

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 1. GENERAL PROVISIONS

§ 43-1-1. Definitions

As used in this title, the term:

(1) "Division" means the professional licensing boards division created under Code Section 43-1-2.

(2) "Division director" means the individual appointed by the Secretary of State as director of the professional licensing boards division within the office of the Secretary of State.

(3) "Professional licensing board" means any board, bureau, commission, or other agency of the executive branch of state government which is created for the purpose of licensing or otherwise regulating or controlling any profession, business, or trade and which is placed by law under the jurisdiction of the director of the professional licensing boards division within the office of the Secretary of State.

HISTORY: Code 1981, § 43-1-1; Ga. L. 2000, p. 1706, § 1.

§ 43-1-2. Appointment and general powers of division director; members and meetings of professional licensing boards; examination standards; roster of licensees; funding

(a)(1) There is created within the office of the Secretary of State the professional licensing boards division as successor to the office of the joint-secretary of the state examining boards. The Secretary of State is authorized and directed to appoint a director of the professional licensing boards division.

(2) Any action of the joint-secretary taken with regard to any state examining board prior to July 1, 2000, shall thereafter be deemed to be action taken by the director of the professional licensing boards division and that division director shall thereafter act in the stead of such joint-secretary and succeed to the powers and duties of the joint-secretary with regard to those state examining boards. The rights, privileges, entitlements, or duties of parties to contracts, leases, agreements, or other transactions entered into by the joint-secretary prior to July 1, 2000, shall continue to exist and shall not be impaired or diminished by reason of the succession of the division director to the powers and duties of the joint-secretary.

(b) The salary of the division director shall be fixed by the Secretary of State, and he or she shall hold office at the pleasure of the Secretary of State.

(c) The Secretary of State, notwithstanding any other provisions of law to the contrary, shall employ personnel as deemed necessary to carry out this chapter and to provide for all services required by each of the professional licensing boards and shall establish

within the guidelines provided by the laws and rules and regulations of the state merit system the qualifications of such personnel.

(d) The division director, with the approval of the Secretary of State, 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 by each of the professional licensing boards.

(e) The Secretary of State, notwithstanding any other provisions of law to the contrary, shall have the power to employ and shall set the qualifications and salary for a deputy division director and shall appoint executive directors as required who shall act in the absence of the division director and who shall perform such other functions of the division director under this chapter as the division director may designate. The deputy division director and executive directors as appointed shall be in the unclassified service and shall be excluded from the classified service as defined in Article 1 of Chapter 20 of Title 45.

(f) Notwithstanding any other provisions of law to the contrary, each member of the various professional licensing boards may receive the expense allowance as provided by subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a personal car as that received by all other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier within the state. Any board member shall also be reimbursed for any conference or meeting registration fee incurred in the performance of his or her duties as a board member. For each day's service outside of the state as a board member, such member shall receive actual expenses as an expense allowance as well as the same mileage allowance for the use of a personal car as that received by other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier or by rental motor vehicle. Expense vouchers submitted by members of the various professional licensing boards are subject to approval of the president or chairperson of the respective board and the division director.

(g) All meetings and hearings of the respective professional licensing boards shall be held in the capitol, at the site of the office of the respective board, or at such other site as may be requested by the chairperson or president of a professional licensing board and approved by the division director.

(h) A majority of the appointed members of a professional licensing board shall constitute a quorum for the transaction of business by that board.

(i) A schedule of all meetings and hearings of the various professional licensing boards shall be maintained at the office of the division director and be available for public review.

(j) The division director shall establish administrative standards for the examination of applicants for licensure by the various professional licensing boards, notwithstanding any

other provisions of law to the contrary. These administrative standards shall include the setting of date, time, and location of examinations, subject to the approval of the respective professional licensing boards. Notwithstanding any other provisions of law to the contrary, examination criteria, examination grading procedures, examination fees, examination passing score requirements, and other matters pertaining to the examination of applicants for licensure may be adopted by rules of the respective professional licensing boards as necessary to implement such examination standards. Examination standards, including examination criteria, grading procedures, and passing score requirements, developed in agreement or in conjunction with a national association of state boards or other related national association for the administration of a nationally recognized uniform examination may be adopted in lieu of state standards by the respective professional licensing boards.

(k) The division director shall prepare and maintain a roster containing the names and addresses of all current licensees for each of the various professional licensing boards. A copy of this roster shall be available to any person upon request at a fee prescribed by the division director sufficient to cover the cost of printing and distribution. The following shall be treated as confidential and need not be disclosed without the approval of the professional licensing board to which application is made:

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

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

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

(4) The deliberations of the board with respect to an application, an examination, a complaint, an investigation, or a disciplinary proceeding, except as may be contained in official board minutes.

(l) Funding for the office of the division director and the various professional licensing boards served by such office shall be contained in a common budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act."

HISTORY: Ga. L. 1931, p. 7, §§ 89, 89A; Code 1933, §§ 84-101, 84-102; Ga. L. 1943, p. 370, § 1; Ga. L. 1955, p. 323, § 1; Ga. L. 1975, p. 412, § 1; Ga. L. 1977, p. 758, § 1; Ga. L. 1981, p. 1898, § 1; Ga. L. 1990, p. 1965, § 1; Ga. L. 2000, p. 1706, § 2.

