled "Chiropractors Must Meet Acupuncturist Licensure Requirements" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001. **Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.

NOTES:

LexisNexis 50 State Surveys, Legislation & Regulations

Chiropractic



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Ga. Comp. R. & Regs. r. 360-6-.15 (2012)

360-6-.15 Unlicensed Practice.

(1) No person licensed under this Act may hold himself or herself out as licensed to practice medicine in the State of Georgia unless he or she is licensed by the Board to practice medicine.

(2) No person may advertise or hold himself out to the public as being a "Licensed Acupuncturist" or a licensed "Auricular Detoxification Technician" unless the person is licensed under this Act or otherwise exempt by law from licensure.

Authority O.C.G.A. *Secs. 43-34-63, 43-34-72*.

History. Original Rule entitled "Informed Consent for Treatment" adopted as ER. 360-6-0.10-.15.F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule entitled "Unlicensed Practice" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001.**Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.16 (2012)

360-6-.16 Informed Consent for Treatment.

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

(a) That an acupuncturist is not licensed to practice medicine in the State of Georgia;

(b) That an acupuncturist cannot practice medicine in the State of Georgia;

(c) That the acupuncturist is not making a medical diagnosis of the person's disease or medical condition;

(d) That, if the person wants to obtain a medical diagnosis, the person should see a licensed physician and seek medical advise from a licensed physician; and

(e) The nature and purpose of the acupuncture treatment being rendered.

(2) Any person who undergoes auricular (ear) detoxification must consent in writing prior to such a procedure and shall be informed in general terms of the following:

(a) That an Auricular (ear) Detoxification Technician is not licensed to practice medicine in the State of Georgia;

(b) That an Auricular (ear) Detoxification Technician cannot practice medicine in the State of Georgia;

(c) That an Auricular (ear) Detoxification Technician is not licensed to practice acupuncture in the State of Georgia;

(d) That an Auricular (ear) Detoxification Technician is not making a diagnosis of the person's disease or medical condition;

(e) That, if the person wants to obtain a medical diagnosis, the person should see a licensed physician and seek medical advice from a licensed physician; and

(f) The nature and purpose of the auricular (ear) detoxification therapy procedure being rendered.

(g) An Auricular (ear) Detoxification Technician is strictly limited to five ear points' treatment for detoxification for substance abuse, chemical dependency, or both.

(h) Persons licensed to practice acupuncture or auricular (ear) detoxification must use a Board approved, standardized "informed consent" form for each person treated. The form shall be signed and dated by both practitioner and patient prior to the rendering of services.

Authority O.C.G.A. *Secs. 43-34-63, 43-34-68.*

History. Original Rule entitled "Imposition of Sanctions. Use of Referral Fees Prohibited" adopted as ER. 360-6-0.10-.16.F. Aug. 10, 2000; eff. Aug. 21, 2000, as specified by the Agency, to be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter is adopted, as specified by the Agency. **Amended:** Permanent Rule entitled "Informed Consent for Treatment" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. **Repealed:** New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001.**Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-6-.17 (2012)

360-6-.17 Imposition of Sanctions. Use of Referral Fees Prohibited.

The Board, in consultation with the Advisory Committee, may:

(1) Impose any sanction authorized under subsection (d) of *O.C.G.A. 43-1-19* upon a finding of any conduct specified in subsection (a) of *O.C.G.A. 43-1-19*; or

(2) Make a finding that such conduct involved dividing or agreeing to divide a fee for acupuncture services with any person who refers a patient.

O.C.G.A. *Secs. 43-34-63*, *43-34-69*.

HISTORY. Original Rule entitled "Imposition of Sanctions. Use of Referral Fees Prohibited" adopted. F. Nov. 20, 2000; eff. Dec. 10, 2000. REPEALED: New Rule of same title adopted. F. Jan. 16, 2001; eff. Feb. 5, 2001.



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Ga. Comp. R. & Regs. r. 360-6-.18 (2012)

360-6-.18 Inactive Status.

(1) A person who wishes to maintain his or her Acupuncturist license, but who does not intend to practice Acupuncture, may apply to the Board for inactive status by submitting an application and the fee.

(a) An individual with an inactive license may not practice as an Acupuncturist in this State.

(b) In order to reinstate an Acupuncturist license, the Board must receive a completed application and reinstatement fee. The applicant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in Acupuncture and that he or she is mentally and physically able to practice with reasonable skill and safety.

(2) A person who wishes to maintain his or her Auricular Detoxification Technician license, but who does not intend to practice auricular detoxification therapy, may apply to the Board for inactive status by submitting an application and the fee.

(a) An individual with an inactive license may not practice as an Auricular Detoxification Technician in this State.

(b) In order to reinstate a license to practice as an Auricular Detoxification Technician, the Board must receive a completed application and a reinstatement fee. The applicant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in Auricular Detoxification Therapy and that he or she is mentally and physically able to practice with reasonable skill and safety.

(3) Reinstatement of the license is within the discretion of the Board.

Authority O.C.G.A. *Secs. 43-1-22, 43-34-62, 43-34-67.*

History. Original Rule entitled "Inactive Status" adopted. F. Dec. 10, 2004; eff. Dec. 30, 2004. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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CHAPTER 360-7 PROVISIONAL LICENSES

Ga. Comp. R. & Regs. r. 360-7-.01 (2012)

360-7-.01 Provisional Licenses.

As provided in Georgialaw, no new provisional licenses will be issued. Those provisional licenses that were previously issued on or before April 16, 1979 may be renewed, as provided by law, on an annual basis upon completion of a renewal form and payment of the appropriate renewal fee. In addition, provisional licensees, as a condition of maintaining their license, must obtain documentation on a form approved by the Board, showing that they are working under the supervision of a physician who meets the Board's approval and who holds an unrestricted license to practice medicine in the State of Georgia.

Authority O.C.G.A. *Secs.43-1-2*, *43-1-4*, *43-1-7*, *43-34-5*, *43-34-34*.

History. Original Rule entitled "Provisional Licenses" adopted. F. Dec. 16, 1974; eff. Jan. 5, 1975. **Amended:** F. June 17, 1985; eff. July 7, 1985. **Amended:** F. May 20 1988; eff. June 9, 1988. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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CHAPTER 360-8 PROCEDURAL RULES

Ga. Comp. R. & Regs. r. 360-8-.01 (2012)

360-8-.01 Repealed.

Authority *O.C.G.A. Sec. 43-34-6.*

History. Original Rule entitled "Procedural Rules" adopted. F. Mar. 30, 1976; eff. Apr. 19, 1976. **Repealed:** F. Nov. 12, 2009; eff. Dec. 2, 2009.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-9 TEACHER'S LICENSES

Ga. Comp. R. & Regs. r. 360-9-.01 (2012)

360-9-.01 Eligibility. Amended.

(1) The Board may issue, in its discretion, without examination, a teacher's license to physicians licensed and in good standing in 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. The Board will consider each request for a teacher's license on a case-by-case basis.

(2) Applicants for a teacher's license must complete an application form approved by the Board. Such application must be submitted and approved by the Board, including all required documentation, signatures, seals and payment of the appropriate fees before an applicant can be approved for a teacher's license. No temporary teacher's license shall be issued.

(3) To be eligible for a teacher's license, an applicant must submit evidence on a form approved by the Board, signed by the dean of the Board approved medical school, which certifies that the applicant is considered a distinguished medical scholar or can make a significant contribution to the school's teaching program. The Board approved school shall state the expected duration of the applicant's appointment, and shall notify the Board of the termination of the appointment.

(4) The applicant must show proof of being currently licensed and in good standing in another state or foreign country.

AUTHORITY: *O.C.G.A. 43-1-2*, *43-1-4*, *43-1-7*, *43-34-24(c)* and *43-34-29(1)*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Registration: Fees" was filed as Emergency Rule 360-9-0.2-.01 on July 29, 1976, to become effective on date of filing, to remain in effect for a period of 120 days or until the adoption of a permanent Rule superseding said Emergency Rule, as specified by the Agency. AMENDED: Permanent Rule of the same title adopted. Filed October 20, 1976; effective November 9, 1976. AMENDED: Rule repealed and a new Rule entitled "Eligibility" adopted. Filed May 20, 1988; effective June 9, 1988.



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Ga. Comp. R. & Regs. r. 360-9-.02 (2012)

360-9-.02 Limitations. Amended.

(1) An applicant who is approved for a teacher's license may only teach or demonstrate medicine in a Board approved medical college of its affiliated clinic. For purposes of this Rule, a Board approved medical college shall be one approved by the Liaison Committee of Medical Education (L.C.M.E.). Under no circumstances shall such a license holder be authorized to open an office for the practice of medicine. The teacher's license shall be valid only so long as the license holder currently holds an appointment as a faculty member at such an approved medical college. The expiration date of the teacher's license shall be determined based upon the expected duration of the appointment and shall be renewable only at the discretion of the Board. The license shall automatically expire upon termination of the appointment if such date occurs earlier than that listed on the license. In any event, such license shall expire two years from the date of issuance. Renewal of the license after two years shall be authorized only if the Board determines that such renewal is in the best interest of the public. The holder of a teacher's license shall not be authorized to possess a DEA registration for the prescribing, dispensing, etc. of controlled substances.

(2) In no event shall a Teacher's License be renewed more than once.

AUTHORITY: *O.C.G.A. 43-1-2*, *43-1-4*, *43-1-7*, *43-34-24(c)* and *43-34-29(1)*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Renewal Fees" was filed as Emergency Rule 360-9-0.2-.02 on July 29, 1976, to become effective on date of filing to remain in effect for a period of 120 days or until the effective date of a permanent Rule superseding said Emergency Rule, as specified by the Agency. AMENDED: Permanent Rule of the same title adopted. Filed October 20, 1976; effective November 9, 1976. AMENDED: Rule repealed and a new Rule of the same title adopted. Filed June 28, 1982; effective July 18, 1982. AMENDED: Rule repealed and a new Rule entitled "Limitations" adopted. Filed May 20, 1988; effective June 9, 1988. AMENDED: F. Apr. 9, 1990; eff. Apr. 29, 1990.



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Ga. Comp. R. & Regs. r. 360-9-.03 (2012)

360-9-.03 Disclosure.

In any case where the holder of a teacher's license engages in teaching or demonstrating medicine in a Board approved medical college or its affiliated clinic which involves direct patient contact, disclosure shall be made to such patient that the procedure is being performed by a person who holds a teacher's license who is not otherwise licensed to practice medicine in the State of Georgia.

AUTHORITY: *O.C.G.A. 43-1-2*, *43-1-4*, *43-1-7*, *43-34-24(c)* and *43-34-29(1).*

ADMINISTRATIVE HISTORY: Original Rule entitled "Disclosure" was filed on May 20, 1988; effective June 9, 1988.



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Ga. Comp. R. & Regs. r. 360-9-.04 (2012)

360-9-.04 Disciplinary Provisions.

The holder of a teacher's license shall be subject to all disciplinary provisions of O.C.G.A. *§ 43-34-37, O.C.G.A. § 43-1-19* and Board *Rule 360-2-.09* and shall at all times be expected to comply with the minimal standards of acceptable and prevailing medical practice in this State.

AUTHORITY: *O.C.G.A. 43-1-2*, *43-1-4*, *43-1-7*, *43-34-24(c)* and *43-34-29(1)*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Disciplinary Provisions" was filed on May 20, 1988; effective June 9, 1988.



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CHAPTER 360-10 INSTITUTIONAL LICENSES

Ga. Comp. R. & Regs. r. 360-10-.01 (2012)

360-10-.01 Institutional Licenses.

(1) The Georgia Composite Medical Board may issue institutional licenses in its discretion under exceptional circumstances to graduates of international medical schools who an institution wishes to employ but who do not have an independent license to practice medicine in the State of Georgia. The license is jointly awarded to the applicant and the institution.

(2) To qualify for Exceptional Circumstances consideration, institutions must be in a medically underserved area and must submit evidence acceptable to the Board to demonstrate exceptional circumstances. Such evidence should include but not be limited to:

(a) Deficient physician staff to service the health care needs of the population.

(b) Institution can demonstrate failed attempts to recruit licensed physicians to satisfy the deficiency.

(3) To qualify for Exceptional Circumstances consideration, the physician applicant must be a graduate of an international medical school and cannot qualify for licensure under other provisions of Chapter 43-34-26 and must submit evidence acceptable to the Board to demonstrate exceptional circumstances. Such evidence may include but not be limited to:

(a) Applicant is from a war torn country.

(b) Applicant has applied for political asylum in the United States.

Authority O.C.G.A. *Secs. 43-1-2, 43-1-4, 43-1-7, 43-34-5, 43-34-24, 43-34-26, 43-34-27, 43-34-28, 43-34-33*.

History. Original Rule entitled "Institutional Licenses" adopted. F. Aug. 22, 1977; eff. Sept. 11, 1977. **Repealed:** F. June 17, 1985; eff. July 7, 1985. **Amended:** New Rule entitled "Institutional Licenses" adopted. F. May 20, 1988; eff. June 9, 1988. **Repealed:** New Rule of same title adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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Ga. Comp. R. & Regs. r. 360-10-.02 (2012)

360-10-.02 Applications.

(1) The application form shall be completed according to the instructions provided in the application.

(2) Applications must be complete, including all required documentation, signatures and seals. Application files are not considered completed until all required information, documentation and fees have been received by the Board.

(3) No application will be considered by the Board until the application is complete.

(4) Applicants shall inform the Board in writing within 10 days of a change of address while an application is pending.

(5) Application fees are nonrefundable.

(6) Deposit of an application fee by the Board does not indicate acceptance of the application or that any other licensing requirements have been fulfilled.

(7) Incomplete applications that have been on file with the Board for more than one year shall be deemed invalid. No further action will take place on applications that have been incomplete for more than a year until a new application is received in accordance with the provisions of this chapter with the appropriate application fee.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-26*, *43-34-27*, *43-34-28*, *43-34-33*.

History. Original Rule entitled "Applications" adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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Ga. Comp. R. & Regs. r. 360-10-.03 (2012)

360-10-.03 Requirements for Licensure.

(1) Definitions:

(a) "Institution" means a hospital licensed by the Department of Community Health.

(b) "Supervisor" means a physician who has an unrestricted license to practice medicine in this state and whose medical specialty is the same as that of the applicant physician.

(c) "Supervisory Oversight" means the onsite direction of the supervisor with immediate availability.

(2) The standards for receiving such a license may be different from those for receiving an unrestricted license to practice medicine in this state. In granting these institutional licenses the Board shall consider the following qualifications:

(a) Education: Any international medical school graduate applying for an institutional license shall possess basic qualifications and background as any other physician applying for a license in the state. This shall include good moral character, and any other basic background qualifications required by O.C.G.A. 43-34.

1. All other foreign medical schools must have a program of education in the science and art of medicine leading to a medical doctor degree or the medical doctor equivalent that requires a minimum of two (2) years of pre-medical training which includes at least 130 weeks of instruction. Applicants must have official transcripts that include at least 130 weeks of instruction.

2. Applicants must have official transcripts of all medical and premedical education mailed directly to the Board from the school where such education was taken. If the transcripts are in a foreign language, applicants must furnish a certified English translation. Transcripts must include the dates the applicant attended the school and the grades received in all courses taken to fulfill the requirements of the degree granted. In the Board's discretion, the transcript requirement may be waived and the results of the Federation of State Medical Boards (FSMB) verification service may be accepted if the applicant adequately demonstrates that all diligent efforts have been made to secure transcripts from the school.

(3) English language proficiency: Any applicant the institution considers for employment must demonstrate satisfactory competence in the English language by such reasonable means as the Board may prescribe.

(4) Experience: In determining competence the Board may consider the following criteria as may be necessary to determine if the applicant is in fact a competent physician: Professional attainments indicative of competence, such as specialty board certification; Licensure in foreign jurisdiction or in another State; and Reference letters from duly licensed physicians who have direct and first hand knowledge of the applicant's ability;

(5) Training: Proof of AMA or AOA approved post graduate residency training or such other training as approved by the Board.

(6) Examination: Successful completion of physician licensure examination or such examination as the Board may deem necessary. In the event that the Board determines the examination of an applicant to be necessary to determine competence, such examination may be of any type as listed, or any combination thereof;

(a) oral;

(b) written;

(c) practical, including, whenever the Board deems necessary, a trial period under the supervision of a duly licensed physician approved by the Board.

(7) The institution should submit information concerning the supervisory oversight of the institutional physician applicant such as the name of the supervisor, the type of supervision being provided, and the place of supervision.

(8) Board may require the physician applicant and a representative of the institution to appear for a personal interview before the Board or the committee.

(9) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-26*, *43-34-27*, *43-34-28*, *43-34-33*.

History. Original Rule entitled "Requirements for Licensure" adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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Ga. Comp. R. & Regs. r. 360-10-.04 (2012)

360-10-.04 Renewal.

(1) Each licensee shall notify the Board within thirty (30) days, in writing, of all changes of address. Any mailing or notice from the Board shall be considered to be served on the licensee when sent to the licensee's last address on file with the Board.

(2) All active licenses must be renewed every two years. This may be done via the internet or through mail. A medical licensee may not practice medicine after the expiration date of the license. Institutional licenses expire biennially on June 30[th] and the licensee must establish satisfaction of Board-approved continuing education requirements to be eligible for renewal.

(3) To be eligible for renewal, the license holder must furnish certification that he or she continues to be an employee of the Institution where he or she is employed as indicated on the renewal form, complete Board approved continuing education of not less than 40 hours of Category I AMA approved credits annually and submit the appropriate fee.

(4) Licensees have the right to obtain a late renewal of their licenses during the three (3) month period immediately following the expiration date. During this period, the penalty for late renewal applies.

(5) The Board shall administratively revoke any license not renewed prior to the expiration of the late renewal period. Such revocation removes all rights and privileges to practice medicine and surgery in this State. A practitioner who is so revoked must apply for licensure to be considered for reinstatement. Revocation for failure to renew may be reported to the public and to other state licensing boards, and will be reported as a revocation for failure to renew. Revocation for failure to renew is not considered a disciplinary revocation. However, the license may only be reinstated through application.

(6) The fee for renewals and late renewals shall be designated in the fee schedule. Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any permit requirements have been fulfilled.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-6*, *43-34-11*.

History. Original Rule entitled "Renewal" adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-10 INSTITUTIONAL LICENSES

Ga. Comp. R. & Regs. r. 360-10-.05 (2012)

360-10-.05 Termination of Institutional License.

(1) The Board has authority to refuse to renew or to suspend or revoke an institutional license based on any of the grounds or violations enumerated in 43-34-8.

(2) Should any institutionally licensed physician wish to terminate licensure, he/she shall notify the Georgia Composite Medical Board of this intention in writing by certified mail or by hand delivery and shall immediately return his/her license to the Board. Should a disciplinary proceeding by the Board be pending at the time of such surrender, such surrender shall have the same effect as a revocation of a license and be reportable as a disciplinary action.

Authority O.C.G.A. *Secs. 43-34-5, 43-34-8, 43-34-33.*

History. Original Rule entitled "Termination of Institutional License" adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-10 INSTITUTIONAL LICENSES

Ga. Comp. R. & Regs. r. 360-10-.06 (2012)

360-10-.06 Reporting Requirements for Institutional License Holders.

(1) The Institution must report to the Board the following within 15 days of the event:

(a) the institutional license holder's withdrawal or termination and the reasons for such termination or withdrawal;

(b) the occurrence of any of the events identified as grounds for disciplinary action or as violations enumerated in O.C.G.A. *§ 43-34-8* or a practice restriction taken against license holder.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-8*, *43-34-33*.

History. Original Rule entitled "Reporting Requirements for Institutional License Holders" adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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CHAPTER 360-10 INSTITUTIONAL LICENSES

Ga. Comp. R. & Regs. r. 360-10-.07 (2012)

360-10-.07 Limitations Upon Institutional Licenses.

(1) In the event in institutional license is granted to an applicant, it shall be restricted in scope and shall authorize a practitioner to practice medicine under the supervision of a Georgia licensed physician and practice within the scope of the supervisor's practice, except for documented emergency situations in which no other fully licensed physician is available. The physician licensee must remain an employee of the institution and be paid on a salary bases.

(2) Applicant is not eligible for a DEA permit and must use the institutional DEA.

(3) Supervisor may only supervise one institutionally licensed physician at a time.

(4) Institutionally licensed physician may not practice in a remote site where the supervising physician is not on site.

(5) All institutions holding an institutional license shall post in a prominent place that institutionally licensed physicians practice in this facility. These physicians must wear a name tag as follows:

Name of physician

Degree

Institutional Licensee

(6) All charges for services rendered by the institutionally licensed physician must be by and though the institution named in the application on file with the Board.

(7) Any other provisions of the Medical Practice Act (O.C.G.A. 43-34) not inconsistent with the intent and purpose of the institutional license statute shall be fully applicable to all institutionally licensed physicians.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-33*.

History. Original Rule entitled "Limitations UponInstitutional Licenses" adopted. F. Nov. 12, 2009; eff. Dec. 2, 2009.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-11 PARAMEDICS AND CARDIAC TECHNICIANS

Ga. Comp. R. & Regs. r. 360-11-.01 (2012)

360-11-.01 Definitions.

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

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

(3) "Health care professional" means an applicant, an individual licensed, certified, or permitted by the Board.

(4) "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.

(5) "Wellness Committee" means a committee of the Board.

(6) "Medical Director" means the Georgia licensed physician employed by the PHP to coordinate the activities of the professional heath program.

(7) "Professional health program" or "PHP" means a program established for the purposes of coordinating the evaluations and/or assessment of health care professionals to determine whether the health care professionals can practice with reasonable care and safety, and/or monitoring and rehabilitation of impaired health care professionals.

(8) "Rehabilitation" means restoration to good health or restoration of the ability to practice with reasonable skill and safety through therapy.Authority O.C.G.A. *Secs. 43-34-5*, *43-34-5.1*, and *43-34-8*.

Authority changed. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** F. May 20, 1988; eff. June 30, 1988, as specified by the Agency. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008. **Amended:** New Rule entitled "Definitions" adopted. F. Dec. 21, 2009; eff. Jan. 10, 2010. **Repealed**: New Rule, same title, adopted. F. Jul. 5, 2011; eff. Jul. 25, 2011

History. Original Rule entitled "Purpose" adopted as ER. 360-11-0.3-.01. F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Amended:**



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Ga. Comp. R. & Regs. r. 360-11-.02 (2012)

360-11-.02 Contract.

The board shall be authorized to conduct a professional health program and to enter into a contract with an entity for the purpose of establishing and conducting such professional health program.

Authority O.C.G.A. *Secs 43-34-5* and *43-34-5.1*.

History. Original Rule entitled "Requirements for Board Approval of Advanced EMTs and Cardiac Technicians" adopted as ER. 360-11-0.3-.02.F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Repealed:** New Rule entitled "Requirements for Board Approval of Advanced Emergency Medical Technicians and Cardiac Technicians" adopted. F. July 10, 1980; eff. July 30, 1980. **Repealed:** New Rule entitled "Requirements for Board Approval of Advanced EMTs and Cardiac Technicians" adopted. F. June 21, 1982; eff. July 11, 1982. **Amended:** F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** Rule retitled "Requirements for Board Approval of Paramedics and Cardiac Technicians". F. May 20, 1988; eff. June 30, 1988, as specified by the Agency. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008. **Amended:** New Rule entitled "Qualifications for Physician to Enter a Protocol" adopted. F. Dec. 21, 2009; eff. Jan. 10, 2010. **Repealed**: New Rule entitled "Contract" adopted. F. Jul. 5, 2011; eff. Jul. 25, 2011.



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Ga. Comp. R. & Regs. r. 360-11-.03 (2012)

360-11-.03 Professional Health Program ("PHP").

(1) The PHP must employ a Georgia licensed physician to act as the Medical Director to coordinate the activities of the PHP.

(2) The PHP must have a policy approved by the Board to provide services for the mental/physical evaluation of health care professionals who have been referred to the PHP or have contacted the PHP directly.

(3) In the provision of services to evaluate health care professionals or to monitor or rehabilitate impaired health care professionals, the PHP shall have a policy approved by the Board to identify approved treatment programs.

(4) The PHP shall maintain records for a period of ten years and shall keep such records confidential.

(5) The PHP shall inform each participant of the program's procedures, responsibilities of program participants, and the possible consequences of noncompliance with the program.

(6) The PHP shall submit a written report to the Board through the Board's Wellness Committee within 72 hours of each instance where the health care professional has:

(a) Failed to comply with the terms of participation;

(b) Refused to cease practice when he/she has been found to be unable to practice with reasonable skill and safety;

(c) Withdrawn from participation in the program against medical advice;

(d) Engaged in conduct or behavior which indicates that health care professional is believed to constitute an imminent danger to the public or to himself or herself; or

(e) Failed to abide by the terms and conditions of a monitoring agreement.

(7) Any report required under paragraph (6) above shall include evaluations, treatment records, medical records, documents or information relevant to the health care professional. All such information, evaluations, documents,

reports, treatment records or medical records received by the Board shall be privileged and confidential and shall not be public records nor available for court subpoena or for discovery proceedings but may be used by the Board in the course of its investigations and may be introduced as evidence in administrative hearings conducted by the Board. Authority: O.C.G.A. *Secs 43-34-5*, *43-34-5.1*, and *43-34-8*.

Authority O.C.G.A. *Secs. 31-11-52*, *43-34-5*, *43-34-26.1*.

History. Original Rule entitled "Applications for Board Approval" adopted as ER. 360-11-0.3-.03.F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Repealed:** New Rule of same title adopted. F. Apr. 21, 1982; eff. May 11, 1982. **Repealed:** New Rule of same title adopted. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** F. Oct. 8, 1998; eff. Oct. 28, 1998. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008. **Amended:** New Rule entitled "Physician Requirements for the Influenza Vaccine Protocol Agreement" adopted. F. Dec. 21, 2009; eff. Jan. 10, 2010. **Repealed**: New Rule entitled "Professional Health Program ("PHP")" adopted. F. Jul. 5, 2011; eff. Jul. 25, 2011.



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Ga. Comp. R. & Regs. r. 360-11-.04 (2012)

360-11-.04 Participation in Professional Health Program.

(1) A health care professional who participates in the PHP shall bear all costs associated with such participation and shall be fully accountable to the Board for his/her professional practice during the period of PHP treatment.

(2) A health care professional who is referred to or who participates in the PHP is free not to comply with the recommendations of the PHP however, if he/she does not comply, all information concerning his/her conduct, evaluation, treatment, and/or monitoring will be forwarded to the Board.

(3) A health care professional who participates in the PHP program agrees to provide access to the PHP of any and all records relating to the mental or physical condition of the health care professional, including psychiatric records.

Authority O.C.G.A. *Secs 43-34-5*, *43-34-5.1*, and *43-34-8*.

History. Original Rule entitled "Fees" adopted as ER. 360-11-0.3-.04. F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Repealed:** New Rule of same title adopted. F. Apr. 21, 1982; eff. May 11, 1982. **Repealed:** New Rule of same title adopted. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** F. May 20, 1988; eff. June 30, 1988, as specified by the Agency. **Repealed:** New Rule of same title adopted. F. Apr. 11, 1994; eff. May 1, 1994. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008. **Amended:** New Rule entitled "Requirements of the Influenza Vaccine Protocol Agreement" adopted. F. Dec. 21, 2009; eff. Jan. 10, 2010.**Repealed**: New Rule entitled "Participation in Professional Health Program" adopted. F. Jul. 5, 2011; eff. Jul. 25, 2011.



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Ga. Comp. R. & Regs. r. 360-11-.05 (2012)

360-11-.05 Confidentiality.

(1) 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 an entity for its purposes in conducting a PHP.

(2) All information, interviews, reports, statements, memoranda, or other documents furnished by the Board or other source to the an entity under contract with the Board for a PHP or produced by the entity, and any findings, conclusions, recommendations, or reports resulting from the monitoring or rehabilitation of health care professionals pursuant to a contract with the Board 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.

(3) All records of the PHP shall be confidential and shall be used by the PHP and its employees and agents only in the exercise of the proper function of the PHP pursuant to its contract with the Board. Such information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the PHP 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.

(4) Notwithstanding the above, the Board is authorized to use any such information in a manner and hearing consistent with the provisions of O.C.G.A. *Section 43-34-8*, and the Board rules.

Authority O.C.G.A. *Secs 43-34-5, 43-34-5.1, 43-34-7* and *43-34-8*.

History. Original Rule entitled "Examination and Certification" adopted as ER. 360-11-0.3-.05. F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Repealed:** New Rule of same title adopted. F. July 10, 1980; eff. July 30, 1980. **Repealed:** New Rule of same title adopted. F. June 21, 1982; eff. July 11, 1982. **Repealed:** New Rule of same title adopted. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** F. May 20, 1988; eff. June 30, 1988, as specified by the Agency. **Amended:** F. Mar. 17, 1997; eff. Apr. 6, 1977. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008. **Amended:** New Rule entitled "Filing of Influenza Vaccine Protocol Agreement With the Board" adopted. F. Dec. 21, 2009; eff. Jan. 10, 2010. **Repealed**: New Rule entitled "Confidentiality" adopted. F. Jul. 5, 2011; eff. Jul. 25, 2011.



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Ga. Comp. R. & Regs. r. 360-11-.06 (2012)

360-11-.06 Limitation on Liability.

(1) Any entity that contracts with the Board for a PHP 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 law.

(2) Notwithstanding any other provisions of the law, the members of the Wellness Committee and Board shall not be liable in damages to any person for any acts, omissions or recommendations made by them in good faith while acting within the scope of their responsibilities pursuant to the law and rules.

(3) No person who in good faith and without malice makes a report to the Board shall be liable for damages to any person.

Authority O.C.G.A. *Secs 43-34-5*, *43-34-5.1*, and *43-34-8*.

History. Original Rule entitled "Reciprocity and Certification" adopted as ER. 360-11-0.3-.06. F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Repealed:** New Rule entitled "Approval of Training Courses" adopted. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** F. May 20, 1988; eff. June 30, 1988, as specified by the Agency. **Amended:** F. June 13, 1989; eff. July 3, 1989. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008. **Amended:** New Rule entitled "Limitations" adopted. F. Dec. 21, 2009; eff. Jan. 10, 2010. **Repealed**: New Rule entitled "Limitation on Liability" adopted. F. Jul. 5, 2011; eff. Jul. 25, 2011



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Ga. Comp. R. & Regs. r. 360-11-.07 (2012)

360-11-.07 Repealed.Authority *O.C.G.A. Secs. 31-11-52, 43-34-5, 43-34-26.1*.

Authority changed. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008. **Amended:** New Rule entitled "Template" adopted. F. Dec. 21, 2009; eff. Jan. 10, 2010. **Repealed: F. Jul 5, 2011; eff. Jul. 25, 2011.**

History. Original Rule entitled "Change of Status" adopted as ER. 360-11-0.3-.07. F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Amended:**



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Ga. Comp. R. & Regs. r. 360-11-.08 (2012)

360-11-.08 Repealed.

Authority *O.C.G.A. Sec. 31-11-52*.

History. Original Rule entitled "Disciplinary Action/Revocation" adopted as ER. 360-11-0.3-.08. F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Amended:** F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** F. May 20, 1988; eff. June 30, 1988, as specified by the Agency. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008.



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Ga. Comp. R. & Regs. r. 360-11-.09 (2012)

360-11-.09 Repealed.

Authority *O.C.G.A. Secs. 31-11-52*, *43-1-4*, *43-1-7*, *43-1-25*, *43-34-24*.

History. Original Rule entitled "Recertification" adopted as ER. 360-11-0.3-.09. F. and eff. Jan. 25, 1978. **Amended:** Permanent Rule of same title adopted. F. Apr. 24, 1978; eff. May 14, 1978. **Repealed:** New Rule of same title adopted. F. Apr. 21, 1982; eff. May 11, 1982. **Repealed:** New Rule entitled "Renewal and Recertification" adopted. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Amended:** F. May 20, 1988; eff. June 30, 1988, as specified by the Agency. **Amended:** ER. 360-11-0.6-.09 adopted. F. Jan. 18, 1989; eff. Jan. 12, 1989, the date of adoption. **Repealed:** New Rule of same title adopted. F. Apr. 11, 1994; eff. May 1, 1994. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008.



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Ga. Comp. R. & Regs. r. 360-11-.10 (2012)

360-11-.10 Repealed.

Authority *O.C.G.A. Sec. 31-11-52*.

History. Original Rule entitled "Temporary Certificates" adopted. F. June 21, 1982; eff. July 11, 1982. **Repealed:** New Rule of same title adopted. F. June 18, 1984; eff. July 13, 1984, as specified by the Agency. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008.



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Ga. Comp. R. & Regs. r. 360-11-.11 (2012)

360-11-.11 Repealed.

Authority *O.C.G.A. Sec. 31-11-58.1*.

History. Original Rule entitled "Continuing Education Requirements" adopted. F. Apr. 11, 1994; eff. May 1, 1994.
Repealed: F. Dec. 14, 2007; eff. Jan. 3, 2008.



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Ga. Comp. R. & Regs. r. 360-11-.12 (2012)

360-11-.12 Repealed.

Authority *O.C.G.A. Sec. 31-11-58.1*.

History. Original Rule entitled "Compliance" adopted. F. Apr. 11, 1994; eff. May 1, 1994. **Repealed:** F. Dec. 14, 2007; eff. Jan. 3, 2008.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-12 CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH PROGRAM

Ga. Comp. R. & Regs. r. 360-12-.01 (2012)

360-12-.01 Organization of the Patient Qualification Review Board.

(1) The Composite State Board of Medical Examiners 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 Composite Board. The Review board shall consist of:

(a) a Board certified physician of Ophthalmology;

(b) a Board certified physician in Surgery;

(c) a Board certified physician in Internal Medicine and Medical Oncology;

(d) a Board certified physician in Psychiatry;

(e) a Board certified physician in Radiology;

(f) a Pharmacist licensed under Code Title 79A, relating to pharmacists, pharmacy, and drugs, as now or hereafter amended.

(2) Board members shall serve terms as specified by the Composite board. They are as follows:

(a) two (2) three year appointments;

(b) two (2) four year appointments;

(c) two (2) five year appointments.

(3) The Review board shall elect from its members a chairman and vice-chairman.

(a) 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 chairman of the Review board or the president of the Composite board. Meetings of the Review board to certify patients, physicians or pharmacies shall not be open to the public, as otherwise required by an Act providing for open meetings.

(b) 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.

AUTHORITY: Ga. L. 1980, pp. 82-88 (Ga. Code Ann. 84-904a and 84-905a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Organization of the Patient Qualification Review Board" was filed on April 23, 1981; effective May 13, 1981.

NOTES:
CHAPTER NOTES:

The purpose of this program is to: sponsor statewide investigational studies utilizing as drug investigators individual physicians who elect to participate in accordance with the guidelines and protocols developed by the Composite board; evaluate the response rates of oral THC, standardized smoking, and patient-controlled smoking as anti-emetics in cancer patients who have failed to respond to conventional antiemetic therapy; determine if response rates vary with age; determine the lowest dose of THC/Marijuana that will produce an anti-emetic effect without untoward reactions (by age group) (incidence of toxicity as a function of dose); determine the effect of oral THC versus inhaled marijuana on appetite and food intake; assess the effectiveness of certain other pharmacotherapies on untoward reaction to THC/Marijuana.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-12 CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH PROGRAM

Ga. Comp. R. & Regs. r. 360-12-.02 (2012)

360-12-.02 Definitions.

As used in these rules, the following shall mean:

(a) "Composite Board" means the Composite State Board of Medical Examiners established pursuant to Code Chapter 84-9, as now or hereafter amended;

(b) "marijuana" means marijuana or tetrahydrocannabinol, as defined or listed in the "Georgia Controlled Substances Act," as now or hereafter amended;

(c) "physician" means person licensed to practice medicine pursuant to Code Chapter 84-9, as now or hereafter amended;

(d) "program" means the Controlled Substances Therapeutic Research Program established pursuant to Code Section 84-904A;

(e) "Review Board" means the Patient Qualification Review Board established pursuant to Code Section 84-905A.

AUTHORITY: Ga. L. 1980, pp. 82-88 (Ga. Code Ann. 84-904a and 84-905a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Definitions" was filed on April 23, 1981; effective May 13, 1981.



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Ga. Comp. R. & Regs. r. 360-12-.03 (2012)

360-12-.03 Patients Certified to the Patient Qualification Review Board by a Physician. Amended.

(1) Such patients are defined as:

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

(b) glaucoma patients who are not responding to conventional controlled substances;

(2) 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.

(3) The patient shall pay the cost of any blood test required by the Federal Food and Drug Administration prior to entrance into the program.

(4) The Review board shall review all patient applicants for the program and their physicians and shall certify those qualified for their participation in the program.

(5) No patient's name shall be disclosed to the public and patient applications and records shall be reviewed by the Board in closed session.

(6) Patients Eligible to Participate in Research Program:

(a) Males and non-pregnant females, willing to sign an informed consent, who reside in Georgia and who are patients of duly licensed Georgia physicians may be impanelled. Patients under the age of 18 will require parental consent;

(b) all eligible patients must have histologically documented evidence of malignancy and must be under treatment with chemotherapeutic agents and/or radiotherapy known to cause nausea and/or vomiting. There must be evidence that conventional anti-emetic therapy has been tried and failed;

(c) patient must live with or have available another person over the age of 18 to monitor side effects and provide

transportation. Patient must agree not to operate dangerous machinery such as an automobile within 24 hours after the last dose of THC/Marijuana;

(d) patient must not be under treatment for any significant mental disorder known to contraindicate the use of THC/Marijuana. Exceptions may be made upon written recommendation of a psychiatrist;

(e) patients with a history of allergy to ragweed and other plant antigens may be at greater than average risk of allergic reaction. These patients will be required to be in an inpatient facility during the first five doses (24 hours) of THC or marijuana and then have available an emergency epinephrine injection kit for self administration if needed;

(f) patients with a history of angina and/or other cardiovascular problems known to contraindicate the use of THC/Marijuana will be ineligible. Also ineligible will be patients with symptomse of uncontrolled nausea and/or vomiting due to organic disease such as brain metastases or intestinal obstruction.

(7) Patients accepted into this study will require the following parameters before therapy begins:

(a) Physical exam, including height and current weight;

(b) Forms A and B;

(c) CBC, platelet count, SMA-12 panel, BUN, creatinine;

(d) EKG, chest x-ray.

AUTHORITY: Ga. L. 1980, pp. 82-88 (Ga. Code Ann. 84-904a and 84-905a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Patients Certified to the Patient Qualification Review Board by a Physician" was filed on April 23, 1981; effective May 13, 1981. AMENDED: Filed May 20, 1988; effective June 9, 1988.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-12 CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH PROGRAM

Ga. Comp. R. & Regs. r. 360-12-.04 (2012)

360-12-.04 Pharmacies Certified by the Patient Qualification Review Board.

The Review Board shall additionally certify pharmacies which are licensed by the State and which are otherwise qualified, and physicians regarding the distribution of marijuana pursuant to the provisions of Code Section 84-906A.

AUTHORITY: Ga. L. 1980, pp. 82-88 (Ga. Code Ann. 84-904a and 84-905a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Pharmacies Certified by the Patient Qualification Review Board" was filed April 23, 1981; effective May 13, 1981.



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Ga. Comp. R. & Regs. r. 360-12-.05 (2012)

360-12-.05 Patient Application.

(1) Procedures and methods shall be as follows:

(a) A physician requesting that his patient be included in this study must submit an application and notify the Patient Qualification Review Board that there is in the medical record a copy of the biopsy report and a consultation request for evaluation of THC/Marijuana antiemetic protocol. A copy of the biopsy report shall then be sent to the Board.

(2) Control of this drug will be based on assignment of patients to protocol.

(a) A copy of the Medical Registration Form shall be forwarded to the pharmacist before any drug is dispensed. The drug shall then be issued in accordance with written physician orders after matching these orders with the Medical Registration Form copy. The pharmacist shall maintain a ledger sheet on each patient. Monthly, the pharmacist shall review all ledgers, take a physical inventory of all THC/Marijuana on hand, and prepare a written report to the PQR Board.

(3) If a patient is to receive THC/Marijuana on subsequent cycles, an order shall be sent to the pharmacy with a copy of the evaluation form. The patient will then receive the drug for another cycle.

(4) If the patient is taken off the study for any reason, physician shall notify the PQR Board and send narrative off study form. A copy of this form will then be sent to the pharmacy.

(5) If patient has cancer chemotherapy changed to other drugs that produce nausea and vomiting, physician shall send notice to the Board of his intent to keep patient on protocol. A copy will then be sent to the pharmacy.

(6) In addition to the above audits, pharmacists shall handle THC/Marijuana exactly as Schedule II control drugs are handled.

(7) Unused drug will be returned to the pharmacist and will be retained separately.

AUTHORITY: Ga. L. 1980, pp. 82-88 (Ga. Code Ann. 84-904a and 84-905a).

ADMINISTRATIVE HISTORY: Original Rule entitled "Patient Application" was filed on April 23, 1981; effective May 13, 1981.



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CHAPTER 360-13 RESPIRATORY CARE PROFESSIONALS, TECHNICIANS, AND THERAPISTS

Ga. Comp. R. & Regs. r. 360-13-.01 (2012)

360-13-.01 Requirements for Board Certification.

(1) The requirements for Board Certification are as follows:

(a) must be at least 18 years of age;

(b) must have submitted a completed application and the fees as required by the Board;

(c) must submit evidence of receiving a passing score on the entry level examination given by the National Board for Respiratory Care;

(d) must provide an original letter of recommendation, signed by a physician licensed to practice medicine in Georgia, who serves as a local medical director or advisor under whom the applicant will practice;

1. In order to qualify as a medical director or advisor under whom the applicant will practice, such person must meet the following requirements:

(i) shall hold a current Georgiamedical license;

(ii) must have experience in and knowledge of respiratory care;

(iii) designee must be readily available to the applicants in his/her workplace;

(e) is not otherwise ineligible for certification under *Code Section 43-34-149*.

Authority *O.C.G.A. Secs. 43-34-143*, *43-34-145*, *43-34-148*.

History. Original Rule entitled "Purpose" adopted as ER. 360-13-0.4-.01. F. Sept. 10, 1986; eff. Sept. 4, 1986, the date of adoption. **Amended**: Permanent Rule of same title adopted. F. Dec. 18, 1986; eff. Jan. 7, 1987. **Amended:** F. Jan. 12, 1994; eff. Feb. 1, 1994. **Repealed:** New Rule entitled "Requirements for Board Certification" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009. **Repealed:** New Rule of same title adopted. F. May 11, 2012; eff. May 31, 2012.

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Ga. Comp. R. & Regs. r. 360-13-.02 (2012)

360-13-.02 Applications.

(1) The application form shall be completed according to the instructions provided in the application.

(2) Applications must be complete, including all required documentation, signatures and seals. Application files are not considered completed until all information, including fees, have been received by the Board.

(3) Applicants shall inform the Board in writing within 10 days of a change of address while an application is pending.

(4) Application fees are nonrefundable.

(5) No application will be considered by the Board until the application is complete.

(6) Incomplete applications that have been on file with the Board for more than one year shall be deemed invalid. No further action will take place on applications that have been incomplete for more than a year until a new application is received in accordance with the provisions of this chapter with the appropriate application fee.

(7) Any applicant who has not received from the Board a valid temporary permit or valid certificate to practice respiratory care shall not engage in the practice of respiratory care or represent himself or herself as a certified respiratory care professional until such time as the Board has approved his or her application for a temporary permit or certification.

O.C.G.A. *Secs. 43-1-2*, *43-1-4*, *43-1-7*, *43-1-25*, *43-34-24*, *43-34-143*, *43-34-145*, *43-34-148*, *43-34-150*.

HISTORY. Original Rule entitled "Requirements for Board Certification" adopted as ER. 360-13-0.4-.02. F. Sept. 10, 1986; eff. Sept. 4, 1986, the date of adoption. AMENDED: Permanent Rule of same title adopted. F. Dec. 18, 1986; eff. Jan. 7, 1987. AMENDED: F. Sept. 14, 1988; eff. Oct. 4, 1988. AMENDED: F. Jan. 12, 1994; eff. Feb. 1, 1994. REPEALED: New Rule entitled "Applications" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003.

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Ga. Comp. R. & Regs. r. 360-13-.03 (2012)

360-13-.03 Temporary Permits.

(1) An applicant who is eligible provided below may submit an application for a temporary permit. A temporary permit may be granted to applicants for a period of twelve months to:

(a) an applicant for certification under O.C.G.A. *§ 43-34-148* who provides the Board with written evidence, verified by oath, that the applicant was certified, licensed or practicing respiratory care in another state, or

(b) an applicant who is a graduate of a respiratory therapy program accredited by the Commission on Accreditation of Allied Health Programs, or the equivalent thereof as accepted by the Board, pending the completion of all other requirements for certification under the Respiratory Care Practices Act.

(2) Any individual applying for a temporary permit must submit a notarized statement of reference either from a physician in the state where the applicant has been practicing or from the medical director of the academic program from which the applicant has graduated, attesting to the fact that the applicant is qualified to practice respiratory care, or

(3) must submit a notarized statement of reference from the medical director of the academic program from which the applicant has graduated, or is about to graduate, attesting to the fact that the applicant is qualified to practice respiratory care.

(4) Applications may be submitted 60 days prior to the applicant's graduation date.

(5) All persons issued a temporary permit under this chapter shall have until the expiration date of such temporary permit to become fully certified under this chapter.

(6) Temporary permits issued pursuant to this paragraph may not be renewed.

(7) The holder of a temporary permit shall cease practicing respiratory care upon expiration of the temporary permit, unless such person has been fully certified by the Board to practice respiratory care.

Authority O.C.G.A. *Secs. 43-34-143*, 43-34-147.1, *43-34-150*.

History .Original Rule entitled "Grandfather Provision" adopted as ER. 360-13-0.4-.03. F. Sept. 10, 1986; eff. Sept. 4, 1986, the date of adoption. **Amended**: Permanent Rule of same title adopted. F. Dec. 18, 1986; eff. Jan. 7, 1987. **Repealed**: F. Sept. 14, 1988; eff. Oct. 4, 1988. **Amended**: ER. 360-13-0.9-.03 entitled "Exemptions to Licensure Requirements" adopted. F. June 4, 1993; eff. June 3, 1993, the date of adoption. **Amended**: Permanent Rule of same title adopted. F. Aug. 9, 1993; eff. Aug. 29, 1993. **Repealed**: New Rule entitled "Temporary Permits" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

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Ga. Comp. R. & Regs. r. 360-13-.04 (2012)

360-13-.04 Reciprocity.

(1) Any person who has been granted certification, registration, licensure or other authority to practice respiratory care in another state whose requirements for such authority to practice are substantially equal to or exceed the requirements for certification in this state may petition the Board for reciprocity in this State.

(2) Verification by oath of certification, registration, licensure or other authority to practice respiratory care must be submitted directly to the Board from the appropriate state authority attesting to the fact that the applicant seeking certification by reciprocity is currently certified, licensed or otherwise authorized to practice respiratory care in that state.

(3) Any applicant for certification by reciprocity must submit a notarized statement of reference from a physician, currently licensed in the state where the applicant has been practicing attesting to the fact that the applicant is qualified to practice respiratory care.

(4) Reciprocity applicants who have not been practicing respiratory care in another state for a period of 12 months or more shall be required to establish to the Board's satisfaction that the applicant maintained current knowledge, skill and proficiency in the practice of respiratory care.

O.C.G.A. *Secs. 43-1-2*, *43-1-4*, *43-1-7*, *43-1-25*, *43-34-24*, *43-34-143*, *43-34-145*, 43-34-147.1, 43-34-147.2.

HISTORY. Original Rule entitled "Renewal and Recertification" adopted as ER. 360-13-0.4-.04. F. Sept. 10, 1986; eff. Sept. 4, 1986, the date of adoption. AMENDED: Permanent Rule of same title adopted. F. Dec. 18, 1986; eff. Jan. 7, 1987. AMENDED: F. Oct. 19, 1988; eff. Nov. 8, 1988. AMENDED: ER. 360-13-0.7-.04 adopted. F. Jan. 18, 1989; eff. Jan. 12, 1989, the date of adoption. REPEALED: New Rule entitled "Reciprocity" adopted. F. Jan. 12, 1994; eff. Feb. 1, 1994. REPEALED: New Rule of same title adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003.

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Ga. Comp. R. & Regs. r. 360-13-.05 (2012)

360-13-.05 Change of Name or Address.

(1) A certificate holder shall notify the Board in writing within 30 days after the certificate holder's name is legally changed. At the time of notification, the certificate holder shall submit a certified copy of the official document evidencing the name change. If the name change occurred during naturalization, the application must also include the naturalization number, the name and address of the court, the date of naturalization, and the name change. After receipt of the required notification and documentation, the Board will issue a duplicate certificate in the new name.