§ 43-1-3. Duties of division director; serving notice or process on boards through division director

(a) It shall be the duty of the division director:

- (1) To bring together and keep all records relating to the professional licensing boards;
- (2) To receive all applications for licenses;
- (3) With the consent of the board concerned, to schedule the time and place for examinations;
- (4) To schedule the time and place for all hearings;
- (5) To issue certificates upon authority of the professional licensing board concerned;
and

(6) Except as otherwise provided by law, to collect all fees required by law in connection with the licensing of trades and professions under such boards and to remit the same to the director of the Office of Treasury and Fiscal Services for deposit into the general fund of the state. Notwithstanding any other provision of law, the division director is authorized to retain all funds received as collection fees for use in defraying the cost of collection of fees required under this chapter; provided, however, that nothing in this Code section shall be construed so as to allow the division director to retain any funds required by the Constitution of Georgia to be paid into the state treasury; and provided, further, that the division director shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act," except Code Section 45-12-92, prior to expending any such funds.

(b) All orders and processes of the professional licensing boards shall be signed and attested by the division director, or his or her designee, in the name of the particular professional licensing board, with the seal of such board attached. Any notice or legal process necessary to be served upon any of the professional licensing boards may be served upon the division director.

HISTORY: Ga. L. 1931, p. 7, § 89; Code 1933, § 84-101; Ga. L. 1937, p. 208, § 2; Ga. L. 1967, p. 294, § 1; Ga. L. 1984, p. 22, § 43; Ga. L. 1993, p. 1402, § 18; Ga. L. 1997, p. 677, § 1; Ga. L. 2000, p. 1706, § 3; Ga. L. 2008, p. 1112, § 1/ HB 1055.

§ 43-1-4. Expiration, renewal, and penalty dates of licenses and certificates; duration of validity; renewals

(a) The division director shall determine the expiration, renewal, and penalty dates for each license and certificate issued by the professional licensing boards through the office of the division director which is subject to renewal. Before becoming effective, these expiration, renewal, and penalty dates must be approved by the respective professional licensing boards.

(b) Each license and certificate issued by the professional licensing boards through the office of the division director which are subject to renewal shall be valid for up to two years and shall be renewable biennially on the renewal date established by the division director, as approved by the respective professional licensing boards.

(c) The division director is authorized to adopt the necessary rules and regulations to implement the biennial renewal of licenses and certificates in such manner as to ensure that the number of renewals is reasonably evenly distributed throughout each two-year period.

HISTORY: Code 1933, § 84-104, enacted by Ga. L. 1972, p. 505, § 1; Ga. L. 1973, p. 1481, § 1; Ga. L. 1981, p. 1898, § 2; Ga. L. 2000, p. 1706, § 19.

§ 43-1-5. Investigators for professional licensing boards and office of division director

(a) Persons hired for the purpose of conducting investigations for the professional licensing boards shall be designated as investigators and any person so designated shall have all the powers of a peace officer of this state when engaged in the enforcement of this title or of any of the laws creating or related to the professional licensing boards. Such investigators shall be authorized, upon the written approval of the division director, notwithstanding Code Sections 16-11-126, 16-11-128, and 16-11-129, to carry firearms of a caliber not greater than the standard police .38 handgun.

(b) Any person designated as an investigator within the meaning of this Code section shall be considered to be a peace officer.

HISTORY: Code 1933, § 84-105, enacted by Ga. L. 1975, p. 412, § 2; Ga. L. 1984, p. 704, § 1; Ga. L. 1996, p. 381, § 2; Ga. L. 2000, p. 1706, § 4.

§ 43-1-6. Venue of actions involving professional licensing boards

The venue of any action involving the members of any professional licensing board shall be governed by the laws of this state pertaining to venue. The division director shall not be considered a member of any such board in determining the venue of any such action; and no court shall have jurisdiction of any such action solely by virtue of the division director residing or maintaining a residence within its jurisdiction.

HISTORY: Code 1933, § 84-103, enacted by Ga. L. 1962, p. 539, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-7. Determination of fees by professional licensing boards; refunds

Each professional licensing board is authorized to charge an examination fee, license fee, license renewal fee, or similar fee and may establish the amount of the fee to be charged. Each fee so established shall be reasonable and shall be determined in such a manner that the total amount of fees charged by the professional licensing board shall approximate the total of the direct and indirect costs to the state of the operations of the board. Fees may be refunded for good cause, as determined by the division director.

HISTORY: Ga. L. 1978, p. 1517, § 1; Ga. L. 1981, p. 1898, § 4; Ga. L. 1984, p. 22, § 43; Ga. L. 2000, p. 1706, § 5.

§ 43-1-8. Disposition of fees

Repealed by Ga. L. 1984, p. 22, § 43, effective February 3, 1984.