(2) A certificate holder shall notify the Board in writing within 30 days after a change in the certificate holder's address of record. Failure to so notify the Board of an address change may be deemed to be noncompliance with O.C.G.A. *§ 43-34-146* and may be grounds for disciplinary action pursuant to O.C.G.A. *§ 43-34-149*.

(3) A certificate holder who utilizes a post office box as the address of record shall also provide a street address where the Board may contact the certificate holder.

Authority O.C.G.A. *Secs.43-34-3*, *43-34-143*, *43-34-144*, *43-34-146* to *43-34-149*.

History. Original Rule entitled "Continuing Education Requirements" adopted as ER. 360-13-0.4-.05. F. Sept. 10, 1986; eff. Sept. 4, 1986, the date of adoption. **Amended:** Permanent Rule of same title adopted. F. Dec. 18, 1986; eff. Jan. 7, 1987. **Amended:** F. May 15, 1992; eff. June 4, 1992. **Repealed:** New Rule entitled "Certification of Persons Practicing Respiratory Care on April 27, 1993" adopted. F. Jan. 12, 1994; eff. Feb. 1, 1994. **Repealed:** New Rule entitled "Change of Name or Address" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

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Ga. Comp. R. & Regs. r. 360-13-.06 (2012)

360-13-.06 Duplicate Certificates.

(1) Duplicate certificates may be issued upon approval by the Board if the original certificate is lost, stolen, or destroyed, or if the certificate holder has had a legal change of name.

(2) To request a duplicate certificate, the certificate holder must submit a notarized application stating the reason the duplicate certificate is requested. If the application is based on a name change, the certificate holder must provide the documentation required by *Rule 360-13-.05*.

(3) All applications must include the duplicate certificate fee. The duplicate certificate fee shall be designated in the fee schedule.

O.C.G.A. *Secs. 43-1-2*, *43-1-7*, *43-1-25*, *43-34-143*.

HISTORY. Original Rule entitled "Renewal and Recertification" adopted. F. Jan. 13, 1994; eff. Feb. 1, 1994.
REPEALED: New Rule entitled "Duplicate Certificates" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003.

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Ga. Comp. R. & Regs. r. 360-13-.07 (2012)

360-13-.07 Renewal and Recertification.

(1) Certificates will expire on the last day of the month in which the applicant's birthday falls.

(2) Approximately 60 days prior to the expiration date, the Board may, as a courtesy, mail a notice for renewal of certificate to the certificate holder's last address on file in the Board's records.

(3) Failure to receive such notification shall not relieve the certificate holder of the obligation to renew the certificate and pay the required fee prior to the expiration date of the certificate. Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled.

(4) To be eligible for renewal and recertification, a certificate holder must answer questions on their biennial renewal form, which establish satisfaction of Board approved continuing education requirements. The Board shall not renew the certificates of applicants who failed to comply with Board approved continuing education requirements.

(5) To be eligible for renewal and recertification, a certificate holder must also furnish satisfactory evidence that he or she continues to work under the supervision of a physician who meets the requirements of *Rule 360-13-.01(d)*. This evidence must be furnished on a form prescribed by the Board. The Board shall not renew the certificates of applicants who are not working under the supervision of a physician who meets the requirements of *Rule 360-13-.01(d)*.

(6) Failure to renew a certificate by the designated expiration date shall result in a penalty for late renewal as required by the Board. Certificates that are not renewed within 3 months of expiration shall be revoked for failure to renew and may be reinstated only as provided in *Rule 360-13-.09*.

(7) A certificate holder with an expired certificate shall not engage in the practice of respiratory care or to represent himself or herself as a certified respiratory care professional until such time as the Board has approved his or her application for renewal or reinstatement.

AUTHORITY: O.C.G.A. *Secs. 43-1-19, 43-34-3, 43-34-143* to *43-34-147*, *43-34-150*, *43-34-151*.

HISTORY: Original Rule entitled "Continuing Education Requirements" adopted. F. Jan. 12, 1994; eff. Feb. 1, 1994.

Amended: F. Jan. 13, 1997; eff. Feb. 2, 1997. **Amended:** F. May 11, 1998; eff. May 31, 1998. **Repealed:** New Rule entitled "Renewal and Recertification" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Repealed:** New Rule of same title adopted. F. Mar. 10, 2004; eff. Mar. 30, 2004.**Amended: F. Apr. 12, 2006; eff. May 2, 2006.Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

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Ga. Comp. R. & Regs. r. 360-13-.08 (2012)

360-13-.08 Inactive Status.

(1) A person who wishes to maintain his or her certificate as a Respiratory Care Professional, but who does not intend to practice respiratory care may apply to the Board for inactive status by submitting an application and the fee. An individual with an inactive certificate may not practice respiratory care in this State.

(2) In order to reinstate a certificate to practice respiratory care, an applicant must complete an application and pay a reinstatement fee. The applicant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in the practice of respiratory care and that he or she is mentally and physically able to practice respiratory care with reasonable skill and safety.

(3) Reinstatement of the certificate is within the discretion of the Board.

O.C.G.A. *Secs. 43-34-143*, *43-34-147*, 43-34-147.1.

HISTORY. Original Rule entitled "Temporary Permits" adopted. F. Jan. 12, 1994; eff. Feb. 1, 1994. REPEALED: New Rule entitled "Inactive Status" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003.

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Ga. Comp. R. & Regs. r. 360-13-.09 (2012)

360-13-.09 Reinstatement.

(1) A minimum of two (2) years shall pass from the date of any revocation of a certificate before the Board will consider an application for reinstatement. This requirement shall only apply to those instances in which the certificate in question was revoked for reasons other than failure to renew. For purposes of this rule, a voluntary surrender shall be considered a revocation for reasons other than failure to renew.

(2) Applicants for reinstatement who have not practiced within two (2) years prior to making application with the board must obtain the following continuing education hours to be eligible for reinstatement:

(a) Thirty hours (or 3 CEUs) of approved continuing education credits are needed in which 15 hours or 1.5 CEUs must come from critical care. Critical care topics are generally considered to be topics that include in the title such words or abbreviations as ICU, NICU, PICU, ventilator, modes of ventilation, ventilator weaning, VAP, PEEP, BiPAP(.), CPAP, ARDS, NAVA, Capnography, ALI, mechanically ventilated patients, Mass casualty care, HFOV, or HFV.

(3) In order to reinstate a certificate to practice respiratory care, an applicant must complete an application, pay a reinstatement fee as shall be designated in the fee schedule, provide satisfactory evidence that the certificate holder will work under the supervision of a physician who meets the requirements of *Rule 360-13-.01(d)* and provide verification of completion of continuing education requirements as provided in *Rule 360-13-.10* for each biennial period that the applicant was not certified. However, the maximum number of contact hours required may not exceed 60. The applicant must be able to demonstrate to the satisfaction of the Board that he or she has maintained current knowledge, skill and proficiency in the practice of respiratory care with reasonable skill and safety.

(4) Reinstatement of the certificate is within the discretion of the Board.

(5) The Board may require the passage of an examination. The Board, in its discretion, may impose any remedial requirements deemed necessary.

(6) The Board may deny reinstatement for failure to demonstrate current knowledge, skill and proficiency in the practice of respiratory care or for being mentally or physically unable to practice respiratory care with reasonable skill

and safety or for any ground set forth in O.C.G.A. *§ 43-34-149*.

(7) The denial of reinstatement is not a contested case, but the applicant shall be entitled to an appearance before the Board.

Authority O.C.G.A. *Secs.43-1-19*, *43-34-143*, *43-34-145*, *43-34-147* to *43-34-151*.

History. Original Rule entitled "Unlicensed Practice" adopted. F. Jan. 12, 1994; eff. Feb. 1, 1994. **Repealed:** New Rule entitled "Reinstatement" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

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Ga. Comp. R. & Regs. r. 360-13-.10 (2012)

360-13-.10 Continuing Education Requirements.

(1) An applicant for renewal of a certificate to practice Respiratory Care who has been initially licensed by the Board by examination for less than two years shall not be required to complete the continuing education hours in order to renew the certificate for the first time. However, for the next renewal must obtain 30 hours of continuing education.

(2) Except as provided in paragraph (1), to be eligible to renew a certificate, each certificate holder must complete 30 contact hours, or 3 continuing education units, of approved continuing education during the two years preceding certification renewal. One continuing education unit shall be equal to 10 contact hours of instruction. Certificate holders shall not receive contact hours or continuing education units for teaching continuing education courses. Each certificate must be renewed biennially by the last day of the month in which the applicant's birthday falls and the certificate holder must establish satisfaction of at least thirty (30) contact hours of Board-approved continuing education requirements to be eligible for renewal.

(3) Each certificate holder shall be required to answer questions on their renewal application form that establish compliance with Board approved continuing education requirements. Certificate holders will not be required to send documentation of compliance with continuing education requirements for renewal, unless requested by the Board pursuant to *Rule 360-13-.10(4)*. False statements regarding satisfaction of continuing education on the renewal form or any other document connected with the practice of respiratory care may subject the certificate holder to disciplinary action by the Board.

(4) Each certificate holder who must meet the requirements of this chapter must maintain record of attendance and supporting documents for Board approved continuing education for a period of 5 years from the date of attendance. At a minimum, the following information must be kept:

(a) name of provider;

(b) name of program;

(c) hours of continuing education units completed; and

(d) date of completion.

(5) The Board will audit a fixed percentage of randomly selected renewal applications to monitor compliance with the continuing education requirements. Any certificate holder so audited shall be required to furnish documentation of compliance including name of provider, name of program, hours/continuing education units completed and date of completion. Any certificate holder so audited that has been found to be out of compliance with the Board's continuing education requirements may be subject to disciplinary action.

(6) If the certificate holder has not complied with the continuing education requirement by the expiration of the certificate, his/her certificate shall not be renewed and the certificate holder shall not engage in the practice of respiratory care. A certificate holder may late renew during the three months following the expiration date of his or her certificate by presenting satisfactory evidence to the Board of completion of the contact hours or continuing education units of Board approved continuing education required by paragraph (2) of this Rule and the late renewal fee. Certificates not renewed within 3 months following the expiration date of the certificate shall be revoked for failure to renew. In order to obtain a valid certificate after revocation for failure to renew, an applicant must apply for reinstatement in accordance with *Rule 360-13-.09*.

(7) Continuing education hours that are used to satisfy a deficiency may not be used for purposes of renewal of the certificate holder's certificate for the next biennium.

(8) Any certificate holder seeking renewal of a certificate without having fully complied with the Board's continuing education requirements who wishes to seek a waiver or variance of this rule shall file with the Board.

(a) a renewal application and fee and

(b) a statement that complies with the provisions of O.C.G.A. *§ 50-13-9.1* setting forth the specific facts of substantial hardship which would justify a variance or waiver, including the alternative standards which the person seeking a waiver or variance agrees to meet and a showing that such alternative standards will afford adequate protection for the public health, safety and welfare; and the reason why the variance would serve the purpose of the underlying statute.

(9) The following courses are approved by the Board as meeting the continuing education requirements:

(a) Courses approved by the American Association for Respiratory Care or its successor organization.

(b) Courses approved by the Georgia Society for Respiratory Care or its successor organization.

(c) Courses approved by the American Thoracic Society.

(d) Courses approved by the American College of Chest Physicians.

(e) Effective July 1, 2006, courses approved by the American Association of Critical-Care Nurses.

(f) Effective July 1, 2006, the following programs of the American Heart Association and the American Academy of Pediatrics; however, these programs shall constitute no more than 25% of the total acceptable continuing education units required.

1. Basic Life Support

2. Basic Life Support Recertification

3. Advanced Cardiac Life Support

4. Advanced Cardiac Life Support Recertification

5. Basic Life Support Instructor

6. Basic Life Support Instructor Trainer

7. Basic Life Support Instructor Trainer Recertification

8. Advanced Cardiac Life Support Instructor

9. Advanced Cardiac Life Support Instructor Update (Certification)

10. Basic Trauma Life Support

11. Basic Trauma Life Support Recertification

12. Pediatric Basic Life Support

13. Pediatric Advanced Life Support

14. Pediatric Advanced Life Support Recertification

15. Neonatal Resuscitation Program

16. Neonatal Recertification.

(g) Effective July 1, 2006, courses approved by the American Society for Anesthesia

(h) National Board for Respiratory Care Self-Assessment Exams

(i) National Board for Respiratory Care Credential Exams

(j) American Medical Association Category I programs

(k) Effective July 1, 2006, courses approved by the College of American Pathologists provided the courses are related to pulmonary pathology or acid base balance and constitute no more than 25% of the acceptable continuing education units required.

(l) Effective July 1, 2006, Respiratory specific courses approved by the Georgia Nursing Association; however, courses approved by the Georgia Nursing Association shall constitute no more than 25% of the total acceptable continuing education units required.

Authority O.C.G.A. *Secs. 43-34-3, 43-34-143, 43-34-145, 43-34-147, 43-34-150.*

History. Original Rule entitled "Practice of Respiratory Care WithoutCertification Prohibited; Exceptions" adopted. F. June 9, 1995; eff. June 29, 1995. **Repealed:** New Rule entitled "Continuing Education Requirements" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Amended:**F. June 11, 2004; eff. July 1, 2004.**Amended: F. Aug. 29, 2005; eff. Sept. 18, 2005.Repealed:** New Rule of same title adopted. F. Apr. 12, 2006; eff. May 2, 2006. **Repealed:** New Rule of same title adopted. F. June 28, 2006; eff. July 18, 2006.**Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

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Ga. Comp. R. & Regs. r. 360-13-.11 (2012)

360-13-.11 Unlicensed Practice.

Any person practicing respiratory care, or representing himself or herself as a certified respiratory care professional, who does not possess a valid certificate or temporary permit from the Board, and who is not exempt under *O.C.G.A. 43-34-151(b)*, shall be guilty of a misdemeanor and subject to other injunctive relief by the Board pursuant to O.C.G.A. *§§ 43-1-20.1* and *43-34-39*.

Authority O.C.G.A. *Secs.43-1-20.1*, *43-34-39*, *43-34-43*, *43-34-150*, *43-34-151*.

History. Original Rule entitled "Unlicensed Practice" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

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Ga. Comp. R. & Regs. r. 360-13-.12 (2012)

360-13-.12 Practice of Respiratory Care Without Certification Prohibited; Exceptions.

(1) Unless certified pursuant to O.C.G.A. Title 43, Chapter 34, Article 6, no person shall:

(a) Practice respiratory care; or

(b) Represent himself or herself to be a respiratory care professional who is certified pursuant to O.C.G.A. *§ 43-34-151*.

(2) The prohibition in subsection (1) does not apply to:

(a) 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 Title 43;

(b) 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 Committee on Accreditation for Respiratory Care (COARC) 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;

(c) 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;

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

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

(f) 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;

(g) The delivery, assembly, setup, testing, and demonstration of oxygen and aerosol equipment upon the order of a physician licensed under Art. 2 of Chapter 34, Title 43. Provided, however, that no person providing such services shall be authorized to assess patients, develop care plans, instruct patients in taking treatment, or discuss the hazards, administration, or side effects of medications with patients.

(h) 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.

1. The Board has defined the following class of persons as having the competencies required to perform such limited respiratory care procedures:

(i) Students of an accredited Respiratory Care Program who perform limited respiratory care procedures under the supervision of a certified respiratory care professional in a hospital or nursing home, if the student's competency has been validated through an accredited education program and by the hospital or nursing home for whom he or she is employed.

(I) Upon completion of the educational program, the student must then apply for a temporary permit as specified in Chapter 34. In addition, pending the granting or denial of a certificate or permit, graduates of an accredited respiratory care program who have applied for certification or a permit shall only perform limited respiratory care procedures where their competency has been validated in writing to the Board through the accredited program and by the hospital or nursing home for whom they are employed.

(II) Any student who performs limited respiratory care procedures without complying with the requirements listed in the above paragraphs of *Rule 360-13-.12(2)(b)* is engaging in the practice of respiratory care without certification, which is prohibited by O.C.G.A. *§ 43-34-151*. Any certified respiratory care professional who supervises a student prior to compliance with the above listed paragraphs of *Rule 360-13-.12(b)* is aiding and assisting an uncertified person engage in the practice of respiratory care and may be subject to disciplinary action.

Authority O.C.G.A. *Secs.43-34-143, 43-34-150, 43-34-151*.

History. Original Rule entitled "Practice of Respiratory Care Without Certification Prohibited; Exceptions" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

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Ga. Comp. R. & Regs. r. 360-13-.13 (2012)

360-13-.13 Composition and Responsibilities of the Respiratory Care Advisory Committee.

(1) The Respiratory Care Advisory Committee shall be comprised as follows:

(a) At least four (4) individuals who are certified in this State to engage in the practice of respiratory care and such other individuals as the Board, in its discretion, may determine.

1. All appointees to the Advisory Committee shall have on file with the Executive Director of the Board, or his/her designee, a resume and three letters of recommendation, (one of which may be from a physician familiar with the appointee's practice of respiratory care).

2. In order to preserve continuity on the Advisory Committee, two (2) appointees shall serve a four-year term and two (2) appointees shall serve a two-year term which will be considered a partial term. At the time of the appointment, each appointee will be notified in writing by the Executive Director of the Board as to the beginning and ending dates of their respective appointment terms. Each may reapply to the full Board to serve an additional term, but may not serve more than two (2) consecutive two-year terms.

3. In the event an Advisory Committee member is replaced during a term, the replacement member will serve the remaining time of that term as a partial term. An Advisory Committee member who serves a partial term will, after the completion of the partial term, be eligible to serve two (2) consecutive two-year terms.

4. Appointees shall serve without compensation from the State of Georgia for their time and expenses.

(b) One individual who is a physician licensed to practice medicine in the State of Georgia who:

1. Specializes or is board certified in pulmonary medicine;

2. Shall serve a two (2) year term and may be reappointed for an additional two year term by a majority vote of the Board, but may not serve more than two (2) consecutive terms.

(2) The Advisory Committee shall advise the Board on matters pertaining to the appointment of the Advisory Committee members and on all matters within the purview of the Respiratory Care Practices Act. The Board, in

consultation with the Advisory Committee, shall:

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

(b) Adopt and revise rules consistent with the laws of the State of Georgia that are necessary to conduct its duties and administer the Act;

(c) Examine, approve, issue, deny revoke, suspend and renew the license of applicants and certificate holders and conduct hearings in connection with all duties to be performed pursuant to the Act.

(3) Advisory Committee members, who are not members of the Board, must be available to meet on as an needed basis and may not miss more than three (3) consecutive meetings of the Advisory Committee, or four (4) meetings in a calendar year, without an excused absence from either the Executive Director of the Board or the Board President.

(a) The Advisory committee may recommend to the Board the removal of a member for violation of the attendance rule. Such a recommendation shall be by majority vote of the Advisory Committee.

(b) Upon receipt of a recommendation for removal, the Board may remove a member of the Advisory Committee by a majority vote.

(4) Advisory Committee vacancies may be filled by the Board upon recommendation from the Advisory Committee. All applicants must meet any deadline set by the Board and shall have on file with the Executive Director of the Board, or with his/her designee, a resume and three (3) letters of recommendation, (one of which may be from a physician familiar with the applicant's practice of respiratory care.

O.C.G.A. *Secs. 43-34-143*, *43-34-149*.

HISTORY. Original Rule entitled "Composition and Responsibilities of the Respiratory Care Advisory Committee" adopted. F. Aug. 14, 2003; eff. Sept. 3, 2003.

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Ga. Comp. R. & Regs. r. 360-13-.14 (2012)

360-13-.14 Notice of Inability to Practice with Reasonable Skill and Safety.

Any certificate or temporary permit holder shall notify the Board within 30 days of becoming unable to practice respiratory care with reasonable skill and safety by reason of illness or the use of alcohol, drugs, narcotics, chemicals or any other type of material.

Authority O.C.G.A. *Secs. 43-1-19, 43-1-25, 43-34-143, 43-34-148.*

History. Original Rule entitled "Notice of Inability to Practice with Reasonable Skill and Safety" adopted. F. Oct. 16, 2006; eff. Nov. 5, 2006.

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Ga. Comp. R. & Regs. r. 360-13-.15 (2012)

360-13-.15 Changes in Medical Directors.

(1) In order to maintain certification, a respiratory care professional must continue to work under the supervision or direction of a person holding a Georgia medical license who has experience in and knowledge of respiratory care and who is readily available to the certificate holder in his/her workplace to provide personal supervision.

(2) Immediately upon termination of the medical director/respiratory care professional relationship, the Respiratory Care professional is required to give notice and the date of termination to the Board by certified mail. Failure to notify the Board immediately may result in disciplinary action against the respiratory care professional. The respiratory care professional shall not engage in the practice of respiratory care unless he/she is working under the supervision or direction of person holding a Georgia medical license who meets the requirements of paragraph (1).

(3) The respiratory care professional shall immediately notify the Board by certified mail, on a form approved by the Board of a change in the medical directors.

(4) Failure to comply with the requirements of this rule may result in disciplinary action against the respiratory care professional's certificate.

Authority O.C.G.A. *Secs. 43-1-19, 43-34-143, 43-34-145, 43-34-148*.

History. Original Rule entitled "Changes in Medical Directors" adopted. F. Oct. 16, 2006; eff. Nov. 5, 2006.

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Ga. Comp. R. & Regs. r. 360-14-.01 (2012)

360-14-.01 Purpose; Effective Date.

The purpose of these rules is to establish the standards for physician compliance with and the standards necessary to implement *Code Section 31-9-6.1* of the Official Code of Georgia Annotated (O.C.G.A.) including enforcement thereof through disciplinary action, and to inform all physicians who possess licenses to practice medicine in the State of Georgia of the enactment of said legislation by the General Assembly of the State of Georgia, which will become effective on January 1, 1989, and which will apply to surgical or diagnostic procedures subject to the statutory requirements performed on or after January 1, 1989. These rules will be enforceable and effective January 1, 1989.

AUTHORITY: *O.C.G.A. 31-9-6.1*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Purpose; Effective Date" was filed November 17, 1988; effective January 1, 1989, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 360-14-.02 (2012)

360-14-.02 Definitions.

As used in this Chapter:

(1) "Contrast materials" means a non-physiologically occurring molecular compound used to produce density differences in tissues, organs, or vessels to permit visualization of the imaging of such internal bodily structures.

(2) "Direct orders" means orders directly given by or communicated by the responsible physician to persons under the direct or immediate supervision or control of the responsible physician and for whose acts there are direct or immediate responsibility.

(3) "Emergency" means a situation, as defined in *Code Section 31-9-3*, wherein:

(a) According to competent medical judgments, the proposed major surgical or diagnostic procedures are reasonably necessary; and

(b) A person authorized to consent under *Code Section 31-9-2* is not readily available; and

(c) Any delay in treatment could reasonably be expected to jeopardize the life or health of the person affected or could reasonably result in disfigurement or impaired faculties.

(4) "General anesthesia" means a state of unconsciousness and insensitivity to pain affecting the entire body which is produced by the administration of an intramuscular, intravenous or inhalant anesthetic.

(5) "Intravenous injection" means the injection of a substance directly into a vein.

(6) "Likelihood" means the degree or probability of success or failure expressed in general terms or in percentages.

(7) "Major region" means entire arm, leg, torso, or any combination thereof.

(8) "Major regional anesthesia" means a state of insensitivity to pain affecting a major region of the body which is produced by the temporary interruption of the sensory nerve conductivity of such a region through the administration of

a spinal, epidural, intravenous regional, or brachial plexus anesthetic.

(9) "Major surgical or diagnostic procedures" means any surgical procedure under general anesthesia, spinal anesthesia, or major regional anesthesia or an amniocentesis diagnostic procedure or a diagnostic procedure which involves the intravenous injection of a contrast material.

(10) "Material risk" means a material risk generally recognized and accepted by reasonably prudent physicians of infection, allergic reaction, severe loss of blood, loss or loss of function of any limb or organ, paralysis or partial paralysis, paraplegia or quadraplegia, disfiguring scar, brain damage, cardiac arrest, or death which could result from the major surgical or diagnostic procedure and which, if disclosed to a reasonably prudent person in the patient's position, could reasonably be expected to cause such prudent person to decline the major surgical or diagnostic procedure on the basis of material risk of injury that could result from the major surgical or diagnostic procedure.

(11) "Medical personnel" means persons under the direct supervision and control of the responsible physician who are duly licensed or authorized to participate in the performance of a major surgical or diagnostic procedure or who are otherwise involved in the course of treatment of the patient's condition.

(12) "Practical alternatives" means practical alternatives to a major surgical or diagnostic procedure which are generally recognized and accepted by reasonably prudent physicians.

(13) "Responsible physician" means the physician who performs the major surgical or diagnostic procedure or the physician under whose direct orders the major surgical or diagnostic procedure is performed by a nonphysician.

(14) "Spinal anesthesia" means a state of insensitivity to pain which is produced by the temporary interruption of the sensory nerve conductivity of a major region of the body through the injection of an anesthetic into the subarachnoid space.

Authority O.C.G.A. *Secs. 31-8-6*-1, 31-9-6.1, 43-34-5, 43-34-8.

History. Original Rule entitled "Definitions" adopted. F. Nov. 17, 1988; eff. Jan. 1, 1969, as specified by the Agency. **Repealed:**New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.

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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
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Ga. Comp. R. & Regs. r. 360-14-.03 (2012)

360-14-.03 Requirement of Consent for Major Surgical and Diagnostic Procedures.

Except as otherwise provided in *Code Section 31-9-6.1* and these rules, and in particular the exceptions outlined in *Code Section 31-9-6.1 (e)*, a person who undergoes any of the following surgical or diagnostic procedures to be performed on or after January 1, 1989, must consent to such procedure as outlined in said Code Section and these rules:

(a) Any surgical procedure under general anesthesia, spinal anesthesia or major regional anesthesia;

(b) An amniocentesis diagnostic procedure;

(c) A diagnostic procedure which involves the intravenous injection of a contrast material.

AUTHORITY: *O.C.G.A. 31-9-6.1*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Requirement of Consent for Major Surgical and Diagnostic Procedures" was filed November 17, 1988; effective January 1, 1989, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 360-14-.04 (2012)

360-14-.04 Information Required to be Disclosed; Means of Disclosure.

(1) Except as otherwise provided in *Code Section 31-9-6.1* and these rules, a person who undergoes a major surgical or diagnostic procedure shall be informed in general terms of each of the following:

(a) The diagnosis of the patient's condition requiring such proposed surgical or diagnostic procedure;

(b) The nature and purpose of such proposed surgical or diagnostic procedure;

(c) The material risks of such proposed procedure as defined in Board *Rule 360-14-.02 (10)*;

(d) The likelihood of success of such proposed surgical or diagnostic procedure;

(e) The practical alternatives to such proposed surgical or diagnostic procedure; and

(f) The prognosis of the patient's condition if such proposed surgical or diagnostic procedure is rejected.

(2) The information required to be disclosed pursuant to *Code Section 31-9-6.1 (a) (1)* through (6) and these Rules may be disclosed through any one or all of the following means:

(a) Video tapes;

(b) Audio tapes;

(c) Pamphlets;

(d) Booklets;

(e) Other means of communication; or

(f) Conversations with the responsible physician, other physicians, physician's assistants, nurses, trained counselors, patient educators or other similar persons known by the responsible physician to be knowledgeable and capable of communicating such information.

AUTHORITY: *O.C.G.A. 31-9-6.1*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Information Required to be Disclosed; Means of Disclosure" was filed on November 17, 1988; effective January 1, 1989, as specified by the Agency.

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Ga. Comp. R. & Regs. r. 360-14-.05 (2012)

360-14-.05 Standards for Physicians Compliance, Sanctions for Noncompliance.

(1) (a) When a responsible physician is required to ensure that consent to a major surgical or diagnostic procedure is obtained and that certain information is provided in connection therewith, such requirement shall have been complied with if accomplished through the use of the form set forth in Exhibit A attached to this Rule or through the use of a form which is substantially similar to such form or which includes provisions substantially similar to such form.

(b) When a responsible physician is required to ensure that consent to a major surgical or diagnostic procedure is obtained and that certain information is provided in connection therewith, such requirement shall be rebuttably presumed to have been complied with if evidenced in writing signed by the patient or other person authorized to sign for the patient.

(2) The failure to obtain the written consent to a major surgical or diagnostic procedure shall not cause such consent and the provision of information in connection therewith to be invalid but no presumption as to the validity of such consent shall arise.

(3) Any physician who fails to comply with these rules shall be subject to disciplinary action under Code Chapter 43-34, and Chapter 360-3 of the Rules of the Georgia Composite Medical Board.

Authority O.C.G.A. *Secs. 31-9-6.1*, *43-34-1*, *43-34-5*, *43-34-8*.

History. Original Rule entitled "Standards for Physicians Compliance, Sanctions for Noncompliance" adopted. F. Nov. 17, 1988; eff. Jan. 1, 1989; as specified by the Agency. **Amended:** F. July 9, 2010; eff. July 29, 2010.

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Ga. Comp. R. & Regs. r. 360-14-.06 (2012)

360-14-.06 Exceptions to Disclosure and Consent Requirements.

The disclosure of information and the consent required by these rules shall not be required in connection with a major surgical or diagnostic procedure if:

(a) An emergency exists as defined in *Code Section 31-9-3*;

(b) The surgical or diagnostic procedure is generally recognized by reasonably prudent physicians to be a procedure which does not involve a material risk to the patient involved;

(c) A patient or other person(s) authorized to give consent pursuant to Code Chapter 31-9, make(s) a request in writing that the information provided for in *Code Section 31-9-6.1* not be disclosed or utilizes the form set forth in Exhibit B to this Rule or any other form which is substantially similar to such form or which include(s) provisions substantially similar to such form;

(d) A prior consent, within ten (10) days of the surgical or diagnostic procedure, complying with the requirements of these rules has been obtained as a part of a course of treatment for the patient's condition; provided, however, that if such consent is obtained in conjunction with the admission of the patient to a hospital for the performance of such procedure, the consent shall be valid for a period of thirty (30) days from the date of admission or for the period of time the person is confined in the hospital for that purpose, whichever is greater; or

(e) The surgical or diagnostic procedure was unforeseen or was not known to be needed at the time the consent was obtained, and the patient has consented to allow the responsible physician to make the decision concerning such procedure.

EXHIBIT A

CONSENT TO SURGICAL OR DIAGNOSTIC PROCEDURES

DO NOT SIGN THIS FORM WITHOUT READING AND UNDERSTANDING ITS CONTENTS

Name of Patient ___ Date ___

(A) (1) I acknowledge and understand that the following procedure(s) which has (have) been described to me is (are) to be performed on the patient: ___

and that as a result of the performance of the procedure(s) there is a material risk that the patient may suffer infection, allergic reaction, severe loss of blood, loss or loss of function of any limb or organ, paralysis or partial paralysis, paraplegia or quadraplegia, disfiguring scar, brain damage, cardiac arrest, or death.

(2) I acknowledge and understand that during the course of the procedure(s) described in subparagraph (A) (1) above, conditions may develop which may reasonably necessitate an extension of the original procedure(s) or the performance of procedure(s) which are unforeseen or not known to be needed at the time this consent is obtained. I therefore consent to and authorize the persons described in the last paragraph of this consent to make the decisions concerning the performance of and to perform such procedure(s) as they may deem reasonably necessary or desirable in the exercise of their professional judgment, including those procedures that may be unforeseen or not known to be needed at the time this consent is obtained. This consent shall also extend to the treatment of all conditions which may arise during the course of such procedures including those conditions which may be unknown or unforeseen at the time this consent is obtained.

(B) I acknowledge and understand and duly evidence in writing by executing this form that I have been informed in general terms of the following:

(1) A diagnosis of the condition requiring the procedure(s);

(2) The nature and purpose of the procedure(s);

(3) The material risks of the procedure(s) (see paragraph (A) above);

(4) The likelihood of success of the procedure(s);

(5) The practical alternatives to such procedure(s); and

(6) The prognosis if the procedure(s) is (are) rejected; and that such was provided through the use of video tapes, audio tapes, pamphlets, booklets, or other means of communication or through conversations with the responsible physician, or other medical personnel under the supervision and control of the responsible physician, other medical personnel involved in the course of treatment, nurses, physician's assistants, trained counselors, or patient educators.

(C) I acknowledge that there are practical alternatives to the procedure(s) described in paragraph (A) which alternatives reasonably prudent physicians generally recognize and accept.

(D) I acknowledge and understand that this request for and consent to surgical or diagnostic services shall be valid for the responsible physician, all medical personnel under the direct supervision and control of the responsible physician, and for all other medical personnel otherwise involved in the course of treatment.

I HAVE BEEN GIVEN AMPLE OPPORTUNITY TO ASK QUESTIONS AND ANY QUESTIONS I HAVE ASKED HAVE BEEN ANSWERED OR EXPLAINED IN A SATISFACTORY MANNER.

BY SIGNING BELOW, I ACKNOWLEDGE I HAVE READ OR HAD IT READ OR EXPLAINED TO ME AND I UNDERSTAND THIS FORM AND I VOLUNTARILY CONSENT TO ALLOW DR. ___ OR ANY PHYSICIAN DESIGNATED OR SELECTED BY HIM OR HER AND ALL MEDICAL PERSONNEL UNDER THE DIRECT SUPERVISION AND CONTROL OF SUCH PHYSICIAN AND ALL OTHER PERSONNEL WHICH MAY OTHERWISE BE INVOLVED IN PERFORMING SUCH PROCEDURES TO PERFORM THE PROCEDURES DESCRIBED OR OTHERWISE REFERRED TO HEREIN.

___(Witness) ___(Signature of patient or other person authorized to sign)

EXHIBIT B

CONSENT TO SURGICAL OR DIAGNOSTIC PROCEDURES AND WAIVER OF RIGHT TO RECEIVE INFORMATION IN CONNECTION THEREWITH

DO NOT SIGN THIS FORM WITHOUT READING AND UNDERSTANDING ITS CONTENTS

Name of Patient ___ Date ___

(A) (1) I acknowledge and understand that the following procedure(s) which has (have) been described to me is (are) to be performed on the patient: ___

(2) I acknowledge and understand that during the course of the procedure(s) described in subparagraph (A) (1) above, conditions may develop which may reasonably necessitate an extension of the original procedure(s) or the performance of procedure(s) which are unforeseen or not known to be needed at the time this consent is obtained. I therefore consent to and authorize the persons described in the last paragraph of this consent to make the decisions concerning the performance of and to perform such procedure(s) as they may deem reasonably necessary or desirable in the exercise of their professional judgment, including those procedures that may be unforeseen or not known to be needed at the time this consent is obtained. This consent shall also extend to the treatment of all conditions which may arise during the course of such procedures including those conditions which may be unknown or unforeseen at the time this consent is obtained.

(B) I acknowledge and understand and duly evidence in writing by executing this form that under Georgia law I am entitled to receive the following information relative to the procedure(s) described in paragraph (A):

(1) A diagnosis of the condition requiring the procedure(s);

(2) The nature and purpose of the procedure(s);

(3) The material risks of the procedure(s);

(4) The likelihood of success of the procedure(s);

(5) The practical alternatives to such procedure(s);

(6) The prognosis if the procedure(s) is (are) rejected.

(C) I acknowledge that there are practical alternatives to the procedure(s) described in paragraph (A) which alternatives reasonably prudent physicians generally recognize and accept.

(D) I acknowledge and understand that this request for and consent to surgical or diagnostic services shall be valid for the responsible physician, all medical personnel under the direct supervision and control of the responsible physician, and for all other medical personnel otherwise involved in the course of treatment.

I HAVE BEEN GIVEN AMPLE OPPORTUNITY TO ASK QUESTIONS AND ANY QUESTIONS I HAVE ASKED HAVE BEEN ANSWERED OR EXPLAINED IN A SATISFACTORY MANNER.

BY SIGNING BELOW, I ACKNOWLEDGE I HAVE READ OR HAD IT READ OR EXPLAINED TO ME AND I UNDERSTAND THIS FORM AND I VOLUNTARILY CONSENT TO ALLOW DR. ___ OR ANY PHYSICIAN DESIGNATED OR SELECTED BY HIM OR HER AND ALL MEDICAL PERSONNEL UNDER THE DIRECT SUPERVISION AND CONTROL OF SUCH PHYSICIAN AND ALL OTHER PERSONNEL WHICH MAY

OTHERWISE BE INVOLVED IN PERFORMING SUCH PROCEDURES TO PERFORM THE PROCEDURES DESCRIBED OR OTHERWISE REFERRED TO HEREIN AND I FULLY AND COMPLETELY WAIVE THE RIGHT TO BE INFORMED OF THE INFORMATION SPECIFIED IN PARAGRAPH (B) AND REQUEST THAT SUCH INFORMATION NOT BE DISCLOSED.

___(Witness) ___(Signature of patient or other person authorized to sign)

AUTHORITY: *O.C.G.A. 31-9-6.1*.

ADMINISTRATIVE HISTORY: Original Rule entitled "Exceptions to Disclosure and Consent Requirements" was filed on November 17, 1988; effective January 1, 1989, as specified by the Agency.

NOTES:

LexisNexis 50 State Surveys, Legislation & Regulations

Informed Consent



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-15 CONTINUING EDUCATION

Ga. Comp. R. & Regs. r. 360-15-.01 (2012)

360-15-.01 Requirements for Physicians.

(1) Physicians licensed to practice medicine pursuant to *O.C.G.A. 43-34-26* shall complete Board approved continuing education of not less than 40 hours biennially, with the following exceptions:

(a) Physicians enrolled in full time graduate medical education programs (residencies and fellowships) which are accredited by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association.

(b) Physicians who are initially licensed by the Board and who have not renewed their licenses for the first time.

(c) Physicians whose licenses are not active, such as those who are Inactive or Revoked. Physicians who are suspended or in some other way disciplined by the Board must meet the requirements unless otherwise stipulated by Board Order.

(d) Physicians who are retired, who have an active license, and who provide uncompensated health care services pursuant to *Code Section 43-34-41*; shall be required to complete 10 hours of Board approved continuing education biennially.

(e) Physicians specifically exempted from this requirement due to cases of hardship, disability, illness, service in the United States Congress, service in the Georgia General Assembly or military service, if supported by adequate documentation acceptable to the Board.

1. Physicians seeking such an exemption must submit a written request and documentation to support their eligibility for such an exemption.

2. Said request for an exemption should be submitted to the Board in a sufficient time period prior to the expiration of the license to receive a determination from the Board as to whether an exemption would be granted.

(2) The Board accepts the following as meeting its requirement for Board approval:

(a) A.M.A. (American Medical Association) Category 1 credit;

(b) A.O.A. (American Osteopathic Association) Category 1 credit;

(c) A.A.F.P. (American Academy of Family Physicians) Prescribed credit;

(d) A.C.O.G. (American College of Obstetricians and Gynecologists) Cognates,

Category 1;

(e) A.C.E.P. (American College of Emergency Physicians) Category 1.

1. It is the responsibility of the licensee to verify approval with the source of the program, not with the Board, and the licensee should verify approval before taking the course.

(3) In meeting the continuing education requirements, the Board will waive one hour CME requirement for physicians for each four hours of documented work by the physician in uncompensated health care services such as free clinics up to a maximum of ten CME hours per biennium. In order to receive the waiver, the physician shall submit to the Board documentation of such work at the time of renewal.

(4) Physicians who must meet the requirements of this Chapter must document the completion of Board approved continuing education of not less than 40 hours during the two year term of the license. The license will expire on the last day of the month in which the applicant's birthday falls. License must be renewed biennially by the last day of the month in which the applicant's birthday falls and the licensee must satisfy the Board approved continuing education requirements during the biennial renewal cycle to be eligible for renewal.

(5) Each licensed physician who must meet these requirements must maintain records of attendance and supporting documents for continuing education for a period of 5 years from the date of attendance. At a minimum, the following must be kept:

(a) Name of provider;

(b) Name of program;

(c) Hours/continuing education Units completed;

(d) Date of Completion;

(e) Evidence of A.M.A. Category 1 credit or A.O.A. Category 1 credit.

Authority O.C.G.A. *Secs. 43-1-25, 43-34-3, 43-34-5, 43-34-11, 43-34-24*, *43-34-26*, *43-34-41*.

History. Original Rule entitled "Requirements for Physicians" adopted. F. Sept. 11, 1991; eff. Oct. 1, 1991. **Amended:** F. June 5, 1992; eff. June 25, 1992. **Amended:** F. Sept. 18, 2003; eff. Oct. 8, 2003. **Repealed:** New Rule of same title adopted. F. Sept. 7, 2005; eff. Sept. 27, 2005. **Repealed:** New Rule of same title adopted. F. Nov. 10, 2008; eff. Nov. 30, 2008. **Repealed:** New Rule of same title adopted. F. Mar. 10, 2009; eff. Mar. 30, 2009.**Repealed:** New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.

NOTES:



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-15 CONTINUING EDUCATION

Ga. Comp. R. & Regs. r. 360-15-.02 (2012)

360-15-.02 Compliance.

(1) Physicians will be required to answer questions on their biennial renewal form which establish either compliance or eligibility for exception pursuant to *Rule 360-15-.01(1)*. Physicians will not be required to send documentation of compliance with continuing education requirements for renewal, unless requested by the Board, pursuant to *Rule 360-15-.02(2)*. False statements regarding satisfaction of continuing education requirements on the renewal form or any other documents connected with the practice of medicine may subject the licensee to disciplinary action by the Board.

(2) The Board will audit a fixed percentage of randomly selected renewal applications to monitor compliance with the continuing medical education requirements. Any physician so audited will be required to furnish documentation of compliance including name of provider, name of program, hours/continuing Education Units completed, date of completion, and evidence of A.M.A. Category 1 or A.O.A. Category 1 credit pursuant to this Chapter.

(3) If the physician has not complied with the continuing medical education requirement by the expiration of the physician's license, his or her license shall not be renewed and the physician shall not engage in the practice of medicine. A physician may late renew during the three (3) months following the expiration of her or her license by presenting satisfactory evidence to the Board of completion of the required Board approved continuing medical education hours and paying the late renewal fee. Licenses that are not renewed within three (3) months of the expiration date of the license shall be revoked for failure to renew. In order to obtain a valid license after revocation for failure to renew, an applicant must apply for reinstatement in accordance with *rule 360-2-.07*.

(4) Continuing medical education hours that are used to satisfy a deficiency shall be excluded from the computation of hours required to be completed for the renewal of the physician's license for the next biennium.

Authority O.C.G.A. *Secs. 43-1-4, 43-1-7, 43-34-3, 43-34-24, 43-34-24.1*.

History. Original Rule entitled "Compliance" adopted. F. Sept. 11, 1991; eff. Oct. 1, 1991. Amended: F. Sept. 18, 2003; eff. Oct. 8, 2003. Amended: F. July 8, 2004; eff. July 28, 2004.

NOTES:

LexisNexis 50 State Surveys, Legislation & Regulations

Physician Licensing & Continuing Education



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-16 RENEWAL AND EXPIRATION DATES

Ga. Comp. R. & Regs. r. 360-16-.01 (2012)

360-16-.01 Renewal and Expiration Dates.

Medical licenses (M.D. and D.O.) will expire on the last day of the month in which the applicant's birthday falls. Medical licenses must be renewed biennially by the last day of the month in which the applicant's birthday falls. The licensee must satisfy Board approved continuing education requirements to be eligible for renewal.

Authority O.C.G.A. *Secs. 43-1-4, 43-1-7, 43-1-25, 43-34-3, 43-34-5, 43-34-24, 43-34-24.1.*

History. Original Rule entitled "Renewal and Expiration Dates" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Sept. 7, 2005; eff. Sept. 27, 2005. **Repealed:** New Rule of same title adopted. F. Sept. 16, 2008; eff. Oct. 6, 2008.**Repealed:** New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-17 GENERAL INFORMATION

Ga. Comp. R. & Regs. r. 360-17-.01 (2012)

360-17-.01 Communications.

All communications, including correspondence, motions, and pleadings, shall be filed with the Georgia Composite Medical Board. Copies shall be furnished to all parties of record, including the attorney representing the State. An original and one duplicate of all correspondence, motions and pleadings shall be filed with the Georgia Composite Medical Board and shall comply in all respects with 360-20-.04.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Communications" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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CHAPTER 360-17 GENERAL INFORMATION

Ga. Comp. R. & Regs. r. 360-17-.02 (2012)

360-17-.02 Date of Filing.

All communications, correspondence, motions and pleadings in any proceedings shall be deemed to be filed or received on the date on which they are actually received by the Georgia Composite Medical Board.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Date of Filing" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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CHAPTER 360-17 GENERAL INFORMATION

Ga. Comp. R. & Regs. r. 360-17-.03 (2012)

360-17-.03 Computation of Time.

Computation of any period of time referred to in these rules shall begin with the first day following that on which the act which initiates such period of time occurs. When the last day of the period so computed is a day on which the Georgia Composite Medical Board is closed; the period shall run until the end of the following business day. When such period of time, with the intervening Saturdays, Sundays and legal holidays counted, is seven days or less, the said Saturdays, Sundays, and legal holidays shall be excluded from the computation; or otherwise such days shall be included in the computation.

Authority O.C.G.A. *Secs.43-1-3, 43-34-1, 43-34-5, 43-34-6, 43-34-8, 43-34-24, 50-13-3, 50-13-13*.

History. Original Rule entitled "Computation of Time" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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Ga. Comp. R. & Regs. r. 360-17-.04 (2012)

360-17-.04 Extension of Times.

It shall be within the discretion of the presiding officer to extend, for good cause shown, any time limit prescribed or allowed by these rules. All requests for an extension should be made by a motion in accordance with 360-19-.01 and shall indicate therein whether all parties concur. The presiding officer shall notify all parties of its action upon the motion. Extension shall be granted only when the presiding officer is satisfied that good cause has been shown and not otherwise.

O.C.G.A. *Secs. 43-1-3*, *43-34-24(c)*.

HISTORY. Original Rule entitled "Extension of Times" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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Ga. Comp. R. & Regs. r. 360-17-.05 (2012)

360-17-.05 Signatures.

Every notice, pleading, petition, motion or other document filed by a party, represented by an attorney other than the Agency, shall be signed by at least one attorney of record in his individual name and his address and telephone number shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address and telephone number. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading, and that it is not interposed for delay.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "Signatures" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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CHAPTER 360-17 GENERAL INFORMATION

Ga. Comp. R. & Regs. r. 360-17-.06 (2012)

360-17-.06 Ex-parte Communications.

No person not employed by the Georgia Composite Medical Board shall communicate ex-parte with the presiding officer, any member of the Board or any employee of the Board involved in the decisional process with respect to the merits of a contested case. If any ex-parte communication is directed to any person in violation of these rules, the presiding officer and all other parties shall be immediately informed of the substance of the communication and the circumstances of its receipt; provided, that a request for information with respect to the status of a proceeding shall not be prohibited by this section.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Ex-parte Communications" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-18 PLEADING

Ga. Comp. R. & Regs. r. 360-18-.01 (2012)

360-18-.01 Initial Pleading.

(1) The hearing in a contested case shall be commenced by the agency's filing of a notice of hearing directed to the respondent, or respondents.

(2) Every pleading or other paper submitted for filing in a contested case, to the extent possible, shall contain the following:

(a) A title which indicates the nature of the proceeding and the parties involved therein;

(b) The name of the agency;

(c) A short and plain statement of the nature of the Pleading (e.g. Answer, Motion for Continuance, etc.);

(d) In addition, the notice of hearing shall, to the extent possible, contain the following:

1. A short and plain statement of the matters asserted or the issues involved;

2. A clear and concise statement of the laws involved;

3. A notice of the rights of the person to whom the notice of hearing is directed;

4. A statement that an answer to the matters asserted is required;

5. Any other information required by law or deemed appropriate by the agency.

O.C.G.A. *Secs. 43-1-3*, *43-34-24(c)*.

HISTORY. Original Rule entitled "Initial Pleading" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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CHAPTER 360-18 PLEADING

Ga. Comp. R. & Regs. r. 360-18-.02 (2012)

360-18-.02 Answer.

The party to whom a notice of hearing is directed must file with the agency an answer within fourteen (14) days after service of the notice of hearing. All allegations contained in the notice or hearing which are not specifically admitted are deemed denied.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "Answer" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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Ga. Comp. R. & Regs. r. 360-18-.03 (2012)

360-18-.03 Replies.

A reply to the answer shall not be permitted and any new matters asserted in the answer shall be deemed denied.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "Replies" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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CHAPTER 360-18 PLEADING

Ga. Comp. R. & Regs. r. 360-18-.04 (2012)

360-18-.04 Amendments.

Any party, including the agency, may amend any pleading or notice without leave of the agency until the eighth day prior to the date set for the hearing on the matter. Thereafter a party may amend his pleadings only by leave of the Board or its designee, and leave shall be freely given when justice so requires. If an amendment is made to a notice of hearing, the answer to said amended notice shall be filed within seven (7) days after service of the amended notice, unless otherwise ordered by the presiding officer.