[Repealed]

§ 43-1-9. Point credit for veterans taking examinations given by professional licensing boards

Any applicant taking an examination given by any professional licensing board except the State Board of Accountancy shall receive points in the following manner:

(1) Any applicant who served on active duty in the armed forces of the United States or on active duty in a reserve component of the armed forces of the United States, including the National Guard, for a period of one year or more, of which at least 90 days were served during wartime or during any conflict when military personnel were committed by the President of the United States, shall be entitled to a credit of five points. Such points shall be added by the person grading the examination to the grade made by the applicant in answering the questions propounded in any such examination;

(2) Any applicant who is a disabled veteran and who served on active duty in the armed forces of the United States or on active duty in a reserve component of the armed forces of the United States, including the National Guard, during wartime or during any conflict when military personnel were committed by the President of the United States shall be entitled to a credit of five points if the disability was for an injury or illness incurred in the line of duty and such disability is officially rated at less than 10 percent at the time of taking the examination. Such points shall be added by the person grading the examination to the grade made by the applicant in answering the questions propounded in any such examination; and

(3) Any applicant who is a disabled veteran who served on active duty in the armed forces of the United States or on active duty in a reserve component of the armed forces of the United States, including the National Guard, during wartime or during any conflict when military personnel were committed by the President of the United States shall be entitled to a credit of ten points if the disability was for an injury or illness incurred in the line of duty and such disability is officially rated at 10 percent or above at the time of taking the examination. Such points shall be added by the person grading the examination to the grade made by the applicant in answering questions propounded in any such examination.

HISTORY: Ga. L. 1960, p. 1172, § 1; Ga. L. 1964, p. 761, § 1; Ga. L. 1968, p. 1213, § 1; Ga. L. 1982, p. 3, § 43; Ga. L. 2000, p. 1706, § 19; Ga. L. 2007, p. 483, § 1/SB 114.

43-1-10. Credit to veteran's grades when examination given in parts or by subject

If an examination given by a professional licensing board is given in parts or by

subjects and the applicant is required to make a minimum grade on each of the parts or subjects, the points to which the applicant is entitled shall be added to the grade made on each part or subject before the average of his grade on all of the parts or subjects is determined.

HISTORY: Ga. L. 1960, p. 1172, § 2; Ga. L. 2000, p. 1706, § 19.

§ 43-1-11. Veteran's examination to be graded prior to determination of eligibility for credit

A person grading an examination given by a professional licensing board shall first grade the examination without reference to veteran credit, determining thereafter from the proof submitted whether an applicant is a veteran and is entitled to such credit; if so, the credit shall be added; and if after such addition the applicant equals or exceeds the grade required to pass the examination, the applicant shall be entitled to be certified as having passed the examination.

HISTORY: Ga. L. 1960, p. 1172, § 3; Ga. L. 2000, p. 1706, § 19.

§ 43-1-12. Duty of division director to inform applicants of availability of veteran credit; rules and regulations for implementing veteran credit program

It shall be the duty of the division director to inform applicants taking the examination of the provisions of Code Sections 43-1-9 through 43-1-11 and Code Section 43-1-13. The division director shall make such rules and regulations as are necessary in order to carry out the terms of Code Sections 43-1-9 through 43-1-11 and Code Section 43-1-13.

HISTORY: Ga. L. 1960, p. 1172, § 4; Ga. L. 1981, p. 1898, § 3; Ga. L. 1999, p. 81, § 43; Ga. L. 2000, p. 1706, § 19.

§ 43-1-13. Inapplicability of veteran credit provisions to applicants who were not honorably discharged

The provisions of Code Sections 43-1-9 through 43-1-12 relating to points to be allowed to veterans shall apply to any applicant, male or female, who comes within the classes specified in those Code sections except that such provisions shall not apply in any instance to an applicant who has not been honorably discharged.

HISTORY: Ga. L. 1960, p. 1172, § 5.

§ 43-1-14. Authority of Governor to appoint qualified persons to professional licensing boards

The Governor is authorized to appoint any person who is otherwise qualified as provided by law to serve as a member of any professional licensing board for a regular term or for an unexpired term, notwithstanding the fact that the law creating such board requires the Governor to appoint members from a list of nominees submitted by a private

organization or association.

HISTORY: Ga. L. 1980, p. 1162, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-15. Itinerant entertainers

(a) All carnivals, road shows, and tent shows and all other itinerant entertainment not presented within any regularly licensed theater, auditorium, or other building permitted to be used for the offering of entertainment for value shall, before opening to the public or offering any amusement, entertainment, or other service to the public for value within this state:

(1) Designate a resident of this state as agent and lawful attorney in fact upon whom may be served all summons or other lawful processes in any action or proceeding against such carnival, circus, road show, tent show, or other itinerant show or itinerant entertainment for any action arising as a result of its appearance in this state. The name and address of such resident agent shall be filed with the judge of the probate court of each county in which such carnival, circus, or show is to be held. If no resident agent has been designated, the Secretary of State shall become such agent with all the foregoing authority, and service of such process shall be made by serving a copy of the petition with process attached thereto on the Secretary of State or an employee in his office designated by the Secretary of State as an agent to receive service in his name, or his successor in office, along with a copy of the affidavit to be submitted to the court pursuant to this Code section, and such service shall be sufficient service upon any such carnival, circus, or show, provided that notice of such service and a copy of the petition and process are forthwith sent by registered or certified mail or statutory overnight delivery by the plaintiff or his agent to the defendant, if its address is known, and that the defendant's return receipt and the plaintiff's affidavit of compliance herewith are appended to the summons or other process and are filed with said summons, petition, and other papers in the case in the court in which the action is pending. The Secretary of State shall charge and collect a fee as set out in Code Section 45-13-26 for service of process on him under this Code section;

(2) Secure an insurance policy or a bond, affording coverage to such carnival, circus, or show for the extent of its stay within this state, which insurance policy or bond shall be subject to any personal injury or death or property damages to the following limits:

(A) An indemnity bond subject to a limit of \$100,000.00; or

(B) An insurance policy or public liability bond subject to a limit of \$50,000.00 for personal injury or death or property damage sustained by any one person and subject to a limit of \$100,000.00 for personal injuries or death or property damages sustained by two or more persons as a result of any one accident or event; and

(3) File a copy of such insurance policy or bond with the judge of the probate court in the county where the carnival, circus, or show is to be held or with both the judge of the

probate court and the Secretary of State. The Secretary of State is authorized and directed to issue, upon the request of any carnival, circus, or show filing a copy of such insurance policy or bond in his office, a certificate of filing, stating the coverage afforded by the policy or bond and the effective dates, which certificate may be filed with the judge of the probate court of the county where the carnival, circus, or show is to be held in lieu of a copy of the policy or bond. The Secretary of State is authorized to prescribe and require such terms and conditions in such policies as he may deem necessary or advisable to protect the interests of the public in carrying out the purposes of this Code section, and he is further authorized to prescribe and require use of a standard form of bond and policy for use under this Code section.

(b) Any owner, manager, employee, or other person, excluding landowners on whose land a carnival, circus, road show, or itinerant show is operated, who shall cause or grant permission, either actual or constructive, to any carnival, circus, road show, tent show, or other itinerant show or itinerant entertainment or any part thereof to operate in violation of this Code section shall be guilty of a misdemeanor.

HISTORY: Ga. L. 1957, p. 406, §§ 1, 2; Ga. L. 1959, p. 106, § 1; Ga. L. 1959, p. 160, § 1; Ga. L. 1965, p. 235, § 1; Ga. L. 1983, p. 1474, § 3; Ga. L. 1984, p. 22, § 43; Ga. L. 1989, p. 364, § 3; Ga. L. 1994, p. 97, § 43; Ga. L. 2000, p. 1589, § 3.

§ 43-1-16. Senate confirmation of appointments to professional licensing boards

Each person appointed by the Governor as a member of a professional licensing board shall be confirmed by the Senate; and any such appointment made when the Senate is not in session shall be effective until the appointment is acted upon by the Senate.

HISTORY: Code 1981, § 43-1-16, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-17. Removal from office of member of a professional licensing board

The Governor, after notice and opportunity for hearing, may remove from office any member of a professional licensing board for any of the following:

- (1) Inability or neglect to perform the duties required of members;
- (2) Incompetence; or
- (3) Dishonest conduct.

HISTORY: Code 1981, § 43-1-17, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 2000, p. 1706, § 19

§ 43-1-18. Eligibility of consumer members of professional licensing boards to vote on all matters

Without affecting the eligibility to vote of any other member of a professional licensing board, each consumer member of a professional licensing board shall be eligible to vote

on all matters brought before that board.

HISTORY: Code 1981, § 43-1-18, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-19. Grounds for refusing to grant or revoking licenses; application of "Georgia Administrative Procedure Act"; subpoena powers; disciplinary actions; judicial review; reinstatement; investigations; complaints; notice; failure to appear; voluntary surrender; application of section; other law

(a) A professional licensing board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:

(1) Failed to demonstrate the qualifications or standards for a license contained in this Code section, or under the laws, rules, or regulations under which licensure is sought or held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the board that he or she meets all the requirements for the issuance of a license, and, if the board is not satisfied as to the applicant's qualifications, it may deny a license without a prior hearing; provided, however, that the applicant shall be allowed to appear before the board if he or she so desires;

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

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (4) of this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term "conviction" shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(B) An adjudication of guilt or sentence was otherwise withheld or not entered on the charge, except with respect to a plea of nolo contendere.

The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating

to probation of first offenders, or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(5) Had his or her license to practice a business or profession licensed under this title revoked, suspended, or annulled by any lawful licensing authority other than the board; or had other disciplinary action taken against him or her by any such lawful licensing authority other than the board; or was denied a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings; or was refused the renewal of a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title;

(7) Knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person or any licensee whose license has been suspended or revoked by a professional licensing board to practice a business or profession licensed under this title or to practice outside the scope of any disciplinary limitation placed upon the licensee by the board;

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the professional licensing board regulating the business or profession licensed under this title, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title, when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement;

(9) Been adjudged mentally incompetent by a court of competent jurisdiction within or outside this state; any such adjudication shall automatically suspend the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect;

(10) Displayed an inability to practice a business or profession licensed under this title with reasonable skill and safety to the public or has become unable to practice the licensed business or profession with reasonable skill and safety to the public by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material;

(11) Failed to comply with an order for child support as defined by Code Section 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of release to the board from the child support agency within the Department of Human Resources indicating that the applicant or licensee has come into compliance with an order for child support so that a license may issue or be granted if all other conditions for licensure are met; or

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

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

(c) For purposes of this Code section, a professional licensing board may obtain, through subpoena by the division director, upon reasonable grounds, any and all records relating to the mental or physical condition of a licensee or applicant, and such records shall be admissible in any hearing before the board.