Authority O.C.G.A. *Secs. 43-1-3*, *43-34-5*, *43-34-24(c)*, *43-34-9*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Amendments" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:**New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-19 MOTIONS AND PRE-HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-19-.01 (2012)

360-19-.01 Motions: Written and Oral.

(1) An application to the agency for an order to take any action or to enter any order shall be made by motion which, unless made during the hearing, shall be made in writing, shall state specifically the grounds therefor, and shall set forth the action or order sought. A copy of all written motions shall be served upon the parties in accordance with Chapter 360-20.

(2) A motion for a continuance or an extension of time shall be ruled upon by the presiding officer forthwith. All other motions shall be ruled upon by the presiding officer at the outset of the hearing, after an opportunity for argument by the parties; provided, however, that when the presiding officer is a duly appointed hearing officer, the presiding officer may establish a hearing schedule and dispose of motions at his discretion. The presiding officer may request briefs in support of or in opposition to any motion.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "Motions: Written and Oral" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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Ga. Comp. R. & Regs. r. 360-19-.02 (2012)

360-19-.02 More Definite Statement.

A motion for more definite statement shall be filed and ruled upon pursuant to *Rule 360-5-.01*.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "More Definite Statement" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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CHAPTER 360-19 MOTIONS AND PRE-HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-19-.03 (2012)

360-19-.03 Pre-Hearing Procedures.

Proceedings before the agency shall be conducted as expeditiously as possible, with due regard to the rights of the parties. In contested cases before the Georgia Composite Medical Board, upon issuance of a notice of hearing, the procedures set forth in this chapter and Chapters 360-17 through 360-26 shall enable the parties to obtain relevant information needed for preparation of the case, to the extent that such disclosure is authorized by law.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Pre-Hearing Procedures" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-19 MOTIONS AND PRE-HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-19-.04 (2012)

360-19-.04 Witnesses, Respondent Statement, Witness Statements.

(1) The parties shall within a reasonable time prior to the commencement of the hearing, but at least ten (10) days prior to the hearing, exchange lists of the names, addresses, and phone numbers of witnesses, including experts, whom each party expects to call or may call on its behalf.

(2) The parties shall also, within a reasonable period of time prior to the hearing, exchange copies of documents, and designate documents already in the possession of the other party which are intended to be introduced as evidence at the hearing. The parties shall similarly, upon request, make available to each other for inspection, copying, testing or sampling any tangible item intended to be introduced as evidence.

(3) Respondent shall be furnished, within a reasonable time prior to the commencement of the hearing but at least ten (10) days prior to the hearing, any written statements or other record memorializing oral statement made by the Respondent during the course of the investigation.

(4) The parties shall be required to confer either in person or by telephone, in reasonable advance of a scheduled hearing date but at least seven (7) days prior to the hearing, in a good-faith attempt to reach an agreement as to the admissibility of any documents or tangible items intended to be offered in evidence for either side. The parties may stipulate as to any matter of fact and such stipulation will satisfy a party's burden of proving the fact alleged. The parties shall be encouraged to reach pre-hearing stipulations which could facilitate adjudication of the case. The hearing officer, upon his or her own motion or upon the request of either party, may schedule a pre-hearing conference to hear and rule on motions or other preliminary matters, or otherwise facilitate adjudication of the case.

O.C.G.A. *Secs. 43-1-3*, *43-34-24(c)*.

HISTORY. Original Rule entitled "Witnesses, Respondent Statement, Witness Statements" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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CHAPTER 360-19 MOTIONS AND PRE-HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-19-.05 (2012)

360-19-.05 Pre-Hearing Discovery.

Except as may be expressly authorized by these rules or by statute, no other forms of pre-hearing discovery shall be authorized or permitted including, but not limited to the following: interrogatories; requests for production of documents and things; requests for physical or mental examination; and requests for admission.

O.C.G.A. *Secs. 43-1-3*, *43-34-24(c)*.

HISTORY. Original Rule entitled "Pre-Hearing Discovery" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-20 SERVICE

Ga. Comp. R. & Regs. r. 360-20-.01 (2012)

360-20-.01 By the Agency.

Service of the notice of hearing, initial decision and final order shall be by personal delivery or certified mail to the licensee or applicant, in addition to counsel of record. All other notices, pleadings, orders, motions and other documents shall be served by hand delivery or first class mail.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "By the Agency" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-20 SERVICE

Ga. Comp. R. & Regs. r. 360-20-.02 (2012)

360-20-.02 By Other Parties.

A copy of the answer and all other pleadings, notices, motions, briefs, memoranda and other documents filed by any party with the Georgia Composite Medical Board shall be served upon all other parties to the proceeding, including counsel for the agency, by personal delivery or by first-class mail.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "By Other Parties" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-20 SERVICE

Ga. Comp. R. & Regs. r. 360-20-.03 (2012)

360-20-.03 To Party's Attorney.

Service upon a party's attorney shall be deemed service upon the party, except as provided in 360-20-.01.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "To Party's Attorney" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-20 SERVICE

Ga. Comp. R. & Regs. r. 360-20-.04 (2012)

360-20-.04 Filing of Pleading.

A pleading subsequent to the Notice of Hearing shall not be entitled to filing unless accompanied by an Acknowledgement of Service required hereunder or a certificate that the service required hereunder has been made. In addition, a pleading shall not be entitled to filing unless it is stamped or otherwise marked in the upper left hand corner of the first page of the document as "original", and a duplicate copy is simultaneously submitted which is stamped or otherwise marked as "duplicate" in the upper left corner on the first page.

O.C.G.A. *Secs. 43-1-3*, *43-34-24(c)*.

HISTORY. Original Rule entitled "Filing of Pleading" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-21 PARTIES; INTERVENTION

Ga. Comp. R. & Regs. r. 360-21-.01 (2012)

360-21-.01 Substitution of Parties.

The Board or its designee may upon motion, at any time during the course of the proceeding, permit such substitution of parties as justice may require.

Authority O.C.G.A. *Secs. 43-1-4, 43-34-5, 43-34-9, 43-34-24(c), 50-13-3, 50-13-13*.

History. Original Rule entitled "Substitution of Parties" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:**New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-21 PARTIES; INTERVENTION

Ga. Comp. R. & Regs. r. 360-21-.02 (2012)

360-21-.02 Intervention.

Any person desiring to intervene pursuant to O.C.G.A. *Section 50-13-14* shall file a motion in accordance with *Rule 360-19-.01*, which motion shall state therein the specific grounds for seeking intervention. The agency and any other parties shall have fourteen (14) days from the date of service to file, a response to such request.

Authority O.C.G.A. *Secs 43-1-4, 43-34-5, 43-34-9, 43-34-24(c), 50-13-3, 50-13-13, 50-13-14.*

History. Original Rule entitled "Intervention" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:**New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-22 EVIDENCE; SUBPOENAS

Ga. Comp. R. & Regs. r. 360-22-.01 (2012)

360-22-.01 Evidence on Hearings.

In all hearings the testimony of witnesses shall be taken orally before the agency or hearing officer, unless otherwise provided by these rules.

O.C.G.A. *Secs. 43-1-3*, *43-34-24(c)*.

HISTORY. Original Rule entitled "Evidence on Hearings" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-22 EVIDENCE; SUBPOENAS

Ga. Comp. R. & Regs. r. 360-22-.02 (2012)

360-22-.02 Evidence on Motions.

When a motion is based on facts not appearing of record the presiding officer may hear the matter on affidavits presented by the respective parties, but the presiding officer may direct that the matter be heard, wholly or partly on oral testimony.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "Evidence of Motions" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-22 EVIDENCE; SUBPOENAS

Ga. Comp. R. & Regs. r. 360-22-.03 (2012)

360-22-.03 Objections and Exceptions.

Formal exceptions to rulings on evidence are unnecessary. It is sufficient that a party, at the time that a ruling of the presiding officer is made or sought, makes known to the presiding officer the action which he desires taken or his objections to such action and his grounds therefor.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "Objections and Exceptions" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-22 EVIDENCE; SUBPOENAS

Ga. Comp. R. & Regs. r. 360-22-.04 (2012)

360-22-.04 Subpoenas.

(1) In contested cases, subpoenas shall be issued without discrimination between public and private parties. At any time after issuance of the Notice of Hearing, and prior to the scheduled date for the hearing, the parties may request the issuance of subpoenas by filing a written request with the Georgia Composite Medical Board, in accordance with *Rule 360-17-.01*, with appropriate service on the opposing party or counsel. Subpoena requests shall state the name and complete address of the person to whom it is directed.

(2) Subpoenas issued pursuant to a request in accordance with *Rule 360-22-.04(1)* shall not be issued in blank. Every subpoena issued by the Georgia Composite Medical Board shall state the name of the agency and the title of the action, and shall command each person to whom it is directed to attend and give testimony at the hearing at a time and place therein specified, or to produce documents for examination at the hearing, or both. If such a subpoena is directed to any member, investigator, employee, or other agent or representative of the agency, including experts retained by the agency for purposes of the particular case, production of documentary evidence from the agency or investigative file of the applicant or licensee and the taking of testimony at the hearing from such a person or persons shall be governed by applicable provisions in the practice act regulating the business or profession, and by *O.C.G.A. 43-34-8*.

(3) The party requesting the issuance of the subpoena shall be responsible for serving the same and paying the cost of securing the attendance of witnesses, in the same manner as prescribed by law in civil cases in superior court.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Subpoenas" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-23 TAKING OF TESTIMONY BY DEPOSITION

Ga. Comp. R. & Regs. r. 360-23-.01 (2012)

360-23-.01 Taking of Testimony by Deposition.

(1) At any time during the course of the proceedings, the presiding officer may, in his discretion, permit the testimony of a witness to be taken by deposition. Application to take testimony by deposition shall be made in writing and shall be filed with the Georgia Composite Medical Board and served upon all parties to the proceedings, including counsel for the agency.

(2) The application shall state the name and address of the witness, the subject matter concerning which the witness is expected to testify, the date, time and place of the proposed deposition, and the reason why the witness cannot appear and testify before the agency. The presiding officer may, in his discretion, allow the application where the circumstances are such that the witness to be deposed cannot appear before the agency without substantial hardship to the deponent or to the parties to the case or that testimony by any other method will unduly delay expeditious completion of the proceedings. An application for the taking of testimony by deposition shall not be allowed if the deposition would result in any undue burden to another party or any undue delay of the proceedings. If the application is allowed, the presiding officer should give notice of the taking of the testimony by deposition to all parties.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Taking of Testimony by Deposition" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.
Repealed: New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-23 TAKING OF TESTIMONY BY DEPOSITION

Ga. Comp. R. & Regs. r. 360-23-.02 (2012)

360-23-.02 Conduct of the Deposition.

(1) Examination and cross-examination of the witness shall proceed as would be permitted at the hearing and under those rules of evidence applicable to proceedings conducted pursuant to the Georgia Administrative Procedure Act. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. All objections made at the time of examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objections to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objection.

(2) All errors and irregularities in the notice of taking testimony by deposition shall be deemed waived unless written objection thereto is served upon the agency prior to the deposition. Objections to taking testimony by depositions because of disqualification of the officer before whom it is to be taken shall be deemed waived unless made before the deposition begins or as soon thereafter as the disqualifications become known or could be discovered with reasonable diligence.

(3) Objections to the competency of a witness are not waived by failure to make them before or during the deposition unless the ground of the objection is one which might have been obviated or removed if presented at that time. Errors or irregularities occurring at the taking of the testimony in the manner of taking the deposition, in the form that the questions are answered, in the oath of affirmation, or in the conduct of the parties, and errors of any kind which might be obviated, removed or cured if properly presented, shall be deemed waived unless reasonable objection thereto is made at the deposition.

(4) Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, certified, sealed, endorsed, transmitted, filed or otherwise dealt with by the officer taking the testimony are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

(5) The deposition shall be sealed and filed with the Georgia Composite Medical Board.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Conduct of the Deposition" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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CHAPTER 360-23 TAKING OF TESTIMONY BY DEPOSITION

Ga. Comp. R. & Regs. r. 360-23-.03 (2012)

360-23-.03 Taking of Testimony by Interrogatory.

Application to take testimony by interrogatory shall be made and allowed in the same manner as prescribed in *Rule 360-23-.01*.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c)*.

HISTORY. Original Rule entitled "Taking of Testimony by Interrogatory" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-24 HEARINGS

Ga. Comp. R. & Regs. r. 360-24-.01 (2012)

360-24-.01 Notice of Hearing.

The agency shall notify all parties of the date, time and place of the hearing.

O.C.G.A. *Secs. 43-1-3, 43-34-24(c).*

HISTORY. Original Rule entitled "Notice of Hearing" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-24 HEARINGS

Ga. Comp. R. & Regs. r. 360-24-.02 (2012)

360-24-.02 Conduct of the Hearing.

(1) The hearing shall be conducted by the board or an administrative law judge (ALJ) appointed by Office of State Administrative Hearings (OSAH).

(2) Duties of the Presiding Officer. The board shall have the authority to do the following: to administer oaths and affirmations; rule upon offers of proofs; regulate the course of the hearing; set the time and place for continued hearings; fix the time for filing briefs and memoranda; dispose of motions; and reprimand or exclude from the hearing any person for any indecorous or improper conduct committed in the presence of the board.

(3) Sworn Testimony. All testimony given at the hearing shall be under oath administered by the board.

(4) Order of Presentation. The State, or in a proper case a moving or complaining party, shall present its evidence or testimony first. Where there is more than one moving or complaining party, the order of presentation shall be at the discretion of the board. After all of the evidence and testimony of the State, or the moving or complaining party, has been received, all other parties shall be allowed to present their evidence or testimony.All parties, other than the party introducing the testimony, shall be allowed to cross examine any witness immediately after his testimony has been received. The State, or the moving or complaining party, shall be allowed to present rebuttal testimony or evidence if it so desires.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-9*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Conduct of the Hearing" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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CHAPTER 360-24 HEARINGS

Ga. Comp. R. & Regs. r. 360-24-.03 (2012)

360-24-.03 Repealed.

Authority *O.C.G.A. Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-9*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Hearing Officers" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-25 CONSOLIDATION AND CONTINUANCES

Ga. Comp. R. & Regs. r. 360-25-.01 (2012)

360-25-.01 Consolidation.

The presiding officer upon his or her own motion, or upon motion by a party or other person joined in the proceeding, may order proceedings involving a common question or law or fact to be consolidated for hearing on any or all matters at issue in such proceedings.

Authority O.C.G.A. *Secs.43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-8*, *43-34-24*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Consolidation" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-26 BRIEFS AND POST HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-26-.01 (2012)

360-26-.01 Briefs.

Briefs may be filed by a party or any interested person either before or during the course of the hearing, or within such time thereafter as the Board or its designee shall designate. Failure to file a brief shall in no way prejudice the rights of any party.

Authority O.C.G.A. *Secs. 43-1-3, 43-34-5, 43-34-24(c), 50-13-3, 50-13-13.*

History. Original Rule entitled "Briefs" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:** New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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CHAPTER 360-26 BRIEFS AND POST HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-26-.02 (2012)

360-26-.02 Filing of Documents Subsequent to Hearing.

(1) Upon request, the Board or its designee may, for good cause shown, allow the parties to file evidentiary documents of any kind, or exhibits, at a time subsequent to the completion of the hearing, such time to be determined by the Board or its designee. If a request for such subsequent filing is granted, the requesting party shall, on or before the date set for filing, send copies of all documents or exhibits which are subject of the request to all other parties.

(2) Prior to the admission into evidence of any documents or exhibits filed subsequent to the hearing, the opposing party shall have ten (10) days from the date of service of copies of such proposed documents or exhibits to file any objections to the admission of such evidence.

Authority O.C.G.A. *Secs. 43-1-3*, *43-34-5*, *43-34-24(c)*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Filing of Documents Subsequent to Hearing" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999. **Repealed:**New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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CHAPTER 360-26 BRIEFS AND POST HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-26-.03 (2012)

360-26-.03 Motion to Reopen Hearing.

A party may, at any time prior to the rendering of a final decision by the agency, move that the hearing be reopened for the purpose of receiving new evidence. Such motions shall be filed in accordance with the provisions of *Rule 360-19-.01* and shall be granted only for good cause shown. The agency shall notify all parties of its action upon the motion. Notwithstanding the above, the agency may at any time prior to the rendering of a decision, reopen the hearing on its own motion.

O.C.G.A. *Secs. 43-1-3*, *43-34-24(c)*.

HISTORY. Original Rule entitled "Motion to Reopen Hearing" adopted. F. Oct. 26, 1999; eff. Nov. 15, 1999.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-26 BRIEFS AND POST HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-26-.04 (2012)

360-26-.04 Review of Initial Decision.

(1) Either the Respondent or the Board may seek review of the initial decision of the hearing officer pursuant to O.C.G.A. *§ 50-13-17(a)*. If the Respondent files a timely motion for review of the initial decision of the hearing officer, the Respondent may include therein a statement of the reasons for seeking review and alleged errors made by the hearing officer in the initial decision. If the Board files a timely order for review of the initial decision on its own motion, it may include in its order the issues to be considered by the Board at the review hearing.

(2) Upon the filing of a timely motion by Respondent seeking review of the initial decision of the hearing officer, or upon the filing of a timely order for review of an initial decision by the Board on its own motion, notice of the date and time for the review shall be served on Respondent or counsel for Respondent and counsel for the agency.

(3) The Board may appoint a hearing officer for review, other than the hearing officer who entered the initial decision, who shall preside over the review proceedings and control the conduct of the review hearing. In acting as presiding officer, the hearing officer for review shall assist the Board in its ruling on procedural and evidentiary questions that arise during the course of the review. At the direction of the Board, the hearing officer for review shall draft the final decision for the Board.

(4) On review, the Board shall have all the powers it would have in making the initial decision, and in its discretion shall have the power to take additional testimony or remand the case to the original hearing officer for such purpose, as provided in the Administrative Procedure Act, O.C.G.A. *§ 50-13-17* and in accordance with this Rule. Motions, including motions to present additional evidence, shall be filed in accordance with the time periods for such motions set forth in the Order scheduling the review.

(a) Motions to present additional evidence or to remand the case to the original hearing officer for such purpose shall be granted only if the additional evidence is material and there was good cause for failing to present such evidence before the original hearing officer. All motions, including motions for the presentation of additional evidence, shall be ruled on by the Board, prior to oral arguments during the review hearing.

(5) Oral argument up to 30 minutes per side is permitted in the review hearing. Additional time for argument must be requested in writing and docketed at least fourteen (14) days before the date set for the review hearing.

(6) Once the review hearing is concluded, the Board shall deliberate as to the final decision. Neither the hearing officer for review nor the parties nor their counsel shall be present during or participate in the deliberations or voting on the final decision. Provided, however, that during the course of the deliberations the Board may seek or obtain legal advice of its counsel or make an inquiry on the record concerning either procedure or the merits of the case in the presence of all parties.

(a) At the conclusion of the deliberations, the vote and decision of the Board shall be announced in open session, unless the sanction imposed by the decision is made confidential by statute, in which case it shall be announced in camera to the Respondent and counsel for the parties. The Board may take the matter under advisement and continue the deliberations until a date certain, if deemed necessary, due to the Board's agenda or the complexity of the issues.

Authority: O.C.G.A. *Secs. 43-34-24*, *50-13-3*, *50-13-17*, *50-13-41*.

History. Original Rule entitled "Review of Initial Decision" adopted. F. May 12, 2006; eff. June 1, 2006.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-26 BRIEFS AND POST HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-26-.05 (2012)

360-26-.05 Rehearing.

Any party may file a motion for rehearing of a final decision of the Board within ten (10) days after the date of actual service of such final decision on the Respondent or Respondent's counsel. Such motion shall be in accordance with *Rule 360-19-.01* and, in addition, shall include a statement of all matters alleged to have been erroneously decided and, if applicable, a statement as to any newly discovered matters or circumstances that have arisen subsequent to the final decision. The filing of said motion shall not operate as a stay of the final decision of the agency unless so ordered by the Board.

Authority: O.C.G.A. *Secs. 43-34-24, 50-13-3*.

History. Original Rule entitled "Rehearing" adopted. F. May 12, 2006; eff. June 1, 2006.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-26 BRIEFS AND POST HEARING PROCEDURES

Ga. Comp. R. & Regs. r. 360-26-.06 (2012)

360-26-.06 Appeals of Final Decisions.

All appeals shall be filed in accordance with the Georgia Administrative Procedure Act and must be filed in the superior court of Fulton County, the court of the domicile of the Board.

Authority O.C.G.A. *Secs. 43-1-19*, *43-1-20.1*, *43-34-5*, *43-34-24*, *43-34-24.1*, *50-13-3*, *50-13-13*.

History. Original Rule entitled "Appeals" adopted. F. May 12, 2006; eff. June 1, 2006.**Repealed:** New Rule entitled "Appeals of Final Decisions" adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-27 PATIENTS' RIGHTS

Ga. Comp. R. & Regs. r. 360-27-.01 (2012)

360-27-.01 Definitions.

(1) Board means the Georgia Composite Medical Board.

(2) Declaration of the patients' rights means the notice found in *Rule 360-27-.02(2)*.

(3) Grievance means a complaint filed by a complainant concerning a physician, his/her treatment or his/her staff or office.

(4) Complainant means a patient or other interested party filing a grievance.

AUTHORITY: O.C.G.A. *Secs. 43-1-19*, *43-34-5*, *43-34-24.1*, *43-34A-2*, *43-34A-6*.

HISTORY: Original Rule entitled "Definitions" adopted. F. Apr. 8, 2002; eff. Apr. 28, 2002. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-27 PATIENTS' RIGHTS

Ga. Comp. R. & Regs. r. 360-27-.02 (2012)

360-27-.02 Declaration of Patients' Rights.

(1) Physicians are required to post a declaration of the patient's rights to file a grievance with the Board concerning a physician, staff, office or treatment received.

(2) The declaration shall contain the following language with no alterations, deletions or additions: 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 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. Complaints or grievances may be reported to the Board at the following address or telephone number:

Georgia Composite Medical Board

Attn. Complaints Unit

No. 2 Peachtree Street, N.W. 36th Floor

Atlanta, GA 30303

(404) 656-3913

www.medicalboard.georgia.gov

(3) The declaration shall be prominently displayed in a sign that is 8 1/2 inches W 11 inches in type that is no smaller than 24 point Times Roman print in black on white background. It shall be displayed in the physician's waiting room in an area that is not obstructed and can be easily viewed by patients.

Authority O.C.G.A. *Secs. 43-34-24*, *43-34A-6*.

History. Original Rule entitled "Declaration of Patients' Rights" adopted. F. Apr. 8, 2002; eff. Apr. 28, 2002. **Repealed:** New Rule of same title adopted. F. June 23, 2008; eff. July 13, 2008. **Repealed:** New Rule of same title adopted. F. Jan. 13, 2010; eff. Feb. 2, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-27 PATIENTS' RIGHTS

Ga. Comp. R. & Regs. r. 360-27-.03 (2012)

360-27-.03 Grievances/Complaints.

(1) Patients, or any person that the Board deems to have a legitimate interest, have a right to file a grievance with the Board by calling the Board with the complaint or by sending a written complaint to the Board.

(2) A complaint should include the following and will not be deemed as filed until this information is received:

(a) the name, address and telephone number of the complainant;

(b) when the patient is not the complainant, specify the name of the patient if applicable;

(c) specify the physician or practice name, the address and the nature of the complaint;

(d) dates and details of any specific incidents.

(3) When a complaint is received the Board will send the patient a form(s) authorizing the Board to use the patient's name, release the patient's name and the release of information to necessary individuals to conduct an investigation.

(4) The Board will review every complaint to determine if there is sufficient evidence to warrant an investigation. Complaints that fail to allege a violation that is within the Board's jurisdiction lack sufficient evidence to warrant an investigation.

(5) The Board will respond in writing to the complainant within 60 days of receiving a complaint and inform the complainant whether the complaint is being referred for investigation. If the complaint has been investigated, the board's response will inform the complainant as to the results of the investigation or whether further investigation is required, and any board action taken.

O.C.G.A. *Secs. 43-34-24*, *43-34A-6*.

HISTORY. Original Rule entitled "Grievances/Complaints" adopted. F. Apr. 8, 2002; eff. Apr. 28, 2002.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-27 PATIENTS' RIGHTS

Ga. Comp. R. & Regs. r. 360-27-.04 (2012)

360-27-.04 Noncompliance.

Any physician or authorized personnel violating the provisions of this chapter may be subject to disciplinary action and shall be assessed a monetary fine for each violation.

EXHIBIT A

NOTICE OF PATIENTS' RIGHTS

The patient has the right to file a grievance with the Composite State Board of Medical Examiners 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.

You may report complaints to the Board at the following address or telephone number:

Composite State Board of Medical Examiners

Attn. Complaints Unit

No. 2 Peachtree Street, NW 10th Floor

Atlanta, GA 30303

(404) 656-3913

O.C.G.A. *Secs. 43-1-19, 43-34-24.1, 43-34A-7.*

HISTORY. Original Rule entitled "Noncompliance" adopted. F. Apr. 8, 2002; eff. Apr. 28, 2002.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.01 (2012)

360-28-.01 Definitions.

(1) Board means the Composite Board of Medical Examiners.

(2) Final disciplinary action means:

(a) Any of the following final disciplinary actions taken by the Board or its counterpart in any other state, any state licensing board in Georgia or in any other state within the ten-year period immediately prior to the date of the profile:

1. Refusal to grant a license to an applicant;

2. Public or private reprimand, provided that the first private reprimand shall not be reported for physician profiles;

3. License suspension for a definite period;

4. Limitation or restriction of a license;

5. License revocation;

6. Conditioning the penalty or withholding formal disposition upon the physician's submission to the care counseling or treatment of physicians or other professional persons, and the completion of such care, counseling or treatment as directed by the licensing board;

7. Probation;

8. "Final" in disciplinary action under section (a) of 360-28-.01(2) means:

(i) In contested cases, any of the discipline listed in 360-28-.01(2)(a)1. through 7. imposed by final decision of the Board, its counterpart in any other state, any state licensing board in Georgia or in any other state.

(ii) Any of the discipline listed in 360-28-.01(2)(a)1. through 7. that was imposed by agreement between the physician and the Board or its counterpart in any other state or any state licensing board in Georgia or in any other state.

(b) Any final hospital disciplinary action resulting in revocation or any restriction of hospital privileges, either involuntary or by agreement, for reasons related to competence or character that is taken on or after April 11, 2001 and within the ten-year period immediately prior to the date of the profile.

(c) Final disciplinary action taken prior to April 11, 2001 shall not be included within the definition of this term.

(3) Current profile means the most recent profile on file with and published by the Board.

(4) Judgment means court decision and shall include criminal convictions and entered pleas of nolo contendere.

(5) Physician means a doctor of medicine or osteopathy licensed by the Board pursuant to Article 2, Chapter 34, Title 43 of the Official Code of Georgia Annotated.

(6) Medical school faculties mean academic appointments. The term medical school faculties shall not include hospital affiliation or privileges.

(7) Profile questionnaire means the form attached to this chapter as Exhibit 1.

(8) Public means any person or entity.

O.C.G.A. *Secs. 43-34-24, 43-34A-1, 43-34A-3, 43-34A-8.*

HISTORY. Original Rule entitled "Definitions" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.02 (2012)

360-28-.02 Initial Profile Information.

(1) The Board will mail letters with profile instructions to the last known address of all licensed physicians in this state. Each licensed physician is required to submit a fully completed profile that is received by the Board on or before the date designated in the letter.

(2) Profiles submitted without the physician's signature to the affirmation will not be accepted as complete profiles.

(3) A second written notice will be sent to the last known address of those physicians whose profile was not received by the designated date. The second notice will advise the physician that failure to comply with the second request for a fully completed profile shall be a violation of Chapter 34A of Title 43 of the Official Code of Georgia Annotated and shall result in penalties pursuant to O.C.G.A. § 34-43A-7 and *Rule 360-28-.07*.

(4) New licensees will be required to submit a fully completed profile within sixty (60) days after receipt of the Board's request for profile information. Profile requests mailed by the Board will be deemed received by the licensee within five (5) days of the date shown on the request unless the licensee provides satisfactory evidence to the Board establishing a later receipt date.

O.C.G.A. *Secs. 43-34-24*, *43-34A-3*, *43-34A-7*, *43-34A-8*.

HISTORY. Original Rule entitled "Initial Profile Information" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.03 (2012)

360-28-.03 Submission of Profile Information via the Internet.

(1) Profile questionnaires may be completed by licensed physicians and submitted to the Board via the Internet at www.medicalboard.ga.gov.

(2) Physicians wishing to submit profile information via the Internet will be given a user identification (ID) and personal identification number (PIN). Only the Board can reset a physician's user ID and/or PIN.

(3) Before a profile is accepted as complete via the Internet, the physician will be given the opportunity to review the profile. The physician will then be asked to swear and affirm that the information provided is true and correct. If the physician indicated that the information provided is true and correct, said action will be deemed to be the physician's signature.

(4) When a physician submits a fully completed profile via the Internet, a confirmation of receipt will be displayed on the computer screen and the confirmation may be printed by the physician for his or her records.

(5) Once the fully completed initial profile is received via the Internet, the Board will mail a hard copy of the profile to the physician.

AUTHORITY: O.C.G.A. *Secs. 43-34-24, 43-34-37, 43-34A-3, 43-34A-8*.

HISTORY: Original Rule entitled "Submission of Profile Information via the Internet" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003. **Amended: F. June 23, 2008; eff. July 13, 2008.**



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.04 (2012)

360-28-.04 Optional Information.

(1) At the physician's request, the following information may be included in the profile:

(a) Identification of translating services currently available at the primary practice setting;

(b) A maximum of six appointments to medical school faculties, occurring within the ten (10) years immediately preceding the date of the request for inclusion in the profile;

(c) A maximum of four articles in professional publications and journals;

(d) A maximum of five professional or community service memberships or activities; and

(e) A maximum of five awards received.

(2) The physician may request inclusion of optional information at the time of filing the initial profile or by submitting an update in accordance with the provisions of *Rule 360-28-.04*.

O.C.G.A. *Secs. 43-34-24*, *43-34A-3*, *43-34A-8*.

HISTORY. Original Rule entitled "Optional Information" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.05 (2012)

360-28-.05 Updates and Corrections. Amended.

(1) A physician shall utilize the form attached to this chapter as Exhibit 2 to update or correct the physician's profile.

(2) A physician may update or correct profile information via the Internet, except that a physician will not be permitted to update the following profile items listed in O.C.G.A. *§§ 43-34A-3(c)(11)* through (17) after initial publication:

(a) Felony criminal convictions.

(b) Felony charges to which a plea of nolo contendere was entered.

(c) Final disciplinary actions by a regulatory board as defined in O.C.G.A. *§ 43-34A-3(c).*

(d) Final revocations or any final disciplinary actions resulting in any restriction of hospital privileges, either involuntary or by agreement, for reasons related to competence or character.

(e) Resignations from or nonrenewal of staff privileges taken in lieu of or in settlement of pending disciplinary action related to competence or character.

(f) Final medical malpractice court judgments, medical malpractice awards or medical malpractice settlements that are required to be disclosed pursuant to *Code Sections 43-34A-3(c)(16)* and 43-34A-3(c)(17).

(3) When a profile is updated or corrected regarding malpractice, hospital staff privileges, or disciplinary action, whether by submission of a hard copy or via the Internet, the Board will mail a copy of the updated or corrected profile as published to the physician.

(4) The profile items listed in O.C.G.A. *§§ 43-34A-3(c)(11)* through (17) shall be reported to the Board within 10 days of the judgment, award, settlement, revocation, resignation and/or disciplinary action.

(a) When updating or correcting the profile items listed in O.C.G.A. *§§ 43-34A-3(c)(11)* through (17), the physician shall provide the Board with a copy of the judgment, award, settlement, revocation and/or disciplinary action.

(b) Failure to report this information within 10 days of judgment, award, settlement, revocation, resignation and/or disciplinary action may result in disciplinary action.

(5) All other changes to the physician's profile, including practice address, shall be reported by the physician to the Board, in writing or via the Internet, within 30 days of the date of the change.

O.C.G.A. *Secs. 43-34-24*, *43-34-37*, *43-34A-3*, *43-34A-7*, *43-34A-8*.

HISTORY. Original Rule entitled "Updates and Corrections" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003. AMENDED: F. Apr. 18, 2003; eff. May 8, 2003.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.06 (2012)

360-28-.06 Physician Comments. Amended.

(1) A physician shall have thirty (30) days from the date of receipt of a copy of the initial profile to submit comments to the Board regarding information to be published in the initial profile.

(2) A physician shall have thirty (30) days from the date of receipt of an amended profile, if the amendment relates to malpractice, hospital staff privileges or disciplinary action, to submit comments regarding information that has been published in the amended profile.

(3) A copy of the profile or amended profile mailed to the physician by the Board shall be deemed received by the physician five (5) days after the date of mailing, unless the physician submits satisfactory evidence to the Board of a later receipt date.

(4) A physician's comments shall not exceed 100 words and must be in regard to information published in the physician's profile or amended profile, whichever is applicable.

(5) A physician's comments shall not reveal patient names or information that would reveal the identity of a patient, shall not contain profanity and the comments shall not contain information that is confidential, defamatory or libelous pursuant to state and/or federal law.

O.C.G.A. *Secs. 43-34-24*, *43-34A-3*, *43-34A-8*.

HISTORY. Original Rule entitled "Physician Comments" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003. AMENDED: F. Apr. 18, 2003; eff. May 8, 2003.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.07 (2012)

360-28-.07 Submission of False or Misleading Information.

(1) The physician is solely responsible for the submission of accurate profile information to the Board and may not delegate this responsibility to another. Any profile information submitted to the Board, either electronically or via hard copy, in the name of the physician, will be deemed to be completed and filed by that physician.

(2) Submission of false or misleading information by the physician may constitute a violation of O.C.G.A. *§ 43-34-37* and may be grounds for disciplinary action.

O.C.G.A. *Secs. 43-34-24*, *43-34-37*, *43-34A-8*.

HISTORY. Original Rule entitled "Submission of False or Misleading Information" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.08 (2012)

360-28-.08 Non-compliance with Request for Profile Information. Amended.

(1) Compliance with the request for profile information from the Board is mandatory.

(2) Failure to return the completed profile form constitutes a violation of Chapter 34A of Title 43 of the Official Code of Georgia Annotated.

(3) The Board shall assess a fine of up to $ 100.00 per day for each day that the physician is not in compliance.

Exhibit 1

GEORGIA COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

MANDATORY PHYSICIAN PROFILE QUESTIONNAIRE

2 Peachtree Street NW

Atlanta, GA 30303

(404) 651-7854

You may also complete this form at our website.

www.profiling@dch.state.ga

I. PHYSICIAN DATA -- See Instructions

A. NAME:

___ (LAST) (FIRST) (MIDDLE)

B. GEORGIA LICENSE NUMBER: ___ [] MD [] DO

RECIPROCITY:

If your original license was issued in another state, please indicate the state and date of your first license.

State ___

Date ___ (MM/DD/YYYY)

C. MAILING ADDRESS:

___ (STREET AND NUMBER) ___ (CITY) ___ (STATE) ___ (ZIP CODE) ___ (COUNTRY)

D. PRIMARY PRACTICE ADDRESS: Check here if same as mailing address and go to Section E. [] (This will be published as part of the profile and the web site).

___ (STREET AND NUMBER) ___ (CITY) ___ (STATE) ___ (ZIP CODE)

E. PRACTICE LOCATION HISTORY

LOCATION OF PREVIOUS PRACTICE

			FROM	TO
CITY	STATE	COUNTRY	MM/DD/YYYY	MM/DD/YYYY
1.				
2.				
3.				
4.				
5.				

F. ARE YOU CURRENTLY ACCEPTING MEDICAID PATIENTS? [] Yes [] No

O.C.G.A. *Secs. 43-34-24*, *43-34A-7*, *43-34A-8*.

HISTORY. Original Rule entitled "Non-compliance with Request for Profile Information" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003. AMENDED: F. Apr. 18, 2003; eff. May 8, 2003.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-28 PHYSICIAN PROFILES

Ga. Comp. R. & Regs. r. 360-28-.09 (2012)

360-28-.09 Dissemination of Profiles.

(1) Profiles shall be disseminated to the public via the Internet at www.medicalboard.ga.gov or by mail.

(2) Requests for profiles may be made by telephone, in writing or by electronic mail.

(3) A request for profile information received after 5:00 p.m. on a business day will be deemed received on the next business day.

(4) The identity of the person or entity requesting a physician's profile and the request shall be confidential.

(5) A physician may make his or her current, unaltered board-approved profile available to the physician's patients.

(6) A physician who knowingly disperses a profile that does not disclose recent disciplinary actions, criminal convictions, revocations or restriction of hospital privileges, settlements, medical malpractice judgments or arbitration awards pursuant to O.C.G.A. § 43-34A- 3(c)(11) through (17) shall have violated O.C.G.A. *§ 43-34-37* and be subject to disciplinary action.

Authority O.C.G.A. *Secs. 43-34-24*, *43-34-37*, *43-34A-3*, *43-34A-4*, *43-34A-8*.

History. Original Rule entitled "Dissemination of Profiles" adopted. F. Jan. 2, 2003; eff. Jan. 22, 2003. **Amended: F. June 23, 2008; eff.** July 13, 2008.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-29 BAD CHECKS

Ga. Comp. R. & Regs. r. 360-29-.01 (2012)

360-29-.01 Policy.

It is the policy of the Georgia Composite Medical Board to pursue its legal remedies under O.C.G.A. *§ 16-9-20* when a bad check is issued in payment of examination, license or renewal fees, application fees, or similar fees, and to take such other action as it is outlined in the following rules and regulations. Any person issuing a bad check will be subject to the service charge as provided in O.C.G.A. *§ 16-9-20(a)(2).*

Authority O.C.G.A. *Secs. 43-1-3*, *43-34-1*, *43-34-5*, *43-34-6*, *43-34-24*, *43-34-24.1*.

History. Original Rule entitled "Policy" adopted. F. Jan. 26, 2005; eff. Feb. 15, 2005.**Repealed:** New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-29 BAD CHECKS

Ga. Comp. R. & Regs. r. 360-29-.02 (2012)

360-29-.02 Applicants for Licensure, Certification or Permits.

If an applicant for licensure, certification or permit issues a bad check to cover the required fees, such applicant shall not be issued a license, certificate or permit until the applicant has paid the appropriate fees and service charge. If a license, certificate or permit is issued prior to determining that the applicant issued a bad check, such license, certificate or permit will be deemed to have been issued in error and deemed not current unless the applicant pays the appropriate fees and service charge with ten (10) days after the applicant received a notice mailed by certified or registered mail. The applicant must pay the appropriate fees and service charge by cashier's check or money order.

Authority O.C.G.A. *Secs. 43-1-3, 43-34-5, 43-34-6, 43-34-24, 43-34-24.1*.

History. Original Rule entitled "Applicants for Licensure, Certification or Permits" adopted. F. Jan. 26, 2005; eff. Feb. 15, 2005.**Repealed:** New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-29 BAD CHECKS

Ga. Comp. R. & Regs. r. 360-29-.03 (2012)

360-29-.03 License, Certificate or Permit Renewal.

If a licensee, certificate or permit holder attempts to renew a license, certificate or permit by the issuance of a bad check, the license, certificate or permit will not be renewed until all fees due including any applicable late renewal fees plus service charge are paid. If the license, certificate or permit is renewed and reissued to the licensee, certificate or permit holder, he or she will be notified by certified or registered mail that the renewed license, certificate or permit will be deemed not current unless all fees due for renewal plus the service charge are remitted with ten (10) days after receipt of the notice. The licensee, certificate or permit holder must pay the fees and service charge by cashier's check or money order.

Authority O.C.G.A. *Secs. 43-1-3, 43-34-5, 43-34-6, 43-34-24, 43-34-24.1*.

History. Original Rule entitled "License, Certificate or Permit Renewal" adopted. F. Jan. 26, 2005; eff. Feb. 15, 2005.**Repealed:** New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-30 FEDERAL STUDENT LOAD DEFAULT

Ga. Comp. R. & Regs. r. 360-30-.01 (2012)

360-30-.01 Federal Student Loan Default.

(1) A person holding a current license, permit or certificate issued by the Georgia Composite Medical Board ("Board") may have his/her license, permit or certificate indefinitely suspended if he/she is found to be in nonpayment status or default or breach of a repayment or service obligation under any federal educational loan, service conditional loan repayment program, or service conditional scholarship program in accordance with the procedures set forth herein.

(2) After receiving a certification from a federal agency that the licensee is in nonpayment status or default or breach of a repayment or service obligation under any federal educational loan, service conditional loan repayment program, or service conditional scholarship program, the Board shall provide written notice to the licensee via certified or registered mail at the licensee's address of record. The notice shall contain the following:

(a) The Board's intended action to suspend the license;

(b) The licensee's right to request an appearance before the Board;

(c) Notification that the request for an appearance must be in writing and must be received by the board within thirty (30) days of service of notice; and

(d) The address and telephone number of the Board.

(3) If the licensee does not request an appearance before the Board within thirty (30) days, the licensee waives the right for an appearance before the Board and the license, permit or certificate will be suspended.

(4) If a request to appear is timely received by the Board, the suspension of the license, permit or certificate shall be stayed pending the licensee's appearance before the Board.

(5) Upon receipt of the request for an appearance before the Board, the Board shall notify the licensee in writing of the date and time of the appearance via certified or registered mail sent to the licensee's address of record. At this appearance, the licensee may present evidence only on the following issues:

(a) Whether the licensee is a party named in a federal educational loan agreement, service conditional loan

repayment agreement, or service conditional scholarship agreement;

(b) Whether the licensee is in default of the loan obligation, service conditional loan repayment or scholarship obligation;

(c) Whether the licensee is repaying the loan obligation, service conditional loan repayment or scholarship obligation, in a manner satisfactory to the federal agency involved.

(6) Within fourteen (14) working days after the licensee's appearance before the Board, the Board will issue its decision. The Board will mail a copy of its decision to the licensee by certified mail or registered mail to the licensee's address of record.

(7) If the license, permit or certificate is suspended, the licensee may not practice during the period of suspension.

(8) A person whose license, permit or certificate was suspended for being in nonpayment status or default or breach of a repayment or service obligation under any federal educational loan, service conditional loan repayment program, or service conditional scholarship program may apply to have the suspension lifted. In order to have the suspension lifted, the licensee must:

(a) Request in writing to the Board that the suspension be lifted;

(b) Provide the Board a written release from the federal agency originally certifying that the licensee is in nonpayment status or default or breach of a repayment or service obligation under any federal educational loan, service conditional loan repayment program, or service conditional scholarship program;

1. The release must indicate that the licensee is making payments on the loan or satisfying the payment or service requirements in accordance with an agreement approved by the federal agency.

(c) Demonstrate to the satisfaction of the Board that the license, permit or certificate has been timely renewed and, other than the suspension provided by this rule, is otherwise in good standing; and

(d) Submit a notarized declaration that all continuing education requirements, if any, for the entire suspension period have been met.

(9) Upon compliance with paragraph (8), the Board shall lift the suspension on the license, permit or certificate; however, the Board may impose any conditions on the lifting of the suspension that it deems necessary to protect the public.

(10) If the licensee fails to timely renew his license, permit or certificate during the period of suspension, the license shall be considered to be revoked by operation of law and subject to reinstatement in the sole discretion of the Board. The person who held the lapsed suspended license, permit or certificate must comply with the Board's rules for reinstatement, pay any reinstatement fee, and provide the Board with a written release from the federal agency originally certifying that the licensee is in nonpayment status or default or breach of a repayment or service obligation under any federal educational loan service conditional loan repayment program or service conditional scholarship program.

The release must indicate that the licensee is making payments on the loan or satisfying the payment or service requirements in accordance with an agreement approved by the federal agency. It will be within the discretion of the Board whether to reinstate the license.

Authority O.C.G.A. *Secs. 43-1-19*, *43-1-29*, *43-34-1*, *43-34-5*, *43-34-8*, *50-13-3*.

History. Original Rule entitled "Federal Student Loan Default" adopted. F. May 10, 2005; eff. May 30, 2005.

Repealed: New Rule of same title adopted. F. July 9, 2010; eff. July 29, 2010.



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Ga. Comp. R. & Regs. r. 360-31-.01 (2012)

360-31-.01 Applications.

(1) The application form shall be completed according to the instructions provided in the application.

(2) Reference forms shall be valid for up to six (6) months from the date of signature. If the application is not approved during the six-month period, the Board may require a new and more current reference.

(3) Applications must be complete, including all required documentation, signatures and seals. Application files are not considered completed until all required information, documentation and fees have been received by the Board. No application will be considered by the Board until the application is complete.

(4) Applicants shall inform the Board in writing within 10 days of a change of address while an application is pending.

(5) Application fees are nonrefundable.

(6) Deposit of an application fee by the Board does not indicate acceptance of the application or that any other licensing requirements have been fulfilled.

(7) Incomplete applications that have been on file with the Board for more than one year shall be deemed invalid. No further action will take place on applications that have been incomplete for more than a year until a new application is received in accordance with the provisions of this chapter with the appropriate application fee.

Authority *O.C.G.A. Secs. 43-1-7*, *43-34-5*, *43-34-194*, *43-34-195*, *43-34-196*, *43-34-202*.

History. Original Rule entitled "Applications" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule with same title adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.02 (2012)

360-31-.02 Licensure Qualifications.

(1) To qualify for a license to practice orthotics and/or prosthetics, a person must complete an application, pay an application fee, and meet the qualifications listed below:

(a) An applicant must meet one of the following education and experience requirements:

1. Possess a baccalaureate or higher degree from a college or university; have completed a nationally accredited program in orthotics, prosthetics, or orthotics and prosthetics that meets or exceeds the requirements, including clinical practice, of the Commission on Accreditation of Allied Health Programs ("CAAHEP"); and have completed a clinical residency in the professional area for which the license is sought in according with the standards, guidelines or procedures for residencies inside or outside this state approved by the Board

(a) The majority of the training in the clinical residency must have been under the supervision of a person licensed in orthotics or prosthetics, or if the training was prior to July 1, 2005, it must have been under the supervision of a person certified as an orthotist, prosthetist, or prosthetist and orthotist or

2. Possess an associate or higher degree from a college or university with successful completion of courses in human anatomy, physiology, physics, chemistry; and have completed at least five (5) years of continued work experience in the discipline for which the license is 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.

(b) An applicant must obtain a passing score on the examination given by the American Board for Certification in Orthotics and Prosthetics Incorporated ("ABC") or its successor or other examination as approved by the Board for certification in the discipline for which the license is sought.

(2) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure.

Authority *O.C.G.A. Secs.43-1-4, 43-1-7, 43-1-19, 43-34-196, 43-34-198, 43-34-203.*

History. Original Rule entitled "Provisional Licensure" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule entitled "Licensure Qualifications" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.03 (2012)

360-31-.03 Reciprocal Licensure Requirements.

The Board may, at its discretion, waive the examination requirements for an applicant who is an orthotist and prosthetist and is:

(a) Is licensed under the laws of another state, territory or country, if the requirements for licensure at the date of his or her licensure were equal to or more stringent than the requirements in force in the State of Georgia; or

(b) Is 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 the State of Georgia.

Authority *O.C.G.A. Secs.43-1-7, 43-1-19, 43-34-5, 43-34-196, 43-34-198, 43-34-202, 43-34-203*.

History. Original Rule entitled "Licensure for Applicants Currently Practicing Orthotics or Prosthetics Who Are Certified As an Orthotist or Prosthetist" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule entitled "Reciprocal Licensure Requirements" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.04 (2012)

360-31-.04 Change of Name or Address.

(1) A licensee shall notify the Board in writing within 30 days after the licensee's name is legally changed. At the time of notification, the licensee shall submit a certified copy of the official document evidencing the name change. If the name change occurred during naturalization, the application must also include the naturalization number, the name and address of the court, the date of naturalization, and the name change. After receipt of the required notification and documentation, the Board will issue a duplicate license in the new name.

(2) A licensee shall notify the Board in writing within 30 days after a change in the licensee's address of record. Failure to so notify the Board of an address change is a violation of this rule and grounds for disciplinary action.

(3) A licensee who utilizes a post office box as the address of record shall also provide a street address where the Board may contact the licensee.

Authority *O.C.G.A. Secs.43-1-7*, *43-34-194*, *43-34-195*, *43-34-196*.

History. Original Rule entitled "Licensure Pursuant to Qualifications Established by *O.C.G.A. § 43-34-195*" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule of same title adopted. F. Feb. 11, 2009; eff. Mar. 3, 2009. **Repealed:** New rule entitled "Change of Name or Address" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.05 (2012)

360-31-.05 Duplicate Licenses.

(1) Duplicate licenses may be issued upon approval by the Board if the original license is lost, stolen, or destroyed, or if the licensee has had a legal change of name.

(2) To request a duplicate license, the licensee must submit a notarized application stating the reason the duplicate license is requested. If the application is based on a name change, the licensee must provide the documentation required by *Rule 360-31-.04*.

(3) All applications must include the duplicate license fee. The duplicate license fee shall be designated in the fee schedule.

Authority *O.C.G.A. Secs.43-34-5*, *43-34-196*, *43-34-202*.

History. Original Rule entitled "Reciprocal Licensure Requirements" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006.
Repealed: New Rule entitled "Duplicate Licenses" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.06 (2012)

360-31-.06 Renewal.

(1) All active licenses must be renewed on a biennial basis. Orthotist and/or Prosthetist licenses will expire on the last day of the month in which the applicant's birthday falls.

(2) Approximately 60 days prior to the expiration date, the Board may as a courtesy, mail a notice for license renewal to the last address on file in the Board's records to every person holding a current license. Failure to receive such notification shall not relieve the licensee of the obligation to renew and pay the required fee prior to the expiration date of the license. Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled.

(3) To be eligible for renewal, licensees must answer questions on their biennial renewal form which establish satisfaction of Board approved continuing education requirements or eligibility for waiver or variance pursuant to *Rule 360-31-.07*. Failure to meet the continuing education requirements is a basis for nonrenewal.

(4) Failure to renew a license by the expiration date shall result in a restoration fee for late renewal as required by the Board. Licenses that have expired less than two years may be renewed by submitting a renewal application, establishing compliance with the continuing professional education requirements prescribed by the Board, and paying the restoration fee prescribed by the Board.

(5) Licenses not renewed for a period greater than two years may be restored by,

(a) fulfilling the requirements of 360-31-.06(4) and,

(b) filing proof acceptable to the Board of his or her fitness to have his or her license restored by either completing a period of evaluated clinical experience and successful completion of an examination approved by the Board or by other method as approved by the Board.

(6) Notwithstanding the provisions of paragraphs (4) and (5) of this rule, a person whose license expired while he or she was in active duty with the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard on ordered federal duty for a period of ninety (90) days or longer, whose license expired while serving on active duty outside the state shall be permitted to

practice in accordance with the expired license and shall not be charged with a violation relating to such practice on an expired license for a period of six (6) months from the date of his or her discharge from active duty or reassignment to a location within the state.

(7) Notwithstanding the provisions of paragraph (5) of this rule, a person whose license expired while he or she was:

(a) in federal service on active duty with the armed forces of the United States or with the state militia and called into service or training;

(b) 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 (2) years after termination from the service or training, 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.

(8) Except as provided in paragraph (6) of this rule, a person with an expired orthotist and/or prosthetist license shall not engage in the practice of orthotics and/or prosthetics and hold himself or herself out as being able to practice such professions until such time as the Board has approved his or her application for renewal or reinstatement.

Authority *O.C.G.A. Secs.43-1-31*, *43-34-5*, *43-34-194*, *43-34-196*, *43-34-198*, *43-34-200*, *43-34-201*.

History. Original Rule entitled "Change of Name or Address" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule entitled "Renewal" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.07 (2012)

360-31-.07 Continuing Education Requirements.

(1) To be eligible to renew a license, each licensee must complete forty (40) hours of Board approved continuing education during the two years preceding license renewal. Persons who hold licenses in both orthotics and prosthetics must obtain at least 20 hours in each discipline. An applicant for renewal of an individual license to practice orthotics or prosthetics who has been initially licensed by the Board for less than two years shall not be required to complete the continuing education hours in order to renew for the first biennium.

(a) the Board is authorized to waive the continuing education required for renewal in cases of hardship, disability, illness, service in the United States Congress or Georgia General Assembly, military service or other circumstances as the Board deems appropriate if supported by adequate documentation acceptable to the Board.

1. Applicant seeking such an exemption must submit a written request and documentation to support their eligibility for such an exemption.

2. Said request for an exemption shall be submitted to the Board not less than 60 days prior to the expiration of the license to receive a determination from the Board as to whether an exemption would be granted.

(2) Each licensee shall be required to answer questions on their biennial renewal application form that establish compliance with Board approved continuing education requirements. Licensees will not be required to send documentation of compliance with continuing education requirements for renewal, unless requested by the Board pursuant to *Rule 360-31-.07(4)*. False statements regarding satisfaction of continuing education on the renewal form or any other document connected with the practice of orthotics and/or prosthetics may subject the licensee to disciplinary action by the Board.

(3) Each licensee who must meet the requirements of this chapter must maintain a record of attendance and supporting documents for Board approved continuing education for a period of five (5) years from the date of attendance. At a minimum, the following information must be kept:

(a) name of provider;

(b) name of program;

(c) hours of continuing education units completed; and

(d) date of completion.

(4) The Board will audit a fixed percentage of randomly selected renewal applications to monitor compliance with the continuing education requirements. Any licensee so audited shall be required to furnish documentation of compliance including name of provider, name of program, hours/continuing education units completed and date of completion. Any licensee so audited that has been found to be out of compliance with the Board's continuing education requirements may be subject to disciplinary action.

(5) Continuing education hours that are used to satisfy a deficiency may not be used for purposes of renewal of the applicant's license for the next biennium.

(6) Any applicant seeking renewal of a license without having fully complied with the Board's continuing education requirement who wishes to seek a waiver or variance of this rule shall file with the Board.

(a) a renewal application and fee and

(b) a statement that complies with the provisions of *O.C.G.A. § 50-13-9.1* setting forth the specific facts of substantial hardship which would justify a variance or waiver, including the alternative standards which the person seeking a waiver or variance agrees to meet and a showing that such alternative standards will afford adequate protection for the public health, safety and welfare; and the reason why the variance would serve the purpose of the underlying statute.

Authority *O.C.G.A. Secs.43-1-7, 43-34-5, 43-34-11, 43-34-196, 43-34-200*.

History. Original Rule entitled "Duplicate Licenses" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule entitled "Continuing Education Requirements" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.08 (2012)

360-31-.08 Inactive Status.

(1) A licensee who does not intend to practice orthotics and/or prosthetics may apply to the Board for inactive status by submitting an application and the fee. An individual with an inactive license shall not practice prosthetics or orthotics in this State.

(2) In order to restore a license to practice orthotics and/or prosthetics, an applicant must complete an application and pay the current renewal fee and file proof acceptable to the Board of his or her fitness to have his or her license restored as provided in *Rule 360-31-.06*.

Authority *O.C.G.A. Secs.43-1-4, 43-1-19, 43-1-25, 43-1-31, 43-34-24.1, 43-34-4, 43-34-195, 43-34-196, 43-34-198, 43-34-200, 43-34-201*.

History. Original Rule entitled "Renewal" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule entitled "Inactive Status" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.09 (2012)

360-31-.09 Unlicensed Practice.

(1) No person shall practice orthotics or prosthetics in this state and hold himself or herself out as being able to practice such or engage or offer to engage in such professions unless he or she is licensed pursuant to the Orthotics and Prosthetics Practice Act or is exempt from such licensing pursuant to *O.C.G.A. § 43-34-193*.

(2) The Board may refuse to grant the license of any applicant who has engaged in the unlicensed practice of orthotics or prosthetics or administer other discipline pursuant to *O.C.G.A. §§ 43-34-8* or *43-34-196* upon the issuance of a license to an applicant who has engaged in the unlicensed practice of orthotics or prosthetics.

Authority *O.C.G.A. Secs.43-1-4, 43-1-19, 43-1-25, 43-34-5, 43-34-8, 43-34-24.1, 43-34-193, 43-34-195, 43-34-196, 43-34-198, 50-13-9.1*.

History. Original Rule entitled "Continuing Education Requirements" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Amended:** F. Sept. 16, 2008; eff. Oct. 6, 2008. **Repealed:** New Rule entitled "Unlicensed Practice" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.10 (2012)

360-31-.10 Assistants and Technicians.

(1) No person shall work as an assistant to an orthotist, prosthetist or prosthetist orthotist and provide patient care services of fabrication of an orthosis or prosthesis, unless he or she is doing the work under the supervision of a licensed orthotist, prosthetist or prosthetist orthotist.

(a) Patient Care Services is the assessment, measuring, molding, casting, fitting, or delivering a prosthesis or orthoses.

(b) Supervision means the supervising licensed orthotist, prosthetist or prosthetist orthotist is physically present in the same building and available to lend assistance if needed.

(2) No person shall work as a technician unless the work is performed under the supervision of a person licensed under this article.

(a) Supervision of a technician means the licensed practitioner will give direction and instruction to the technician as to how the device is to be fabricated. The technician will build the device according to the given specifications. The technician will not provide direct patient care services. The licensed practitioner is responsible for the quality of the fabrication of the device that is delivered to the patient.

Authority *O.C.G.A. Secs.43-1-7, 43-34-196, 43-34-197, 43-34-201*.

History. Original Rule entitled "Inactive Status" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule entitled "Assistants and Technicians" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.11 (2012)

360-31-.11 Prerequisite to Providing Care or Services.

A licensed orthotist or 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.

Authority *O.C.G.A. Secs.43-1-7*, *43-1-19*, *43-1-25*, *43-34-5*, *43-34-24.1*, *43-34-196*, *43-34-199*, *43-34-200*, *43-34-201*, *43-34-203*.

History. Original Rule entitled "Reinstatement" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule entitled "Prerequisite to Providing Care or Services" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.12 (2012)

360-31-.12 Repealed.

Authority *O.C.G.A. Secs.43-1-19, 43-1-25, 43-34-193, 43-34-196, 43-34-198, 43-34-203.*

History. Original Rule entitled "Unlicensed Practice" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.13 (2012)

360-31-.13 Composition and Responsibilities of the Orthotist and Prosthetist Advisory Committee.

(1) The intention and policy of the Board is to reflect the cultural diversity of the citizens of Georgia in the composition of the Orthotist and Prosthetist Advisory Committee ("Advisory Committee"). The Advisory Committee shall be comprised as follows:

(a) At least four (4) appointees, who are licensed orthotists and/or prosthetists and representative of such professions, and such other individuals as the Board, in its discretion, may determine.

(c) All appointees to the Advisory Committee shall have on file with the Executive Director of the Board, or his/her designee, a resume and three (3) letters of recommendation, one of which may be from a physician familiar with the appointee's practice of orthotics or prosthetics.

(d) In order to preserve continuity on the Advisory Committee, two appointees shall serve a two-year term and two appointees shall serve a one-year term which will be considered a partial term. At the time of the appointment, each appointee will be notified in writing by the Executive Director of the Board as to the beginning and ending dates of his or her respective appointment terms. Each may reapply to the full Board to serve an additional term but may not serve more than two consecutive two-year terms.

(e) In the event an Advisory Committee member is replaced during a term, the replacement member will serve the remaining time of that term as a partial term. An Advisory Committee member who serves a partial term will, after the completion of the partial term, is eligible to serve two consecutive two-year terms.

(f) Appointees shall serve without compensation from the State of Georgiafor their time and expenses.

(2) The Advisory Committee shall advise the Board on matters pertaining to the appointment of the Advisory Committee members and matters within the purview of the Orthotics and Prosthetics Practice Act. The Board, in consultation with the Advisory Committee, shall:

(a) Determine the qualifications and fitness of applicants for licensure and renewal of licensure;

(b) Adopt and revise rules consistent with the laws of the State of Georgiathat are necessary to conduct its duties

and administer the Act; and

(c) Examine for, approve, issue, deny revoke, suspend and renew the license of applicants and licensees and conduct hearings in connection with all duties to be performed pursuant to the Act;

(3) Advisory Committee members, who are not members of the Board, must be available to meet on as a needed basis and may not miss more than three (3) consecutive meetings of the Advisory Committee, or four (4) meetings in a calendar year, without an excused absence from either the Executive Director of the Board or the Board President.

(a) The Advisory committee may recommend to the Board the removal of a member for violation of the attendance rule. Such a recommendation shall be by majority vote of the Advisory Committee.

(b) Upon receipt of such recommendation for removal, the Board may remove a member of the Advisory Committee by a majority vote.

(4) Advisory Committee vacancies may be filled by the Board upon recommendation from the Advisory Committee. All applicants must meet any deadline set by the Board and shall have on file with the Executive Director of the Board, or with his/her designee, a resume and three (3) letters of recommendation, one of which may be from a physician familiar with the applicant's practice of orthotics or prosthetics.

Authority *O.C.G.A. Secs.43-34-5*, *43-34-196*, *43-34-197*, *43-34-203*.

History. Original Rule entitled "Assistants and Technicians" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** New Rule of same title adopted. F. Sept. 16, 2008; eff. Oct. 6, 2008. **Repealed:** New Rule entitled "Composition and Responsibilities of the Orthotist and Prosthetist Advisory Committee" adopted. F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.14 (2012)

360-31-.14 Repealed.

Authority *O.C.G.A. Secs.43-34-196, 43-34-199.*

History. Original Rule entitled "Prerequisite to Providing Care or Services" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed:** F. May 11, 2012; eff. May 31, 2012.



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Ga. Comp. R. & Regs. r. 360-31-.15 (2012)

360-31-.15 Repealed.

Authority *O.C.G.A. Secs.43-34-196, 43-34-204.*

History. Original Rule entitled "Composition and Responsibilities of the Orthotist and Prosthetist Advisory Committee" adopted. F. Sept. 19, 2006; eff. Oct. 9, 2006. **Repealed: F. May 11, 2012; eff. May 31, 2012.**



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TITLE 360: GEORGIA COMPOSITE MEDICAL BOARD
CHAPTER 360-32 NURSE PROTOCOL AGREEMENTS PURSUANT TO O.C.G.A. SECTION 43-34-26.3

Ga. Comp. R. & Regs. r. 360-32-.01 (2012)

360-32-.01 Definitions.

As used in this Chapter the term

(1) "Advanced practice registered nurse," (hereinafter referred to as "APRN"), means a registered professional nurse licensed under Title 43, Chapter 25 of the Official Code of Georgia Annotated, who is recognized by the Georgia Board of Nursing as having met the requirements established by the Georgia Board of Nursing to engage in advanced nursing practice and who holds a masters degree or other graduate degree approved by the Georgia Board of Nursing and national board certification in his or her area of specialty, or a person who is recognized as an advanced practice registered nurse by the Georgia Board of Nursing on or before June 30, 2006.

(2) "Other Designated Physician" means a physician who:

(a) practices medicine in this state; and

(b) whose scope of practice is the same as that of the "Delegating Physician;" and

(c) who has concurred in writing with the terms of the nurse protocol agreement, and has agreed in writing to provide consultation in the absence of the Delegating Physician.

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

(4) "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*.

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

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

(7) "Immediate consultation" means that the delegating physician shall be available for direct communication or by telephone or other telecommunications.

(8) "Nurse Protocol Agreement" means a written document, mutually agreed upon and signed by an APRN and a physician, by which the physician delegates to that APRN the authority to perform certain medical acts pursuant to *Code Section 43-34-25*, which may include without being limited to, the ordering of drugs, medical devices, medical treatments, diagnostic studies, or in life-threatening situations radiographic imaging tests.

(9) "Order" means to prescribe pursuant to a protocol agreement, as authorized by *Code Section 43-34-25*, 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.

(10) "Physician" means a person licensed to practice medicine pursuant to Article 2, Chapter 34 of Title 43; 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.

(11) "Delegating Physician" means a physician who

(a) practices medicine in this State; and

(b) authorizes an APRN to perform certain delegated medical acts pursuant to a nurse protocol agreement.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-24*, *43-34-25*, *43-34-26.3*.

History. Original Rule entitled "Definitions" adopted. F. Dec. 12, 2006; eff. Jan. 1, 2007. **Amended:** F. Mar. 12, 2007; eff. Apr. 1, 2007. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-32-.02 (2012)

360-32-.02 Requirements for Nurse Protocol Agreements Pursuant to Code Section 43-34-25.

(1) A physician entering into a nurse protocol agreement with an APRN pursuant to *Code Section 43-34-25* shall include the following general data in the protocol agreement:

(a) Names, addresses, telephone numbers, license numbers, and DEA registration number for all parties to the nurse protocol agreement, including any other designated physicians that will be utilized if the delegating physician is not available;

(b) The delegating physician must provide the APRN's DEA number to the Board within 30 days of issuance.

(c) Description of practice and number of locations, including primary and proposed satellite site(s);

(d) Dates of initiation and amendments. Any amendments made to the protocol agreement shall be filed with the Board for review within 30 days of execution; and

(e) Information regarding the specialty area or field of the APRN.

(2) The agreement shall contain a provision for immediate consultation, as defined in *Rule 360-32-.01*, between the APRN and the delegating physician.

(3) If the delegating physician is not available for consultation, the delegating physician may designate another physician who concurs with the terms of the nurse protocol agreement. The designation of another physician must also meet the following terms:

(a) Such designation by the delegating physician shall be in writing and attached to the nurse protocol agreement;

(b) Such designation must be to a physician whose scope of practice is the same as that of the delegating physician; and

(c) Such designation must include the printed name, license number and signature of the other designated physician with an affirmation from the other designated physician that he or she has agreed to serve as an, other designated

physician, has reviewed the nurse protocol agreement and concurs with the terms of the agreement.

(4) The nurse protocol agreement shall outline and identify the applicable standard of care and shall be specific to the patient population seen.

(5) The nurse protocol agreement shall identify the parameters under which the delegated act may be performed by the APRN, including but not limited to:

(a) Drugs, devices, medical treatments, diagnostic studies that may be ordered and implemented by the APRN.

(b) Circumstances under which a prescription drug order or device may be executed;

(c) Number of refills which may be ordered. Nothing in this Rule 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 as provided in *O.C.G.A. 43-34-25*.

(d) 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 as provided in *O.C.G.A. 43-34-25* on at least a quarterly basis or at a more frequent interval as consistent with the minimum acceptable standards of the practice of medicine as determined by the Board.

(e) Extent to which radiographic image tests may be ordered in life-threatening situations;

(f) A predetermined plan for emergency services;

(g) If the delegating physician authorizes the APRN to order an X-ray, ultrasound or radiographic imaging test, the nurse protocol agreement shall contain provisions whereby such tests shall be read and interpreted by a physician who is trained in reading and interpretation of such tests and provide that a copy of such report shall be forwarded to the delegating physician. However, such provision for an ultrasound shall not be required for an APRN acting within his or her scope of practice as authorized by *Code Sections 43-26-3* and 43-26-5;

(h) A section that details specific patient conditions and circumstances that require direct, on-site evaluation or consultation by the delegating physician; and

(i) If the protocol agreement delegates authority to the APRN to prescribe/order prescription drugs, then a section that specifically provides that such delegation does not include the authority to prescribe/order prescription drugs intended to cause an abortion to occur pharmacologically.

(j) Aphysician may delegate to an advanced practice registered nurse in accordance with a nurse protocol agreement the authority to pronounce death and to certify such pronouncement in the same manner as a physician.

(6) The nurse protocol agreement shall require documentation by the APRN of those acts performed by the APRN that are specific to the medical acts authorized by the delegating physician and provide that, if the APRN has prescribing authority pursuant to the protocol agreement, each prescription shall be noted in the patient's medical record.

(a) If the protocol agreement delegates authority to the APRN to prescribe/order prescription drugs or devices, a copy of the prescription drug or device order delivered to the patient shall be maintained in the patient's medical file. For purposes of this paragraph a copy shall mean a duplicate prescription or a photocopy or electronic equivalent.

(b) If the protocol agreement delegates authority to the APRN to prescribe/order prescription drugs or devices, the protocol shall provide that the prescription/order shall be issued on a form which contains the following:

1. The name, address and telephone number of the delegating physician, the name of the APRN, the APRN's DEA number, if applicable, and the name and address of the patient, the drug or device prescribed, the number of refills and directions to the patient with regard to taking and dosage of the drug; and

2. The prescription shall be signed by the APRN and shall be on a form which shall include the names of the APRN and delegating physician who are parties to the nurse protocol agreement.

(7) The nurse protocol agreement shall include a schedule for periodic review of patient records. The Board has determined that the minimum accepted standards of medical practice require the following:

(a) In as much as *O.C.G.A. 43-34-25* requires that a delegating physician or other designated physician evaluate or examine all patients who receive any controlled substance prescription pursuant to a nurse protocol agreement, a delegating physician or other designated physician must review and sign 100% of patient records for patients receiving prescriptions for controlled substances to comply with the law. Such review shall occur at least quarterly after issuance of the controlled substance prescription.

(b) The delegating physician review and sign 100% of patient records in which an adverse outcome has occurred. Such review shall occur no more than 30 days after the discovery of an adverse outcome.

(c) The delegating physician review and sign 10% of all other patient records. Such review shall occur at least annually.

(8) The nurse protocol agreement shall indicate whether the APRN is authorized under the nurse protocol agreement to request, receive, sign for and distribute professional samples.

(a) If the nurse protocol agreement provides this authority, the APRN shall comply with *O.C.G.A. 43-34-25* which states: 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 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 and dispensed. 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.

(9) Copies of the nurse protocol agreement shall be available at each practice site where the APRN is authorized to perform the delegated acts and shall be made available upon written request by the Board to the physician at the appropriate practice site.

(10) The nurse protocol agreement shall be dated and signed by the delegating physician, other designated physician, if applicable, and the APRN.

(11) A nurse protocol agreement between a physician and an advanced practice registered nurse shall be reviewed, revised, or updated annually by the delegating physician and the advanced practice registered nurse.

Authority O.C.G.A. *Secs. 43-34-5, 43-34-24, 43-34-25, 43-34-26.3*.

History. Original Rule entitled "Requirements for Nurse Protocol Agreements Pursuant to *Code Section 43-34-26.3*" adopted. F. Dec. 12, 2006; eff. Jan. 1, 2007.**Repealed:** New Rule of same title adopted. F. Mar. 12, 2007; eff. Apr. 1, 2007. **Amended: F. June 23, 2008; eff. July 13, 2008. Amended: F. Sept. 16, 2008; eff. Oct. 6, 2008. Repealed:** New Rule entitled "Requirements for Nurse Protocol Agreements Pursuant to *Code Section 43-34-25*" adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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CHAPTER 360-32 NURSE PROTOCOL AGREEMENTS PURSUANT TO O.C.G.A. SECTION 43-34-26.3

Ga. Comp. R. & Regs. r. 360-32-.03 (2012)

360-32-.03 Filing of Nurse Protocol Agreements with the Board.

(1) The delegating physician shall file the nurse protocol agreement and a Board approved form with the Board for review and submits the requisite fee for review established in the Board's fee schedule.

(2) In addition to submitting the nurse protocol agreement to the Board for review, the delegating physician shall obtain from the APRN and submit to the Board current verification from the Georgia Board of Nursing that the APRN is approved to practice as an APRN and whether the APRN has had any disciplinary action taken against him or her by the Georgia Board of Nursing.

(3) If, after review, the Board determines that the nurse protocol agreement fails to meet accepted standards of medical practice, the delegating physician will be so notified and be required to amend the agreement in order to comply with such accepted standards.

(4) The delegating physician shall file with the Board amendments to nurse protocol agreements previously reviewed by the Board within 30 days of the date the amendment was executed.

(5) Nurse protocol agreements must be received by the Board within 30 days from the date of execution of the agreement.

Authority O.C.G.A. *Secs. 43-1-7, 43-34-24, 43-34-26.3*.

History. Original Rule entitled "Filing of Nurse Protocol Agreements with the Board" adopted. F. Dec. 12, 2006; eff. Jan. 1, 2007. **Amended: F. Mar. 12, 2007; eff. Apr. 1, 2007.**



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Ga. Comp. R. & Regs. r. 360-32-.04 (2012)

360-32-.04 Limitations.

(1) A physician whose medical license is restricted shall not enter into a nurse protocol agreement, unless the physician has received prior written approval from the Board.

(2) No physician shall delegate authority to an individual pursuant to the provisions of *Code Section 43-34-25*, unless the individual is fully approved by the Georgia Board of Nursing to practice as an APRN.

(3) No physician may enter into a nurse protocol agreement with an APRN whose specialty area or field is not comparable to the physician's specialty area or field.

(4) Unless specifically exempted by paragraph (g) of *Code Section 43-34-25*, a delegating physician may not enter into a nurse protocol agreement with more than four APRN's at any one time.

(5) Except for practice settings identified in paragraph (7) of subsection (g) of *Code Section 43-34-25*, a physician shall not be an employee of an APRN, alone or in combination with others, if the physician delegates authority to and/or is required to supervise the employing APRN.

(6) No delegating physician shall delegate to an APRN the ability to prescribe controlled substances for the delegating physician, for the members of the delegating physician's immediate family, for the APRN himself or herself, or for the APRN's immediate family. For purposes of this rule, "immediate family" shall include spouses, children, siblings and parents.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-24*, *43-34-26.3*, 43-34-26.5.

History. Original Rule entitled "Limitations" adopted. F. Dec. 12, 2006; eff. Jan. 1, 2007. **Amended: F. Mar. 12, 2007; eff. Apr. 1, 2007. Amended: F. Apr. 3, 2009; eff. Apr. 23, 2009. Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-32-.05 (2012)

360-32-.05 Additional Requirements Regarding Physician Delegation to an APRN.

(1) The delegating physician shall be available for immediate consultation with the advanced practice registered nurse. 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 as provided in *O.C.G.A. 43-34-25*.

(2) The delegating physician shall document and maintain a record of onsite observation and review of medical records on a quarterly basis to monitor quality of care being provided to the patients.

(3) The delegating physician shall make certain that the medical acts provided by the APRN pursuant to the protocol agreement are:

(a) Commensurate with the education, training, experience and competence of the APRN:

1. A delegating physician shall therefore ensure that an APRN to whom he delegates prescriptive authority receives pharmacology training appropriate to the delegating physician's scope of practice at least annually. Documentation of such training shall be maintained by the physician and provided to the Board upon request.

2. A delegating physician who fails to comply with subparagraph (3)(a)1. of this rule by delegating prescriptive authority to an APRN who has not received pharmacology training appropriate to the delegating physician's scope of practice at least annually may be subject to disciplinary action.

(b) Within the scope of practice, specialty area or field and certification of the APRN;

(c) Within the comparable specialty area or field of the delegating physician; and

(d) Well documented in accurately maintained patient specific medical records.

(4) The delegating physician is responsible for all the medical acts performed by the APRN.

(5) A delegating physician shall notify the Board within ten (10) working days of the date of termination of a nurse protocol agreement with the delegating physician and APRN.

(6) The Board may request at any time to review the nurse protocol agreement and any supporting documentation. Failure to provide this written information to the Board within 30 days shall be a basis for and may result in disciplinary action. The Board may require changes in these documents if the Board determines that they do not comply with *O.C.G.A. 43-34-25* and/or accepted standards of medical practice.

(7) The Board may request at any time documentation of the delegating physician's review of the medical acts performed by the APRN pursuant to a nurse protocol agreement. Failure to provide written documentation to the Board within 30 days shall be a basis for and may result in disciplinary action.

Authority O.C.G.A. *Secs. 43-1-19*, *43-1-25*, *43-34-5*, *43-34-24*, *43-34-25*, *43-34-26.3*, *43-34-37*.

History. Original Rule entitled "Additional Requirements Regarding Physician Delegation to an APRN" adopted. F. Dec. 12, 2006; eff. Jan. 1, 2007. **Amended: F. Mar. 12, 2007; eff. Apr. 1, 2007.Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.



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Ga. Comp. R. & Regs. r. 360-32-.06 (2012)

360-32-.06 Non-compliance.

A delegating or other designated physician may be disciplined for failure to comply with this Chapter.

Authority O.C.G.A. *Secs. 43-1-19, 43-1-25, 43-34-24, 43-34-26.3, 43-34-37.*

History. Original Rule entitled "Non-compliance" adopted. F. Dec. 12, 2006; eff. Jan. 1, 2007. **Repealed:** New Rule of same title adopted. F. Mar. 12, 2007; eff. Apr. 1, 2007.



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Ga. Comp. R. & Regs. r. 360-32-.07 (2012)

360-32-.07 Exemptions.

Nothing in this rule shall be construed to require a physician to delegate prescriptive authority or prohibit a physician from utilizing the protocol authority granted under O.C.G.A. *§ 43-34-23*.

Authority O.C.G.A. *Secs. 43-34-5*, *43-34-24*, *43-34-25*, *43-34-26.3*.

History. Original Rule entitled "Exemptions" adopted. F. Mar. 12, 2007; eff. Apr. 1, 2007. **Repealed:** New Rule of same title adopted. F. Oct. 6, 2009; eff. Oct. 26, 2009.

Part 2

EXHIBIT

1 of Part 2

OFFICE OF INSURANCE AND SAFETY FIRE COMMISSIONER

Ralph T. Hudgens, Commissioner

2 MLK, JR. DR., 612 WEST TOWER, ATLANTA, GA 30334
WWW.GAINSURANCE.ORG

FORM FM298

SAFETY FIRE INSPECTION REPORT

No.	Building No.	Name of Building
ASC-022	#001	MAIN

Name of Facility: Atlanta Women's Medical Center

Company Name: Atlanta Women's Center

Serial No.

Owner: Atlanta Women's Center — A Province/A Country: U.S.A

Address: 235 West Wieuca Road

Address: 235 West wieuca Rd

City: Atlanta State: GA Zip: 30342

City: Atlanta State: GA Zip: 30342

Physical Location: 235 West Wieuca Road

Owner's Phone #: (404) 257-0057

Facility Phone#: (404) 257-0057

Email :

Type of Inspection

Annual	Written	Consultation	Fee 0

Standard Used

2000 LSC	New

Admin. Information

C.P.No Date Issued C.O.No. Date Issued

☐ Variance

# of current violations	# violations last inspection	Last inspection by	Date last inspected
	5	Randy Comans	6/12/2012

Description Of Facility

Type Occupancy	Occupant Load 50	# of beds
ASC-ambulatory surgical	Sq.Ft.area 5,500	# of stories 2

Construction Type	Sprinkler	Basement
V (1,1,1) / VA	None	No

Deficiency Type	Compliance	Deficiency Type	Compliance
1.Number of exits	Yes	8. Detection, alarm, communication systems	Yes
2.Means of egress of approved type	Yes	9. Extinguishment systems	No
3.Travel distances to exists	Yes	10.Construction type requirements	No
4.Exit signs	Yes	11.Compartmentation requirements	No
5.Emergency lighting	Yes	12.Electrical system	Yes
6.Vertical openings protection	N/A	13.HVAC system	Yes
7.Interior finish	N/A	14.Other	N/A

Accompanied by:

This acknowledges the ownership of this facility is as stated above; and this acknowledges that an exit interview was given; that I understand the terms and conditions of the NOTICE below; and that I have/have not received a copy of this report.

Name/Signature	Title	Date
Stacy Linn	Administrator	9/5/2012

This acknowledges that I accompanied the Fire Safety Compliance Officer making this report.

Name/Signature	Title	Date

Notice: All deficiencies and/or violations noted above and on the attached pages shall be corrected immediately in order for this facility to comply with O.C.G.A. Title 25, Chapter 2. This report shall be returned to the Safety Fire Division Office within 30 days indicating the deficiencies and/or violations noted have been corrected by initialing and dating each item. If all items are not corrected, a plan of correction shall be attached and submitted to this office within 30 days stating what corrective measures will be taken with the estimated date of completion. Failure to correct the noted deficiencies and/or violation is violation of Georgia Safety Fire Law. **Follow-up inspection fees of $150 or $220 will be charged and due payable in advance for second, third, and subsequent inspections as specified in Code Section 25-2-4.1.**

☐ No visual violations were noted. ☐ Recommend issuance of Certificate of Occupancy ☐ Recommend issuance of temporary Certificate of Occupancy for days ☐ A follow-up inspection is scheduled to be conducted in approximately days

Copy of report left: Yes

Review Supervisor Signature	Title	Date	Name/Signature	Title	Date
Judson R. Mobbs	Fire Safety Supervisor	9/5/2012	Michael R. Comans	F.S.C.O	9/5/2012

The office of Insurance and Safety Fire Commissioner does not desicriminate on the bassis of race, color, national origin, sex, religion, age or disability in employment or the provision of programs or services.

Ralph T. Hudgens, Commissioner
2 MLK, JR. DR., 612 WEST TOWER, ATLANTA, GA 30334
WWW.GAINSURANCE.ORG

FORM SFD376

SAFETY FIRE INSPECTION REPORT

Number 060-ASC-022 Building Number #001 Serial Number

Item #	Reference	Type Def	Comments
			Select or type...
1		14	This facility is occupied without the required certificate of occupancy issued by this office.
			A follow up inspection was conducted with Stacy Linn on items denoted on inspection report June 12, 2012. These items were found in compliance on this date. The facility was found without a Certificate of Occupancy from the Georgia State Fire Marshal's Office and has been in business since 1994. On further investigation with staff, the facility will have to comply with one of these options prior to any issuance of a Certificate of Occupancy from the Georgia State Fire marshal's office.
			OPTION # 1
2	NFPA 101	9	The Atlanta Women's Center is classified as a Ambulatory Surgical Center and is located on the 2nd floor and is Type 5(000) construction without sprinkler protection. Also there is no elevator in the building making it non compliant with ADA standards. Per exception to Chapter 20.1.6.3, of 2000 NFPA 101 Life safety Code must be sprinkled to allow that construction type. Also, CMS Regulations could apply and be more restrictive.
			OPTION # 2
			Move the Atlanta Women's Center to the 1st floor at grade and have prompt evacuation capability directly to the outside in less than 3 mintues.
			Randy Comans-404-276-8392

The office of Insurance and Safety Fire Commissioner does not desicriminate on the bassis of race, color, national origin, sex, religion, age or disability in employment or the provision of programs or services.

EXHIBIT

2 of Part 2

State of GA, Healthcare Facility Regulation Division

FORM APPROVED

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	C 11/22/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 000	INITIAL COMMENTS At the time of the survey, Atlanta Women's Medical Center, Inc. was not in compliance with Chapter 290-5-33, Rules and Regulations for Ambulatory Surgical Treatment Centers, as the result of complaint investigation #GA00103576 and #GA00104379. The following deficiencies were written as a result of the survey.	U 000	HEALTHCARE FACILITY REG JAN 09 2012 RECEIVED	
U 106 SS=D	290-5-33-.12(2)(c) RECORDS Contents of individual medical records shall normally contain the following at least: Treatment data: 1. Practitioner's orders. 2. Progress notes. 3. Nurse notes. 4. Medication. 5. Temperature-pulse-respiration (Graphic chart; surgical purposes only). 6. Special examinations(s) and reports (include x-ray and lab reports). 7. Signed informed consent form. 8. Operation record. 9. Anesthesia record (if applicable). 10 Consultation record (if applicable). 11. Tissue findings when performed. 12. Where dental services are rendered, a complete dental chart with dental diagnosis, treatment, prescription and progress notes shall be part of the clinical record. This Rule is not met as evidenced by: Based on review medical records and staff interview, it was determined that the facility failed to ensure adequate nursing documentation related to post anesthesia unit (PACU) monitoring	U 106		1-31-11

State of GA Inspection Report

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE Administrator Nurse (X6) DATE Jan. 6, 2012

STATE FORM 6899 C3EF11 If continuation sheet 1 of 8

State of GA, Healthcare Facility Regulation Division

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	C 11/22/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 106	Continued From page 1 and care provided for 1 of 1 (#1) patient requiring emergency transfer to an acute care facility. Review of medical record #1 revealed that the patient was admitted to the facility for an abortion procedure (surgical removal of the contents of the uterus to end pregnancy). The surgeon's documentation reflected a complication (possible perforation of the uterus) was identified during the surgical procedure. The procedure was immediately stopped. The patient remained stable without active bleeding. The surgeon made arrangements for the transfer of the patient to a local acute care hospital for further evaluation and treatment. The anesthesia record indicated that the patient was transferred from surgery to the post anesthesia care unit (PACU). The PACU record lacked documented evidence of ongoing monitoring of the patient prior to the arrival of the emergency medical services (EMS). The record also lacked documentation related to the time of arrival of EMS, transfer of patient's care to EMS and the condition of the patient at the time of transfer from the facility to the hospital. An interview was conducted at 12:00 p.m., in the Administrator's private office, with the registered nurse (employee #1) responsible for the patient's (medical record #1) care, in the PACU. The interviewee reviewed the patient's record during the interview and was unable to explain the missing documentation. He/she remembered providing care for the patient, but was unable to recall completion of the documentation. He/she stated that the patient was continuously monitored and remained stable until the transfer of care to the EMS staff. The interviewee confirmed that there was no documentation in the	U 106		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	C 11/22/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 106	Continued From page 2 record to reflect care and monitoring of the patient in PACU or documentation related the arrival and transfer of the patient's care to EMS.	U 106		
U 123 SS=D	290-5-33-.15(5) HOUSEKEEPING,LAUNDRY,MAINTENANCE (5) A recognized method of checking sterilizer performance shall be adopted. This Rule is not met as evidenced by: Based on review of facility policy, sterilization temperature logs, facility tour and employee interview it was determined, that the facility lacked documented evidence that required autoclave (equipment used for sterilization of surgical instruments) temperatures had been reach for effective sterilization of surgical instruments. Findings were: Facility policy entitled Autoclave Procedure 15.4 stated that two autoclaves were located in the sterilizing room. The policy required the autoclaves to reach a temperature of 270 degrees fahrenheit (F) for effective sterilization of surgical instruments. A tour of the facility was conducted at 1:50 p.m. with the facility's Administrator and the operating room technician (employee #4). Two autoclaves were observed in the sterilization room. Employee #4 confirmed that both autoclaves were used for the sterilization of surgical instruments. Sterilization temperature log from 07-01-11 to 11-21-11 for both autoclaves (autoclave #1 and autoclave #2) were reviewed. Documentation on the logs reflected that the autoclaves had only reached a temperature of 229 degrees F. everytime they were checked	U 123		12-21-11

State of GA, Healthcare Facility Regulation Division

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	C 11/22/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 123	Continued From page 3 during this time period. The Administrator and employee #4 confirmed that facility policy required the autoclaves to reach a temperature of 270 degrees F for effective sterilization. They were unable to explain the discrepancy between the required temperature and the temperature documentation on the logs.	U 123		
U 135 SS=D	290-5-33-.22 WAIVER OF RULE The Department may waive any rule for a stated period of time when it is shown that the specific rule is not applicable or when a waiver is needed to permit experimentation and demonstration of new and innovative approaches to the delivery of services which will not jeopardize the health and safety of the patients, staff or others utilizing the center. Results of such experimentation and demonstration projects shall be submitted to the Department as prescribed by the plan under which the waiver is approved. The Department shall maintain a record of and make available to interested persons information on all waivers granted under this rule. This Rule is not met as evidenced by: /Based on review of conditions required by the Department for Waiver of Rule 290-5-33-.10(f), staff interviews and patient observation, it was determined that the facility failed to comply with one of the conditions or alternative standards required for granting and continuation of the wavier. Findings were: Condition #1 of Waiver of Rule 290-5-33-.10(f) (requirement for an elevator for ambulatory surgical services provided in multistory buildings)	U 135	See Attached Plan of Correction 1-12-12	

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	C 11/22/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG.	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 135	Continued From page 4 granted by the Department 08/30/2005 until 08/31/12 required that the facility will assess the patient's condition at the time of discharge and determine the type of assistance and the number of escorts needed to help the patient safely down the stairs. The facility will be required to maintain evidence of this assessment of patients. which will be provided to the Department upon request. At least one escort will accompany each patient down the stairs upon discharge. At 10.00 a.m. a patient was observed leaving the facility post procedure. The PACU supervisor (employee #1) talked with the patient in the waiting room prior to the patient's exit from the building. The patient walked down a flight of eighteen (18) stairs with a companion/designated driver, unaccompanied by facility staff escort. The patient and the companion/designated driver exited the building without staff escort and walked in the parking lot to their private vehicle. An interview was conducted with the PACU supervisor (employee #1) at 12:00 p.m. in the Administrator's private office. The interviewee stated that he/she did not routinely escort patients down the stairs at discharge. He/she stated that it was his/her understanding that it was alright to discharge the patient at the door and allow the patient to walk down the stairs with his/her driver. The interviewee confirmed that he/she was not aware of the waiver requirement for facility staff escort to accompany each patient down the stairs upon discharge from the facility. An interview was conducted with the Administrator at 3:30 p.m. in his/her private office. The interviewee stated that he/she had instructed the staff not to escort the patients out of the building at discharge. The decision was made for	U 135		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	C 11/22/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 135	Continued From page 5 staff safety after a staff member became involved in a patient/ family altercation at discharge.	U 135		

EXHIBIT
3 of part 2

1st waiver application

TELEPHONE
(404) 523-3800
FACSIMILE
(404) 523-0426

LAW OFFICES OF
ELIZABETH J. APPLEY
2212 NORTH TOWER, PEACHTREE CENTER
235 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

E-MAIL
eja@appleylaw.com

July 17, 2012

HEALTHCARE FACILITY REGULATION
JUL 23 2012
RECEIVED

Mr. Brian Looby
Division Chief
Healthcare Facility Regulation Division
Georgia Department of Community Health
2 Peachtree Street, N.W.
Atlanta, GA 30303-3159

RE: Atlanta Women's Medical Center
Application for Extension of Waiver of Rule 290-5-33.10 (f)

Dear Mr. Looby:

I am writing on behalf of the Atlanta Women's Medical Center to formally request an extension of the waiver of Rule 290-5-33.10 (f) first issued by your office in 1994 and now in effect through August 31, 2012. We request that the waiver be granted for an additional seven years (or longer, if permissible).

The Atlanta Women's Medical Center remains at the same location at 235 West Wieuca Road, Atlanta, Georgia 30342 with telephone number (404) 257-0057. As detailed below and in the attached letter from our current Medical Director, Dr. Kenneth Twiddy, M.D., the Atlanta Women's Medical Center can confirm compliance with each aspect of the waiver conditions, and shows that the health, safety and care of patients has not been compromised and that no adverse consequences have occurred to any patient related to the absence of an elevator.

1. Each patient's condition has been assessed and the patient discharged only after determining the type of assistance and the number of escorts needed to help the patient safely down the stairs. Atlanta Women's Medical Center has maintained evidence of this assessment and has provided it to DHR upon request. At least one escort has accompanied each patient down the stairs upon discharge. As of this date, there has been no incident where any problem resulted from this procedure.

2. Prospective patients are advised during the initial appointment scheduling telephone call that access to the facility is by one flight of stairs. Existing medical conditions that might prohibit access are screened, and the fact of the notice and any conditions are noted on the patient's appointment card. The appointment card becomes a part of the patient's medical history record. Atlanta Women's Medical Center has maintained evidence of the giving of this

this information to prospective patients and has provided it to DHR on request. Prospective patients with disabilities that might interfere with access are told of the accommodations that Atlanta Women's Medical Center is able to make and, if needed, provided referral to other facilities.

3. The center's Medical Director has not changed during the period of the waiver. A letter from the Medical Director, Dr. Kenneth M. Twiddy, M.D., remains on file stating that in his medical judgment, walking downstairs following this surgery presents minimal, if any risk to the patient. An updated letter is attached hereto.

2. Ambulance services used by Atlanta Women's Medical Center are notified of the Center's second floor location. Whenever staff makes a call to 911, the operator is advised of the second floor location and that an elevator is not available to transport a patient on a stretcher to the ground floor.

Since our move to this location in May 1994, the Center has not experienced any adverse incidents regarding the waiver and no compromise in patient care and safety. The Center continues to be aware of the obligation to notify the Department of any injury sustained by a patient while leaving the premises arising out of the waiver, by the end of the next working day.

The waiver continues to work well with all procedures implemented and no negative outcomes. Please advise if there is any further information we may provide to assist your consideration of this application. Thank you for your assistance in this matter.

Sincerely yours,

Elizabeth J. Appley
Attorney at Law

Enclosures
EJA/wp
cc: Ms. Stacey Linn, Clinic Administrator

HEALTHCARE FACILITY REG.
JUN 05 2012
RECEIVED

Georgia Department of Human Resources
Office of Regulatory Services-- Application for Variance or Waiver

I would like to apply for a variance or waiver and submit the following information for consideration:

1. Name of Licensed Facility: Wildwood Hospital
Address of Licensed Facility: 435 Lifestyle Lane
City: Wildwood County: Dade Zip Code: 30757
Phone Number of Facility: (706) 820-1493
Contact Person or Person Representing the Applicant: Trevor Louw
Name of Resident the waiver application concerns (if applicable): N/A
Date of Admission to Facility (if request is made on behalf of a specific resident): N/A
NOTE: Attach recent evidence of medical evaluation to application if application involves the health status of the resident

2. Number(s) of the specific rule(s) (citations) for which variance or waiver is being requested: Rule 290-9-7-.21(b)1

3. Action requested (Check one): Variance ☐ Waiver *
(A variance is a request to permit some variation from the literal requirements of the rule. A waiver is a request to dispense with compliance with the rule entirely with no alternative standards proposed to be met for the specific rule to be waived.)

4. Facts supporting a claim of substantial hardship for the applicant and which are believed to justify the variance or waiver: We are a small hospital with a capacity of 13 beds, further we are a missionary Facility that operates with a staff of volunteers making it difficult to find a full team of RN's. Therefore part of our nursing team is made up of LPN's. This hospital triages patients realizing our limitations and transporting patients by ambulance to a full-service hospital if we are unable to meet the seriousness of their illness. We serve in a small rural mountain community and residents are familiar with our limitations on scope of services.

5. Alternative standards which the applicant agrees to meet instead of the rule: The hospital proposes to either have a registered nurse or a licensed practical nurse on duty at the hospital. If a licensed practical nurse is on duty then a registered nurse will be on-call and available to the licensed practical nurse to provide supervision and assistance. The staff reside on the 600 acre campus and can be at the bedside of the patient within minutes of the call.

6. Explanation as to how the alternative standards will afford adequate protection for the public health, safety and welfare: Given the nature of the patients accepted, the physical campus, the established rural-mountain community we serve and the transport plan in place in case of emergency, with the close proximity of nurses and physicians to the hospital we believe that there is adequate protection for the public health, safety and welfare of those frequenting the facility.

7. The reason why the variance or waiver requested would serve the purpose of the underlying statute: We believe that this waiver will not in anyway adversely affect patient safety or welfare as the nursing coverage will be upheld at professional standards. The appropriate measures are taken to have supervision and assistance by a registered nurse for the licensed practical nurse on the shifts that would be filled by a licensed practical nurse.

8. The length of time that the variance or waiver is requested to last: 6/1/2012 – 6/1/2014

9. Date Application Submitted: 6/1/2012

(Departmental use only)
Date application determined complete:_____ by:_____ Appendix 1

Georgia Department of Community Health
Healthcare Facility Regulation Division-- Application for Variance or Waiver

I would like to apply for a variance or waiver and submit the following information for consideration:

1. Name of Licensed Facility: Atlanta Women's Medical Center, Inc.
Address of Licensed Facility: 235 West Wieuca Road
City: Atlanta County: Fulton Zip Code: 30342
Phone Number of Facility: (404) 257-0057
Contact Person or Person Representing the Facility: Elizabeth J. Appley, Attorney at Law
Name of Resident the waiver application concerns (if applicable): N/A
Date of Admission to Facility (if request is made on behalf of a specific resident): N/A
NOTE: Attach recent evidence of medical evaluation to application if application involves the health status of the resident.

2. List the specific rule(s) (citations) for which variance or waiver is being requested (e.g. 111-8-62-.16(1)(b):
Rule 290-5-33-.10(f)

3. Action requested (check one): Variance X Waiver
(A variance is a request to permit some variation from the literal requirements of the rule. A waiver is a request to dispense with compliance with the rule entirely with no alternative standards proposed to be met for the specific rule to be waived.)

4. Facts supporting a claim of substantial hardship for the applicant and which are believed to justify the variance or waiver: This is an application for continuation of an existing waiver that has been in place pursuant to a grant from the Department's predecessor agencies since 1994 for AWMC's current location. The AWMC's building does not have an elevator and it would not be feasible to construct an elevator on this site in order to access the second floor where the clinic facilities are located. AWMC has met all requirements of the waiver since 1994 years without any incident or adverse consequences to patient care.

5 Alternative standards which the applicant agrees to meet instead of the rule: Alternative standards which the applicant agrees to meet instead of the rule are set forth in the attached Memorandum dated August 30, 2005, from Carol Zafiratos, Director of the Health Care Section, Georgia Department of Human Resources Office of Regulatory Services to James E. Courtney, Program Director of the Acute Care Unit, Health Care Section granting the current waiver to the applicant.