(d) When a professional licensing board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section or the laws, rules, or regulations relating to the business or profession licensed by the board, the board may take any one or more of the following actions:

(1) Refuse to grant or renew a license to an applicant;

(2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

(3) 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;

(4) Limit or restrict any license as the board deems necessary for the protection of the public;

(5) Revoke any license;

(6) Condition the penalty upon, or withhold formal disposition pending, the applicant's or licensee's submission to such care, counseling, or treatment as the board may direct;

(7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation

relating to the licensed business or profession; or

(8) Impose on a licensee or applicant fees or charges in an amount necessary to reimburse the professional licensing board for the administrative and legal costs incurred by the board in conducting an investigative or disciplinary proceeding.

(e) In addition to and in conjunction with the actions described in subsection (d) of this Code section, a professional licensing board may make a finding adverse to the licensee or applicant but withhold imposition of judgment and penalty; or it may impose the judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the board may impose.

(f) Initial judicial review of a final decision of a professional licensing board shall be had solely in the superior court of the county of domicile of the board. The court may assess reasonable and necessary attorney's fees and expenses of litigation in any such review if, upon the motion of any party or the court itself, it finds that an attorney or any party aggrieved by an action of the board appealed such action of the board or any part thereof when such appeal lacked substantial justification or when such appeal or any part thereof was interposed for delay or harassment or if it finds that an attorney or aggrieved party unnecessarily expanded the proceeding by other improper conduct. As used in this subsection, "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(g) In its discretion, a professional licensing board may reinstate a license which has been revoked or issue a license which has been denied or refused, following such procedures as the board may prescribe by rule; and, as a condition thereof, it may impose any disciplinary or corrective method provided in this Code section or the laws relating to the licensed business or profession.

(h)(1) The division director is vested with the power and authority to make, or cause to be made through employees or agents of the division, such investigations as he or she or a respective board may deem necessary or proper for the enforcement of the provisions of this Code section and the laws relating to businesses and professions licensed by that board. Any person properly conducting an investigation on behalf of a professional licensing board shall have access to and may examine any writing, document, or other material relating to the fitness of any licensee or applicant. The division director or his or her appointed representative may issue subpoenas to compel access to any writing, document, or other material upon a determination that reasonable grounds exist for the belief that a violation of this Code section or any other law relating to the practice of the licensed business or profession subject to regulation or licensing by such board may have taken place.

(2) The results of all investigations initiated by the board shall be reported solely to the board, and the records of such investigations shall be kept for the board by the division director, with the board retaining the right to have access at any time to such records. No part of any such records shall be released, except to the board, for any purpose other than

a hearing before the board, nor shall such records be subject to subpoena; provided, however, that the board shall be authorized to release such records to another enforcement agency or lawful licensing authority.

(3) If a licensee is the subject of a board inquiry, all records relating to any person who receives services rendered by that licensee in his or her capacity as licensee shall be admissible at any hearing held to determine whether a violation of this chapter has taken place, regardless of any statutory privilege; provided, however, that any documentary evidence relating to a person who received those services shall be reviewed in camera and shall not be disclosed to the public.

(4) The board shall have the authority to exclude all persons during its deliberations on disciplinary proceedings and to discuss any disciplinary matter in private with a licensee or applicant and the legal counsel of that licensee or applicant.

(5) When a member of the public files a complaint with a professional licensing board or the division director against a licensee, within 30 days after the conclusion of the investigation of such complaint, the professional licensing board or the division director shall notify the complainant of the disposition of such complaint. Such notification shall include whether any action was taken by the board with regard to such complaint and the nature of such action. In addition, the division director and the board shall upon request by the complainant advise the complainant as to the status of the complaint during the period of time that such complaint is pending.

(i) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting or investigating the acts or omissions of a licensee or applicant which violate the provisions of subsection (a) of this Code section or any other provision of law relating to a licensee's or applicant's fitness to practice a business or profession licensed under this title or for initiating or conducting proceedings against such licensee or applicant, if such report is made or action is taken in good faith, without fraud or malice. Any person who testifies or who makes a recommendation to a professional licensing board in the nature of peer review, in good faith, without fraud or malice, before the board in any proceeding involving the provisions of subsection (a) of this Code section or any other law relating to a licensee's or applicant's fitness to practice the business or profession licensed by the board shall be immune from civil and criminal liability for so testifying.

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

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

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

(m) This Code section shall apply equally to all licensees or applicants whether individuals, partners, or members of any other incorporated or unincorporated associations, corporations, limited liability companies, or other associations of any kind whatsoever.

(n) Regulation by a professional licensing board of a business or profession licensed under this title shall not exempt that business or profession from regulation pursuant to any other applicable law, including but not limited to Part 2 of Article 15 of Chapter 1 of Title 10, the "Fair Business Practices Act of 1975."

(o) Subsections (a), (d), and (e) of this Code section shall be supplemental to and shall not operate to prohibit any professional licensing board from acting pursuant to those provisions of law which may now or hereafter authorize other disciplinary grounds and actions for that particular board. In cases where those other provisions of law so authorize other disciplinary grounds and actions but subsection (a), (d), or (e) of this Code section limit such grounds or actions, those other provisions shall apply.