6. Explanation as to how the alternative standards will afford adequate protection for the public health, safety and welfare: AWMC has complied with the alternative standards that have been in place throughout the 18 years the waiver has been in place. These alternative standards have afforded adequate protection for the public health, safety, and welfare. Health, safety and care of patents has not been compromised by the absence of an elevator and no negative patient outcomes have occurred relating to the absence of an elevator to transport patients.

7. The reason why the variance or waiver requested would serve the purpose of the underlying statute:
The waiver would serve the purpose of the underlying statute by providing access to quality health care in an ambulatory surgical treatment center that has been delivering high quality care over many years notwithstanding the absence of an elevator.

8. The length of time that the variance or waiver is requested to last: Seven years.
9. Date Application Submitted: July 17, 2012

(Departmental use only)
Date application determined complete: _____ by: _____ Appendix 1
2/01/10

DHR

B. J. Walker, Commissioner

Georgia Department of Human Resources • Office of Regulatory Services • Martin J. Rotter, Director
Health Care Section • Two Peachtree Street, NW • Suite 33-250 • Atlanta, Georgia 30303-3142 • 404-657-5550 • FAX 404-657-8934

August 30, 2005

Ms. Elizabeth J. Appley
1850 North Tower, Peachtree Center
235 Peachtree Street, N.E.
Atlanta, GA 30303

RE: Application for Waiver of Rule 290-5-33-.10(f)
Atlanta Women's Medical Center, Inc.

Dear Ms. Appley:

Your application for a waiver has been approved with conditions as a result of an administrative review conducted within the Office of Regulatory Services. You will find enclosed with this letter a copy of the administrative review memorandum which provides specific details about the approval including the duration of the approval and the conditions or alternative standards that you are required to meet in order to have the requested rule waiver.

The decision to approve the waiver with the conditions which must be met is final unless you file a written request to have the conditions or alternative standards reviewed by Martin J. Rotter, the Director of the Office of Regulatory Services. The written request for a review must be made within 10 days of your receipt of this letter and addressed to Martin J. Rotter, Director, Office of Regulatory Services, 2 Peachtree Street, NW, Suite 32.415, Atlanta, Georgia 30303-3167. Mr. Rotter may either uphold the decision or modify the conditions or alternative standards attached to the approval of the variance in some way.

If you have any questions concerning this matter, you may contact James Courtney, Program Director for the Acute Care Unit, at 404-657-5434 or write to the address above.

Sincerely,

for Ruby Durant, RN, BS
Deputy Director
Health Care Section

Enclosure: 1

c: Golda Melnik, Clinic Administrator
Martin J. Rotter
File

DHR

B. J. Walker, Commissioner

Georgia Department of Human Resources • Office of Regulatory Services • Martin J. Rotter, Director
Health Care Section • Two Peachtree Street, NW • Suite 33-250 • Atlanta, Georgia 30303-3142 • 404-657-5550 • FAX 404-657-8934

MEMORANDUM

TO: James E. Courtney, Program Director
Acute Care Unit, Health Care Section

FROM: Carol Zafiratos, Director
Health Care Section

DATE: August 30, 2005

SUBJECT: **WAIVER AND VARIANCE REVIEW**

Applicant: Atlanta Women's Medical Center, Inc.

Rule(s) Acted Upon: Rule 290-5-33-.10(f)

Duration Requested/Granted: Waiver granted until August 31, 2012.

Section Recommendation: Grant.

Initial Decision: Subject to the conditions set forth below the following waiver is granted. A continuation of the waiver is granted through August 31, 2012 subject to the conditions set forth below. According to facility documentation and survey results, the facility has been in compliance with the waiver conditions. The health, safety and carpe of patients does not appear to have been compromised and no negative patient outcomes related to the absence of an elevator for transporting patients have been reported or identified on surveys.

Conditions: The following conditions must be met:

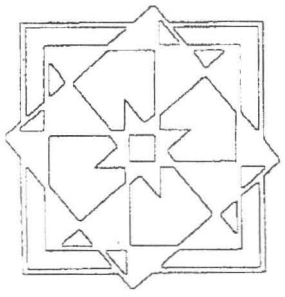
1. The facility will assess the patient's condition at the time of discharge and determine the type of assistance and the number of escorts needed to help the patient safely down the stairs. The facility will be required to maintain evidence of this assessment of patients, which must be provided to DHR upon request. At least one escort will accompany each patient down the stairs upon discharge.

2. Prospective patients will be advised that access to the facility is by one flight of stairs. The facility will maintain evidence that prospective patients have been advised of this fact with the evidence of same being made available to DHR upon request. Those prospective patients with disabilities will be told of the accommodations the center may be able to make and, if needed, referred to other facilities.

3. If the center's medical director changes, the center will maintain in its files a statement signed by the new medical director that in his/her medical judgment walking down stairs following surgery presents minimal, if any risk to the patient.

4. Ambulance services used by the center will be notified of the center's second floor location. Whenever center staff make a call to 911, the operator will be advised of the second floor location and that an elevator is not available to transport a patient on a stretcher to the ground floor.

Cc: Martin Rotter
file



ATLANTA
WOMEN'S
CENTER

July 17, 2012

Mr. Brian Looby
Division Chief
Healthcare Facility Regulation
Georgia Department of Community Health
2 Peachtree Street
Atlanta, GA 30303-3142

RE: AWMC Elevator Waiver

Dear Mr. Looby:

As the Medical Director of the Atlanta Women's Medical Center, I have paid strict attention to the procedural requirements in place to accommodate the absence of an elevator, provided in the waiver of Rule 290-5-33-.10(f) of the Rules and Regulations for Ambulatory Surgical Treatment Centers that has been in place since 1993.

It continues to be my medical judgment that the waiver conditions in place allow for patients walking down stairs following the receipt of procedures at the Center to have minimal, if any, risk to the patient. I have not seen a compromise in patient care, nor have any incidents related to stairway access been noted.

I continue to be pleased with the quality of services we offer our patients.

Sincerely,

Kenneth M. Twiddy, M.D.
Medical Director

235 West Wieuca Road
Atlanta, GA 30342
(404) 257-0057
(800) 877-6332
FAX (404) 257-1245

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

CERTIFIED MAIL/RETURN RECEIPT REQUESTED: #7009 0820 0002 0784 1617

August 30, 2012

1st waiver denial

Ms. Elizabeth J. Appley, Attorney at Law
2212 North Tower, Peachtree Center
235 Peachtree Street, N.E.
Atlanta, Georgia 30303

RE: Variance application for Atlanta Women's Medical Center, Inc.

Dear Ms. Appley,

Your application submitted on behalf of your client, Atlanta Women's Medical Center, Inc., for a variance of Rule 290-5-33-.10(f) has been denied as a result of an agency review conducted within the Healthcare Facility Regulation Division. You will find enclosed, with this letter, a copy of the waiver and variance review memorandum which explains why your client's application was denied.

The decision to deny the variance request is final unless a written request is filed within ten (10) days of your receipt of this letter for an informal agency review of the denial. The written request for review must be addressed to Brian Looby, Division Chief, Healthcare Facility Regulation Division, 2 Peachtree Street, NW, Suite 31.447, Atlanta, Georgia 30303-3167. If an informal agency review request is not received within the specified time period, the variance denial will become effective immediately.

Sincerely,

Avery Flower, Deputy Division Chief
Healthcare Facility Regulation
Georgia Department of Community Care

cc: Brian Looby, Division Chief
Frieda Jackson
Frank Cheney
Facility File

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

MEMORANDUM

TO: Avery Flower, Deputy Division Chief
Healthcare Facility Regulation Division

FR: Frieda Jackson, Program Director
Acute Care Section

Frank Cheney, Complaints Manager
Acute Care Section

DATE: August 30, 2012

SUBJECT: WAIVER AND VARIANCE REVIEW

APPLICANT: Atlanta Women's Medical Center, Inc.

RULE ACTED UPON: RULE 290-5-33-.10(f)

STATUS OF VARIANCE: DENIED.

Initial Decision: After review of the file for Atlanta Women's Medical Center (AWMC), including the Application for Variance or Waiver, Statements of Deficiency, Complaint Intake, and State Licensure, as well as public comments, the variance request for Rule 290-5-33-.10 (f) is denied. The variance request failed to state sufficient facts to support a claim of undue hardship to justify the variance, and AWMC has failed to comply with the alternative standards to ensure the safety of patients as a condition of the current variance.

1. Failure to State Facts to Support Substantial Hardship

O.C.G.A.§31-2-7(b)(1) authorizes the Department to grant a variance "...upon a showing by the applicant..." that "...strict application would cause undue hardship." Section 4 of the Georgia Department of Community Health, Healthcare Facility Regulation Division's (HFRD) Application for Variance or Waiver (Application) instructs the applicant to detail "Facts supporting a claim of substantial hardship for the applicant and which are believed to justify the variance or waiver."

In Section 4 of the Application AWMC stated, in relevant part, "The AWMC's building does not have an elevator and it would not be feasible to construct an elevator on this site in order to access the second floor where the clinic facilities are located."

AWMC failed to supply facts, financial, architectural, or otherwise, showing why it would not currently be feasible to construct an elevator, relocate to the first floor, or otherwise come into compliance with the requirements of Rule 290-5-33-.10 (f) without causing undue hardship. Because AWMC failed to provide any facts showing the strict application of the rule would cause undue hardship, the Application is denied.

2. Failure to Comply with Alternative Standards

Additionally, O.C.G.A.§31-2-7(b)(1) requires an applicant to "...show that adequate standards affording protection of health, safety, and care exist and will be met in lieu of the exact requirements of the rule..." Section 5 of the Application instructs the applicant to set forth "Alternative standards which the applicant agrees to meet instead of the rule."

In Section 5 of the Application AWMC references an attached August 30, 2005 Georgia Department of Human Resources memorandum as setting forth the alternative standards that AWMC agrees to meet.

AWMC is currently operating under a variance dated August 30, 2005 that required four (4) alternative standards upon which the variance was conditioned. According to HFRD records, AWMC has not been in compliance with one (1) of the required alternative standards, which reads: *"The facility will assess the patient's condition at the time of discharge and determine the type of assistance and the number of escorts needed to help the patient safely down the stairs. The facility will be required to maintain evidence of this assessment of patients, which must be provided to DHR upon request. At least one escort will accompany each patient down the stairs upon discharge."*

On November 11, 2011, during a complaint investigation at the facility, AWMC was found not in compliance with the above-referenced required alternative standard. During the investigation, a patient was observed by the surveyor leaving the facility post-procedure at 10:00 a.m. The post anesthesia care unit (PACU) supervisor talked with the patient in the waiting room prior to the patient's exit from the building. The patient walked down a flight of eighteen (18) stairs with a companion/designated driver unaccompanied by facility staff escort.

An interview was conducted by the surveyor with the PACU supervisor at 12:00 p.m. in the Administrator's private office. The interviewee stated that he/she did not routinely escort patients down the stairs at discharge. He/she stated that it was his/her understanding that it was alright to discharge the patient at the door and allow the patient to walk down the stairs with his/her driver. The interviewee confirmed that he/she was not aware of the variance requirement for a facility staff escort to accompany each patient down the stairs upon discharge from the facility.

AWMC failed to comply with the alternative standards to protect the health and safety of patients upon which the current variance is conditioned.

3. Conclusion

Public comments were received on the variance request posted on the Secretary of State's website, reviewed in the waiver process, and taken into consideration.

For the reasons set forth above the AWMC's Application for Variance or Waiver is denied.

The decision to deny the waiver request dated July 17, 2012 for AWMC is final unless a written request is filed for an informal agency review of the denial within ten (10) days of your receipt of this notice. A written request for review must be addressed to Brian Looby, Division Chief, Healthcare Facility Regulation Division, 2 Peachtree Street, NW, Suite 31.447, Atlanta, Georgia 30303-3167. If an informal agency review request is not received within the specified time period, the variance denial will become effective immediately.

CC: Brian Looby, Division Chief,
Healthcare Facility Regulation Division
Frieda Jackson
Frank Cheney
Facility File

TELEPHONE
(404) 523-3800
FACSIMILE
(404) 523-0426

LAW OFFICES OF
ELIZABETH J. APPLEY
2212 NORTH TOWER, PEACHTREE CENTER
235 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

E-MAIL
eja@appleylaw.com

HEALTHCARE FACILITY REGULATION
SEP 17 2012
RECEIVED

September 14, 2012

2nd Waiver Request

By Hand Delivery

Mr. Brian Looby
Division Chief
Healthcare Facility Regulation Division
Department of Community Health
2 Peachtree Street, NW, Suite 31.447
Atlanta, Georgia 30303-3167

Re: Atlanta Women's Medical Center Variance Application
Request for Informal Agency Review of Denial

Dear Mr. Looby:

I am writing on behalf of he Atlanta Women's Medical Center to formally request an informal agency review of the denial of the variance request regarding Rule 290-5-33-.10(f).

The waiver of this Rule relating to the absence of an elevator at this ambulatory surgical treatment facility has been repeatedly granted by the Department of Community Health and its successor organizations since the Center first relocated to this building in 1994. Over those 18 years, the Atlanta Women's Medical Center has conscientiously complied with the terms of the waiver and had had no compromise in the health, safety and care of patients resulting therefrom. No adverse consequences have occurred to any patient related to the absence of an elevator throughout that time. Indeed, no compromise in patient care or adverse consequence was asserted in the Department's memorandum reviewing the waiver application here.

The Center is prepared to fully address the issues raised in the denial memorandum, but requires additional time to do so. We respectfully request 30 days from this date to submit additional factual, financial, architectural and other information to respond to the Department's waiver and variance review memorandum. We require this time in order to supplement the record demonstrating why it would not be feasible to construct an elevator, relocate to the first floor or otherwise come into compliance with the requirements of Rule 290-5-33-.10 without causing undue hardship, and to respond to the memorandum's assertions regarding compliance. Additional time is required to supplement the record, as shown below.

The waiver request submitted by the Center on July 17, 2012, offered the same factual and legal basis for the waiver that had been granted by the Department consistently for all prior waivers over the past 18 years. Counsel relied on the adequacy thereof since there had been no change in circumstance relating to the building or any adverse patient outcome. However, in order to address the Department's desire for a full *de novo* factual showing on the issue of "substantial hardship," we are now securing architectural and construction estimates of the cost and impact to relocate or construct an elevator in this very old building so that a specific factual, financial and architectural showing of undue hardship may be provided.

Second, the Center asserts that it has been diligent in complying with the alternative standards in place for the waiver over 18 years with no negative patient outcomes related to the absence of an elevator and a full factual and legal response to the Department memorandum will be provided addressing the details of that compliance. The Center is also reviewing the operation of all protocols to address any Department concerns. In the interim, the Center will continue to comply with the alternative standards for the waiver.

Third we understand that the Department received public comments on the variance request that were reviewed and taken into consideration in the waiver process. The Center has made a formal request to receive copies of the public comments which we have not yet received. We require the opportunity to review and respond to those comments to further supplement the record for the variance in this matter.

We urge you to consider that the Atlanta Women's Medical Center has provided high quality health care to many thousands of patients over more than 30 years, endeavoring to do so in the safest and most cost effective way possible. As recently as May 2012 the Department of Community Health visited the Center to conduct the annual licensure inspection and on May 22, 2012, the Center received a letter from the Department stating that "there were no violations of state regulations that are enforced by this office noted in the services provided by your facility." We continue to be committed to providing the highest quality and safest healthcare for our patients. It is essential that the waiver at issue be in place in order to do so.

We appreciate the opportunity to supplement the submission to the initial waiver request and respectfully request additional time in order to fully prepare a record that will respond to the issues identified in the Department's memorandum of denial. Thank you for your consideration and cooperation.

Respectfully submitted,

Elizabeth J. Appley

Elizabeth J. Appley
Attorney at Law

cc: Atlanta Women's Medical Center

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

2nd waiver denial

October 1, 2012

Ms. Elizabeth J. Appley
Attorney at Law
2212 North Tower, Peachtree Center
235 Peachtree Street, N.E.
Atlanta, Georgia 30303

RE: Final Denial of Variance Request for Atlanta Women's Medical Center (AWMC)

Dear Ms. Appley:

Pursuant to your request dated September 14, 2012, the Georgia Department of Community Health, Division of Healthcare Facility Regulation conducted an informal agency review of the decision to deny AWMC's request for a variance from Rule 290-5-33-.10(f). For the reasons set forth in the Division's original response and memorandum to AWMC's request for a variance, dated August 30, 2012, the decision to deny AWMC's request for a variance from Rule 290-5-33-.10(f) is affirmed.

Please ensure AWMC is in compliance with all of the rules and regulations governing ambulatory surgery centers.

Sincerely,

Brian Looby, Division Chief
Healthcare Facility Regulation

/BL

30 Ivan Allen, Jr. Boulevard, Northwest • Suite 700 • Atlanta, GA 30308-3036 www.balch.com

3rd waiver request

BALCH
& BINGHAM LLP

ADRIENNE E. MARTING
t: (404) 962-3580
f: (866) 849-8955
e: amarting@balch.com

October 10, 2012

VIA HAND DELIVERY

Ms. Avery Flower
Deputy Division Chief
Georgia Department of Community Health
Healthcare Facility Regulation Division
Suite 31-447
2 Peachtree Street, NW
Atlanta, Georgia 30303

Re: Application for Variance of Rule 290-5-33-.10(f)
Atlanta Women's Medical Center ("AWMC")

Dear Ms. Flower:

Enclosed please find an Application for Variance to Rule 290-5-33-.10(f), and supporting documentation, which we are filing on behalf of Atlanta Women's Medical Center ("AWMC"). Thank you so much for your consideration.

If you should have any questions regarding this Application for Variance, please feel free to contact me at 404-962-3580 or amarting@balch.com.

Very truly yours,

Adrienne Marting

Adrienne E. Marting

AEM:dcd

Enclosures

Cc: Brian Looby, Division Chief, Healthcare Facility Regulation Division, DCH
Stacey Linn

Georgia Department of Community Health
Healthcare Facility Regulation Division -- Application for Variance or Waiver

I would like to apply for a variance or waiver and submit the following information for consideration:

1. Name of Licensed Facility: **Atlanta Women's Medical Center ("AWMC")**
   Address of Licensed Facility:
   City: **Atlanta** County: **Fulton** Zip Code: 30342
   Phone Number of Facility:
   Contact Person or Person Representing the Facility: **Stacey Linn**
   Name of Resident the waiver application concerns (if applicable): N/A
   Date of Admission to Facility (if request is made on behalf of a specific resident): N/A
   NOTE: Attach recent evidence of medical evaluation to application if application involves the health status of the resident.

2. List the specific rule(s) (citations) for which variance or waiver is being requested (e.g. 111-8-62-.16(1)(b):

   AWMC requests a variance from Rule 290-5-33-.10(f) that requires multi-story ambulatory surgery centers to have elevators.

3. Action requested (check one): Variance X Waiver
   A variance is a request to permit some variation from the literal requirements of the rule. A waiver is a request to dispense with compliance with the rule entirely with no alternative standards proposed to be met for the specific rule to be waived.)

4. Facts supporting a claim of substantial hardship for the applicant and which are believed to justify the variance or waiver:

   AWMC has been operating under a series of variances to Rule 290-5-33-.10(f) since it first occupied its current location in 1994. Over the last 18 years, the Department of Community Health ("Department") has consistently granted AWMC's variance requests on the grounds that requiring AWMC to install an elevator into the existing building would constitute a substantial hardship, both financially and logistically. Working together, the Department and AWMC developed alternative standards for AWMC to follow to ensure the health, safety, and care of patients. No facts have changed since the last waiver was granted. The applicable facts remain that requiring AWMC to install an elevator would significantly endanger AWMC's ability to continue to operate. The extent of the renovation required and the associated costs of construction would be so extensive as to cause permanent financial harm to AWMC. Furthermore, relocation to the first floor of the building is not a viable option as that floor in currently leased by another tenant until at least November 2016. To support its claims that strict compliance with Rule 290-5-33-.10(f) would cause AWMC substantial hardship and that reasonable alternative standards are available, AWMC submits the following documentation:

- **Summary of Facts & Documentation in Support of Atlanta Women's Medical Center's Application for a Variance to Rule 290-5-33-.10(f);**
- **Exhibit A: Affidavit of Stacey Linn, with Attachments 1 - 6;**
- **Exhibit B: Affidavit of William Polk**
- **Exhibit C: June 14, 2012 letter from Frank Cheney with May 18, 2012 Revised Plan of Correction Attached.**

5. Alternative standards which the applicant agrees to meet instead of the rule:

To ensure patient health, safety, and care, and to address any and all related concerns identified by the Department, AWMC proposes to abide by the following alternative standards:

- **Patients who receive IV sedation will be accompanied to the center by a personal escort.**
- **Following her procedure, a patient receiving IV sedation will be escorted down the stairs by her personal escort and a clinic staff member.**
- **The patient's personal escort will accompany the patient to her transportation.**
- **All staff escorts will document the escorting of patients in the Staff Escort Log.**
- **Patients who have not received IV sedation but who have been determined to need assistance to safely navigate the stairs will also be escorted down the stairs by a clinic staff member.**
- **If a patient must be transferred to another facility, the clinic administrator or a designee will call the ambulance service to arrange for transfer and alert the operator that the center is on the second floor and that access to the center is via a stairway.**
- **Prospective patients will be notified that the center is on the second floor and that access to the center is via a stairway. Such notification will be documented on the Patient Appointment form.**
- **The center will maintain in its file a statement signed by its current medical director that in his/her medical judgment, walking down stairs following surgery presents minimal, if any, risk to the patient.**

6. Explanation as to how the alternative standards will afford adequate protection for the public health, safety and welfare:

The alternative standards set forth above will make certain that no AWMC patient suffers a negative outcome due to the absence of an elevator. Since opening at its current location in 1994, there has been no finding by the Department that the absence of an elevator has compromised any patient's health, safety, or care. The alternative standards identified above, which are more comprehensive than the

previously-approved alternative standards under which AWMC has operated for almost twenty years, will make certain that patients are able to safely negotiate the stairway and that, when necessary, appropriate accommodations are made. Few if any other facilities provide the high-quality services that AWMC provides. Compliance with these alternative standards will protect patient safety and ensure that these limited resources are available to Georgia women in need.

7. The reason why the variance or waiver requested would serve the purpose of the underlying statute:

   The purpose of Rule 290-5-33-.10(f) is to make sure that surgical patients have ready and safe access to needed health services. O.C.G.A § 31-2-7(b)(1) permits an agency to grant a variance when an applicant establishes that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application would cause undue hardship, but that adequate standards affording protection of health, safety, and care exist and will be met in lieu of the exact requirements. By complying with these alternative standards, AWMC can make certain that its patients have ready and safe access to needed health services, and that patients are appropriately assisted down the stairs in a safe manner. AWMC's 18-year track record of providing safe, high-quality services pursuant to a Department variance indicate that these alternative standards will ensure continued access to AWMC's services.

8. The length of time that the variance or waiver is requested to last:
   7 years (or longer, if permissible.)

9. Date Application Submitted: **10/10/12**

(Departmental use only)

Date application determined complete: _____

by: _____

Appendix 1

Summary of Facts and Documentation in Support of Atlanta Women's Medical Center's Application for a Variance to Rule 290-5-33-.10(f)

The following information is provided in support of Atlanta Women's Medical Center ("AWMC") application for a variance of Rule 290-5-33-.10(f), which requires multi-story ambulatory surgery centers to provide elevator access. AWMC submits this documentation to demonstrate that compliance with Rule 290-5-33-.10(f) would impose a substantial hardship and that AWMC has adopted and complied with alternative standards to ensure the health, safety and care of its patients.

Summary of Facts and Applicable Authority

AWMC has operated as a licensed ambulatory surgery center out of the second floor of a building located at 235 West Wieuca Road, Atlanta, GA since 1994. This building has never been accessible by an elevator. In the 18 years that AWMC has been at this location it has operated subject to a variance to the rule requiring multi-story ambulatory surgery centers to have elevator access. The last variance was granted by the Department of Community Health ("Department") in 2005 after the Department found no negative patient outcomes related to the absence of an elevator. No substantive facts have changed since the Department last extended the variance. Because the denial of AWMC's application for a variance would impose undue hardship on AWMC and most likely force it to close, AWMC respectfully requests that the Department once again grant its application for a variance.

Rule 290-5-33-.10(f) states that "[a]mbulatory surgical services provided in multistory buildings shall be accessible by an elevator" and that a stairway or ramp shall be available for transfer of a patient in case of power failure. Pursuant to O.C.G.A § 31-2-7(b)(1), the agency is authorized to grant a variance when an application shows "that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application would cause undue hardship. The applicant or petitioner additionally must show that adequate standards affording protection of health, safety, and care exist and will be met in lieu of the exact requirements of the rule or regulation in question." Thus, the statute requires a petitioner seeking a variance to make a two-part showing that: (1) strict application of the rule imposes a "substantial hardship;"[1] and (2) adequate alternative standards exist to protect the public's health, safety and care in lieu of strict compliance. Upon satisfying each condition, a variance should issue. As shown below, AWMC's application satisfies both of these criteria.

Rule 290-5-33-.10(f) imposes a substantial hardship on AWMC

Strict compliance with this rule requires AWMC to install an elevator or relocate -- neither of which is a viable option. AWMC cannot relocate to the first floor of the facility

[1] "Substantial hardship" means a significant, unique, and demonstrable economic, technological, legal, or other type of hardship to the person requesting a variance or waiver which impairs the ability of the person to continue to function in the regulated practice or business. O.C.G.A. § 50-13-9.1(b)(1).

because that space is leased to a long-time tenant, the law firm of Stern and Edlin. The law firm tenant has been at this location for many years and extended its lease term by five years in November of 2011.[2] Moreover, the cost of moving to the first floor would be cost prohibitive.[3] Further, construction of an elevator is not architecturally or financially feasible. Specifically, AWMC engaged an architect to review the feasibility of installing an elevator to service the center. According to the architect, the installation of an elevator is not feasible. The construction would require significant interior reconfiguration possibly including the relocation of bathrooms and mechanical rooms that house air handling equipment. [4] Depending on which part of the building the elevator is installed, construction costs could range from a low of $244,000 to a high in excess of $480,000.[5]

AWMC operates in its current location pursuant to a lease with its landlord, LSP of Atlanta, LLC. AWMC's lease states that, upon obtaining landlord's consent, AWMC can undertake renovations of its leased premises "**at Tenant's expense.**" However, even assuming construction of an elevator were physically possible, AWMC could not sustain the resulting financial burden. AWMC generally operates at a relatively low profit margin. In fact, during fiscal years 2010 and 2011, AWMC had negative net income—it operated at a loss. And while it turned a profit in 2009, the net income was less than $5,000. With such a modest profit margin, the cost of complying with Rule 290-5-33-.10(f) would impose a substantial financial hardship on AWMC, and significantly impair its ability to continue to function.[6]

It must be noted that there is no legitimate safety issue at stake. Recent objections to the AWMC waiver are transparently political. Critics of the AWMC waiver tacitly admit that construction of an elevator would impose a substantial hardship on AWMC—indeed, activists hope to force AWMC to construct an elevator in order to impair its ability to operate.[7]

AWMC Has Consistently Complied with Alternative Standards that Protect the Health, Safety and Care of its Patients in Lieu of Strict Compliance with Rule 290-5-33-.10(f).

In permitting AWMC to operate for nearly twenty years under a variance, the Department has repeatedly determined that the rule's objectives can be satisfied by other means. These other means have included having at least one escort accompany post IV sedation patients escorted down the stairs upon discharge.[8] Other conditions have required that patients be notified that access to the center is by one flight of stairs

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[2] *See* Affidavit of Stacey Linn, ¶ 8 attached hereto as **Exhibit A.**

[3] Exhibit A, ¶ 9.

[4] *See* Affidavit of William Polk, ¶¶ 5 – 6, attached hereto as **Exhibit B.**

[5] *Id.* at ¶¶ 11 & 13.

[6] Exhibit A, ¶ 8.

[7] *See, e.g.,* the following website which incites activists to "put pressure on an abortion mill in Georgia." https://www.facebook.com/notes/pulse-pro-life-ministries/help-put-pressure-on-an-abortion-mill-in-georgia/449980395025240.

[8] Exhibit A, ¶ 5.

and prospective patients with disabilities be informed about accommodations available at the center and, if needed, referred to other facilities. Another alternative standard requires operators of ambulance services used by AWMC to be notified that the center is located on the second floor and that access is via a stairway. These alternative standards ensure that AWMC's patients are not subject to negative outcomes related to the absence of an elevator.

Despite allegations to the contrary, AWMC has consistently complied with these requirements. In response to questions raised by a surveyor on November 11, 2011, the AWMC employee correctly stated that post-IV sedation patients must be escorted downstairs by **an escort** while the **clinic staff member observed**. The department approved alternative standard at that time did **not** require the escort to be a clinic staff member. Instead, the approved condition provided that it was appropriate for the patient to be accompanied down the stairs by her personal escort.[9] Thus, AWMC has not failed to comply with the alternative standards imposed.

Even though AWMC had fully complied with the alternative standards imposed under the last variance approval and before, AWMC agreed to modify those conditions to address concerns the Department raised in its November 11, 2011 survey. Thus, in January of 2012, AWMC adopted a revised escort policy to require that both a clinic staff member and the patient's personal escort accompany post-IV sedation patients down the stairs. The policy further provides that "the patient will be escorted down the stairs, and to the out door of the building by the staff escort and the patient escort."[10] AWMC has complied with this revised standard since it was adopted.[11] On May 18, 2012, AWMC submitted a revised Plan of Correction that substituted "IV sedation" for "general anesthesia." On June 14, 2012, AWMC's Revised Plan of Correction was "accepted [by the Department] as appropriate to correct the cited deficiencies."[12]

In connection with this application for a variance, AWMC proposes the following alternative conditions to satisfy the purpose of the rule and ensure that no patient is adversely affected by the absence of an elevator:

- Patients who receive IV sedation will be accompanied to the center by a personal escort.

- Following her procedure, a patient receiving IV sedation will be escorted down the stairs by her personal escort and a clinic staff member.

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[9] *Id.*

[10] *Id.*

[11] In other words, from 1995 to 2012, only a single alleged non-compliance event has ever been identified by the agency—and even this purported "deficiency" complied with the unambiguous terms of the AWMC policy, which has *never* required a *staff* member to escort a patient down the stairs. AWMC nevertheless revised its policy, thereby enhancing the effectiveness of the alternative standards repeatedly approved by the Department. *See* Exhibit A, ¶ 5.

[12] *See* AWMC Revised Plan of Correction and June 14, 2012 approval letter from Frank D. Cheney attached hereto as **Exhibit C.**

- The patient's personal escort will accompany the patient to her transportation.

- All staff escorts will document the escorting of patients in the Staff Escort Log.

- Patients who have not received IV sedation but who have been determined to need assistance to safely navigate the stairs will also be escorted down the stairs by a clinic staff member.

- If a patient must be transferred to another facility, the clinic administrator or designee will call the ambulance service to arrange for transfer and alert the operator that the center is on the second floor and that access to the center is via a stairway.

- Prospective patients will be notified that the center is on the second floor and that access to the center is via a stairway. Such notification will be documented on the Patient Appointment form.

- The center will maintain in its file a statement signed by the current medical director that in his/her medical judgment walking down stairs following surgery presents minimal, if any, risk to the patient.

Providing prior notice to patients and ambulance services that the building has no elevator and the center is on the second floor allows prospective patients to seek referrals elsewhere and gives the ambulance services the ability to make appropriate arrangements to transport patients safely down the stairs. Requiring post IV sedation patients (or others in need of assistance to navigate the stairs) to be escorted by clinic staff and a personal escort will make certain that the patients will descend safely down the stairs. Having personal escorts accompany post-IV sedation patients to their transportation will ensure each patient's safety as she leaves the AWMC premises. The conditions set forth above will make sure that no patient suffers a negative outcome as a result of the center not having an elevator.

Public Comments

Finally, AWMC would like to respond to some of the public comments that have been submitted to the Department over the last few months. Public comment is an important and time-honored part of the administrative agency decision-making process. Commenters can offer a variety of perspectives that enable the agency to consider all sides of it decision. However, the Department should not permit abuse of its public comment process, especially from out-of-state gadflies, by those seeking to hijack the important issue of patient safety and access to high quality health care.[13] The agency

[13] *See, e.g.*, the following website includes a downloadable form letter for objecting to AWMC's waiver: http://www.jillstanek.com/2012/08/stop-the-madness-georgia-abortion-clinic-has-violated-regs-and-waivers-for-two-decades/.

should disregard objections to AWMC's variance under the guise of safety concerns from those who reveal themselves to be merely politically-motivated.

AWMC Satisfies the Conditions for a Variance.

AWMC has satisfied the statutory conditions to receive an administrative variance pursuant to O.C.G.A. § 50-13-9.1 and § 31-7-7(b)(1). Specifically, AWMC has established that (1) compliance with Rule 290-5-33-.10(f) is not feasible and imposes a substantial and undue hardship on the center, and (2) the purpose of the rule can be—and has been for nearly two decades—achieved by alternative standards. As an alternative to strict compliance with the rule, AWMC asks that it be granted a variance so that it may continue to operate in its same location as it has since 1994. As demonstrated by its Department-approved Revised Plan of Correction, AWMC has shown flexibility to adapt and enhance its procedures in order to satisfy safety concerns. Under such circumstances, the Georgia General Assembly has declared that it is appropriate "for agencies to provide relief to persons subject to regulation."[14]

Please let me know if you have any questions, or if I can provide any additional information in support of this meritorious application submitted on behalf of my client.

Respectfully submitted this 10th day of October, 2012.

Joshua M. Moore

Adrienne E. Marting
Georgia Bar No. 474770
Joshua M. Moore
Georgia Bar No. 520030

Attorneys for Atlanta Women's Center
Balch & Bingham, LLP

[14] O.C.G.A § 50-13-9.1(a).

EXHIBIT A

AFFIDAVIT OF STACEY LINN
(With Attachments 1 – 6)

AFFIDAVIT OF STACEY LINN

STATE OF GEORGIA)
)
COUNTY OF FULTON)

I, Stacey Linn, being first duly sworn in accordance with Georgia law, do hereby testify, state, affirm, and swear as follows:

1. I am over eighteen (18) years of age and am competent to give this Affidavit, which is based upon my personal knowledge. I give this Affidavit for use in all purposes allowed by law.

2. I am the Administrator of the Atlanta Women's Medical Center ("AWMC") and am familiar with AWMC's financial condition as well as its policies and procedures.

3. As Administrator of AWMC, it is my opinion that compliance with Rule 290-5-33-.10(f), which requires ambulatory surgical centers in multi-story buildings to be accessible by elevator, would impose a substantial hardship for AWMC. The hardships imposed would be both financial and logistical in that the extent of the necessary renovations would significantly interrupt patient care and the associated expenses would be too high to be financially feasible. To ensure that the health, safety and care of patients is not compromised, AWMC has taken alternative steps to prevent any negative patient outcomes related to the absence of an elevator.

4. AWMC has been providing high quality patient care to the women of Georgia and the southeast in its current location since 1994. Over the last 18 years, AWMC has adopted and abided by alternative standards sufficient to ensure patient safety and justify a variance from Rule 290-5-33-.10(f). No patients have been adversely affected by the lack of an elevator at AWMC.

5. For many years, it was AWMC's policy and practice to require any patient who received IV sedation to bring an escort with them to the center at the time of their procedure and have that personal escort accompany the patient to the first floor while a clinic staff member observed. (*See* former discharge policy (excerpt of section 5.2) attached hereto as **Attachment 1**.) In response to issues raised by the Department, the discharge policy was revised in January of this year to provide that patients who receive IV sedation must have a personal escort accompany them to the procedure and down the stairs and to their transportation following the procedure. The revised policy further provides that a clinic staff person must also escort post IV sedation patients down the stairs to the outside door of the building. Additionally, the revised policy provides that patients with mobility disabilities or other patients who have not received IV sedation but who have been determined to need assistance to safely navigate the stairs will be escorted down the stairs by a clinic staff member. Staff escorts document the escorting of the patients in the Staff Escort Log. (*See* Patient Discharge & Staff Escort Protocol and Staff Escort Log attached hereto as **Attachment 2**.) By letter dated June 14, 2012, Frank D. Cheney, RN, BSN from the Healthcare Facility Regulation Division of the Department informed AWMC that the revised Patient Discharge & Staff Escort Protocol had been reviewed and accepted by the Department. (*See* June 14, 2012 letter from Frank D. Cheney, RN, BSN attached hereto as **Attachment 3**.) AWMC has been complying with the revised policy since its adoption.

6. Additional alternative standards adopted by AWMC to ensure patient safety in light of the absence of an elevator include notifying ambulance services and patients that the center is on the second floor and that access to the center is via a flight of stairs. AWMC's Patient Transfer Protocol requires the clinic administrator to alert the ambulance service operator that the center is on the second floor with stairway access. (*See* Patient Transfer Protocol

attached hereto as **Attachment 4**.) Similarly, subparagraph 4 of AWMC's Screening and Eligibility policy states as follows:

> "Patients are notified of the access to the Center via stairs. Individuals with mobility issues related to climbing stairs will be given appropriate referrals."

Notifying patients of the stairway access is documented by AWMC staff on the patient's appointment information form. (*See* Appointment Information form attached hereto as **Attachment 5**.)

7. The installation of an elevator at the center would be cost prohibitive and could very well force the closure of the center. The operating margin of the center simply cannot tolerate the considerable expense of installing an elevator. In two of the last three years, AWMC has operated at a financial loss. Even in the years in which AWMC is profitable, such profits are typically very modest. For example, in 2009, AWMC had positive net income of less than $5,000.

8. Based upon the financial estimates from William Polk, a Georgia certified architect who reviewed the feasibility of constructing an elevator to comply with Rule 290-5-33-.10(f), installing an elevator at AWMC would cost $244,000 at a minimum and possibly in excess of $480,000 depending on the location of the elevator. Unquestionably, incurring such an expense would impose an undue hardship on AWMC.

9. Moving to the first floor of the existing building simply is not a feasible option. AWMC leases its space on the second floor of the building from LSP of Atlanta, LLC. The first floor is leased to a long-time tenant, the law firm of Stern and Edlin, which recently extended its lease to November 1, 2016. (*See* Stern and Edlin lease extension letter attached hereto as **Attachment 6**.) Even if the first floor were vacant, it would impose a substantial hardship for AWMC to relocate to the first floor because the associated expense would be cost prohibitive

given the substantial reconfiguration required to convert the first floor space from a law office to a medical facility.

FURTHER THIS AFFIANT SAITH NOT.

Stacey Linn

Sworn to and subscribed before me
this 10th day of October, 2012.

Notary Public
My Commission Expires 5-1-13.

VERONICA GALLMON
NOTARY PUBLIC
DOUGLAS COUNTY
STATE OF GEORGIA
My Commission Expires May 1, 2013

ATTACHMENT 1
TO AFFIDAVIT OF STACEY LINN

FORMER DISCHARGE POLICY
(Excerpt of Section 5.2)

EXCERPT OF SECTION 5.2

DISCHARGE

[...]

Patient is escorted to main lobby. If escort is not present, patient is seated in the Counseling room II. A phone is provided for her to contact her escort. If escort is present in lobby area, patient and escort are accompanied by RN to stairwell. Patient is instructed to hold onto the banister and walk slowly, the escort is instructed to hold on to the patient and proceed at her pace. Patient is reminded to drink fluids, take nutrition, and all medications. RN watches patient and escort down stairs. Patients receiving local anesthesia without escorts will be escorted down the stairwell by the RN.

ATTACHMENT 2

TO AFFIDAVIT OF STACEY LINN

PATIENT DISCHARGE & STAFF ESCORT PROTOCOL AND STAFF ESCORT LOG

Atlanta Women's Center
Patient Discharge & Staff Escort Protocol

Per protocol, the RN will discharge surgical patients when they are alert, have bleeding said to be at moderate levels or less, are able to feed back discharge instructions and are able to ambulate safely.

Upon discharge of surgical patients who received IV sedation, revised protocols provide that: Each surgical patient receiving IV sedation has a personal escort who has accompanied the patient to the procedure and has agreed in writing to provide transportation to the patient to their home. A patient may not receive IV sedation without an escort. The clinic staff and the personal escort for the patient will meet the patient in the waiting area. The patient will be escorted down the stairs and to the out door of the building by the staff escort and the patient escort. The patient's personal escort will escort the patient to their transportation.

- All staff escorts will document the escorting of the patient in the Staff Escort Log.
- For any post-surgical patient who received IV sedation deemed "outside standard discharge criteria", the Recovery RN will accompany the patient along with one additional staff person, and provide specific documentation of the situation in the patient's chart.

Patients with mobility disabilities and patients receiving well woman care or other non-surgical GYN procedures (e.g. pregnancy tests, post-surgery follow up, etc.) will receive a staff escort to the out door of the building where the patient is determined to be unable to navigate the stairs safely without an escort.

Jan. 12, 2012 New
May 18, 2012, Rev.

Atlanta Women's Medical Center

Staff Escort Log
(Escort patient downstairs after surgical procedure)

Clinic Day _____ Date _____

Chart #	Staff Signature		Chart #	Staff Signature

Administrative/DON signature _____

Date _____

12/11 New

ATTACHMENT 3

TO AFFIDAVIT OF STACEY LINN

JUNE 14, 2012 LETTER FROM FRANK D. CHENEY, RN, BSN

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

June 14, 2012

Ms. Stacey Linn, Administrator
Atlanta Women's Medical Center
235 West Wieuca Road
Atlanta, GA 30342-3321

Dear Ms. Linn:

The Healthcare Facility Regulation Division acknowledges receipt of your plan of correction for the deficiencies that were cited as the result of your complaint investigation survey conducted on **November 22, 2011.** The plan of correction has been reviewed and accepted as appropriate to correct the cited deficiencies.

If you have any questions, please contact my office at (404) 657-5440 or write to the address listed above.

Sincerely,

Frank D. Cheney

Frank D. Cheney, RN, BSN
Acute Care Programs
Department of Community Health
Healthcare Facility Regulation Division

FJ:rf

ATTACHMENT 4
TO AFFIDAVIT OF STACEY LINN

PATIENT TRANSFER PROTOCOL

Atlanta Women's Medical Center
Patient Transfer Protocol

1. Evaluation :

If a transfer is not specifically indicated in the Atlanta Women's Medical Center Protocols, the physician is responsible for evaluating the complication and determining whether or not a hospital transfer is needed. The physician may choose to consult with another physician or with the Medical Director.

2. Notification:

Recovery RN informs the Clinic Administrator of the situation.

Physician notifies hospital; gives admission orders; and if possible, speaks with patient's family/ friends at the Center. If the patient is being transferred to Grady Hospital or Emory Hospital, the admission will be through the Family Planning Department and Dr. Carrie Cwiak. AWMC's physician will contact Dr. Cwiak to relate pertinent information for admission.

Clinic Administrator

- Calls ambulance service to arrange for transfer and alerts the operator that we are on the second floor with stairway access. *
- Notifies patient's ride/family member/friend
- Alerts other patients to overall situation – that ambulance is coming and that the patient is in good hands.
- Notifies Medical Director and CRNA of situation. Also alert Anesthesia - Consultant if the complication involves anesthesia.
- Directs a staff member to photocopy patient's medical record.

3. Procedure:

Nursing staff will attend to/monitor the patient in the PACU while awaiting the arrival of the ambulance. If surgery is imminent, an IV or NS or D5LR will be started at KVO rate. CRNA remains with the patient until she is alert and responsive before returning to the OR.

Recovery RN will document all activities with patient prior to transfer, including: vital signs, bleeding estimates, pain levels, and medications given. Additional Progress Notes will be included in the chart for all additional information and/or description of patient care prior to transfer.

Recovery or OR staff will secure patient's clothing and prepare stretcher/wheelchair for transfer.

Clinic Administrator or designee will copy patient's chart and ensure that the physician has included a written transfer order with appropriate information. The chart copy will accompany the patient to the hospital.

The patient will be met at the hospital by the admitting physician.

A Copy of the Authorization for Transfer is placed in the patient's chart and a copy is sent to Humedco.

4. Roles for Other Personnel

OR staff waits with any other patient already in the OR and ensures their comfort and safety.

Recovery Room staff continues to be responsible for the other patients in the PACU.

Counselors and other support staff continue with their work and remain available to assist in the transfer.

Administrator and MD determine which professional staff member will accompany the patient in the ambulance.

***NOTE: All hospital transfers are accomplished by ambulance only. Direct Transfers are accomplished by the request of the operating physician, the Medical Director or the CRNA. The admitting physician assumes responsibility for the care of the patient while she is hospitalized. A staff member or the physician will be in contact with the patient during her hospital stay. The admitting physician will be responsible for the patient's follow-up care after discharge from the hospital.

ATTACHMENT 5
TO AFFIDAVIT OF STACEY LINN

APPOINTMENT INFORMATION FORM

APPOINTMENT INFORMATION

☐ ONE DAY TAB / D&E

Anesthesia _____

Name _____ (last) _____ (first)

Home # _____ Work # _____

Age _____ DOB _____

LMP _____ # Weeks _____

Appt. Date _____ Time _____

Fee _____

Person coming w/ patient _____

Referral _____

RH Neg.	☐	Socks/Robe	☐
NPO	☐	No Contacts	☐
No Children	☐	Cannot drive self	☐
Bring ID	☐	MC/VISA	☐
No Jewelry	☐	Cash	☐
Prev. PP?	☐	Read script	☐
Minor	☐	@_____	

_____ Children _____ C-Section

☐ TWO DAY OVERNIGHT D&E

Interviewer _____ Date _____

Height _____ Weight _____

High BP _____ Low BP _____ Anemia/ Sickle Cell _____

Heart Murmur/Problems _____

Asthma _____ Diabetes _____

Liver Disease _____ Kidney Disease _____

Thyroid _____ Lupus _____

Epilepsy _____ Seizures _____

DRUG/FOOD/LATEX

Allergies _____ On Meds _____

Current problems not covered _____

_____

Patient notified of stairs _____ Sig _____

Comments _____

_____

_____

Website address given ☐

Declined website address ☐

ATTACHMENT 6
TO AFFIDAVIT OF STACEY LINN

STERN AND EDLIN LEASE EXTENSION

:orge S. Stern
.niel G. Edlin
Carla F. Stern
Gary P. Graham
Carla M. Schiff

STERN A·N·D EDLIN

Family Law

225 West Wieuca Road
Atlanta, Georgia 30342
Phone: (404) 256-0010
Fax: (404) 851-9081
E-Mail: stern-edlin.com

November 19, 2010

LSP of Atlanta, LLC
ATTN: Susan E. Cohen CPA
Chief Financial Officer
c/o Humedco Corp.
500 Kings Hwy North, Ste. 300
Cherry Hill, NJ 08034

Dear Susan:

I am writing to you concerning the Stern and Edlin lease. Under the lease term, we are entitled to one option called the extension option for another five-year period beginning November 1, 2011. This extension option is exercisable by written notice, given no more than twelve months and no less than nine months before the expiration of the term of the Lease. Accordingly, we are electing to exercise our option to extend our lease for an additional five years. It is our understanding that our lease payment will reduce to the sum of $3,530 per month beginning November 1, 2011.

We have enjoyed our relationship and look forward to many more years together.

Best wishes,

SHIEL G. EDLIN

SGE:kew
cc: George S. Stern, Esq. (Via e-mail)

EXHIBIT B

AFFDAVIT OF WILLIAM POLK

AFFIDAVIT OF WILLIAM POLK

STATE OF GEORGIA)
)
COUNTY OF FULTON)

I, William Polk, being first duly sworn in accordance with Georgia law, do hereby testify, state, affirm, and swear as follows:

1. I am over eighteen (18) years of age and am competent to give this Affidavit, which is based upon my personal knowledge. I give this Affidavit for use in all purposes allowed by law.

2. I received an architecture degree from Mississippi State University in 1984. I am an NCARB-certified registered architect and LEED accredited professional with 28 years of architectural design experience. I am also a principal with the architecture firm Richard Wittschiebe Hand.

3. I was engaged by the Atlanta Women's Medical Center ("AWMC") to analyze the feasibility of its compliance with Georgia Department of Health Services administrative rule 290-5-33-.10(f), which requires ambulatory surgical centers in multi-story buildings to be accessible by elevator.

4. AWMC is located on the second floor of the building located at 235 West Wieuca Road, Atlanta, Georgia. I have identified only two ways that AWMC could comply with Rule 290-5-33-.10(f): (i) relocating to the ground floor, or (ii) installing an elevator. It is my opinion that neither option is economically feasible for the AWMC.

5. It does not appear feasible for AWMC to relocate from the second floor to the first floor. Although relocation would obviate the need for an elevator, the first floor of the building is unavailable to AWMC because it is wholly occupied by the law firm Stern & Edlin.

Even if the first floor was available, relocation may be economically unfeasible because of the cost of the significant reconfiguration required to convert the interior of the first floor from a law office layout to a medical facility. My good faith estimate is that such costs would be in excess of $543,000.

6. Installation of an interior elevator is not feasible for two reasons. First, an interior elevator would require confiscation of space on the first floor from the law firm tenant, and cannibalization of valuable existing floor space on the second floor from the AWMC. Because of the unknown variables related to the difficulty of having to work inside of an existing building with steel and concrete, I could not accurately estimate the construction costs. However, I believe such costs would be well in excess of $300,000. Second, interior construction would significantly disrupt the operations of both the law firm tenant and AWMC.

7. Next, I considered whether an elevator could be constructed at any exterior location on the premises, and determined that it was not impractical to construct an elevator that would to permit access through any of the four facades of the building (left, right, front or rear).

8. I reviewed whether a **left-of-building** (as viewed from West Weiuca Road) exterior elevator could be installed that is capable of servicing AWMC through access to the clinic lobby on the second floor. I have concluded that construction of an elevator in this manner is not a feasible option for at least two reasons: (i) there is insufficient space on the left exterior side of the building to construct an elevator (the structure would encroach on the zoning setback); and (ii) even if there was sufficient space to construct an elevator, the construction of such an elevator would be structurally difficult because there is a retaining wall between the AWMC property and the adjacent property that supports the AWMC building due to sizeable change in elevation between the properties. This change in elevation would greatly increase

structural costs to design an elevator shaft that withstands the change in elevation, and require a construction easement from the adjacent property, which may not be readily obtained.

9. Assuming that AWMC could obtain both (i) a zoning variance that permitted construction in the setback and (ii) an appropriate construction easement from the adjacent property—and such assumptions are highly speculative—the cost to construct a left-of-building elevator is impossible to estimate precisely. My good faith estimate is that such costs would be in excess of $336,000.

10. I reviewed whether a **right-of-building** (as viewed from West Weiuca Road) elevator could be constructed, and concluded that such construction is not economically feasible because of its distance from the AWMC entrance and the need to reconfigure and renovate the entire second floor to relocate the clinic space to the left side of the building and relocate the waiting area space to be adjacent the elevator. Without reconfiguration, it would be difficult to provide secure access to the current AWMC lobby with an elevator at this location.

11. The cost to construct a right-of-building elevator, including necessary interior reconfiguration to accommodate the elevator, is impossible to estimate precisely at this stage of design, but my good faith estimate is that such costs would be in excess of $480,000.

12. I reviewed whether a **front-of-building** (as viewed from West Weiuca Road) elevator shaft could be constructed, and concluded that this was not economically feasible. Although the front-of-building location is the most logical option, an elevator in this location would require physical modifications to the building parking lot, sidewalk, first floor entrance access, and also require extensive renovation of AWMC's existing administrative office space and lobby. It is also likely that an elevator at this location would cannibalize some of the first floor tenant's interior leased space. Such extensive ancillary construction to accommodate an exterior elevator at this location would add considerable expense.

13. The cost to construct a front-of-building elevator, including necessary interior reconfiguration to accommodate the elevator, is impossible to estimate precisely at this stage of design, but my good faith estimate is that such costs would be in excess of $244,000.

14. I reviewed whether a **rear-of-building** (as viewed from West Weiuca Road) exterior elevator shaft could be constructed, and concluded that this was not economically feasible because the building's interior, as currently configured, precludes access to, and use of, a rear-of-building elevator. Specifically, interior access to an elevator at the rear of the building would require significant reconfiguration as follows: (i) permanent confiscation of tenant space on the first floor, to be dedicated to an elevator and a corridor providing access from the front to the rear of the building; (ii) possible re-location of restrooms on each floor; and (iii) possible relocation of a mechanical room on each floor that contains air handling equipment.

15. The cost to construct a rear-of-building elevator, including necessary interior reconfiguration to accommodate the elevator, is impossible to estimate precisely at this stage of design, but my good faith estimate is that such costs would be in excess of $245,000.

FURTHER THIS AFFIANT SAITH NOT.

William Polk

Sworn to and subscribed before me
this 9 day of October, 2012.

Notary Public
My Commission Expires

Notary Public, Douglas County, Georgia
My Commission Expires July 31, 2014

EXHIBIT C

JUNE 14, 2012 LETTER FROM FRANK CHENEY WITH MAY 18, 2012 REVISED PLAN OF CORRECTION ATTACHED

Atlanta Women's Medical Center

Revised Plan of Correction

(January 6, 2012)

ID Prefix Tag: U135

Protocol:
Pursuant to protocol, the Recovery RN will discharge surgical patients when they are alert, have bleeding and paid at moderate levels or less, are able to feed back discharge instructions and are able to ambulate safely.

Upon discharge of surgical patients who received anesthesia, revised protocols provide that: Each surgical patient receiving general anesthesia has a personal escort who has accompanied the patient to the procedure and has agreed in writing to provide transportation to the patient to their home. A patient may not receive general anesthesia without this patient escort. The clinic staff and the personal escort for the patient will meet the patient in the waiting area. The patient will be escorted down the stairs and to the out door of the building by the staff escort and the patient escort. The patient's personal escort will escort the patient to their transportation.

- All staff escorts will document the escorting of the patient in the Staff Escort Log.
- For any post surgical patient who received general anesthesia deemed "outside standard discharge criteria" the Recovery RN will accompany the patient along with one additional staff person, and provide specific documentation of the situation in the patient's chart.

Patients with mobility disabilities and patients receiving well woman care or other non-surgical GYN procedures (e.g., pregnancy test, post surgery follow up, etc.) will receive a staff escort to the out door of the building where the patient is determined to be unable to navigate the stairs safely without an escort.

Staff Education:
Individual instruction will be provided by the Clinic Administrator.

Monitoring:
The Staff Escort Log will be reviewed and signed by the Clinic Administrator, Director of Nursing or the Office Manager at the end of each clinic session. Additionally, Medical Chart Quality Assurance provisions have been revised to include review of documentation of Staff Escort Log.

Responsible Persons:
Clinic Administrator and Director of Nursing.

Completion Date:
January 12, 2012

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

CERTIFIED MAIL/RETURN RECEIPT REQUESTED: #7004 1160 0001 1468 2270

November 8, 2012

3rd waive

Balch & Bingham, LLP
ATTN: Ms. Adrienne E. Marting
30 Ivan Allen, Jr. Boulevard, Northwest
Suite 700
Atlanta, Georgia 30303-3036

Dear Ms. Marting:

Your application dated October 10, 2012 and submitted on behalf of your client, Atlanta Women's Medical Center, Inc., for a variance of Rule 290-5-33-.10(f) has been denied as a result of an agency review conducted within the Healthcare Facility Regulation Division (HFRD). The variance request was denied based upon the failure to comply with one of the four conditions set forth in the variance granted by HFRD August 30, 2005 through August 31, 2012. Condition number one (1) referencing "at least one escort will accompany each patient down the stairs upon discharge" was not met as documented in a previous complaint survey in November of 2011 and a monitoring visit in October of 2012.

The decision to deny the variance request is final unless a written request is filed within ten (10) days of your receipt of this letter for an informal agency review of the denial. The written request for review must be addressed to Brian Looby, Division Chief, Healthcare Facility Regulation Division, 2 Peachtree Street, NW, Suite 31.447, Atlanta, Georgia 30303-3167. If an informal agency review request is not received within the specified time period, the variance denial will become effective immediately.

Sincerely,

Avery Flower, Deputy Division Chief
Healthcare Facility Regulation Division
Georgia Department of Community Health

cc: Brian Looby, Division Chief
Frieda Jackson, Program Director
Frank Cheney, Complaint Manager
Facility File

30 Ivan Allen, Jr. Boulevard, Northwest · Suite 700 · Atlanta, GA 30308-3036 www.balch.com

HEALTHCARE FACILITY REGULATION

NOV 30 2012

RECEIVED

BALCH
& BINGHAM LLP

ADRIENNE E. MARTING
t: (404) 962-3580
f: (866) 849-8955
e: amarting@balch.com

November 30, 2012

VIA HAND DELIVERY

4th wai

Mr. Brian Looby, Division Chief
Acute Care Programs
Department of Community Health
2 Peachtree Street, NW
Atlanta, GA 30303-3159

Re: Atlanta Women's Medical Center's Request for ... Review

Dear Mr. Looby:

On behalf of the Atlanta Women's Medical Center ("AWMC"), I write to request an informal agency review of the denial of the variance request regarding Rule 290-5-33-.10(f). This request is timely filed within 10 days of receipt of the denial letter.[1]

The variance at issue pertains to the licensure requirement that ambulatory surgery centers in multi-story buildings be accessible by an elevator. (Rule 290-5-.33-.01(f).) AWMC has been in operation on the second floor of a two-story building at 235 West Wieuca Road, Atlanta, Georgia 30345 since May 1994. Over the past eighteen years, AWMC has complied with the applicable waiver conditions and the Department of Community Health (the "Department") has repeatedly granted AWMC's variance requests.

However, in August of this year, an out of state anti-choice activist instigated a letter writing campaign to the Department demanding that the variance be denied.[2] Following this campaign, and for the first time in eighteen years, the Department has recently denied AWMC's variance request.

According to the November 8, 2012 denial letter, the basis for the denial is AWMC's "failure to comply with one of the four conditions set forth in the variance granted by the HFRD August 30, 2005 through August 31, 2012." The Department contends that AWMC's alleged failure to comply with the condition was documented during a survey in November 2011 and "a monitoring visit in October of

[1] Although dated November 8, 2012, the denial letter from Deputy Division Chief Avery Flower was received by e-mail on November 20, 2012 and Certified Mail on November 26, 2012. (See **Exhibit A**, Letters from Ms. Avery Flower dated November 8, 2012 and November 20, 2012.)

[2] *See, e.g.*, the following website which incites activists to put pressure on AWMC, http://www.jillstanek.com/?s=stop+the+madness+georgia+abortion+clinic+has+violated+regs+and+waivers

2012." A review of the facts, however, shows that the patients in each instance were in fact escorted down the stairs, thereby ensuring their safety.

With respect to the November 2011 incident, the Department's own records demonstrate that the patient at issue was escorted down the stairs. AWMC has always required its surgical patients to be accompanied by a personal escort who assists the patient down the stairs. The condition in effect at that time (and each waiver that preceded it) required each patient to be accompanied down the stairs by an escort.[3] As noted in the November 22, 2011 Statement of Deficiencies, the inspector acknowledged that the patient was escorted down the stairs by her "companion/designated driver" thereby meeting the requirement that each patient be accompanied down the stairs by an escort.[4] Although it had continually complied with the effective conditions, AWMC submitted a Plan of Correction that included a revised policy requiring each surgical patient to be escorted down the stairs by a staff escort as well as the patient's personal escort to address any concerns of the Department. AWMC also established a Staff Escort Log to document the facility's compliance with the staff escort requirement. AWMC's Plan of Correction was accepted by the Department.[5]

The monitoring visit referenced in the Department's denial letter occurred on Monday, October 15, 2012.[6] On that day, two inspectors visited AWMC and requested copies of three patient charts. Copies of the requested charts were promptly provided to the inspectors. It is unclear from the denial letter whether the Department contends that its inspectors observed an unescorted patient descend the stairs during its October 12th monitoring visit or whether the Department's alleges that one of the three patients whose charts the inspectors reviewed was not escorted down the stairs. The evidence, however, demonstrates that AWMC complied with the escort requirement and any allegations to the contrary are erroneous.

On Mondays, AWMC is only open to staff; thus it would have been impossible for the inspectors to see any patient, much less an unescorted patient descending the stairs, during the October 15th monitoring visit.[7] As for the three patients whose charts were reviewed by the inspectors, the Staff Escort Log documents that each of these patients was properly escorted down the stairs.[8] (The inspectors did not review or request a copy of the Staff Escort Log during their October 2012 monitoring visit.)

AWMC asks the Department to carefully review the evidence and consider the fact that AWMC has been providing high quality health care services at the same location for over 18 years. No patient has ever been harmed by the absence of an elevator at the center and AWMC is committed to

---

[3] See **Exhibit B**, August 30, 2005 Memorandum from Carol Zafiratos, Director Health Care Section.
[4] See **Exhibit C**, Excerpt from November 22, 2011 Statement of Deficiencies.
[5] See **Exhibit D**, June 14, 2012 letter from Frank D. Cheney, RN, BSN.
[6] See **Exhibit E**, Affidavit of Stacey C. Linn at paragraph 4.
[7] Id. at ¶ 3.
[8] Id. at ¶ ¶ 7 – 8.

following all precautions to ensure the safety of its patients. Thus, AWMC respectfully requests that the Department approve its variance request. The failure to do so may very well lead to the closure of the facility and deny access to needed legal health care services to the women of Georgia.

We stand ready to meet with you to address any remaining concerns or questions you may have. We are confident that AWMC can and will comply with all applicable conditions and ensure the safety of its patients.

Thank you for your consideration.

Very truly yours,

Adrienne E. Marting

Adrienne E. Marting

BALCH & BINGHAM LLP

Attachments

cc: Ms. Stacey Linn

EXHIBIT A

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

AEM
Work Copy

CERTIFIED MAIL/RETURN RECEIPT REQUESTED: #7007 3020 0002 5485 7143

November 20, 2012

Adrienne E. Marting
NOV 26 2012

Balch & Bingham, LLP
ATTN: Ms. Adrienne E.Marting
30 Ivan Allen, Jr., Boulevard, Northwest
Suite 700
Atlanta, Georgia 30308-3036

Dear Ms. Marting:

Per our conversation today and the content of this envelope, you will see the letter dated November 8, 2012 was returned noted undeliverable to our offices, Healthcare Facility Regulation. I forwarded the letter to you by email, today, November 20, 2012. I sent the original copy by certified mail to the correct address. The zip code was typed incorrectly.

I apologize for the delay and I thank you for your patience. Please let me know if I can be of further assistance.

Sincerely,

Avery Flower, Deputy Division Chief
Healthcare Facility Regulation Division
Georgia Department of Community Health

cc: Brian Looby
Frieda Jackson, Program Director
Frank Cheney, Complaint Manager
Facility File

EXHIBIT A

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH
David A. Cook, Commissioner

AEM
Work Copy

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

CERTIFIED MAIL/RETURN RECEIPT REQUESTED: #7004 1160 0001 1468 2270

November 8, 2012

Balch & Bingham, LLP
ATTN: Ms. Adrienne E. Marting
30 Ivan Allen, Jr. Boulevard, Northwest
Suite 700
Atlanta, Georgia 30303-3036

Dear Ms. Marting:

Your application dated October 10, 2012 and submitted on behalf of your client, Atlanta Women's Medical Center, Inc., for a variance of Rule 290-5-33-.10(f) has been denied as a result of an agency review conducted within the Healthcare Facility Regulation Division (HFRD). The variance request was denied based upon the failure to comply with one of the four conditions set forth in the variance granted by HFRD August 30, 2005 through August 31, 2012. Condition number one (1) referencing "at least one escort will accompany each patient down the stairs upon discharge" was not met as documented in a previous complaint survey in November of 2011 and a monitoring visit in October of 2012.

The decision to deny the variance request is final unless a written request is filed within ten (10) days of your receipt of this letter for an informal agency review of the denial. The written request for review must be addressed to Brian Looby, Division Chief, Healthcare Facility Regulation Division, 2 Peachtree Street, NW, Suite 31.447, Atlanta, Georgia 30303-3167. If an informal agency review request is not received within the specified time period, the variance denial will become effective immediately.

Sincerely,

Avery Flower, Deputy Division Chief
Healthcare Facility Regulation Division
Georgia Department of Community Health

cc: Brian Looby, Division Chief
Frieda Jackson, Program Director
Frank Cheney, Complaint Manager
Facility File

EXHIBIT B

DHR

B. J. Walker, Commissioner

Georgia Department of Human Resources • Office of Regulatory Services • Martin J. Rotter, Director
Health Care Section • Two Peachtree Street, NW • Suite 33-250 • Atlanta, Georgia 30303-3142 • 404-657-5550 • FAX 404-657-8934

MEMORANDUM

TO: James E. Courtney, Program Director
Acute Care Unit, Health Care Section

FROM: Carol Zafiratos, Director
Health Care Section

DATE: August 30, 2005

SUBJECT: **WAIVER AND VARIANCE REVIEW**

Applicant: Atlanta Women's Medical Center, Inc.

Rule(s) Acted Upon: Rule 290-5-33-.10(f)

Duration Requested/Granted: Waiver granted until August 31, 2012.

Section Recommendation: Grant.

Initial Decision: Subject to the conditions set forth below the following waiver is granted. A continuation of the waiver is granted through August 31, 2012 subject to the conditions set forth below. According to facility documentation and survey results, the facility has been in compliance with the waiver conditions. The health, safety and carpe of patients does not appear to have been compromised and no negative patient outcomes related to the absence of an elevator for transporting patients have been reported or identified on surveys.

Conditions: The following conditions must be met:

1. The facility will assess the patient's condition at the time of discharge and determine the type of assistance and the number of escorts needed to help the patient safely down the stairs. The facility will be required to maintain evidence of this assessment of patients, which must be provided to DHR upon request. At least one escort will accompany each patient down the stairs upon discharge.

2. Prospective patients will be advised that access to the facility is by one flight of stairs. The facility will maintain evidence that prospective patients have been advised of this fact with the evidence of same being made available to DHR upon request. Those prospective patients with disabilities will be told of the accommodations the center may be able to make and, if needed, referred to other facilities.

3. If the center's medical director changes, the center will maintain in its files a statement signed by the new medical director that in his/her medical judgment walking down stairs following surgery presents minimal, if any risk to the patient.

4. Ambulance services used by the center will be notified of the center's second floor location. Whenever center staff make a call to 911, the operator will be advised of the second floor location and that an elevator is not available to transport a patient on a stretcher to the ground floor.

Cc: Martin Rotter
file

EXHIBIT C

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	C 11/22/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 135	Continued From page 4 granted by the Department 08/30/2005 until 08/31/12 required that the facility will assess the patient's condition at the time of discharge and determine the type of assistance and the number of escorts needed to help the patient safely down the stairs. The facility will be required to maintain evidence of this assessment of patients, which will be provided to the Department upon request. At least one escort will accompany each patient down the stairs upon discharge. At 10.00 a.m. a patient was observed leaving the facility post procedure. The PACU supervisor (employee #1) talked with the patient in the waiting room prior to the patient's exit from the building. The patient walked down a flight of eighteen (18) stairs with a companion/designated driver, unaccompanied by facility staff escort. The patient and the companion/designated driver exited the building without staff escort and walked in the parking lot to their private vehicle. An interview was conducted with the PACU supervisor (employee #1) at 12:00 p.m. in the Administrator's private office. The interviewee stated that he/she did not routinely escort patients down the stairs at discharge. He/she stated that it was his/her understanding that it was alright to discharge the patient at the door and allow the patient to walk down the stairs with his/her driver. The interviewee confirmed that he/she was not aware of the waiver requirement for facility staff escort to accompany each patient down the stairs upon discharge from the facility. An interview was conducted with the Administrator at 3:30 p.m. in his/her private office. The interviewee stated that he/she had instructed the staff not to escort the patients out of the building at discharge. The decision was made for	U 135		

EXHIBIT C

EXHIBIT D

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

AEM
Work Copy

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

June 14, 2012

Ms. Stacey Linn, Administrator
Atlanta Women's Medical Center
235 West Wieuca Road
Atlanta, GA 30342-3321

Dear Ms. Linn:

The Healthcare Facility Regulation Division acknowledges receipt of your plan of correction for the deficiencies that were cited as the result of your complaint investigation survey conducted on **November 22, 2011**. The plan of correction has been reviewed and accepted as appropriate to correct the cited deficiencies.

If you have any questions, please contact my office at (404) 657-5440 or write to the address listed above.

Sincerely,

Frank D. Cheney

Frank D. Cheney, RN, BSN
Acute Care Programs
Department of Community Health
Healthcare Facility Regulation Division

FJ:rf

EXHIBIT D

EXHIBIT E

AFFIDAVIT OF STACEY C. LINN

STATE OF FULTON)
)
COUNTY OF GEORGIA)

I, Stacey Linn, being first duly sworn in accordance with Georgia law, do hereby testify, state, affirm, and swear as follows:

1. I am over eighteen (18) years of age and am competent to give this Affidavit, which is based upon my personal knowledge. I give this Affidavit for use in all purposes allowed by law.

2. I am the Administrator of the Atlanta Women's Medical Center ("AWMC") and am familiar with the daily operations of the center.

3. AWMC's hours of operation are as follows:

Monday – Tuesday from 8:00 a.m. to 5:00 p.m.
Wednesday – Friday from 7:00 a.m. to 5:00 p.m.
Saturday from 6:00 a.m. to 2:00 p.m.

However, **no patients** are seen at AWMC on Mondays and Tuesdays. Instead, only AWMC employees are at the center on Mondays and Tuesdays to handle phone calls, schedule appointments, order equipment, and other administrative duties.

4. On Monday, October 15, 2012, two inspectors from the Department of Community Health came to AWMC. There were no patients at AWMC on that day.

5. While at AWMC, the inspectors requested copies of three patient charts, which were promptly provided to them.

6. The inspectors did not request a copy of or review the Staff Escort Log.

7. Of the three patient charts requested by the inspectors on October 15, 2012, one of the patients was treated at AWMC on October 10, 2012, one was treated on October 13, 2012,

EXHIBIT E

and the third patient was treated on October 12th and 13th. The Staff Escort Log for each of these days document that each patient was escorted down the stairs in accordance with the center's policy and the Plan of Correction approved by the Department of Community Health on June 14, 2012.

8. The initials, chart numbers and date(s) of service, of the three patients referenced in paragraph 7 above are as follows:

Initials	Chart #	Date(s) of Service
[redacted]	#6	10/12/12 & 10/13/12
[redacted]	#12	10/10/12
[redacted]	#20	10/13/12

True and correct copies of the Staff Escort Logs for October 10, 12 & 13th are attached hereto as **Attachment 1**. These records are kept in the ordinary course of business. The asterisk next to the pertinent chart numbers were added for the Department's ease of reference.

FURTHER THIS AFFIANT SAITH NOT.

Stacey C. Linn

Sworn to and subscribed before me
this 30th day of November, 2012.

Notary Public
My Commission Expires

VERONICA GALLMON
NOTARY PUBLIC
DOUGLAS COUNTY
STATE OF GEORGIA
My Commission Expires May 1, 2013

ATTACHMENT 1

Atlanta Women's Medical Center

Staff Escort Log

(Escort patient downstairs after surgical procedure)

Clinic Day Wednesday Date 10/10/12

Chart #	Staff Signature		Chart #	Staff Signature
2	SP			
3	SP			
11	MW [redacted]			
5	SP			
8	SP			
4	MW [redacted]			
15	SP			
* 12	SP			
16	SP			
18	SP			
1	AF			
7	AF			

Administrative/DON signature [signature]

Date 10/10/12

12/11 New

ATTACHMENT 1

Atlanta Women's Medical Center

Staff Escort Log
(Escort patient downstairs after surgical procedure)

Clinic Day Friday Date 10/12/12

Chart #	Staff Signature		Chart #	Staff Signature
2	[redacted]			
5	[redacted]			
3	[redacted]			
4	AF			
7	AF			
6	[redacted]			
[redacted]	[redacted]			
[redacted]	[redacted]			
19	AF			
[redacted]	[redacted]			
[redacted]	[redacted]			
[redacted]	[redacted]			
[redacted]	[redacted]			
[redacted]	[redacted]			
11	[redacted]			
[redacted]	[redacted]			
[redacted]	[redacted]			

Administrative/DON signature [redacted]

Date 10/12/12

12/11 New

Atlanta Women's Medical Center

Staff Escort Log
(Escort patient downstairs after surgical procedure)

Clinic Day Saturday Date 10/13/2012

Chart #	Staff Signature		Chart #	Staff Signature
2	SL		22	[illegible]
6	SL		35	SL
8	SL		37	[illegible]
7	SL		29	[illegible]
3	J. [redacted]		15	SL
11	J. [redacted]			
5	SL			
4	SL			
14	SL			
13	SL			
12	SL			
16	SL			
10	SL			
19	SL			
1	SL			
20	SL			
22	SL			
23	SL			
26	SL			
24	SL			
28	SL			
25	SL			
21	SL			
29	NW			

Administrative/DON signature SL

Date 10/13/12

12/11 New

GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

David A. Cook, Commissioner

Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

December 14, 2012

Final waiver denial

VIA CERTIFIED AND REGULAR MAIL

Adrienne Marting, Esq.
Balch & Bingham, LLP
30 Ivan Allen Jr. Boulevard, N.W.
Suite 700
Atlanta, GA 30308-3036

Ms. Stacy Linn, Administrator
Atlanta Women's Medical Center
235 West Wieuca Road
Atlanta, GA 30342-3321

Golda Melnik – Registered Agent
Atlanta Women's Medical Center
235 West Wieuca Road
Atlanta, GA 30342

RE: Final Denial of Variance Request for Atlanta Women's Medical Center (AWMC).

Dear Ms. Marting:

Pursuant to your request dated November 30, 2012, the Georgia Department of Community Health, Division of Healthcare Facility Regulation conducted an informal agency review of the decision to deny AWMC's request for a variance from Rule 290-5-33-.10(f). For the reasons set forth in the Division's response and memorandum to AWMC's request for a variance, dated November 8, 2012, and the NOTICE OF INTENT TO IMPOSE FINE AND SUSPEND LICENSE, dated December 11, 2012, the decision to deny AWMC's request for a variance from Rule 290-5-33-.10(f) is affirmed.

Sincerely,

Brian Looby, Division Chief
Healthcare Facility Regulation

/BL

cc: File

ATTACHMENT D

State of GA, Healthcare Facility Regulation Division

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	10/15/2012

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ATLANTA WOMEN'S MEDICAL CENTER	235 WEST WIEUCA ROAD ATLANTA, GA 30342

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 000	INITIAL COMMENTS At the time of the survey, Atlanta Women's Medical Center was not in compliance with Chapter 290-5-33, Rules and Regulations for Ambulatory Surgical Treatment Centers, as the result of a State licensure monitoring visit. The following deficiency is being written as a result of that survey.	U 000		
U 072 SS=J	290-5-33-.10(f) PHYSICAL PLANT & OPERATIONAL STANDARDS Ambulatory surgical services provided in multistory buildings shall be accessible by an elevator of adequate size to accommodate a standard wheeled litter patient and two attendants. A stairway or ramp of adequate dimensions shall be available for transfer of a patient in case of power failure. This Rule is not met as evidenced by: Based on facility documentation, observation, and staff interviews, it was determined that the facility failed to provide an elevator of adequate size to accomodate a standard wheeled litter patient and two attendants. Findings were: An unannounced monitoring visit was conducted at 9:00 a.m. on 10/15/2012. Surveyors entered the premises through an open door and walked up the stairs to the entrance. No operable elevator was observed in use. At the top of the stairs was a locked door that required a button to be pressed to allow entry from the staff that was inside. The Surgical log for the year 2012 was requested. Review of the facility's surgical log	U 072		

State of GA, Healthcare Facility Regulation Division

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
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NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
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U 072	Continued From page 1	U 072		

revealed that surgical procedures were performed as follows: Thirteen (13) procedures were performed on 10/10/12, twelve (12) procedures were performed on 10/11/12, eighteen (18) procedures were performed on 10/12/12 and thirty-five (35) procedures were performed on 10/13/12. According to documentation in the log, seventy-eight (78) surgical procedures had been performed 10/10/2012 through 10/13/2012. Surveyors also reviewed six (6) medical records during the survey.

During an interview on 10/15/12 at 10:15 a.m. in the facility's break room, the facility's Administrator (personnel file #1- interview only), Director of Nursing (personnel file #2- interview only), and Business Office Manager (personnel file #3- interview only) confirmed that surgical procedures were still being performed and were also scheduled for the week of the on-site monitoring visit.

EXHIBIT

4 of part 2

PRINTED: 12/18/2012
FORM APPROVED

State of GA, Healthcare Facility Regulation Division

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	060-011	A. BUILDING _____ B. WING _____	10/15/2012

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
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State of GA, Healthcare Facility Regulation Division

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	060-011	A. BUILDING _____ B. WING _____	10/15/2012

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
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U 072	Continued From page 1	U 072		

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During an interview on 10/15/12 at 10:15 a.m. in the facility's break room, the facility's Administrator (personnel file #1- interview only), Director of Nursing (personnel file #2- interview only), and Business Office Manager (personnel file #3- interview only) confirmed that surgical procedures were still being performed and were also scheduled for the week of the on-site monitoring visit.

EXHIBIT

5 of part 2

From: [redacted]
Sent: Tuesday, January 15, 2013 11:00 PM
To: [redacted]
Cc: me
Subject: Fwd: Letter concerning AWMC complaint
Attachments: Barbara Belcore letter AWMC Nov 2012.pdf; Rules for record keeping at Georgia Ambulatory Surgical Center.pdf

From: [redacted]
Sent: Friday, November 16, 2012 12:37 PM
To: Tracy Craig
Cc: Barbara A. Belcore[redacted]; Brian Looby; David Cook[redacted]
Subject: URGENT! COMPLAINT PATIENT TRANSFERED TO GRADY HOSPITAL TODAY! Atlanta Women's Center

Dear Ms. Craig,

There was a patient injured this morning around 9 am at Atlanta Women's Medical Center in Atlanta. The Ambulance arrived around 9:45am and was sent to the opposite of the building. It took about 20 minutes for the ambulance crew to bring the patient out of the building in a chair. Then once they got her inside the ambulance it took another almost 10 minutes to leave the parking lot. An employee who may have been an RN may have accompanied the patient. No one else got into the ambulance from the facility.

After the ambulance left at 10:10 am the facility became extremely crowded. The facilty remained open despite having the RN leave the facility. At this point the parking lot was so crowded that no Ambulance or fire truck could get in because car were double parked. This is a fire hazard, the building has no elevator, no Sprinkler system and no VAILID Certificate of Occupany, according to the State Fire Marshall's office.

PLEASE SEND SOMEONE OUT THERE TODAY! This needs to be documented by the State since this facility is currently under investigation. Proper patient charting , records, the door to the room where the autoclave is stored needs to be checked as well as humindity levels and the autoclave records need to be checked as well as the " time out" they have been cited for these violations in the past 18 months. When you send surveyors out there make sure they watch the buiilding to see if patients are being escorted down the stairs by staff, check the log (of staff escorting patients)for the day.

Thank you,

[redacted]

[redacted]



This is as good as it gets as far as seeing the patient, patient is in the orange backed chair(?) It was hard to see the monitor on the camera in the bright light, so I did not do very well here.

Unfortunately my camera's date and time stamp were set incorrectly - I'm sure to some other time zone I was visiting - also set in 24 hr time mode (Military time)
Atlanta Women's Medical Center on West Weiuca about 9:45 AM 11/16/12



Ambulance arrived to clinic side



Guard came out and told them to go to the other side of the building.

EXHIBIT

6 of part 2

GEORGIA DEPARTMENT OF COMMUNITY HEALTH

David A. Cook, Commissioner — Nathan Deal, Governor

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

November 16, 2012

[redacted]

RE: Atlanta Women's Medical Center
Complaint #: GA00120362

[redacted]

Healthcare Facility Regulation Division (HFRD) staff completed a review of the allegations and concerns you raised in your complaint regarding care and services at Atlanta Women's Medical Center. Your concerns about the sprinkler system, elevator and escorting patients down the stairs have already been addressed in earlier complaints.

Other than that listed above a review of the concerns you provided in your complaint, we are unable to identify any regulatory issues that would authorize an inspection of this facility. This does not mean that your concerns were not important, or that the events you reported did not occur, but simply that the allegations you raised were not associated with any of the rules and regulations that HFRD has authority to enforce.

Thank you for bringing this to our attention. If you have any questions, please call me at 404-657-5437.

Sincerely,

Barbara Belcore

Barbara Belcore
Complaint Triage
Healthcare Facility Regulation Division

EXHIBIT

7 of part 2

& BINGHAM LLP

ADRIENNE E. MARTING
T. (404) 965-1530
F. (866) 849-8055
amarting@bsfllp.com

December 11, 2012

Mr. Frank Cheney
Interim Director Acute Care Programs
Healthcare Facility Regulation Division
Department of Community Health
2 Peachtree Street, NW, 31st Floor
Atlanta, Georgia 30303-3159

Re: Application for Variance

Dear Mr. Cheney:

Enclosed please find the Application for Variance for the continued use of laminaria at the Atlanta Women's Medical Center. Please return a date stamped copy to me in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Adrienne E. Marting

AEM:dcd

Enclosure

Georgia Department of Community Health
Healthcare Facility Regulation Division -- Application for Variance or Waiver

I would like to apply for a variance or waiver and submit the following information for consideration:

1. Name of Licensed Facility: **Atlanta Women's Medical Center ("AWMC")**
   Address of Licensed Facility: **235 West Wieuca Road**
   City: **Atlanta** County: **Fulton** Zip Code: **30342**
   Phone Number of Facility: **(404) 257-0057**
   Contact Person or Person Representing the Facility: **Stacey Linn**
   Name of Resident the waiver application concerns (if applicable): **N/A**
   Date of Admission to Facility (if request is made on behalf of a specific resident): **N/A**
   NOTE: Attach recent evidence of medical evaluation to application if application involves the health status of the resident.

2. List the specific rule(s) (citations) for which variance or waiver is being requested: **290-5-33.09(4)**

3. Action requested (check one): Variance: __X__ Waiver: ____
   (A variance is a request to permit some variation from the literal requirements of the rule. A waiver is a request to dispense with compliance with the rule entirely with no alternative standards proposed to be met for the specific rule to be waived.)

4. Facts supporting a claim of substantial hardship for the applicant and which are believed to justify the variance or waiver: **AWMC requests a variance from strict compliance with Rule 290-5-33-.09(4), which requires a center to have a sufficient number of licensed nurses present and on duty to attend to patients at all times patients are receiving treatment. This is a renewal application of a variance originally granted in 1993. AWMC seeks continued authority to begin treatment of appropriate patients on one day through the insertion of laminaria in the patient's cervix, discharge the patient from the facility, and have the patient return the next day to complete the abortion procedure. The insertion of the laminaria the day before the abortion procedure is performed aides in the dilation of the cervix and reduces the discomfort and risks associated with the procedure. The process of inserting the laminaria and discharging the patient the day before the actual procedure is the standard of care. There is not sufficient time for the laminaria to achieve its function during a single business day. Additionally, requiring the center to be staffed all night while laminaria is in use would substantially increase the costs associated with the procedure and make it cost prohibitive to many patients. There are very few centers that perform this procedure so denial of the variance request would substantially harm patients' access to care.**

5 Alternative standards which the applicant agrees to meet instead of the rule: **AWMC will comply with the following alternative standards to provide adequate protection of the health and safety of its patients:**

- **Patients discharged with the laminaria inserted will be provided specific instructions on what to do in the event they experience unusual symptoms.**
- **Patients will be provided a 24-hour emergency telephone number that will be operational when the facility is closed that will put patients in touch with a facility nurse with whom the patients may discuss their symptoms. AWMC will maintain documentation of the protocols that the facility nurses will use to assess whether the patient should return to the facility prior to regular business hours for evaluation and/or treatment by a physician and evidence that the nurses operating the hotline are trained appropriately to use the protocols and handle emergency calls.**
- **AWMC will have a registered nurse or doctor on-call to treat medical problems at the facility relating to the abortion procedures that may arise after regular business hours for those patients who have been discharged from the center with laminaria inserted.**

- **AWMC will maintain records of all after-hours calls from patients who have been discharged after having laminaria inserted. The records will include the nature of the call and the action taken by the facility staff as a result of the call.**
- **AWMC will fully disclose to patients discharged with laminaria inserted of the advisability of having an adult stay with them overnight. The facility will provide written information to the patients that fully discloses the reasons for having an adult companion remain with them overnight and strongly recommends that the patients have such a companion stay with them.**
- **AWMC will monitor the use of this discharge/readmit procedure to ensure that it provides adequate protection for the health and safety of the patients.**
- **AWMC will not be responsible for or make accommodations/reservations for the laminaria patients to be housed at any hotel/motel in connection with the procedures/treatments being performed at the facility.**

6. Explanation as to how the alternative standards will afford adequate protection for the public health, safety and welfare: **There is minimal risk involved with discharging a patient with laminaria inserted the day before an abortion procedure is performed and such practice is consistent with the standard of care. Nonetheless, the alternative conditions provide added protection to the patients by ensuring that a nurse or physician is available should they experience any unusual symptoms. The patients will also be fully informed of any potential associated risks and instructed on what to do in case of an emergency. The patients will be counseled to have an adult stay with them during the night that the laminaria is inserted to ensure access to emergency treatment if needed. The records maintained by the facility will document the absence of any negative outcomes resulting from the laminaria procedure, much like they have for the last eighteen years.**

7. The reason why the variance or waiver requested would serve the purpose of the underlying statute:
The purpose of the statute is to ensure patient safety by making sure that ambulatory surgery patients have access to health care providers while they are at the center. The rule does not contemplate an overnight nonsurgical treatment such as laminaria insertion where the presence of a nurse or physician is not necessary or standard practice. Nonetheless, the conditions imposed make certain that patients being treated by the facility have ready access to health care providers and that the patients are fully informed of the risks and procedures to take in case unusual symptoms arise.

8. The length of time that the variance or waiver is requested to last: **10 years**

9. Date Application Submitted: **December 11, 2012**

(Departmental use only)
Date application determined complete:
2/01/10

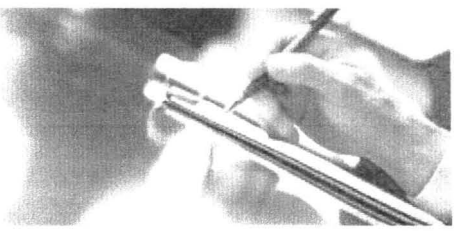
by:

Appendix 1

georgia.gov

SECRETARY OF STATE

Brian P. Kemp



Rules Waiver Petition

Petition Information

Chapter Number:	290
Rule Number:	290-5-33-.09(4)
Date Waiver or Variance Requested:	2012-12-12
Action Requested by Petitioner:	2
Reason for Request:	Applicant is requesting a variance on the requirement that a licensed nurse be present and on duty at all times that patients are receiving treatment. The facility would like to continue operating under a variance on this rule that allows them to insert laminaria into the patient's cervix on day one, and have the patient return to the licensed facility the next day for completion of the abortion procedure. The facility proposes to continue to have a nurse available to these patients on call.

Petitioner Information

Last Name:	Atlanta Women's Medical Center
First Name:	
Company Name:	
Address Line 1:	235 West Wieuca Rd.
Address Line 2:	
City:	Atlanta
State:	GA
Zip:	30342

Petitioner Representative Information

Last Name:	Linn
First Name:	Stacey
Company Name:	
Address Line 1:	235 West Wieuca Rd.
Address Line 2:	
City:	Atlanta
State:	GA
Zip:	30342

Agency Decision

Agency Decision:	DENIED
Agency:	250

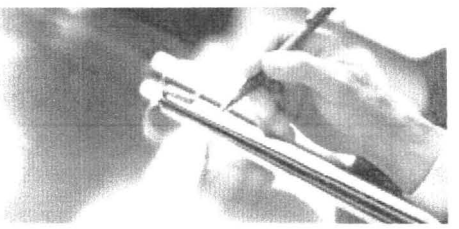
Agency Email Address for Public Comments:	sedoughe@dch.ga.gov
Written Statement in Support of Agency Decision:	Waiver request for AWMC regarding laminaria has been denied based upon action for failure to comply w another waiver regarding access to the building, i.e. Elevator for Rule 290-5-33-.10(f).

NEW SEARCH RETURN TO SEARCH RESULTS

ge rgia.gov

SECRETARY OF STATE

Brian P. Kemp



Search Results

Results 51 - 100 of 4,226 for "290, Chapter Number".

Status	Petitioner	Rule Number	Request Date	
GRANTED	GA Baptist Children?s Home, In	290-2-5-.11 (1)	2012-07-25	View
DENIED	Atlanta Womens Medical Center	290-5-33-.10(f)	2012-07-23	View
DENIED	Atlanta Womens Medical Center	290-5-33-.10(f)	2012-07-23	View
DENIED	Atlanta Womens Medical Center	290-5-33-.10(f)	2012-07-23	View
DENIED	Atlanta Womens Medical Center	290-5-33-.10(f)	2012-07-23	View
DENIED	Atlanta Women's Medical Center	290-5-33-.10(f)	2012-07-23	View
GRANTED	Faithbridge Foster Care, Inc.	290-9-2-.07(5)(a)9(ii)(XI	2012-07-15	View
GRANTED	JBC Assisted Living Group Home	290-2-5.08(3) (a),	2012-07-02	View
DENIED	Neighbor to Family, Inc.--Fult	290-9-2-.07 (2)	2012-07-01	View
GRANTED	Omni Visions, Inc	290-9-2-.07 (5)(a)6(v)	2012-07-01	View
GRANTED	Omni Visions, Inc	290-9-2-.07(5)(a)11	2012-07-01	View
PENDING	Muscogee Manor SNF-.18(10)(e)	290-5-8-.18(10)(e)	2012-06-29	View
PENDING	Muscogee Manor SNF-.18(10)(a)	290-5-8-.18(10)(a)	2012-06-29	View
WITHDRAWN	Wildwood Hospital	290-9-7-.21(b)1	2012-06-25	View
GRANTED	Easter Seals West Georgia, Inc	290-9-2-.09(2)(a)	2012-06-23	View
DENIED	Easter Seals of West Georgia,	290-2-5-..08(5)(d)6	2012-06-23	View
DENIED	Easter Seals of West Georgia,	290-2-5-.12(3)(a)1 and (a	2012-06-23	View
GRANTED	Easter Seals of West Georgia,	290-2-5-.09(12)(a)	2012-06-23	View
GRANTED	EASTER SEALS WEST GEORGIA, INC	290-2-5-.11 (1)	2012-06-23	View
DENIED	EASTER SEALS WEST GEORGIA, INC	290-2-5-.10 (1)	2012-06-23	View
GRANTED	Kindred Spirit, Inc	290-2-29-.10(1)(a)1	2012-06-15	View

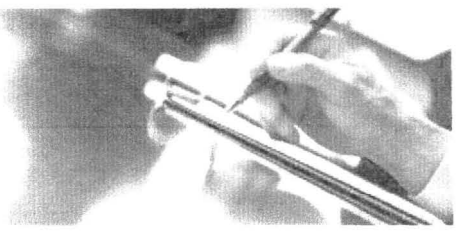
GRANTED	International Childkind Founda	290-9-2-.07(5)(a)9(ii)	2012-06-15	View
PENDING	Golden Living Center-Med. Arts	290-5-8-.18(10)(a)	2012-06-12	View
GRANTED	Yolanda Austin	290-2-3-.07 (2) (a-g)	2012-06-04	View
WITHDRAWN	Liberty County Children?s Home	290-2-5-.18 (2)(a)	2012-06-01	View
WITHDRAWN	Liberty County Children?s Home	290-2-5-.09(2)(a)	2012-06-01	View
GRANTED	Liberty County Children's Home	290-2-5-.18 (2)(a)	2012-06-01	View
GRANTED	Liberty County Children's Home	290-2-5-.09(2)(a)	2012-06-01	View
DENIED	So. Comm. Services CLA	290-9-37-.20(1)	2012-05-07	View
GRANTED	Lynita Hughes	290-2-3-.07(2)(a-g)	2012-05-02	View
GRANTED	Lifeshare Management, Inc	290-9-2-.03(10)	2012-05-01	View
GRANTED	Lifeshare Management, Inc.	290-9-2-.03(9)	2012-05-01	View
PENDING	Melinda Spurlin	290-5-14	2012-04-30	View
GRANTED	Dionne Roberts	290-2-3-.07(2)(a-g)	2012-04-24	View
GRANTED	Tarece Johnson-Hassell	290-2-3-.07 (2) (a-g)	2012-04-17	View
GRANTED	Shared Kitchens LLC	290-5-14-.01 (jj)& 03(2)b	2012-04-17	View
GRANTED	Jacqueline Miller	290-2-3-.07 (2) (a-g)	2012-04-12	View
DENIED	Dignity Care Homes CLA-.16(6)	290-9-37-.16(6)	2012-03-30	View
PENDING	UniHealth Post Acute Care-.18	290-5-8-.18(10)(c);(11)	2012-03-27	View
PENDING	Ansley Park H & R-.18(11)	290-5-8-.18(11)	2012-03-27	View
GRANTED	Chantrise Guerrero	290-2-3-.07(2)(a-g)	2012-03-23	View
GRANTED	Jori Rose	290-2-3-.07(2)(a-g)	2012-03-23	View
GRANTED	D & D Healthcare Services, Inc	290-9-2-.04(9)(a)	2012-03-14	View
GRANTED	Universal Hlth Svc of Savannah	290-9-2-.03(4)	2012-03-12	View
GRANTED	Universal Hlth Svc of Savannah	290-9-2-.03(9)(e)	2012-03-12	View
GRANTED	Little Caesar Enterprises, Inc	290-5-14-.04(6)(i)3(i)	2012-03-09	View
GRANTED		290-5-14-04	2012-03-09	View
DENIED	Faithbridge Foster Care, Inc.	-9-2-.07(5)9(a)(ii)(XII)	2012-03-08	View
DENIED	Faithbridge Foster Care, Inc.	-9-2-.07(5)9(a)(ii)(XII)	2012-03-08	View
GRANTED	Claudette Foster	290-2-3-.07(2)(a-g)	2012-03-07	View

Results 51 - 100 of 4,226 for "290, Chapter Number". Results Page: First Prev 1 **2** 3 4 5 Next Last | View All

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SECRETARY OF STATE
Brian P. Kemp



Rules Waiver Petition

Petition Information

Chapter Number:	290
Rule Number:	290-5-33-.10(f)
Date Waiver or Variance Requested:	2012-07-23
Action Requested by Petitioner:	2
Reason for Request:	Continuation of agency decision

Petitioner Information

Last Name:	Atlanta Womens Medical Center
First Name:	
Company Name:	
Address Line 1:	235 West Wieuca Road
Address Line 2:	
City:	Atlanta
State:	GA
Zip:	

Petitioner Representative Information

Last Name:	
First Name:	
Company Name:	
Address Line 1:	
Address Line 2:	
City:	
State:	
Zip:	

Agency Decision

Agency Decision:	DENIED
Agency:	250
Agency Email Address for Public Comments:	sedoughe@dch.ga.gov

On November 11, 2011, during a complaint investigation at the facility, AWMC was found not in

compliance with the above-referenced required alternative standard. During the investigation, a patient was observed by the surveyor leaving the facility post-procedure at 10:00 a.m. The post anesthesia care unit (PACU) supervisor talked with the patient in the waiting room prior to the patient?s exit from the building. The patient walked down a flight of eighteen (18) stairs with a

Written Statement in Support of Agency Decision:

flight of eighteen (18) stairs with a companion/designated driver unaccompanied by facility staff escort. An interview was conducted by the surveyor with the PACU supervisor at 12:00 p.m. in the Administrator?s private office. The interviewee stated that he/she did not routinely escort patients down the stairs at discharge. He/she stated that it was his/her understanding that it was alright to discharge the patient at the door and allow the patient to walk down the stairs with his/her driver. The interviewee confirmed that he/she was not aware of the variance requirement for a facility staff escort to accompany each patient down the stairs upon discharge from the facility. AWMC failed to comply with the alternative standards to protect the health and safety of patients upon which the current variance is conditioned.

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Friday, May 24, 2013

Rules Waiver Petition

Petition Information

Chapter Number:	290
Rule Number:	290-5-33-.10(f)
Date Waiver or Variance Requested:	2012-07-23
Action Requested by Petitioner:	1
Reason for Request:	Applicant is requesting a waiver of the requirement that the facility have access to an elevator since it is located on in a multistory building.

Petitioner Information

Last Name:	Atlanta Women's Medical Center
First Name:	
Company Name:	
Address Line 1:	235 West Wieuca Road
Address Line 2:	
City:	Atlanta
State:	GA
Zip:	30342

Petitioner Representative Information

Last Name:	Appley
First Name:	Elizabeth J.
Company Name:	
Address Line 1:	2212 North Tower, Peachtree Center
Address Line 2:	235 Peachtree St, NE
City:	Atlanta
State:	GA
Zip:	30303

Agency Decision

Agency Decision:	DENIED
Agency:	250
Agency Email Address for Public Comments:	sedoughe@dhr.state.ga.us

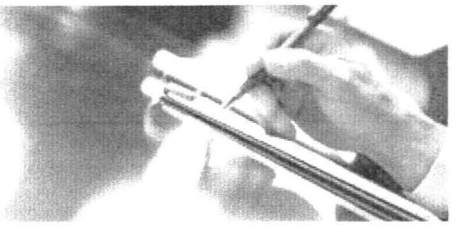
Part One Initial Decision: After review of the file for Atlanta Womens Medical Center (AWMC), including the Application for Variance or Waiver. Statements

Written Statement in Support of Agency Decision:	of Deficiency, Complaint Intake and State Licensure, as well as public comments, the variance request for Rule 290-5-33-.10(f) is denied. The variance request failed to comply with the alternative standards to ensure the safety of patients as a condition of the current variance.