HISTORY: Code 1981, § 43-1-19, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 1990, p. 1965, § 2; Ga. L. 1993, p. 123, § 4; Ga. L. 1994, p. 97, § 43; Ga. L. 1996, p. 453, § 13; Ga. L. 1996, p. 776, §§ 1, 2; Ga. L. 1997, p. 677, § 2; Ga. L. 1998, p. 1094, § 10; Ga. L. 2000, p. 1589, § 3; Ga. L. 2000, p. 1706, § 6; Ga. L. 2003, p. 422, § 1.

§ 43-1-19.1. Waiver of deductibles or copayments in health insurance plans; deceptive or misleading advertising

(a) For the purposes of applicable provisions of Code Section 43-1-19, it shall be considered a deceptive or misleading practice for any person duly licensed and authorized to provide any type of health care services to advertise, as an inducement to attract patients, the waiver of a deductible or copayment required to be made to such person under the patient's health insurance policy or plan.

(b) This Code section shall not apply to nonprofit community health centers which primarily serve indigent patients.

(c) Notwithstanding the provisions of any other law of this Code to the contrary, it shall not be considered a misleading, fraudulent, or deceptive act for a provider to waive occasionally such a deductible or copayment required to be made under the patient's health insurance contract, policy, or plan if the waiver is authorized by the insurer or if the waiver is based on an evaluation of the individual patient and is not a regular business practice of the person providing the health care services.

HISTORY: Code 1981, § 43-1-19.1, enacted by Ga. L. 1992, p. 2488, § 1.

§ 43-1-19.2. License applications to include questions on prior revocation or denial of license

Each application for a license to practice a profession or business to be issued by a professional licensing board or any agency of the state shall include a question as to whether the applicant for such license:

(1) Has had revoked or suspended or otherwise sanctioned any license issued to the applicant by any board or agency in Georgia or any other state; or

(2) Was denied issuance of or, pursuant to disciplinary proceedings, refused renewal of a license by any board or agency in Georgia or any other state.

The question shall be answered under oath and the answer shall include the name of the board or agency which revoked, suspended, denied, refused renewal of, or otherwise sanctioned the license.

HISTORY: Code 1981, § 43-1-19.2, enacted by Ga. L. 1993, p. 427, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-20. Actions to enjoin unlicensed practice

A professional licensing board, the division director, or the appropriate prosecuting attorney may bring an action to enjoin the unlicensed practice by any person of a profession or business required to be licensed by a professional licensing board. The action to restrain and enjoin such unlicensed practice shall be brought in the superior court of the county where the unlicensed person resides. It shall not be necessary to allege or prove that there is no adequate remedy at law to obtain an injunction under this Code section.

HISTORY: Code 1981, § 43-1-20, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-20.1. Cease and desist orders against persons practicing without a license; fine for violating order

(a) Notwithstanding any other provisions of the law to the contrary, after notice and hearing, a professional licensing board may issue a cease and desist order prohibiting any person from violating the provisions of this title by engaging in the practice of a business or profession without a license.

(b) The violation of any cease and desist order of a professional licensing board issued under subsection (a) of this Code section shall subject the person violating the order to further proceedings before the board, and the board shall be authorized to impose a fine not to exceed \$500.00 for each transaction constituting a violation thereof. Each day that a person practices in violation of this title shall constitute a separate violation.

(c) Initial judicial review of the decision of the board entered pursuant to this Code section shall be available solely in the superior court of the county of domicile of the board.

(d) Nothing in this Code section shall be construed to prohibit a professional licensing board from seeking remedies otherwise available by statute without first seeking a cease and desist order in accordance with the provisions of this Code section.

HISTORY: Code 1981, § 43-1-20.1, enacted by Ga. L. 1986, p. 1155, § 1; Ga. L. 1990, p. 1965, § 3; Ga. L. 2000, p. 1706, § 19.

§ 43-1-21. Release of information regarding investigations

The division director is authorized to provide to any lawful licensing authority of this or any other state, upon inquiry by such authority, information regarding a past or pending investigation of or disciplinary sanction against any applicant for licensure by that board or licensee of that board notwithstanding the provisions of subsection (h) of Code Section 43-1-19 or any other law to the contrary regarding the confidentiality of that information. Nothing in this Code section or chapter shall be construed to prohibit or limit the authority of that director to disclose to any person or entity information concerning the existence of any investigation for unlicensed practice being conducted against any person who is neither licensed nor an applicant for licensure by a professional licensing board.

HISTORY: Code 1981, § 43-1-21, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 1997, p. 677, § 3; Ga. L. 2000, p. 1706, § 7.

§ 43-1-22. Inactive status licenses

The division director may provide for inactive status licenses for the various professional licensing boards.

HISTORY: Code 1981, § 43-1-22, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 2000, p. 1706, § 8.

§ 43-1-23. Exemption of licensees of professional licensing boards from filing with clerk of superior court

No licensee of a professional licensing board shall be required to file or record his license with the clerk of the superior court, and no clerk shall be required to report the filing or recordation of any such license.

HISTORY: Code 1981, § 43-1-23, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-24. Licensed professionals subject to regulation by professional licensing board

Any person licensed by a professional licensing board and who practices a "profession," as defined in Chapter 7 of Title 14, the "Georgia Professional Corporation Act," or who renders "professional services," as defined in Chapter 10 of Title 14, "The Georgia Professional Association Act," whether such person is practicing or rendering services as a proprietorship, partnership, professional corporation, professional association, other corporation, limited liability company, or any other business entity, shall remain subject to regulation by that professional licensing board, and such practice or rendering of services in that business entity shall not change the law or existing standards applicable to the relationship between that person rendering a professional service and the person receiving such service, including but not limited to the rules of privileged communication and the contract, tort, and other legal liabilities and professional relationships between such persons.

HISTORY: Code 1981, § 43-1-24, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 1993, p. 123, § 5; Ga. L. 1999, p. 81, § 43; Ga. L. 2000, p. 1706, § 19.

§ 43-1-25. Authority of professional licensing boards to promulgate rules and regulations

Except as provided in subsection (o) of Code Section 43-1-19, Code Sections 43-1-16 through 43-1-24 shall apply to all professional licensing boards and licenses thereunder, except the Georgia Real Estate Commission and its licensees, notwithstanding any other law to the contrary, and each such professional licensing board may promulgate rules and regulations to implement the authority provided by the applicability of said provisions to said boards.

HISTORY: Code 1981, § 43-1-25, enacted by Ga. L. 1984, p. 552, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-1-26. Exemption of credentialed persons from licensure, registration, or certification in the state in connection with the Olympic and Paralympic Games; conditions and limitations; consent for certain medical services; automatic repeal

Repealed by Ga. L. 1994, p. 480, § 1, effective December 31, 1996.

[Repealed]

§ 43-1-27. Licensee required to notify licensing authority of felony conviction

Any licensed individual who is convicted under the laws of this state, the United States, or any other state, territory, or country of a felony as defined in paragraph (3) of subsection (a) of Code Section 43-1-19 shall be required to notify the appropriate licensing authority of the conviction within ten days of the conviction. The failure of a licensed individual to notify the appropriate licensing authority of a conviction shall be considered grounds for revocation of his or her license, permit, registration, certification, or other authorization to conduct a licensed profession.

HISTORY: Code 1981, § 43-1-27, enacted by Ga. L. 1996, p. 776, § 3.

§ 43-1-28. Volunteers in health care specialties

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

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

(1) "Health care board" means that professional licensing board which licenses a health care practitioner under this title.

(2) "Health care practitioner" means a chiropractor, registered professional nurse, podiatrist, optometrist, professional counselor, social worker, marriage and family therapist, occupational therapist, physical therapist, physician assistant, licensed practical nurse, certified nurse midwife, pharmacist, speech-language pathologist, audiologist, psychologist, or dietitian.

(3) "Health care specialty" means the practice of chiropractic, nursing, podiatry, optometry, professional counseling, social work, marriage and family therapy, occupational therapy, physical therapy, physician assistance, midwifery, pharmacy, speech-language pathology, audiology, psychology, or dietetics.

(4) "Unrestricted" means that no restrictions have been placed on a health care practitioner's license by a health care board, no sanctions or disciplinary actions have been imposed by a health care board on a health care practitioner, and a health care practitioner is not under probation or suspension by a health care board.

(c) Notwithstanding any other provision of law, each health care board shall issue a special license to qualifying health care practitioners whose health care specialty is licensed by that board under the terms and conditions set forth in this Code section. The

special license shall only be issued to a person who:

(1) Is currently licensed to practice the applicable health care specialty in any health care specialty licensing jurisdiction in the United States and whose license is unrestricted and in good standing; or

(2) Is retired from the practice of the health care specialty or, in the case of a physician assistant, has an inactive license and is not currently engaged in such practice either full time or part time and has, prior to retirement or attaining inactive status, maintained full licensure unrestricted in good standing in the applicable health care specialty licensing jurisdiction in the United States.

(d) The special licensee shall be permitted to practice the health care specialty only in the noncompensated employ of public agencies or institutions, not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide health care specialty services only to indigent patients in areas which are underserved by that specialty or critical need population areas of the state, as determined by the board which licenses that specialty, or pursuant to Article 8 of Chapter 8 of Title 31.

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

(f) Examinations by the health care board, any application fees, and all licensure and renewal fees may be waived for the holder of the special license under this Code section.

(g) If, at the time application is made for the special license, the health care practitioner is not in compliance with the continuing education requirements established by the health care board for the applicable health care specialty, the health care practitioner shall be issued a nonrenewable temporary license to practice for six months provided the applicant is otherwise qualified for such license.

(h) (1) Except as provided for in paragraph (2) of this subsection, the liability of persons practicing a health care specialty under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by Code Section 51-1-29.1, except that a podiatrist engaged in such practice and an employer thereof shall have the same immunity from liability as provided other health care practitioners under Code Section 51-1-29.1.

(2) The liability of persons practicing a health care specialty pursuant to Article 8 of Chapter 8 of Title 31 under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by

the provisions of such article.

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

HISTORY: Code 1981, § 43-1-28, enacted by Ga. L. 2000, p. 1406, § 1; Ga. L. 2002, p. 639, § 1; Ga. L. 2005, p. 1493, § 2/ HB 166; Ga. L. 2008, p. 324, § 43/SB 455; Ga. L. 2008, p. 354, § 3/ HB 1222; Ga. L. 2009, p. 859, § 3/ HB 509.