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Brian P. Kemp



Rules Waiver Petition

Petition Information

Chapter Number:	290
Rule Number:	290-5-33-.10(f)
Date Waiver or Variance Requested:	2012-07-23
Action Requested by Petitioner:	
Reason for Request:	Continuation of Agency Denial-Part Two

Petitioner Information

Last Name:	Atlanta Womens Medical Center
First Name:	
Company Name:	
Address Line 1:	235 West Wieuca Road
Address Line 2:	
City:	
State:	
Zip:	

Petitioner Representative Information

Last Name:	
First Name:	
Company Name:	
Address Line 1:	
Address Line 2:	
City:	
State:	
Zip:	

Agency Decision

Agency Decision:	DENIED
Agency:	250
Agency Email Address for Public Comments:	sedoughe@dch.ga.gov

Part Two O.C.G.A.?31-2-7(b)(1) authorizes the Department to grant a variance ??upon a showing by the applicant?? that ??strict application would

cause undue hardship.? Section 4 of the Georgia Department of Community Health, Healthcare Facility Regulation Division?s (HFRD) Application for Variance or Waiver (Application) instructs the applicant to detail ?Facts supporting a claim of substantial hardship for the applicant and which are believed to justify the variance or waiver.? In Section 4 of the Application AWMC stated, in

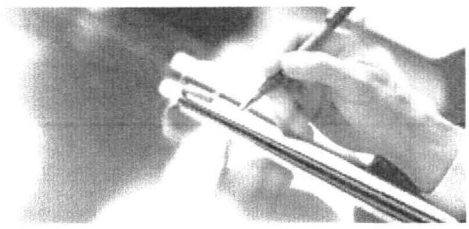
Written Statement in Support of Agency Decision:

Section 4 of the Application AWMC stated, in relevant part, ?The AWMC?s building does not have an elevator and it would not be feasible to construct an elevator on this site in order to access the second floor where the clinic facilities are located.? AWMC failed to supply facts, financial, architectural, or otherwise, showing why it would not currently be feasible to construct an elevator, relocate to the first floor, or otherwise come into compliance with the requirements of Rule 290-5-33-.10 (f) without causing undue hardship. Because AWMC failed to provide any facts showing the strict application of the rule would cause undue hardship, the Application is denied.

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Friday, May 24, 2013

Rules Waiver Petition

Petition Information

Chapter Number:	290
Rule Number:	290-5-33-.10(f)
Date Waiver or Variance Requested:	2012-07-23
Action Requested by Petitioner:	
Reason for Request:	Continuation of Agency Decision Part Three.

Petitioner Information

Last Name:	Atlanta Womens Medical Center
First Name:	
Company Name:	
Address Line 1:	235 West Wieuca Road
Address Line 2:	
City:	Atlanta
State:	GA
Zip:	

Petitioner Representative Information

Last Name:	
First Name:	
Company Name:	
Address Line 1:	
Address Line 2:	
City:	
State:	
Zip:	

Agency Decision

Agency Decision:	DENIED
Agency:	250
Agency Email Address for Public Comments:	sedoughe@dch.ga.gov

Part Three Additionally, O.C.G.A. Sec. 31-2-7(b)(1) requres an applicant to show that adequate

standards affording protection of health, safety, and care exist and will be met in lieu of the exact requirement of the rule. Section 5 of the Application instructs the applicant to set forth Alternative standards which the applicant agrees to meet instead of the rule. In Section 5 of the Application AWMC references an attached August 30, 2005 Georgia Department of Human Resources

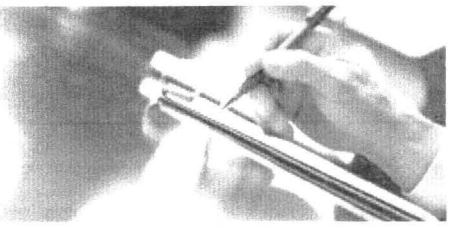
Written Statement in Support of Agency Decision:

Georgia Department of Human Resources memorandum as setting forth the alternative standards that AWMC agrees to meet. AWMC is currently operating under a variance dated August 30, 2005 that required four (4) alternative standards upon which the variance was conditioned. According to HFRD records, AWMC has not been in compliance with one of the required alternative standards which reads: The facility will assess the patients condition at the time of discharge and determine the type of assistance and the number of escorts needed to help the patient safely down the staires. The faiclity will be required to maintain evidence of this assessment of patients, which must be provided to DHR upon request. At least one escort will accompany each patient down the stairs upon discharge.

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Brian P. Kemp



Rules Waiver Petition

Petition Information

Chapter Number:	290
Rule Number:	290-5-33-.10(f)
Date Waiver or Variance Requested:	2012-07-23
Action Requested by Petitioner:	1
Reason for Request:	Final Part of Agency Decision

Petitioner Information

Last Name:	Atlanta Womens Medical Center
First Name:	
Company Name:	
Address Line 1:	
Address Line 2:	
City:	
State:	
Zip:	

Petitioner Representative Information

Last Name:	
First Name:	
Company Name:	
Address Line 1:	
Address Line 2:	
City:	
State:	
Zip:	

Agency Decision

Agency Decision:	DENIED
Agency:	250
Agency Email Address for Public Comments:	sedoughe@dch.ga.gov
Written Statement in Support of Agency Decision:	3. Conclusion Public comments were received on the variance request posted on the Secretary of State?s website, reviewed in the waiver process, and taken into consideration. For the reasons set forth above the AWMC?s Application for Variance or Waiver is denied. The decision to deny the waiver request dated July 17, 2012 for AWMC is final unless a written request is filed for an informal agency review of the denial within ten (10) days of your receipt of this notice. A written request for review must be addressed to Brian Looby, Division Chief, Healthcare Facility Regulation Division, 2 Peachtree

Healthcare Facility Regulation Division, 2 Peachtree Street, NW, Suite 31.447, Atlanta, Georgia 30303-3167. If an informal agency review request is not received within the specified time period, the variance denial will become effective immediately.

NEW SEARCH RETURN TO SEARCH RESULTS

EXHIBIT

8 of part 2

Printed: 01/24/2013 1:56:18PM

Due Date: 12/15/2012

Priority: Non-IJ Medium

Investigated the wrong facility!

Intake ID: GA00119494

Facility ID: ASTC001034 / ASC-L

Provider Number:

Mgmt.Unit: HSC

should have been ACWC

ACTS Complaint/Incident Investigation Report

PROVIDER INFORMATION

Name: SUMMIT MEDICAL ASSOCIATES
Address: 1874 PIEDMONT RD, NE, SUITE 500-E
City/State/Zip/County: ATLANTA, GA, 30324, FULTON
Telephone: (404) 607-0042

License #: 060-141
Type: ASC-L
Medicaid #:
Administrator: MERRIAM MCLENDON

INTAKE INFORMATION

Taken by - Staff: GILSTRAP, RACHEL D.
Location Received: HFRD COMPLAINT INTAKE & TRIAGE
Intake Type: Complaint
Intake Subtype: State-only, licensure
External Control #:
SA Contact: BELCORE, BARBARA A.
RO Contact:
Responsible Team: HFRD HC- ACUTE CARE
Source: Other

Received Start: 10/29/2012 At 11:31
Received End: 10/31/2012 At 11:31
Received by: E-Mail
State Complaint ID:
CIS Number:

COMPLAINANTS

Name	Address	Home Phone	Work Phone	Link ID
[redacted]	[redacted]			12ZC9J

RESIDENTS/PATIENTS/CLIENTS - No Data

ALLEGED PERPETRATORS - No Data

INTAKE DETAIL

Date of Alleged: Time: Shift:

Standard Notes: Before Jane Doe, dob 10/17/1988, left Virginia to come to Georgia after being referred by Planned Parenthood for a late term abortion (see attachment with gestational age), she was asked to provide a $65.00 nonrefundable reservation fee with Micro Hotel, 1840 Corporate Blvd NE, Atlanta, GA, US, 30329. After the clinic called the hotel and verified that Jane Doe was a patient at Atlanta Center for Women ' s Choice, she was instructed to call the hotel back to pay for the room ($142.00) for two nights and to obtain her room number that they said was 325.

On October 19, 2012, Jane Doe, Dob, 10/17/88, visited The Atlanta Center for Women ' s Choice at 11:45 am for an appointment for a termination of pregnancy with a gestation of 26.5 weeks (according to the clinic ' s sonogram). The patient was asked to count the money to show that she had the cash before she was allowed to complete a thick pile of paperwork about state laws, consent forms, and the papers that said no refund would be given for the sonogram, rhogam shot, and anesthesia. The patient was also charged a nonrefundable paperwork fee ($45.00), $75.00 nonrefundable cancellation fee (times 3 because she cancelled three times).

The patient was told she had to pay $3,000, but the abortion was going to cost $6,000 and the National Abortion Federation was going to pay $3,000. At the abortion center, the patient was assigned a " counselor " named Khrystic, 404-892-8475, who referred her to the National Abortion Federation. She was assigned a " caseworker " named Julia from the NAF, (888) 667-7306, x 5, who counseled her to call churches, and personal friends to get money to help with the costs. Julia also told her to pawn personal items, like the title to her car, computer, and ipad. After she completed the paperwork, she paid the $3,000 but was not given a receipt, even though she asked for one several times. The patient signed the form indicating she wanted to hear the baby ' s heartbeat and see the sonogram, but they refused to allow her to see the sonogram stating it was their policy to not do so.

Throughout this process, as they directed her where to get more funds so that NAF would not have to pay all of the remaining $3,000, they called her numerous times to confirm she was going to keep her appointment and get the money. The patient felt terrorized.

The patient had visited the center the week before when an ultrasound was completed and she was charged $500.00. Despite having an ultrasound on file from the previous week, and having had a second sonogram that morning, the patient was told she needed to pay an additional $225.00 for a third sonogram. The patient had been taken to a preparation room where she saw a needle with medication in it that she was told would be put into her belly to calm her down. However, she had been provided xanax that she was told would calm her down. There was also pills in a cup, gloves, towels, and 6 sticks of seaweed. She was in a room upstairs when she saw these items. The patient also had conversation with three women who were exiting the facility after their second day procedure and these women came out of a room on the corner across the hall.

The patient became upset when she was told a third sonogram was need. She refused to pay more money. The

ACTS Complaint/Incident Investigation Report

Office Manager, Toni A. Hawkins, began to curse at her, belittle her, and called her a " Bitch " in the room where all the other patients could hear. The patient ' s escort then said she could not stay there and walked out. When the patient followed her escort, Toni followed her out of the facility telling her she could refer her to a place to have an abortion up to twenty eight weeks or she could come back at 7:45 am on Saturday, October 20, 2012. The patient refused to go back and asked for a refund when Toni again began to scream at her, calling her a bitch several times and reminding her they did not give refunds asking her several times " did you read all the paperwork!?! "
Toni told the patient the clinic would get the refund from the hotel.
The patient called the hotel to ask if she could stay there because she had paid for two nights and was a provided a confirmation number, and she was told no because she had caused problems in the clinic. She was told they could not accommodate her and would not give her a refund. The patient reports that the facility was dirty. Examples she gave was a dirty bed, dirty sheets in the sonogram room, garbage was overflowing throughout the facility. The tables and other surfaces had layers of dust.

Sent email to complainant asking for added information on 10-30-2012. BB
Received email back for the complainant on 11-6-2012. Gestational age per clinic was 26 weeks, 28 weeks per test performed at Grady Memorial Hospital. Complainant states that they will get back in touch if they obtain additional information. BB

Extended RO Notes:

Extended CO Notes:

ALLEGATIONS

Category: Quality of Care/Treatment

Subcategory: Other

Seriousness: Moderate

Findings: Unsubstantiated:Lack of sufficient evidence

Details: The complainant alleged that the facility failed to provide the patient with quality care. Specifically, the complainant alleged:
1. That the facility's administrator was rude to the patient,
2. That the patient was not allowed to view the sonogram or hear the fetal heart tones,
3. That the patient observed procedural items set up on a tray, and
4. That the facility was dirty.

An unannounced on-site visit was made to the facility on 01/04/13 by a qualified surveyor to investigate this complaint. The complainant does not have durable power of attorney for healthcare.

A review of the facility's procedure log, pathology log, and computer query was performed using the patient's date of birth and date of service which were provided by the complainant. The patient's name was not provided by the complainant. There was no documented evidence that the patient had ever been a patient of the Ambulatory Surgery Treatment Center (ASTC).

During an interview (#1) at 9:45 a.m. on 01/04/13 in the Consultation Room, the facility's Administrator confirmed that the Atlanta Center for Women's Choice was not part of the ASTC. The Administrator explained that the Atlanta Center for Women's Choice was a private physician's office.

During an interview (#2) at 11:00 a.m. on 01/04/13 in the Consultation Room, the Administrator of Atlanta Center for Women's Choice stated the ASTC Administrator had called her and had her check to see if they had provided services to a patient with the provided date of birth and date of service. The Administrator of Atlanta Center for Women's Choice explained that the patient had been their patient and had never been sent to the ASTC.

Based on review of the procedure log, pathology log, computer query, staff interview, and an interview with the Administrator of Atlanta Center for Women's Choice, it was determined that the allegations could not be substantiated. No deficiencies were cited.}

Findings Text: The complainant alleged that the facility failed to provide the patient with quality care. Specifically, the complainant alleged:
1. That the facility's administrator was rude to the patient,
2. That the patient was not allowed to view the sonogram or hear the fetal heart tones,
3. That the patient observed procedural items set up on a tray, and
4. That the facility was dirty.

An unannounced on-site visit was made to the facility on 01/04/13 by a qualified surveyor to investigate this

ACTS Complaint/Incident Investigation Report

complaint. The complainant does not have durable power of attorney for healthcare.

Based on review of the procedure log, pathology log, computer query, staff interview, and an interview with the Administrator of Atlanta Center for Women's Choice, it was determined that the allegations could not be substantiated. No deficiencies were cited.}

SURVEY INFORMATION

Event ID	Start Date	Exit Date	Team Members	Staff ID
4FD411	01/03/13	01/03/13	[redacted]	31298
				17233

Intakes Investigated: GA00119494(Received: 10/31/2012)

SUMMARY OF CITATIONS:

Event ID	Exit Date	Tag
4FD411	01/03/2013	

State - Not Related to any Intakes
U0000-INITIAL COMMENTS

EMTALA INFORMATION - No Data

ACTIVITIES

Type	Assigned	Due	Completed	Responsible Staff Member
Schedule Onsite Visit	01/02/2013	01/02/2013	01/02/2013	[redacted]

INVESTIGATIVE NOTES - No Data

CONTACTS - No Data

AGENCY REFERRAL - No Data

LINKED COMPLAINTS - No Data

DEATH ASSOCIATED WITH THE USE OF RESTRAINTS/SECLUSION - No Data

NOTICES

Letters:

Created	Description
11/06/2012	ACK- HCS COMPLAINT/Complainant
01/24/2013	ACUTE- COMPLAINANT CLOSURE-UNSUBST/Complainant
01/24/2013	ACUTE- COMPLAINT-STATE-FACILITY-NO DEFS/Facility

PROPOSED ACTIONS

Proposed Action	Proposed Date	Imposed Date	Type
State Only Actions	01/03/2013		Federal
None	01/03/2013		State

Closed: 01/24/2013 **Reason:** Paperwork Complete

END OF COMPLAINT INVESTIGATION INFORMATION

EXHIBIT

9 of part 2

Lois Schofield, CRNA

3466 Shawnee Tr.

Smyrna, GA 30080

404-754-4706

loisschofield@aol.com

TO: OSHA and Georgia Department of Human Resources

With the power invested in you -- I recommend that you consider Closing -- temporarily at least -- Atlanta Women's Medical Center

235 West Wieuca Road

Atlanta, GA 30342

Until they make the facility SAFE for patients and employees.

Included with this letter are statements from (5) former employees of AWMC. Some were fired and some resigned. Some have signed their names and some have not. All of these employees worked in the operating rooms (OR) or the post anesthesia care unit (PACU). These employees are RNs, LPs or MAs.

Yes I do mean closing their doors until they make these two corrections:

1. Install an elevator
2. Reconstruct the two small ORs into one large OR that will allow a stretcher into the room to safely receive a recovering anesthetized patient for her delivery to the PACU

There is a small book titled "Ambulatory Surgical Treatment Centers." Please see attached letter that shows the cover and then refer to page 10. A copy of page 10 is included. Number 3 says "General anesthesia shall be administered by an anesthesiologist (MDA) or a certified RN anesthetist." The CRNA is under the direction and responsibility of a currently licensed physician with training and experience in anesthesia. All surgeons do have training in anesthesia just to cover this stipulation.

About six years ago DHR wanted AWMC to have an MDA. We got one. He came to AWMC. I took him on a tour of the ORs and PACU. He then reviewed charts and signed a form to show he had done a review.

That lasted for maybe four years.

What lasted? He How often? Every 6 wks

I do not know if DHR still wants an MDA as department believe one is currently filling that position.

Now refer to paragraph 4.

The patient is not physically brought to PACU by an RN. The patient is sleepy, head falling, drooling, unable to respond to questions and in a wheel chair. She is delivered by an MA.

Many times the PACU does not have an RN physically in the room because she is expected to walk the patient she is discharging to the escort waiting room to have the escort then be responsible for the patient. She may have left 5 or 6 patients still in PACU. So much for the RN coverage in the PACU.

I have included here the last sentence of a recovery room chart from two other facilities. These have proper documentation. These sentences were copied from Northside Hospital charting. I used to work at Northside Hospital. I was very involved in creating patient charts for abortion clinics when they sprang up.

I did not help with chart creation at Atlanta Women's.

See examples of other PACU charts below:

Patient has received and understands written discharge instructions and prescription:

Patients Signature: _____ Discharged To: _____

Patient Care Technician Signature: _____

Time: _____ Nurse's Signature: _____ CRNA's Signature: _____

Dec. 1 20 03

I have examined the patient and state that she is fully recovered from anesthesia and ready to be discharged from [redacted] Women's Medical Group.

CRNA: _____ Physician: _____

Number 5 on page 10 -- Ambulatory Surgical Treatment Center

A doctor or an anesthetist should remain at the facility until all patients have been discharged. The surgeon never stays. Therefore the CRNA has to stay. Even tho the Women's chart does not have a place for the CRNA to sign for discharge I always stayed. In fact on Saturday I was frequently the last person to leave. I would personally set the alarm and lock the door.

The current anesthesia provider does not remain until the last patient is discharged.

Another error in the charting is at the end of the anesthesia assessment page it asks for RNP signature. Many times an RN does assessments. That is fine with me. She is qualified. But then I have to co-sign with the RN since this chart asks for an RNP's signature.

The biggest problem as I stated in the first paragraph is not being able to place the anesthetized patient safely onto a stretcher. When the patient is placed on a stretcher she is transported by CRNA care to RN care as she should be. Patient and personnel are not injured.

Another really great aspect of this change from wheel chair to stretcher is that a patient can not be moved to the stretcher unless a cloth sheet is under the patient. This sheet is placed on the operating table. When the patient is moved to the stretcher this sheet (rarely has blood on it) can now go to the chair with the patient. Sometimes patients want a cover. Women's has a blanket. Oh, wait the blanket they use sort of belongs to a recovery chair. In other words the next patient to go to that chair gets to use that same blanket.

It would be so nice if each patient had a sheet of their own.

The patient is covered in the OR with a paper sheet. The paper sheet gets kind a destroyed when the patient moves around.

So now Women's would have to stock cotton sheets. Not a problem. In fact problem solved.

When the OR wall is removed (and it's obvious which wall must be removed) the second OR will be reduced to a much smaller room. Yes, perfect for a store room to organize supplies. That will make room for the sheets and other inventory.

Plenty of room to place scrub attire. Yes, I believe Women's should supply professionally laundried scrubs for OR and PACU personnel. They are after all a Ambulatory Surgical Center. They do provide scrubs for the physician.

Real Ambulatory Centers do provided OR scrubs for their personnel.

Another safety problem is the delivery of laundry. The laundry man comes at 6:30am -- the same time I would arrive. He places these large very heavy laundry bags in the break room. So we all have to walk around these bags until someone empties them.

One day a nurse did not clear the bag. Her toe caught the bag and she went down. She hurt her knee. Off to the hospital she went and off work she was for two weeks. This same nurse walked across the recovery room floor that had just been mopped and down she went. This one really worried me because her head hit the floor and made a very loud clap. Off to the hospital and off for two weeks. I can give you her name if you need it. You may want to interview me in your office and I will be ready to do so.

Back to Rules and Regulations. Page 12 # f

Ambulatory Surgical services provided in multistory buildings shall be assessable by an elevator of adequate size, etc.

Please review the pages I have included about stair problems that have happened in other centers.

I have been there for Women's emergencies. One ambulance service told us not to call them again. They can not do stairs.

One time a husband had to carry his wife down the stairs to the ambulance.

One time we made a post convulsion visitor walk down the stairs to the ambulance.

It is all about safety for the patient and personnel.

I was fired because the owner said he was worried about ME climbing the stairs post hip replacement. I have been devastated by his decision. I am working part time and working is so easy for me. I worked at AWMC for 15 years. I did the anesthesia and took the necessary 24/7 emergency call.

Now back to SAFETY.

Two OR techs who worked there a long time had to have carpel tunnel repairs. Both wrists -- from pulling up on the patients.

I was helping a sleepy patient step off the table and she fell on me. I felt a pain and a snap in my right knee. My knee became swollen. I went to Northside Hospital for x-ray, etc.. I still have a copy of the bill. I thought I would be having surgery to suture the tendon back in place. They sent me to an orthopedic doctor. He wanted me to do P.E.. I did not have surgery. The knee remains swollen (it's been ten years). The knee has a deformity. It bends inward, but there is no pain.

Yes, serious injuries to personnel have accrued. When a patient goes down we always protect their head to prevent serious head injuries.

Atlanta Women's has more injuries than other facilities because the practice there does not have safety as a priority.

Yes I am a disgruntled X-employee!!!

Yes I was fired. I was fired because the owner claimed me UNSAFE. I have a telephone conversation that I recorded in which he said "I'm worried about your safety."

I had hip replacement surgery. I was off work for six weeks to recover. Of course I had permission to return to work from my hip surgeon.

I was invited to attend a social gathering at the facility and the owner asked me to sit with him. He had had hip replacement surgery two years earlier. He then tells me how much pain he still has -- A lot of pain. I assured him that I had NO pain. I was actually very impressed myself on how easy it was to walk, bend, ride my bike and climb stairs. Oh, yes the stairs were mentioned. He was concerned about my safety on the stairs. He said I would not be able to work here because I could not climb the stairs. I told him the administrator told me she worried

about me going up and down the stairs. Yes pre-op it was one foot, one foot and one foot up and one foot, one foot down the stairs. But post op I now go right foot, left foot, right foot, left foot up and down the stairs. SO I'm not safe on the stairs??

Hip replacement surgery is 96% successful. I am in the 96% and he must be in the 4%.

The PACU nurses will describe their concerns with the stairs and how difficult it is for patients who have been anesthetized an hour earlier to be sent down 19 steps.

I do know of two situations that the other employees may not know.

I know that AWMC has had lawyers write letters to DHR to give AWMC permission to have the stairs and not be required to make the 2nd floor accessible by an elevator.

I do know that a man fell or stumbled on the last step and hit his head on the glass door. He had to get stitches and sued AWMC. He may have received a settlement as high as $20,000 to keep it out of the courts. I am not sure of the amount but heard the above amount mentioned.

Now about the totally unsafe way that anesthetized patients are removed from the OR table to a chair. The clinic expects us to have this patient step down onto the floor and sit in a wheelchair. We are not given enough recovery time to have the patient be stable and we have had patients fall to the floor. There has been a few patients that have received cuts and burses during this transfer. They wake up and ask "Why is there a band-aid on my knee?" Well, the knee received a cut as we were attempting to move her from the OR table to a chair.

An anesthetized patient deserves to emerge from anesthesia in a prone position. Everyone's physiology is different so emergence from anesthesia will vary. The prone patient wakes up gently. She is usually grateful and pleasantly surprised that her surgery has been completed. The nurse can now judge when she is stable and she can step off the stretcher and walk to a chair for nourishment.

The OR employees will tell you more.

AWMC has two small ORs. They need to "tear down that wall" and make one large OR that will allow a stretcher to be placed next to the OR table to transfer the patient safely to the PACU.

I would like the opportunity to meet with one of your inspectors in person to review this material.

My address, phone number and e-mail are listed on the top of this letter. I look forward to meeting with you.

Please read all the attached letters.

Thank You

Lois Schofield CRNA

Lois Schofield, CRNA

All of this information has been sent to OSHA and DHR.

Part 3

EXHIBIT

1 of part 3

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

Composite State Board of Medical Examiners

SEP 1 2 2002

DOCKET NUMBER 2003-0021

IN THE MATTER OF:	*	
	*	
DANIEL E. MCBRAYER, M.D.	*	DOCKET NO.
License No. 018697,	*	AG NO. 64CB-CA-01SLB-1007871
	*	
Respondent.	*	

PUBLIC CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners ("Board") and Daniel E. McBrayer, M.D. ("Respondent"), the following disposition of this matter is entered into pursuant to the provisions of O.C.G.A. § 50-13-13 (a) (4), as amended.

FINDINGS OF FACT

1.

The Respondent is licensed to practice medicine in the State of Georgia and was licensed at all times relevant to the matters stated herein.

2.

On or about March 31, 2000, Respondent was investigated by the Georgia Department of Human Resources, Office of Regulatory Services in conjunction with the Board's investigator regarding Respondent's performance of second trimester abortions in his medical office located in Marietta, Georgia.

3.

During said investigation, Respondent admitted in writing to having performed second trimester abortions in his Marietta office. Performance of abortions after the first trimester in a non-hospital setting or in an unlicensed abortion facility is a violation of Georgia law.

4.

During said investigation, Respondent admitted that he had not filed certificates of abortions as required by Georgia law.

5.

On or about April 17, 2000, Respondent agreed in writing to cease in-office performance of any abortion procedure past fourteen (14) weeks.

6.

As of July 2001, Respondent has had no further complaints brought against him with the Board or with the Department of Human Resources, Office of Regulatory Services.

7.

The Respondent admits the above findings of fact and waives any further findings of fact with respect to the above-styled matter. The Respondent, however, shall be allowed to submit an additional written statement to the Board for its investigative file in explanation and mitigation of the matters stated herein for the Board's consideration prior to its review of this Consent Order.

CONCLUSIONS OF LAW

The Respondent's conduct constitutes sufficient grounds for the imposition of discipline upon his license to practice medicine in the State of Georgia pursuant to O.C.G.A. Chs. 1 and 34 T. 43, as amended. The Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

The Composite State Board of Medical Examiners, having considered all the facts and circumstances of this case, hereby orders, and Respondent hereby agrees, that the following

sanctions shall be imposed upon the Respondent's license to practice medicine in the State of Georgia.

1.

Beginning on the effective date of this Consent Order, Respondent's license shall be placed on probation for a period of two (2) years. Respondent shall abide by all State and Federal laws regulating his practice as a physician or relating to abortions, the Rules and Regulations of the Composite State Board of Medical Examiners and the terms of this Consent Order and probation. If Respondent shall fail to abide by such laws, rules or terms, Respondent's license shall be subject to further action, including revocation, upon substantiation thereof, and if revoked, the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement.

Respondent further agrees that any violation of this Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute authorizing emergency action, but Respondent understands that Respondent shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

2.

Respondent shall submit to the Board a fine of five thousand dollars ($5,000.00), to be paid in full by cashier's check or money order made payable to the Board within 30 days of the effective date of this Consent Order. Failure to pay the entire amount by the 30th day shall be considered a violation of this Order, and shall result in further sanctioning of Respondent's license, including revocation, upon substantiation thereof.

3.

Respondent shall complete **20 hours of CME in the area of ethics** within twelve (12) months of the effective date of this order. These hours shall be in addition to the normal hours of CME required for license renewal.

4.

This Consent Order and dissemination thereof shall be considered a **PUBLIC REPRIMAND** of Respondent by the Board.

5.

The Respondent acknowledges that he has consulted with legal counsel and has read this Consent Order and understands its contents. Respondent understands that the Respondent has the right to a hearing in this matter and freely, knowingly and voluntarily waives that right by entering into this Consent Order. Respondent understands and agrees that a representative of the Department of Law may be present during the Board's consideration of this Consent Order and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. **Respondent understands that this Consent Order, once approved and docketed, shall constitute a public record, evidencing disciplinary action by the Board.** However, if this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent hereby consents to the terms and sanctions contained herein.

(signatures on next page)

Approved, this 13th day of September, 2001.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

(BOARD SEAL)

BY: Eddie R. Cheek DO

~~ROGER E. HILL, D.O.~~ Eddie R. Cheek, DO
President

ATTEST:

KAREN MASON
Executive Director
Composite State Board of Medical Examiners

CONSENTED TO:

Daniel E. McBrayer

~~DANIEL E. MCBRAYER, M.D.~~
Respondent

Sworn to and Subscribed
before me this ___ day
of _____, 2001.

_____
NOTARY PUBLIC
My Commission Expires:

Thomas B. Murphy

THOMAS B. MURPHY
Counsel for Respondent

Follow us on

Monday, July 8, 2013 | 10:37 a.m.

Sign In | Register

EXHIBIT

2 of part 3

Atlanta 81° Cloudy
2 p.m. 88°
5 p.m. 90°

- 5-Day Forecast
- Stormtracker 2
- Tower Cam

Updated: 4:40 p.m. Wednesday, Oct. 21, 2009 | Posted: 1:56 p.m. Wednesday, Oct. 21, 2009

Apology Lands Accused Road Rage Doc In More Trouble

Related

ATLANTA — A doctor already charged with road rage had his bond revoked Wednesday morning.Dr. Daniel McBrayer, a Marietta OB/GYN, appeared in court Wednesday.

A judge said McBrayer violated a court order by e-mailing the victim an apology. The judge revoked his bond and charged him with violating a court order. He posted a $1,500 bond on the new charge.

The alleged road rage incident happened near the intersection of Abernathy and Roswell Road Oct. 5.

Prosecutors said McBrayer hit a female driver in the face after getting her to roll down her window.

The woman said McBrayer got out of his car, said something to her and then punched her in the face in front of her two young children. The victim, whose name was not released, was treated at a local hospital and released.

McBrayer, 58, was charged with simple battery.

More News

We recommend

- Teen killed, 3 others wounded in Macon shooting (WSB-TV)
- Taco Bell customers get cash instead of food (WSB-TV)
- No charges filed against MJD in alleged bar fight (WSB-TV)
- Mentally disabled NY newlyweds find home to share (WSB-TV)
- Pa. man returns Steve Martin's lost wallet (WSB-TV)
- 4 arrested in fatal Cobb County hit and run crash

From around the web

- What grass type will turn your Georgia lawn from bare to beautiful? (Kudzu)
- Brazilian fans kill, behead referee who killed player (Sports Illustrated)
- Fatal flaws: five dangerous car problems you should repair immediately (Kudzu)
- No more Social Security at 62? (Bankrate.com)
- What Barbie Would Look Like If She Resembled an Actual Woman (PHOTOS) (Take Part)
- How to Tell If Your Girlfriend is a Sociopath (eHow)

(WSB-TV)

[?]

Comments

If you would like to post a comment please Sign in or Register

03369
00250

EXHIBIT
3 of part 3

10194

Form 668 (Y)(c)
(Rev. February 2004)

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

Area:
SMALL BUSINESS/SELF EMPLOYED AREA #5
Lien Unit Phone: (800) 913-6050

Serial Number
797990911

For Optional Use by Recording Office

BK03369 PG0250

GED

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer DANIEL MCBRAYER MD PC, a Corporation
ALPHA OB-GYN

Residence
2810 PREMIERE PKWY STE 200
DULUTH, GA 30097-8908

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/2008	58-1629062	02/23/2009	03/25/2019	
941	12/31/2008	58-1629062	11/15/2010	12/15/2020	121198.03
941	12/31/2010	58-1629062	03/28/2011	04/27/2021	1945.58

FILED AND RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
2011 JUL 11 AM 10:55
TOM LAWLER, CLERK

Place of Filing
Clerk of Superior Court
Gwinnett County
Lawrenceville, GA 30246

Total $ 123143.61

This notice was prepared and signed at NASHVILLE, TN, on this,

the 01st day of July, 2011.

067676

Signature
for R.LOVELL

Title
REVENUE OFFICER
(404) 338-9282

25-07-3478

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax lien Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 1 - Kept By Recording Office

Form **668(Y)(c)** (Rev. 2-2004)
CAT. NO 60025X

03429
0C086

Form 668 (Z)
(Rev. 10-2000)

3351 Department of the Treasury - Internal Revenue Service

Certificate of Release of Federal Tax Lien

Area:
SMALL BUSINESS/SELF EMPLOYED AREA #5
Lien Unit Phone: (800) 913-6050

Serial Number
797990911

For Use by Recording Office

BK03429PG0086

GED

I certify that the following-named taxpayer, under the requirements of section 6325 (a) of the Internal Revenue Code has satisfied the taxes listed below and all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on July 11 2011, is authorized to note the books to show the release of this lien for these taxes and additions.

Name of Taxpayer
DANIEL MCBRAYER MD PC, a Corporation
ALPHA OB-GYN

Residence 2810 PREMIERE PKWY STE 200
DULUTH, GA 30097-8908

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
03369	0250	n/a	067676

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/2008	58-1629062	02/23/2009	03/25/2019	
941	12/31/2008	58-1629062	11/15/2010	12/15/2020	121198.03
941	12/31/2010	58-1629062	03/28/2011	04/27/2021	1945.58

FILED AND RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
2011 SEP 13 AM 9:29
TOM LAWLER, CLERK

Place of Filing
Clerk of Superior Court
Gwinnett County
Lawrenceville, GA 30246

Total $ 123143.61

This notice was prepared and signed at NASHVILLE, TN, on this,

the 31st day of August, 2011.

084879

Signature

Title Director, Campus Compliance Operations

(NOTE: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Certificate of Release of Federal Tax lien Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 1 - RECORDING OFFICE

Form 668 (Z) (Rev. 10-2000)
CAT. NO 60026I

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Background Report for Daniel Mcbrayer

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- Address History
- Property History Summary
- Single State Criminal Check
- People Search Report
- Marriage And Divorce Records
- Single State Civil Judgments
- Nationwide Criminal Check
- Nationwide Federal Criminal Records
- View All

Available Addons:

- Current Phone & Address Check — Learn More
- Business Profile Summary — Learn More
- Email Lookup — Learn More
- Social Network Summary — Learn More

Civil Judgment Report

What are Tax Lien, Bankruptcy, & Judgments?

This section lists civil records from county courts for the selected address. The types of records include property tax liens, general tax liens, bankruptcies, small claims, judgments, and more associated with the selected address. Please closely review each record as common addresses may return multiple civil record results.

The Civil Judgment report returns results which may include all civil judgment records or no results found on the individual. In the event of using this service for civil background checks, you should not assume that this data provides a complete or accurate history of any person's civil judgment history. You should use extreme caution when interpreting the results of a civil judgment background search for any type of personal verification. Positive or false matches in civil searches may not provide confirmation of an individual's civil judgment background. Please reference the updated Intelius User agreement for additional restrictions regarding the usage of data.

CIVIL JUDGMENT RECORDS FOR DANIEL MCBRAYER IN THE STATE OF - 22 RECORDS FOUND

RECORD 1

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20080305
Amount Liability:	$1,122.96	**Address:**	4570 Blackland Dr
City:	Marietta	**State:**	Ga
Zip:	30067	**Action Type:**	J
Book:	27	**Page:**	3274

Feedback

RECORD 2

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20120312
Amount Liability:	$641.06	**Address:**	4570 Blackland Dr
City:	Marietta	**State:**	Ga
Zip:	30067	**Attorney Phone:**	7707945680
Action Type:	J	**Book:**	67
Page:	5466		

RECORD 3

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20110301
Amount Liability:	$641.06	**Address:**	4570 Blackland Dr
City:	Marietta	**State:**	Ga
Zip:	30067	**Action Type:**	J
Book:	56	**Page:**	4121

RECORD 4

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20100329
Amount Liability:	$437.37	**Action Type:**	J
Book:	47	**Page:**	2731

RECORD 5

Defendant:	Daniel E Mcbrayer	**Filing Date:**	20090710
Amount Liability:	$7,098.18	**Action Type:**	J
Book:	39	**Page:**	4977

RECORD 6

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20081001
Amount Liability:	$23.81	**Address:**	4570 Blackland Dr
City:	Marietta	**State:**	Ga
Zip:	30067	**Action Type:**	J
Book:	972	**Page:**	315

RECORD 7

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20090519
Amount Liability:	$1,698.82	**Address:**	4570 Blackland Dr
City:	Marietta	**State:**	Ga
Zip:	30067	**Action Type:**	J
Book:	1138	**Page:**	331

RECORD 8

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20090519
Amount Liability:	$22.17	**Address:**	4570 Blackland Dr
City:	Marietta	**State:**	Ga
Zip:	30067	**Action Type:**	J
Book:	1138	**Page:**	330

RECORD 9

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20110412
Amount Liability:	$275.17	**Action Type:**	J
Book:	58	**Page:**	949

RECORD 10

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20120808
Amount Liability:	$315.87	**Action Type:**	J
Book:	71	**Page:**	2980

RECORD 11

Defendant:	Daniel E Mcbrayer	**Filing Date:**	20090710
Amount Liability:	$6,555.09	**Action Type:**	J
Book:	39	**Page:**	4976

RECORD 12

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20090309
Amount Liability:	$1,012.85	**Address:**	4570 Blackland Dr
City:	Marietta	**State:**	Ga
Zip:	30067	**Action Type:**	J
Book:	36	**Page:**	2917

RECORD 13

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20091106
Action Type:	R	**Book:**	42

Page:	2389	**Original Book:**	36
Original Page:	2917		

RECORD 14

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20090720
Action Type:	R	**Book:**	39
Page:	6485	**Original Book:**	19
Original Page:	2435		

RECORD 15

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20130213
Action Type:	R	**Book:**	76
Page:	2234	**Original Book:**	71
Original Page:	2980		

RECORD 16

Defendant:	Daniel E Mcbrayer	**Filing Date:**	20090929
Action Type:	R	**Book:**	41
Page:	3832	**Original Book:**	39
Original Page:	4977		

RECORD 17

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20110517
Action Type:	R	**Book:**	60
Page:	951	**Original Book:**	58
Original Page:	949		

RECORD 18

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20100208
Action Type:	R	**Book:**	1416
Page:	144	**Original Book:**	1138
Original Page:	331		

RECORD 19

Defendant:	Daniel E Mcbrayer	**Filing Date:**	20090929
Action Type:	R	**Book:**	41
Page:	3833	**Original Book:**	39
Original Page:	4976		

RECORD 20

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20100714
Action Type:	R	**Book:**	1684
Page:	156	**Original Book:**	972
Original Page:	315		

RECORD 21

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20090720
Action Type:	R	**Book:**	39
Page:	6484	**Original Book:**	27
Original Page:	3274		

RECORD 22

Defendant:	Daniel E Mcbrayer Sr	**Filing Date:**	20110427

Action Type:	R	**Book:**	59
Page:	2315	**Original Book:**	47
Original Page:	2731		

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EXHIBIT

4 of part 3

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

Composite State Board of Medical Examiners

SEP 0 3 2004

DOCKET NUMBER

IN THE MATTER OF:	*	
	*	
TYRONE MALLOY, M.D.	*	DOCKET NO. 20050230
License No. 23086,	*	
	*	
Respondent.	*	

PUBLIC CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners ("Board") and Tyrone Malloy, M.D. ("Respondent"), the following disposition of this matter is entered into pursuant to the provisions of O.C.G.A. § 50-13-13 (a) (4), as amended.

FINDINGS OF FACT

1.

The Respondent is licensed to practice as a physician in the State of Georgia and was licensed at all times relevant to the matters stated herein.

2.

On or about June 3, 1999, patient L.S. presented to Dekalb Medical Center for induction of labor under the care of Consolidated OB/GYN Specialty group. Patient L.S. presented for induction with risk factors including obesity, Group B Strep, and diabetes. The medical records indicate that active labor began at approximately 4 p.m. on June 5, 1999 and indicate that at approximately 9:00 p.m., the fetal heart rate tracings were showing variable decelerations and that Patient L.S. had a temperature of approximately 102 degrees. The medical records also show that on June 5, 1999, the on call physician for Consolidated, Dr. Hadley, was involved in handling a serious procedure and requested that his partner, Respondent, who was performing a C-section on another patient, evaluate patient L.S.

3.

Medical records indicate that at approximately 9:40 p.m. on June 5, 1999, Respondent was made aware of patient L.S.'s elevated temperature and of the late decelerations in the fetal heart rate. The medical records further show that the fetal heart rate continued to show variable decelerations; however, nurses' entries at approximately 9:20 p.m. and 10:20 p.m. state that the decelerations had improved. At approximately 10:40 p.m., Dr. Hadley again asked Respondent to evaluate patient L.S. At approximately 10:50 p.m. on June 5, 1999, Respondent evaluated patient L.S. and she was 8 cm dilated. Respondent requested preparation for a C-section to be performed by Dr. Hadley in the event that Dr. Hadley determined that a c-section was indicated. Respondent did not communicate directly with Dr. Hadley about the possible need for a C-section and left the hospital after his evaluation of patient L.S. The medical records indicate that Dr. Hadley did not begin the C-section until approximately 2:34 a.m. on June 6, 1999, at which time he delivered a baby with thick meconium who died shortly after delivery.

4.

A Board appointed peer reviewer evaluated the treatment of patient L.S. and concluded that the treatment of patient L.S. departed from and failed to conform to the minimum standard of acceptable and prevailing medical practice in the following ways:

1. In light of the obvious elevated temperature in a high risk patient, Respondent acted below the minimum standard of care in not ordering a STAT C-section. Once Respondent became aware of the elevated temperature in the high risk patient, he should have ordered and conducted a STAT C-section.

2. The fetal monitoring tracings showed that fetal distress was present on June 5, 1999 from approximately 9:10 p.m. Having evaluated the patient and the tracings at

approximately 9:40 p.m. on June 5 1999, Respondent should have recognized the distress and managed the patient on an emergency basis. Furthermore, in light of the emergency status of the case, it was below the minimum standard of care for Respondent to leave the hospital and the patient without directly communicating with Dr. Hadley about the condition of the patient.

5.

The Respondent admits the above findings of fact and waives any further findings of fact with respect to the above-styled matter. The Respondent, however, has prepared a written statement attached hereto as Exhibit A in explanation and mitigation of the matters stated herein and for the Board's consideration prior to its review of this Consent Order.

CONCLUSIONS OF LAW

The Respondent's conduct constitutes sufficient grounds for the imposition of discipline upon his license to practice as a physician in the State of Georgia pursuant to O.C.G.A. Chs. 1 and 34 T. 43, as amended. The Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

The Composite State Board of Medical Examiners, having considered all the facts and circumstances of this case, hereby orders, and Respondent hereby agrees, that the following sanctions shall be imposed upon the Respondent's license to practice as a physician in the State of Georgia.

1.

Respondent shall obtain twenty (20) hours of continuing medical education ("CME") in the area of gynecology in addition to the CME required of all Georgia physicians. Respondent shall complete said additional twenty hours within two years from the docketing of this order. Prior to obtaining the CME, Respondent shall submit the title of the course(s) he plans to attend

and information concerning the course(s) to the Board. Within two years from the docketing of this consent order, Respondent shall submit proof of completion of said additional twenty hours to the Board.

2.

Respondent shall submit to the Board a fine of five thousand dollars ($5000.00), to be paid in full by cashier's check or money order made payable to the Board within 30 days of the effective date of this Consent Order. Failure to pay the entire amount by the 30th day shall be considered a violation of this Order and shall result in further sanctioning of Respondent's license, including revocation, upon substantiation thereof.

3.

This Consent Order and dissemination thereof shall be considered a PUBLIC REPRIMAND of Respondent by the Board.

4.

Respondent also understands that pursuant to O.C.G.A. Title 43, Chapter 34A, the contents of this order shall be placed on Respondent Physician Profile. Furthermore, by executing this Consent Order, Respondent hereby agrees to permit the Board to update the Physician's Profile reflecting this Consent Order.

5.

The Respondent acknowledges that Respondent has read this Consent Order and understands its contents. Respondent understands that the Respondent has the right to a hearing in this matter and freely, knowingly and voluntarily waives that right by entering into this Consent Order. Respondent understands and agrees that a representative of the Department of Law may be present during the Board's consideration of this Consent Order and that the Board shall have the authority to review the investigative file and all relevant

evidence in considering this Consent Order. Respondent further understands that this Consent Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. **Respondent understands that this Consent Order, once approved and docketed, shall constitute a public record, evidencing disciplinary action by the Board.** However, if this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent hereby consents to the terms and sanctions contained herein.

Approved, this 26 day of August, 2004.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

(BOARD SEAL)

BY: Roland S. Summers
ROLAND S. SUMMERS, M.D.
President

ATTEST: LaSharn Hughes
LASHARN HUGHES
Executive Director
Composite State Board of Medical Examiners

CONSENTED TO: Tyrone Malloy MD
TYRONE MALLOY, M.D.
Respondent

Sworn to and Subscribed
before me this 26th day
of August, 2004.

Lynda Wooten
NOTARY PUBLIC
My commission expires:

My Commission Expires
January 8, 2008

EXHIBIT A

My name is Tyrone Malloy, M.D., and I am an obstetrician with a physician group called Consolidated OB/Gyn. This Patient who is the subject of the Consent Order was a 28 year-old obstetrical patient, and this was her first pregnancy.

On June 5, 1999, I was providing services at DeKalb Medical Center. My partner, Phillip Hadley, M.D., was my practice group's on-call physician at DeKalb Medical Center. On that date, while I was performing a C-section on another patient, I received a call from Dr. Hadley asking me to evaluate a patient because he could not do so. I understood that he was handling a serious procedure at the time, though I can't specifically recall what that was. Although I don't recall, custom and practice would indicate that Dr. Hadley gave me some information about the Patient's condition. In any event, a nurse brought me the strip while I was in the operating room and gave me an update on the Patient's condition.

Based on the information the nurse relayed to me, my personal review of the fetal monitoring tracing, and based upon the medical records from approximately 2140 hours on June 5th, I concluded there was no indication of fetal or maternal compromise with this Patient or her unborn child. I wrote a note stating my belief that Dr. Hadley might want to perform a C-section on the Patient for failure to progress. I requested preparation for a C-section to be performed by Dr. Hadley if and only if Dr. Hadley felt the indication for C-section, secondary to cephalic-pelvic disproportion.

Contrary to what was argued in the subsequent lawsuit, at no time did I order a C-section to take place. I would not have done so because a C-section was not indicated at the time and, because of that, it was completely Dr. Hadley's call as to whether a C-section would take place for failure to progress. Had I believed the child's well-being was in danger, I would have then taken steps necessary to ensure that the child was delivered. Based on the information I had at hand and from the nurse, I had no reason to believe that the fetus was anything but healthy. I continued to perform the C-section of the patient I was then caring for in the operating room.

Later that night, I believed, I received at least one more update on the Patient's condition. I do not specifically recall it, but I am certain that every indication pointed to fetal well-being. If not, I would have delivered this child. Because I was reasonably certain that the fetus was well, I left the hospital, knowing that the Patient was still in the care of my partner, Dr. Hadley. I relied on the nurses and chart entries as means of communication with Dr. Hadley regarding the Patient.

At some point, I learned that the Patient lost her child. I do not know what caused the death, but I am confident I provided appropriate medical care and treatment to her. In the context of the lawsuit the Patient filed against me and my partner, I had an opportunity to review the care Dr. Hadley rendered. I believe that, given the information the nurses relayed to him, he provided appropriate care to the Patient as well.

Dr. Hadley and I found ourselves in a unique situation that night, trying to juggle patients' cases and priorities appropriately. This case also is unique because some of the nurses' notes in the case were apparently "late" entries, added to the chart by the nurses after the incident occurred. I relied in good faith on the nurses as part of a team, and I am disappointed in the late entries. I also wish to point out that as part of defending the Patient's lawsuit, three different experts reviewed the Patient's medical records, and each of these experts supported the care that I and Dr. Hadley provided to her in this case.

I no longer intend to practice obstetrics because of the increasing medical malpractice premiums involved. This decision is completely voluntary and is not a condition, requirement or result of the Consent Order. My practice is now focused on gynecological care.