§ 43-1-29. Suspension of license for nonpayment of student loans; procedure; reinstatement

A professional licensing board shall suspend the license of a person licensed by that board who has been certified by a federal agency and reported to the board for nonpayment or default or breach of a repayment or service obligation under any federal educational loan, loan repayment, or service conditional scholarship program. Prior to the suspension, the licensee shall be entitled to notice of the board's intended action and opportunity to appear before the board according to procedures set forth by the division director in rules and regulations. A suspension of a license under this Code section is not a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." A license suspended under this Code section shall not be reinstated or reissued until the person provides the licensing board a written release issued by the reporting agency stating that the person is making payments on the loan or satisfying the service requirements in accordance with an agreement approved by the reporting agency. If the person has continued to meet all other requirements for licensure during the period of suspension, reinstatement of the license shall be automatic upon receipt of the notice and payment of any reinstatement fee which the board may impose.

HISTORY: Code 1981, § 43-1-29, enacted by Ga. L. 2001, p. 1066, § 1.

§ 43-1-30. (Repealed effective December 31, 2007) Collection of work force and demographic data; procedure for collection and utilization

(a) Notwithstanding any other law to the contrary, health care related boards engaged in the licensing, certifying, or registering of professionals under Chapter 7A, Chapter 9, Chapter 10A, Chapter 11, Chapter 11A, Chapter 26, Chapter 28, Chapter 30, Chapter 33, Chapter 35, Chapter 39, and Chapter 44 of this title and under Chapter 4 of Title 26 shall upon issuance of license, certification, or registration and thereafter upon renewal of same, or at other times as may be determined by the respective boards, distribute survey questions for the purpose of gathering data related to work force supply and demographics. The data, which shall be limited to information on workplace and practice settings, current practice by specialty, geographical location, and future practice plans, shall be collected by the agency responsible for administration of the professional licensing functions. The failure to complete, return, or complete and return the survey

shall not be grounds to withhold licensure, nonrenew, or revoke a license or to otherwise discipline a person licensed by that board.

(b) For purposes of this Code section, "the agency responsible for administration of the professional licensing functions" shall be the Office of Secretary of State for persons licensed, certified, or registered under Chapter 7A, Chapter 9, Chapter 10A, Chapter 11, Chapter 11A, Chapter 26, Chapter 28, Chapter 30, Chapter 33, Chapter 35, Chapter 39, and Chapter 44 of this title and under Chapter 4 of Title 26.

(c) The work force and demographic data collected pursuant to subsection (a) of this Code section, along with identifying information required for analysis of the data collected, including social security number, shall be provided by the agency responsible for administration of the professional licensing functions to the University of Georgia Office of Information Technology Outreach Services or other recognized state agency, public academic institution, or other academic institution currently providing such service by written agreement which shall ensure the confidentiality of said data, as well as to authorize the compilation and release of aggregate data for use by and on behalf of the Health Care Work Force Policy Advisory Committee and the state. The information and data shall be used solely for the purpose of analyzing the supply and demand of health care personnel and projecting trends and needs for the state's health care work force.

(d) A renewal form submitted by a licensee, individual identifying information, and the responses to survey questions provided by any individual licensee shall be considered confidential, may not be presented or utilized in any public forum or setting, and shall be afforded the protections offered in Article 4 of Chapter 18 of Title 50, relating to inspection of public records. Nothing in this subsection shall limit the ability of the appropriate board to disclose such information pursuant to subsection (k) of Code Section 43-1-2.

(e) With regard to the release and use of aggregate data, the Department of Community Health on behalf of the Health Care Work Force Policy Advisory Committee, the University of Georgia Office of Information Technology Outreach Services or other recognized state agency, or public academic institution or other academic institution currently providing such service shall enter into a written agreement or agreements with the appropriate agency responsible for administration of the professional licensing functions to govern the collection, transfer, and safeguarding of such data. The written agreement or agreements shall be structured to protect against any unauthorized release of otherwise confidential information.

(f) The Department of Community Health on behalf of and with the Health Care Work Force Policy Advisory Committee may use the data collected and analyzed under this Code section to publish reports using aggregate data regarding:

- (1) Educational and employment trends for health professions;
- (2) Demographic characteristics of the work force;

- (3) Supply and demand of health professions;
- (4) Practice patterns and workplace trends for health professions; and
- (5) Long-term regional, state-wide, and local needs for health care professionals.

(g) The functions and purposes outlined in this Code section shall be deemed "administrative purposes" pursuant to division (a)(11.3)(B)(iii) of Code Section 50-18-72.

HISTORY: Code 1981, § 43-1-30, enacted by Ga. L. 2002, p. 615, § 3.

§ 43-1-31. Expiration of professional licenses of service members on active duty outside of state

(a) As used in this Code section, the term "service member" means an active duty member of 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 90 days or longer.

(b) Any service member whose license to practice a profession issued pursuant to any provision of this title expired while such service member was serving on active duty outside the state shall be permitted to practice such profession in accordance with such expired license and shall not be charged with a violation of this title related to practicing a profession with an expired license for a period of six months from the date of his or her discharge from active duty or reassignment to a location within the state. Any such service member shall be entitled to renew such expired license without penalty within six months after the date of his or her discharge from active duty or reassignment to a location within the state. The service member must present to the applicable professional licensing board either a copy of the official military orders or a written verification signed by the service member's commanding officer to waive any charges.

HISTORY: Code 1981, § 43-1-31, enacted by Ga. L. 2005, p. 213, § 6/SB 258.

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