EXHIBIT

5 of part 3

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

Composite State Board of Medical Examiners

JAN 0 8 2009

DOCKET NUMBER 2009 0033

IN THE MATTER OF:	*	
	*	
TYRONE MALLOY, M.D.,	*	**DOCKET NO.**
License No. 23086,	*	
	*	
Respondent.	*	

PUBLIC ORDER

The following disposition of the matter is entered pursuant to the provisions of O.C.G.A. § 5O-13-13(a)(4).

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was licensed as such at all times relevant to the matters stated herein.

2.

Medical records show that on or about March 21, 2008 23 year old patient S.M. presented at Respondent's office, Summit Medical Associates, Atlanta, GA, for an elective termination of her 25 week pregnancy. Medical records show that patient S.M. had anemia and sickle cell trait. Medical records further show that prior to the procedure patient S.M's Hgb level was 7.3 gms and repeat Hgb was 7.1 gms.

3.

Medical records show that after the procedure, while in the recovery room at Respondent's outpatient facility, patient S.M. went into cardiac arrest and was transferred to

Atlanta Medical Center. Medical records show that CPR continued in the emergency room and gynecology was consulted because the patient had vaginal bleeding and distended abdomen. Medical records further show that patient S.M. was taken to the operating room for exploration for possible intraabdominal hemorrhage secondary to perforation. Medical records show that exploration revealed a suture on the posterior cervix. Respondent contends neither intraabdominal hemorrhage nor uterine perforation was discovered during exploratory surgery and that during this exploratory procedure, S.M. suffered an iatrogenic bowel injury.

4.

Medical records show a hysterectomy and a bowel repair were performed during the surgery at Atlanta Medical Center, and that postoperatively the patient manifested signs and symptoms of DIC. Medical records indicate vigorous blood product replacement was undertaken but patient S.M. coded in the ICU and died.

5.

A Board appointed peer reviewer evaluated Respondent's treatment of patient S.M. and concluded that it departed from and failed to conform to minimal standards of acceptable and prevailing medical practice in the following ways:

(a) The minimum standard of care required, in light of the fact that this was an elective procedure, that the patient be transfused to a level of at least 9 gm of hgb;

(b) The minimum standard of care required evaluation of clotting parameters (platelets, PT, PTT) prior to the procedure being performed; and

(c) The minimum standard of care required ascertaining the exact gestational age because the risk for amniotic fluid embolus increases with increasing gestational age and

intrauterine manipulation.

6.

For the purposes only of this Order, Respondent does not contest the findings above. Respondent understands that by doing so he is neither admitting the truth of any of the allegations nor acknowledging any impropriety, but is agreeing that the Board may enter an order based on the allegations without the necessity of receiving evidence in support thereof. Respondent makes no admission herein and reserves the right to contest allegations against him in any forum, including but not limited to any civil or criminal court of law or other proceedings before another state's lawful licensing authority.

CONCLUSIONS OF LAW

In order to resolve the issues identified herein, Respondent herein waives formal conclusions of law with respect to the above-styled matter and does not contest the Board's authority to enter the following order.

ORDER

The Composite State Board of Medical Examiners, having considered the particular facts and circumstances of this case, hereby orders, and Respondent hereby agrees, to the following terms:

1.

Respondent shall obtain twenty (20) hours of continuing medical education ("CME") in the area of gynecologic surgery, including pre-operative evaluation, in addition to the CME required of all Georgia physicians. Prior to obtaining the CME, Respondent shall submit the title of the course(s) he plans to attend and information concerning the course(s)

to the Board. Within one (1) year from the effective date of this Order, Respondent shall submit proof of completion of the additional twenty (20) hours to the Board.

2.

Respondent shall submit to the Board a fine of $10,000.00, to be paid by cashier's check or money order made payable to the Composite State Board of Medical Examiners in 4 payments of $2,500.00 each due on January 1, 2009, March 1, 2009, May 1, 2009 and July 1, 2009. Failure to pay any or all payments shall be considered a violation of this Order and shall result in further sanctioning of Respondent's license, including revocation, upon substantiation thereof.

3.

In addition to the fine required in paragraph 2 of this Order, Respondent shall pay administrative fees in the amount of $500.00 as reimbursement to the Board of expenses incurred in the investigation of this matter, which expenses do not include time spent by the investigative division of the Board. Said fees shall be payable by certified check or money order to the Composite State Board of Medical Examiners within thirty (30) days of the effective date of this Order. Failure to pay the entire amount by the 30th day shall be considered a violation of this Order and shall result in further sanctioning of Respondent's license, including revocation, upon substantiation.

4.

This Order and dissemination thereof shall be considered a **PUBLIC REPRIMAND** of Respondent by the Board.

5.

Respondent understands that pursuant to O.C.G.A. Title 43, Chapter 34A, the

contents of this order shall be placed on Respondent's Physician Profile. Furthermore, by executing this Order, Respondent hereby agrees to permit the Board to update the Physician's Profile reflecting this Order.

6.

Respondent acknowledges that he is represented by counsel and that he has read this Order and understands its contents. Respondent understands that he has the right to a hearing in this matter and freely, knowingly and voluntarily waives that right by entering into this Order. Respondent understands and agrees that a representative of the Department of Law may be present during the Board's consideration of this Order and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Order. Respondent further understands that this Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. Respondent understands that this Order, once approved and docketed, shall constitute a public record, evidencing disciplinary action by the Board. However, if this Order is not approved, it shall neither constitute an admission against interest in this proceeding, nor prejudice the right of the Board to adjudicate this matter.

Approved, this 8th day of January, 2008.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

(BOARD SEAL)

BY: Jean Rawlings Sumner MD
JEAN RAWLINGS SUMNER, M.D.
President

[Signatures continued on next page]

ATTEST: LASHARN HUGHES
Executive Director

CONSENTED TO:

[As to Dr. Malloy's signature:]
Sworn to and subscribed
before me this 22nd day
of December, 2008.

NOTARY PUBLIC
My commission expires:

Brenda L. Woods
My Commission Expires Jan 6th, 2012
Notary Public Douglas County, GA

TYRONE MALLOY, M.D.
Respondent

EXHIBIT
6 of part 3

In the Supreme Court of Georgia

Decided: June 17, 2013

S13A0188. MALLOY v. THE STATE.

THOMPSON, Presiding Justice.

Appellant Tyrone Cecil Malloy, a Georgia gynecologist, was indicted along with his office manager on two counts of Medicaid fraud in violation of OCGA § 49-4-146.1 (b) (2).[1] Specifically, appellant was charged with knowingly and wilfully accepting medical assistance payments to which he was not entitled and in amounts greater than he was entitled from the State of Georgia Medicaid program because the services charged for were either "associated with the performance of elective abortions," or had not been performed. Prior to the indictment, the Program Integrity Unit of the Georgia Department of Community Health (DCH)[2] had conducted a review of

[1] OCGA § 49-4-146.1 (b) (2) makes it unlawful for any person or Medicaid provider "knowingly and willfully to accept medical assistance payments to which he or she is not entitled or in an amount greater than that to which he or she is entitled or knowingly and willfully to falsify any report or document required under this article."

[2] DCH is the agency responsible for administering the Medicaid program for the State of Georgia and is required to insure that payments are made to providers in accordance with federal law and regulations. 42 USC § 1302; 42 CFR § 456.22. The agency is also required to have

appellant's clinic looking for violations of the "Hyde Amendment" which prohibits the use of federal funds to pay for elective abortions. Based on its findings, DCH referred appellant's case to the State's Medicaid Fraud Control Unit for a full investigation, while concurrently instituting a "withhold" on reimbursements to appellant's Medicaid provider number.[3]

Appellant requested an administrative review of the withhold by DCH and, in response, received a letter informing him that based on its determination that appellant had billed abortion-related services to Medicaid the withhold would remain in effect. Appellant then requested and was granted an administrative hearing before an administrative law judge (ALJ) on the issue of the withhold. The ALJ subsequently issued an initial decision in favor of appellant reversing DCH's decision to maintain the withhold. Although noting

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methods and criteria for identifying suspected fraud cases. 42 CFR § 455.1, et seq. Chapter 403 of DCH's 2010 provider manual sets forth the responsibilities of the Program Integrity (PI) Section of the Office of the Inspector General relating to its investigation of possible fraud or abuse cases and specifically provides that "[t]he primary responsibility of PI is to develop cases for referral to the State Healthcare Fraud Unit or the appropriate district attorney for prosecution." Part I, Policies and Procedures for Medicaid/Peachcare for Kids, Chapter 403.

[3] Applicable federal regulations in 2010 provided for a procedure called "withholding of payments in cases of fraud or willful misrepresentation" to be used to temporarily suspend payments to Medicaid providers during the investigation of suspected fraud. 42 CFR § 455.23. DCH implemented this regulation in its 2010 provider manual. See Part I, Policies and Procedures for Medicaid/Peachcare for Kids, Chapter 408.

that the State's interpretation of the services as abortion-related was reasonable, the ALJ determined that the record did not support a conclusion that appellant wilfully misrepresented a material fact and thus could not support a finding of fraud or wilful misrepresentation under the Medicaid program.[4] As DCH neither filed a motion for reconsideration or rehearing with respect to the ALJ's decision nor sought to reject or modify it pursuant to the provisions of OCGA § 50-13-41 (e) (1),[5] the ALJ's decision was affirmed by operation of law, and effectively became the decision of DCH. See Alexander v. Dep't of Revenue, 316 Ga. App. 543 (728 SE2d 320) (2012). Thereafter, the "withhold" status was terminated and the withheld funds were released to appellant.

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[4] Among the ALJ's findings were that appellant's gynecology practice at the facility in question performed abortions for approximately 50 percent of its clients, that appellant had never performed abortions necessary to save the life of the mother or to terminate a pregnancy resulting from rape or incest and thus had never billed Medicaid for abortion-related expenses requiring a certification of necessity for abortion pursuant to Section 904.2, of Part II, Policies and Procedures for Physician Services, p. IX-52 (2008) and p. IX-50 (2010), that while the definition of "expenditure of abortion" is clear within the context of services covered under Section 904.2, it is not clearly enunciated for expenses related to abortions not covered under this section, and that the parties agreed that initial lab tests for patients presenting with diagnoses of amenorrhea to determine pregnancy and gestational status were appropriately billed to Medicaid pursuant to Part II, Policies and Procedures for Family Planning Clinic Services, Section 901, p. IX-1 (2008) and (2010) in any case where a subsequent abortion was performed either by a different provider that same day or by appellant on a different day.

[5] This Code section provides a reviewing agency such as DCH 30 days in which to reject or modify the initial decision of an ALJ, and if it fails to do so within 30 days of the initial decision, "the decision of the administrative law judge shall stand affirmed by the reviewing agency by operation of law." OCGA § 50-13-41 (e) (1).

During the period appellant was challenging the withhold, the State's Medicaid Fraud Control Unit continued to conduct its own investigation into the fraud allegations, including executing a search warrant at appellant's clinic. Despite DCH's affirmance of the ALJ's decision finding no evidence that appellant had committed fraud or wilful misrepresentation under the Medicaid program, the State decided to seek criminal charges against appellant and his office manager and, on December 8, 2011, a DeKalb County grand jury issued indictments.

In response to the indictments, appellant filed a special demurrer and motion to strike surplusage, a plea in abatement based on collateral estoppel, and a motion to dismiss his indictment claiming the statute under which he was charged was unconstitutionally vague. Following separate hearings, the trial court denied each of appellant's motions via separate orders. After his application for certificate of immediate review was denied by the trial court, appellant filed a notice of appeal seeking review of the trial court's orders.

The State moved to dismiss the appeal arguing that the trial court's orders either were not appealable or that jurisdiction belonged in the Court of Appeals. For the reasons that follow, we deny the State's motion to dismiss and affirm the

decisions of the trial court.

1. Addressing the issue of jurisdiction, we find the instant appeal is properly before this Court. Appellant seeks review of three rulings made by the trial court: the denial of his plea in abatement based on collateral estoppel, the denial of his motion to dismiss in which he challenged the constitutionality of OCGA § 49-4-146.1 (b) (2) as applied to him, and the denial of his special demurrer and motion to strike surplusage in the indictment. First, we note that the trial court's denial of appellant's plea in abatement based on collateral estoppel, a motion which in essence constitutes a plea in bar based on double jeopardy, is directly appealable. See Patterson v. State, 248 Ga. 875, 876 (287 SE2d 7) (1982) (timely filed plea of double jeopardy is directly appealable). Second, given appellant's right to directly appeal the denial of that motion, he was entitled to seek appellate review of the trial court's denial of his other two motions. See OCGA 5-6-34 (d). Finally, because this Court has jurisdiction over appellant's claim that the trial court erred in rejecting his constitutional challenge to OCGA 49-4-146.1 (b) (2) as applied, this Court also has jurisdiction to consider the other allegations of error presented on appeal. See Ga. Const. of 1983, Art. VI, Sec. VI, Para. II (1); see also State v. Boyer, 270

Ga. 701, 702 (512 SE2d 605) (1999).

2. Next, we address appellant's contention that the trial court erred in denying his plea in abatement based on collateral estoppel. Appellant argues that the doctrine of collateral estoppel precludes the State from prosecuting him for Medicaid fraud as set forth in the indictment because the ultimate issue in the criminal prosecution, i.e., whether he knowingly and wilfully accepted medical assistance payments to which he was not entitled, was decided adversely to the State in the earlier administrative proceeding. Appellant claims that the trial court erred in applying a double jeopardy multiple prosecution analysis under Hudson v. United States, 522 U. S. 93, 98-99 (118 SCt 488, 139 LE2d 450) (1997) to his collateral estoppel claim and, more specifically, erred in determining that the doctrine of collateral estoppel did not apply.[6]

While we agree with appellant that the trial court should have analyzed the issue pursuant to the requirements for application of the doctrine of collateral estoppel rather than multiple punishment, the primary question presented, i.e.,

[6] Concluding that the proper analysis was one done under the principle of double jeopardy as set forth in Hudson, supra, the trial court determined that as the temporary withholding of payments which led to the administrative hearing in the instant case was a civil penalty which was not so "punitive" in nature as to have been transformed into a criminal penalty, double jeopardy, and thus collateral estoppel, did not apply, see Kennedy v. Mendoza-Martinez, 372 U. S. 144, 168 (83 SCt 554, 9 LE2d 644) (1963).

whether a determination made in an administrative proceeding has preclusive effect in a subsequent criminal proceeding pursuant to the doctrine of collateral estoppel, is one which has not been conclusively addressed by this Court. Based on our consideration of this case, we find that the trial court's determination that the ALJ's civil ruling had no preclusive effect on the State's subsequent criminal prosecution of appellant is correct.

a. The United States Supreme Court has held that the doctrine of collateral estoppel is incorporated in the Fifth Amendment's guarantee against double jeopardy. Ashe v. Swenson, 397 U. S. 436, 443 (90 SCt 1189, 25 LE2d 469) (1970). Collateral estoppel "means simply that when an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit." Id. Collateral estoppel may affect a later criminal prosecution in two ways: (1) it may operate to bar the introduction of certain facts necessarily established in a prior proceeding; or (2) it may completely bar a subsequent prosecution where one of the facts necessarily determined in the former proceeding is an essential element of the conviction sought. United States v. DeMarco, 791 F2d 833, 836 (11th Cir. 1986); United States v. Mulherin, 710 F2d 731, 740 (11th Cir. 1983). See State

v. Tate, 136 Ga. App. 181, 185 (220 SE2d 741) (1975).

Even before Ashe, Georgia courts recognized the doctrine of collateral estoppel in criminal, as well as civil cases.[7] See Waldroup v. Greene County Hosp. Authority, 265 Ga. 864, 866 (2) (463 SE2d 5) (1995); Lindsey v. State, 227 Ga. 48, 52 (2) (178 SE2d 848) (1970); Harris v. State, 193 Ga. 109, 110 (17 SE2d 573) (1941). "The doctrine of collateral estoppel precludes the readjudication of an issue of law or fact already adjudicated between the parties or their privies, where that issue is essential to the judgment. [Cit.]" Jordan v. Board of Public Safety, 253 Ga. App. 339, 340 (559 SE2d 94) (2002). See Phillips v. State, 272 Ga. 840, 841 (537 SE2d 63) (2000). Moreover, the doctrine provides that "an issue previously litigated and adjudicated on the merits cannot be relitigated even as part of a different cause of action." Jordan, supra at 342.

Administrative decisions, however, are not generally given collateral estoppel effect by Georgia courts in subsequent judicial proceedings unless

[7] In its argument to this Court, the State cites Dorsey v. State, 251 Ga. App. 640, 642 (554 SE2d 278) (2001) for the proposition that "the civil doctrines of 'res judicata' and 'collateral estoppel' have no real application to a criminal case."(quoting a footnote in Carter v. State, 231 Ga. App. 42, 43, fn 2 (497 SE2d 812) (1998)). To the extent that the decisions in Dorsey and Carter stand for the proposition that collateral estoppel cannot be applied in a criminal proceeding, they are disapproved.

certain requirements are met. Swain v. State, 251 Ga. App. 110, 113 (552 SE2d 880) (2001). See Epps Air Svc. v. Lampkin, 229 Ga. 792, 795 (2) (194 SE2d 437) (1992); Blackwell v. Ga. Real Estate Comm., 205 Ga. App. 233, 234 (421 SE2d 716) (1992). Specifically, administrative decisions may have a collateral estoppel effect in a subsequent judicial proceedings where: (1) both proceedings involve the same parties or their privies; (2) the issue was actually litigated and determined in the first proceeding; (3) the determination was essential to the judgment in the first proceeding; and (4) the party against whom the doctrine is asserted had a full opportunity to litigate the issue in question. Swain, 251 Ga. App. at 113. Compare Allen v. Santana, 303 Ga. App. 844, 847 (1) (695 SE2d 314) (2010) (collateral estoppel did not apply where issue deemed not essential to first judgment).

Applying these requirements, Georgia courts have repeatedly held that questions of fact ruled upon by an administrative body are thereafter precluded from relitigation in civil suits by the doctrines of res judicata and collateral estoppel, see Jordan, supra at 342; Blackwell, supra at 234. Less clear, however, are rulings with respect to the collateral estoppel effect in subsequent criminal proceedings. See Swain, supra at 113-114; Culver v. State, 254 Ga. App. 297,

303 (1) (c) (562 SE2d 201) (2002), rev'd on other grounds, State v. Kell, 276 Ga. 423 (577 SE2d 551) (2003). In both Culver and Swain, the Court of Appeals acknowledged the possible application of collateral estoppel to preclude the State from raising issues allegedly decided in an earlier administrative action in subsequent criminal proceedings. Id. However, in each of these cases the court found insufficient evidence in the record showing the State had a full opportunity to litigate the issue in question at the administrative hearing and/or to seek judicial review of any adverse decision. Id.

Appellant asserts that the requirements for application of the doctrine of collateral estoppel have been met in his case because: (1) DCH is considered the State of Georgia pursuant to OCGA § 50-21-22, thus both this case and the administrative hearing involved the same parties; (2) the same issues were litigated and decided in the administrative hearing wherein the ALJ found that the evidence did not support a determination of fraud or wilful misrepresentation under the Medicaid program; (3) the ALJ's findings that appellant had not engaged in any fraudulent conduct nor wilful misrepresentation were essential to the judgment reversing the withhold on appellant's Medicaid provider number; and (4) the State had a full opportunity

to litigate the issues before the ALJ and failed to file for reconsideration or rehearing, thus adopting the ALJ's decision. Appellant's argument is persuasive in many respects and, for purposes of this opinion, we accept without deciding that the first three requirements have been met. However, based on our review, it is the fourth requirement which must inform our decision in this case.

b. In answering the question of whether the State had a full opportunity to litigate the issue of whether appellant knowingly and wilfully accepted medical assistance payments to which he was not entitled, it is important to consider differences in the nature of the respective proceedings. What appears to have been a full opportunity to litigate in the context of the first proceeding, may not be sufficient when viewed in the context of the second proceeding. See Restatement (Second) of Judgments § 28 (3).

As a general rule, the weight of authority points to a conclusion that administrative decisions should not be the basis for application of collateral estoppel against the government in criminal proceedings. See Cook v. State, 921 S2d 631, 633 (Fla2d DCA 2005) (conducting a survey of the law addressing this question in the context of probation and parole revocation proceedings, professional disciplinary proceedings, public employee disciplinary

proceedings, driver's license revocation proceedings, and welfare fraud proceedings); State v. Williams, 132 Wash2d 248 (937 P2d 1052) (1997). Noting that nearly every state which has considered this question with respect to driver's license suspension hearings has determined such hearings did not provide the government with a full opportunity to litigate the issues, the Georgia Court of Appeals in Swain observed that to hold administrative decisions have preclusive effect in later criminal proceedings "would frustrate the purpose of the summary suspension hearing." Swain, supra, 251 Ga. App. at 114.

Other courts similarly have refused to give preclusive effect to administrative rulings in a criminal proceeding. In a case with issues similar to this one, the Supreme Court of Washington held that the doctrine of collateral estoppel did not preclude the State from criminally prosecuting a defendant for welfare fraud despite a prior administrative determination that the defendant had acted unintentionally. Williams, supra, 132 Wash2d at 250. Although deciding that the first three requirements for application of the doctrine of collateral estoppel had been met, the Williams court nonetheless determined that "public policy" simply would not allow an administrative hearing to prevent the State

from criminally prosecuting the defendant for two reasons. Id. at 256-257.[8] First, the purposes underlying the administrative hearing and the criminal trial were completely different as the administrative proceeding was intended to determine whether the defendant had received overpayments of public assistance, while the purpose of the criminal prosecution was to determine whether the defendant had committed a crime. Id. at 257. Second, allowing an administrative proceeding to bar a criminal action would have broad consequences requiring the State

> to marshall all the prosecution's potential witnesses and evidence at the administrative level . . . leav[ing] district attorney offices to allocate a greater proportion of their ever-decreasing resources to administrative matters, rather than reserving these scarce resources for the actual prosecution of serious criminal cases in court.

Williams, supra at 258, quoting from People v. Sims, 32 Cal3d 468 (651 P2d 321, 337, 186 Cal. Rptr. 77) (1982) (Kaus, J., dissenting).

Likewise, in Cook v. State, the Florida District Court of Appeals concluded that the State was not collaterally estopped in a criminal proceeding

[8] The court in Williams based its public policy analysis on the fourth prong for application of the doctrine of collateral estoppel under Washington law which requires that the doctrine "not work an injustice." While this differs somewhat from Georgia's requirement that the party against whom the doctrine of collateral estoppel is asserted must have had a "full opportunity to litigate the issue in question," we find the analysis sufficiently similar for purposes of this opinion.

from presenting similar fact evidence which had been determined in a prior administrative proceeding to be lacking in credibility, observing that

> [a]llowing the course of proceedings in a criminal case to be determined by the litigation failure of a state agency with no constitutional authority with respect to criminal proceedings would be in derogation of the constitutional authority of the state attorney.

Cook, supra at 644.[9]

We find the rationale of these opinions persuasive. To allow the decision of an administrative law judge to subvert the constitutional authority of the district attorneys and attorney general of this state would be in derogation of our Constitution. At the same time, the practical effect of holding that a finding in an administrative hearing could have a determinative effect in a subsequent criminal trial would impose upon the State a virtually insurmountable burden of investigating and preparing for administrative matters in the same manner in which it prepares a criminal prosecution. Here, the only purpose of the administrative hearing was to determine whether the DCH withhold on

[9] Unlike in this case and in Williams, supra, the Cook court additionally determined that there was no privity between the Florida Department of Education, Education Practices Commission which issued the administrative decision and the State of Florida despite the fact that the Commission was an agency of the State because the Commission's purpose of disciplining educators was separate and distinct from the prosecution of crimes. See Cook, supra at 643-645.

appellant's Medicaid reimbursements would continue during the pendency of the State Medicaid Fraud Control Unit's investigation. To require the State to treat the administrative hearing as an integral part of the criminal trial rather than merely as an administrative device allowing the defendant to halt the temporary suspension of reimbursements to his Medicaid provider number during the course of the investigation would frustrate the purpose of the administrative hearing. See Swain, supra at 114. The dissimilar jurisdictions of the hearing officer and the criminal court lead us to conclude that the State's interest in having guilt or innocence determined is not adequately served in an administrative proceeding.

Given the different purposes served by the administrative proceeding and the criminal proceeding in the instant case, we find that the State did not have a full opportunity to litigate the issue and conclude that preclusive effect should not be given to the administrative determination.

3. Appellant contends the trial court erred in denying his motion to dismiss the indictment on the basis that OCGA § 49-4-146.1 (b) (2) as applied to him is unconstitutionally vague. The statute provides, in pertinent part, that it is unlawful for a Medicaid provider to knowingly and wilfully "accept

medical assistance payments to which he or she is not entitled or in an amount greater than that to which he or she is entitled." Id. The indictment alleges appellant violated the statute by "causing claims to be submitted in an amount greater than that to which [he was] entitled to receive because the services were associated with the performance of elective abortions," and ineligible for Medicaid reimbursement under the Hyde amendment.[10] Appellant argues that the statute is unconstitutionally vague as applied to him in that it failed to provide him with sufficient notice of the prohibited conduct with which he is charged. We disagree.

Appellant has not raised a First Amendment challenge to the statute, thus his vagueness argument must be decided on the particular facts of this case. See Boyer, supra at 702.

> The Due Process Clause requires that the law give a person of ordinary intelligence fair warning that specific conduct is forbidden or mandated. United States v. Harriss, 347 U. S. 612, 617 (74 SCt 808, 98 LE 989) (1954); Hall v. State, 268 Ga. 89, 92 (485 SE2d 755) (1997). Vagueness may invalidate a criminal law on either of two bases: a statute may fail to provide notice sufficient to enable

[10] The indictment also charges appellant with billing Medicaid for "detailed ultrasounds" which had not been performed. Although appellant contends the State is aware that the ultrasounds were actually performed and the discrepancy is simply due to a coding error, this is a question of fact. In any event, these counts of the indictment are not affected by appellant's constitutional challenge in this appeal.

> ordinary people to understand what conduct it prohibits or requires, or the statute may authorize and encourage arbitrary and discriminatory enforcement. City of Chicago v. Morales, 527 U. S. 41, 55 (119 SCt 1849, 144 LE2d 67) (1999); Roemhild v. State, 251 Ga. 569 (2) (308 SE2d 154) (1983).

Santos v. State, 284 Ga. 514 (1) (668 SE2d 676) (2008). Appellant complains that the statute fails to reference, define or give any guidance distinguishing between permissible diagnostic services to determine pregnancy and gestational status for Medicaid patients and those "associated with the performance of elective abortions." He argues that as the only definition of "abortion-related services" or of services "associated" with abortions in the Medicaid manual is in section 904.2 pertaining to abortions performed for medical necessity, a provision[11] under which the parties agree appellant never sought payment, the statute did not give him sufficient notice as to what constitutes prohibited criminal conduct and makes the law susceptible to arbitrary and selective enforcement. See Hall v. State, 268 Ga. 89, 92 (485 SE2d 755) (1997). See also United States v. Lanier, 520 U. S. 259, 266 (117 SCt 1219, 137 LE2d 432)

[11] This section specifically states: "[T]he division will reimburse for abortions performed on Medicaid eligible patients if the life of the mother would be endangered if the fetus were carried to term or if the mother was a victim of rape or incest. . . . [In] compliance with 42 CFR 441.206, this documentation is required for any expenditures for abortions or other medical procedures otherwise provided under Sec. 441.203, which will include associated services such as lab tests or ultrasound studies."

(1997) (court must resolve statute's ambiguity in favor of applying it only to conduct which is clearly covered).

The trial court found that although the statute did not explicitly state all the manners in which one could violate OCGA § 49-4-146.1 (b) (2), the procedures for which one would not be entitled to payment through the program were listed in the Medicaid manual; thus, the statute in conjunction with the manual provided appellant with appropriate notice as required by law. The court also concluded that when the facts in the indictment were combined with the statute there was no vagueness. Finally, the court rejected appellant's claim that the statute was susceptible to subjective application by law enforcement – noting that either there was enough evidence to meet the statute's elements or not. We agree with the trial court.

The State's allegations of fact as recited in the indictment coupled with the applicable law, OCGA § 49-4-146.1 (b) (2), show appellant had sufficient notice of the prohibited conduct. See Stewart v. State, 246 Ga. 70, 71 (268 SE2d 906) (1980).[12] Whether appellant was "entitled" to certain payments is merely a

[12] In appeals involving a pretrial constitutional challenge, the court is "required to accept well-pleaded allegations of the indictment as the hypothesis for decision" and is, therefore, "bound by the well-pleaded allegations of the indictment. . . ." United States v. Nat. Dairy

question of fact. Use of the words "knowingly" or "willful" in the construction of a statute satisfies a scienter requirement that mitigates a law's vagueness by placing a person on notice as to what conduct is prohibited. See Screws v. United States, 325 U. S. 91, 102 (65 SCt 1031, 89 LE2d 1495) (1945). An ordinary person can easily understand that knowingly taking money from Medicaid to which one is not entitled is prohibited conduct. Further, appellant's contention that the statute is unconstitutionally vague with respect to expenditures related to abortions because the manual is too vague on this subject is relevant to the issue of whether appellant knowingly made false claims, a question of fact which does not overcome the presumption that the statute is constitutional. See generally Buice v. Dixon, 223 Ga. 645, 646-647 (157 SE2d 481) (1967). Accordingly, we find that OCGA § 49-4-146.1 (b) (2) as applied in this case is not unconstitutionally vague and we affirm the trial court's denial of appellant's motion to dismiss the indictment.

4. Finally, appellant asserts the trial court erred in denying his special

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Products Corp., 372 U. S. 29, 33 (II), fn. 2 and 37 (IV) (83 SCt 594, 9 LE2d 561) (1963). Thus, arguably in the instant case, the only relevant facts are the terms of the statute itself and the allegations of the indictment or accusation. Id. (Boyer, supra, 270 Ga. at 705, special concurrence (Carley, Thompson)).

demurrer and motion to strike surplusage. He argues the extensive "background" section included in each count contains politically charged, misleading and prejudicial surplusage likely to diminish the presumption of innocence to which he is entitled and is prejudicial and redundant.

Having filed a timely special demurrer objecting to the form of the indictment, appellant is entitled to an indictment perfect in form and substance. State v. Corhen, 306 Ga. App. 495, 498 (700 SE2d 912) (2010). However, mere surplusage does not vitiate an otherwise valid indictment. State v. Barnett, 268 Ga. App. 900, 901 (602 SE2d 899) (2004); Eidson v. State, 262 Ga. App. 664 (586 SE2d 362) (2003). The trial court found that the challenged language accurately describes the offenses charged and makes the charges more easily understood by explaining why federal funds could not be applied to elective abortions. The language of an indictment is to be interpreted liberally in favor of the State and a demurrer raising special objections strictly construed against the pleader, see Johnson v. State, 233 Ga. App. 450, 451 (504 SE2d 290) (1998). We find no error in the trial court's denial of appellant's special demurrer and motion to strike surplusage.

Judgment affirmed. All the Justices concur.

GEORGIAGOV

EXHIBIT

7 of part 3

GEORGIA DEPARTMENT OF LAW
40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

SAMUEL S. OLENS
ATTORNEY GENERAL

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DeKalb County Physician Indicted for Accepting Medicaid Funds for Abortions

January 2, 2013

On December 20, 2012, a DeKalb County Grand Jury issued an indictment against Andre Damian Williams, M.D., on one count of Medicaid Fraud (O.C.G.A. § 49-4-146.1(b)(1)) for using Medicaid funds to perform elective abortions. During the time period alleged in the indictment, January of 2009 to September of 2011, Williams owned two businesses, Legacy Obstetrics and DeKalb Gynecology Associates. The primary business at DeKalb Gynecology Associates was the performance of elective abortions.

The indictment alleges that Williams accepted a total of $205,003.00 in Medicaid funds for services not rendered and for services associated with the performance of elective abortions.

Since 1976, the federal law known as the *Hyde Amendment* has prohibited the use of federal funds to pay for elective abortions and services associated with elective abortions. In conformance with federal law and regulations, elective abortions and services associated with elective abortions are not covered by the Georgia Medicaid program.

Medicaid Fraud is punishable by one to ten years in prison and a fine of $10,000.00.

The case is being prosecuted by Nancy Allstrom, Senior Assistant Attorney General from the Georgia Medicaid Fraud Control Unit. The case was investigated by Investigator Shakethia Morgan, Investigative Auditor Amy Snow, Nurse Investigator Beth Ann Teague and Criminal Analyst Tish Murray in cooperation with the Georgia Department of Community Health.

Members of the public should keep in mind that indictments contain only allegations against the individual(s) against whom the indictment is sought. A defendant is presumed innocent until proven guilty, and it will be the government's burden at trial to prove the defendant guilty beyond a reasonable doubt of the allegations contained in the indictment.

Source URL: http://law.ga.gov/press-releases/2013-01-02/dekalb-county-physician-indicted-accepting-medicaid-funds-abortions

EXHIBIT

8 of part 3

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Clarence Joseph Washington, M.D.,	)	CONSENT ORDER
	)	
Respondent.	)	

This matter is before the North Carolina Medical Board ("Board") on information and belief that Clarence Joseph Washington, M.D. ("Dr. Washington"), committed unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) by failing to conform to the accepted and prevailing standards of medical practice.

Whereas, the Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes; and

Whereas, Dr. Washington is a physician licensed by the Board on or about March 12, 1988, license number 32295; and

Whereas, during the times relevant herein, Dr. Washington was engaged in the practice of obstetrics and gynecology in Fayetteville, North Carolina; and

Whereas, on June 18, 2009, Dr. Washington performed a second trimester dilation and evacuation (hereafter D&E)

procedure on Patient A at an out-patient clinic in Fayetteville, North Carolina; and

Whereas, on July 1, 2009, Patient A presented to the emergency department of Cape Fear Valley Medical Center with intermittent heavy vaginal bleeding; and

Whereas, subsequent surgery revealed a significant cervical laceration and a retained suture needle protruding from the top of Patient A's cervix; and

Whereas, due to inability to control the bleeding, Patient A underwent an emergency hysterectomy; and

Whereas, in October 2005, Dr. Washington performed a second trimester D&E procedure on Patient B at an out-patient clinic in Fayetteville, North Carolina; and

Whereas during the procedure, bleeding was encountered that could not be controlled with uterotonic agents; and

Whereas Dr. Washington stabilized patient B by applying and leaving a clamp in place to control bleeding from the cervix with packing in place; and

Whereas EMS was immediately called and patient B was transported to Cape Fear Valley Medical Center; and

Whereas Dr. Washington accompanied patient B to the emergency department of Cape Fear Valley Medical Center where he presented patient B to emergency staff; and

Whereas Dr. Washington does not have privileges at Cape Fear Valley Medical Center, and

Whereas Dr. Washington does have an arrangement with a physician to provide back-up and/or hospital coverage for Dr. Washington's patients who require emergency or hospital care; and

Whereas upon arrival at the emergency department Patient B was found to be severely anemic; and

Whereas subsequent surgery revealed a perforation at the junction of the cervix and uterus; and

Whereas the perforation was successfully repaired; however, Patient B required aggressive fluid resuscitation and transfusion; and

Whereas, the patient medical records of Patients A and B were provided to outside expert reviewer to determine if the care rendered by Dr. Washington to Patients A and B was within the accepted and prevailing standard of care of the medical community in North Carolina; and

Whereas, the reviewer identified areas where Dr. Washington's care, treatment and medical records of Patients A and B were below the accepted and prevailing standard of care; and

Whereas, Dr. Washington's care, treatment and medical records of Patient A and B as described above, constitutes a departure from the standards of acceptable and prevailing medical practice within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Washington's license to practice medicine issued by the Board; and

Whereas, Dr. Washington would like to resolve this matter without the need for more formal proceedings; and

Now, therefore, with Dr. Washington's consent, it is ORDERED that:

1. Dr. Washington's license to perform medical acts, tasks and functions as a physician be and hereby is SUSPENDED, however, such suspension is immediately STAYED on the following terms and conditions:

(a) If Dr. Washington intends to perform any second trimester D&E procedures, he shall undertake the following remediation plan. Dr. Washington shall observe another physician(s) perform ten (10) second trimester D&E procedures. During this observation period, the emphasis will be patient care, medical knowledge, communication,

practice based learning, systems based care, and professionalism.

(b) Following the observation of Ten (10) second trimester D&E procedures, Dr. Washington shall complete a period of direct supervision wherein Dr. Washington shall perform 10 second trimester D&E procedures under the direct supervision of another physician(s).

(c) Until the completion of the above-described remediation program, Dr. Washington shall not perform second trimester D&E procedures except as described in paragraph 1(b) above.

(d) Not later than thirty (30) days after the remediation has been completed, Dr. Washington shall ensure all physician(s) who provided direct observation of Dr. Washington's performance of second trimester D&E procedures deliver a letter to the Board's Director of Compliance which describes with detail the nature of the observation and state an opinion as to the level of competency of Dr. Washington to perform second trimester D&E procedures.

(e) Within fifteen (15) days of the date of this Consent Order, Dr. Washington shall enter into a written agreement with a physician(s) delineating who will provide

back-up and/or hospital coverage for Dr. Washington's patients who may require emergency or hospital care.

(f) Within six (6) months of the date of this Consent Order, Dr. Washington shall attend a continuing medical education course on medical record keeping. The record keeping course must be pre-approved by the Board's Medical Director. Dr. Washington shall provide proof of satisfactory completion of the course to the Medical Director of the Medical Board within thirty (30) days of completing the course.

2. Dr. Washington shall notify the Board in writing of any change in his residence or practice address within thirty (30) days of the change or addition.

3. Dr. Washington shall obey all Federal and State laws. Likewise, Dr. Washington shall obey all rules or regulations involving the practice of medicine.

4. Dr. Washington shall meet with the Board or members of the Board for an informal interview at such times as requested by the Board.

5. This Consent Order shall take effect immediately upon its execution by both Dr. Washington and the Board and it shall continue in effect until specifically ordered otherwise by the Board.

6. If Dr. Washington fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, revoke, suspend, or limit his license or to deny any application he might then have pending or might make in the future for a license.

7. Dr. Washington hereby waives any requirement under any law or rule that this Consent Order be served on him.

8. This Consent Order shall take effect immediately upon its execution by both Dr. Washington and the Board and it shall continue in effect until specifically ordered otherwise by the Board.

9. Upon execution by Dr. Washington and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies, and clearinghouses, as required and permitted by law.

By Order of the North Carolina Medical Board this the 21st day of December, 2010.

NORTH CAROLINA MEDICAL BOARD

By: Janice C. Huff MD

Janice Huff, M.D.
President

Consented to this the 21 day of December, 2010.

Clarence Joseph Washington MD

Clarence Joseph Washington, M.D.

State of North Carolina

County of Wake

I, Chloe Stewart, a Notary Public for the above named State and County, do hereby certify that Clarence Joseph Washington, M.D. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

this the 21 day of December, 2010.

Chloe Stewart

Notary Public

CHLOE STEWART NOTARY PUBLIC WAKE COUNTY NC

(SEAL)

My Commission expires: Feb. 19, 2012

EXHIBIT
9 of part 3

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Clarence Joseph Washington, M.D.,	)	CONSENT ORDER
	)	
Respondent.	)	

This matter is before the North Carolina Medical Board ("Board") on information regarding Clarence Joseph Washington, M.D., ("Dr. Washington"). Dr. Washington admits and the Board finds and concludes that:

Whereas, the Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto; and

Whereas, Dr. Washington is a physician licensed by the Board on March 12, 1988, license number 32295; and

Whereas, at all times relevant herein, Dr. Washington practiced medicine in Cary, North Carolina; and

Whereas, in August 2010, Dr. Washington began work as the medical director of HRC Medical of North Carolina ("HRC"); and

Whereas, HRC is a foreign professional corporation whose main office is located in Tennessee and whose chief shareholder

is an out of state physician named Dan Hale, D.O., a licensed Tennessee physician; and

Whereas, HRC was founded by Dr. Hale to provide hormone replacement therapy to patients for a multitude of ailments, typically involving fatigue, malaise and sexual dysfunction; and

Whereas, HRC advertises aggressively in the markets where it maintains a practice making claims that it can improve the quality of life for those patients who obtain hormone replacement therapy from HRC; and

Whereas, in 2009 HRC located to North Carolina and opened practices in Cary and Charlotte, and then later in Greensboro; and

Whereas, Patients A through H presented to HRC for hormone replacement therapy; and

Whereas, when a patient presents to HRC for hormone replacement therapy, including Patients A - H, that patient is seen and evaluated by a non-physician staff person or healthcare worker, usually a registered nurse (RN), but not Dr. Washington; and

Whereas, pursuant to standing orders signed by Dr. Washington a patient will undergo a blood test to determine certain hormone and vitamin levels within the patient; and

Whereas, HRC administered hormone replacement therapy by implanting pellets, containing either testosterone or estradiol, into the buttocks of a patient; and

Whereas, these pellets would dissolve over time releasing either testosterone or estradiol into the patient's body, and as a consequence increase the levels of those hormones within the patient; and

Whereas, Patients A - H received substandard care from HRC staff; and

Whereas, a review of the medical records of Patients A - H demonstrates the following deficiencies in these patients' care:

- There is no documentation of a history and physical being performed before therapy;
- For female patients, there is no evidence that Dr. Washington ascertained or confirmed a negative mammogram result or performed a breast exam prior to ordering therapy;
- The "Therapy Agreement Form" utilized by HRC indicates that estrogen (estradiol) and testosterone pellets have been approved for human use by the United States Food and Drug Administration ("FDA"), when in fact, the FDA has not approved the use of pelletized dosage forms of estrogen in the United States, and the use of

testosterone pellets for hormone replacement in postmenopausal women is generally not indicated;

- Patients with normal B12 levels were given B12 injections;
- Procedure notes clearly indicated that nurses, not Dr. Washington, performed the surgical implant procedures, thus indicating that Dr. Washington inappropriately allowed nurses to perform procedures outside of their permissible scope of practice;
- The Therapy Agreement Form fails to mention serious side effects of hormone replacement therapy such as malignancy, pulmonary embolism, venous thrombosis, coronary artery disease, liver disease, as well as other serious contraindications and risks;
- Vital signs are not documented in procedure notes or other notations in the chart
- During the implant procedure, a high dose (24 milliliter) of 2% lidocaine was used raising the possibility of lidocaine toxicity in some patients; and
- A male patient was provided with Femara® (letrozole) to counteract the feminization side effects of testosterone therapy. The use of Femara® for this purpose is not FDA approved, although it is used commonly "off-label" for this purpose in the body building arena to counter

bloating and unwanted breast development brought about by anabolic steroid abuse.

Whereas, Dr. Hale is an out of state Tennessee physician who holds no license to practice medicine in North Carolina; and

Whereas, Dr. Hale has, on more than one occasion, come within the borders of North Carolina to train HRC staff on how to perform the pellet implant surgical procedure; and

Whereas, Dr. Hale's venture into North Carolina to practice medicine by performing the implant procedure on North Carolina patients represents Dr. Hale engaging in the unlicensed practice of medicine in North Carolina which in turn constitutes a felony pursuant to N.C. Gen. Stat. §90-18; and

Whereas, pursuant to Board rules, specifically, 21 NCAC 32C .0105, only licensed North Carolina physicians can make professional clinical decisions regarding how medicine is practiced in North Carolina on behalf of a professional corporation, domestic or foreign; and

Whereas, Dr. Hale directed, controlled and determined how medicine was practiced at the North Carolina HRCs, and not Dr. Washington; and

Whereas, HRC utilized the services of Dr. Washington solely as a figurehead in order for it to appear that HRC was practicing medicine through a North Carolina licensed physician, when in fact, the medicine that was being offered and

administered at HRC was by and through protocols, policies and guidelines developed by Dr. Hale; and

Whereas, Dr. Washington relied on representations that were made to him by HRC regarding the permissibility of HRC's operations in North Carolina; and

Whereas, Dr. Washington relied on the fact that HRC was a national multi-state company with facilities operating throughout the country in several states; and

Whereas, Dr. Washington relied on representations by HRC that the protocols, policies and guidelines developed by HRC were consistent with standards of acceptable medical practice; and

Whereas, HRC had been offering its services in North Carolina for over one year before Dr. Washington was recruited as Medical Director; and

Whereas, Dr. Washington admits that notwithstanding the above, he possessed an independent duty to ensure that the medicine practiced at HRC conformed with acceptable and prevailing standards of medical practice in North Carolina; and

Whereas, Dr. Washington's conduct as described above, constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) which is grounds under

that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Washington's license to practice medicine or to deny any application he may make in the future; and

Whereas, the admissions and findings contained herein are intended solely for the purpose of resolving the case at hand between the North Carolina Medical Board and Dr. Washington; and

Whereas, Dr. Washington would like to resolve this matter without the need for more formal proceedings; and

Whereas, the Board has determined that it is in the public interest to resolve this case as set forth below;

NOW, THEREFORE, with Dr. Washington's consent, it is ORDERED that:

1. Dr. Washington's license to practice medicine in North Carolina is hereby SUSPENDED for TWELVE (12) MONTHS from the date of this Consent Order, however, such suspension is immediately STAYED, except for a period of NINETY (90) DAYS, beginning on May 1, 2012 and ending on July 30, 2012, during which Dr. Washington shall serve an active suspension.

2. Dr. Washington shall obey all laws. Likewise, he shall obey all rules and regulations involving the practice of medicine.

3. Dr. Washington shall notify the Board in writing of any change in his residence or practice addresses within ten (10) days of the change.

4. Dr. Washington shall meet with the Board or members of the Board for an interview at such times as requested by the Board.

5. If Dr. Washington fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend or revoke his license to practice medicine and surgery and to deny any application he might make in the future or then have pending for a license.

6. This Consent Order shall take effect immediately upon its execution by both Dr. Washington and the Board and it shall continue in effect until specifically ordered otherwise by the Board.

7. Dr. Washington hereby waives any requirement under any law or rule that this Consent Order be served on him.

8. Upon execution by Dr. Washington and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to

persons, entities, agencies and clearinghouses as required and permitted by law including, but not limited to, the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank.

By Order of the North Carolina Medical Board this the 13th day of March, 2012.

NORTH CAROLINA MEDICAL BOARD

By: Ralph C Loomis MD

Ralph C. Loomis, M.D.
President

Consented to this the 13 day of March, 2012.

Clarence Joseph Washington, M.D.

State of North Carolina

County of Wake

I, Benjamin M. Spiker, a Notary Public for the above named County and State, do hereby certify that Clarence Joseph Washington, M.D. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

this the 13th day of March, 2012.

Notary Public Benjamin M. Spiker

(SEAL)

BENJAMIN M SPIKER NOTARY PUBLIC WAKE COUNTY, N.C.

My Commission Expires: 2/28/17

EXHIBIT

10 of Part 3

I, Alberta Cox began working at the office of Daniel McBrayer as an externship. I had attended school at Everest Institute and was training to be a Medical Assistant. I was trained to perform tasks such as vitals (blood pressure, pulse, etc.), draw blood, and escorting the patients to and from the operating arena. When I first began working there, I did not know that the office was an abortion center. They told me that it was an OB/GYN office. When I found out that the doctor performed abortions, I asked the placement person why she sent me there and she gave me a bogus reason for the placement – something like if she had told me ahead of time she knew I would have told her no.

While there I did sonograms, autoclave, charts, and escorted patients, explained the procedure to patients, explained to the drivers what to expect, etc.

I worked at the center from July, 2008 until August 2012.While there I had several observations of practices that were inappropriate. For example, one of the medical assistants took bags of the soiled linens home to wash them, every other week. He reused instruments that were meant for one use. During that time there was an outbreak of infections among the patients.

He had me to perform ultrasounds even though I was not trained to do so. The other medical assistants also performed them even though they were not trained. Chris was one of four male employees that worked in the center. Chris administered anesthesia whenever the doctor that normally did it was running late or did not show up. To my knowledge Chris was not trained or certified to do anesthesia. I also gave patients drugs that the doctor told me to give them even though I had no training to do so. One of the drugs we gave was propofol, the drug that killed Michael Jackson. This drug was thrown into the regular trash rather than a sharps container. The same thing happened with needles – they were thrown into the regular trash rather than the sharps container.

A lot of times patients had to return to have the abortion completed because it was not done right the first time. When the patients returned, he would not code the completion as an abortion, but would treat it as a routine exam and D & C. There was no RN there to help the patients and many of the patients had to come back for completion.

Patients were sedated upon arrival at the center. And then they had to walk down a number of stairs in order to get to the operating area. There was no elevator in the building for the sedated patients to use. Patients would sometimes trip and almost fall down the stairs because they were so out of it.

There were times that women said they did not want the abortion, but he would tell them it was too late because he had given them cytotec and that drug would impact the baby. So he would one of the other staff to come and talk to them and then do the abortion.