

TITLE 43. PROFESSIONS AND BUSINESSES CHAPTER 35. PODIATRY PRACTICE

§ 43-35-1. Short title

This chapter shall be known and may be cited as the "Georgia Podiatry Practice Act."

HISTORY: Code 1981, § 43-35-1, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-2. Purpose

This chapter is enacted for the purpose of safeguarding the public health, safety, and welfare by providing for administrative control, supervision, and regulation of the practice of podiatric medicine in this state. The practice of podiatric medicine is declared to be affected with the public interest.

HISTORY: Code 1981, § 43-35-2, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-3. Definitions

As used in this chapter, the term:

(1) "Board" means the State Board of Podiatry Examiners.

(2) "License" means a valid and current certificate of registration issued by the division director on behalf of the board which shall give the person to whom it is issued authority to engage in the practice prescribed thereon.

(3) "Licensee" means one who holds a license under this chapter.

(4) "Person" means a human person only.

(5) "Podiatric medicine," which includes chiropody, podiatry, and podiatric medicine and surgery, means that portion of the practice of medicine identified by the acts described in any one or more of the following:

(A) Charging a fee or other compensation, either directly or indirectly, for any history or physical examination of a patient in a person's office or in a hospital, clinic, or other similar facility prior to, incident to, and necessary for the diagnosis and treatment, by primary medical care, surgical or other means, of diseases, ailments, injuries, or abnormal conditions of the human foot and leg;

(B) Holding oneself out to the public, either directly or indirectly, as being engaged in the practice of podiatric medicine;

(C) Displaying or using a title or abbreviation such as "Doctor of Podiatric Medicine," "D.P.M.," "Foot Doctor," "Foot Specialist," "Foot Surgeon," "Foot and Ankle Surgeon," or other letters, designations, or symbols or signs of any type which expressly or implicitly indicate to the general public that the user renders treatment to the foot, ankle, and leg under the provisions of this chapter;

(D) Performing surgery on the foot or leg of a patient, except that when such surgery is performed under general anesthesia it shall be permissible only when said surgery is performed at a facility permitted and regulated as a hospital or ambulatory surgical treatment center under Article 1 of Chapter 7 of Title 31 and when said general anesthesia is administered under the direction of a duly licensed physician;

(E) Performing amputations of the toe; or

(F) Performing amputations distal to and including the tarsometatarsal joint but only when performed in a facility permitted and regulated as a hospital or ambulatory surgical treatment center under Article 1 of Chapter 7 of Title 31 and when performed by a podiatrist who is certified by the board in meeting the requirements which shall be established by regulations of the board which have been jointly approved by the board and the Georgia Composite Medical Board.

(6) "Podiatric resident" means a person who is engaged in a postgraduate program of study or practice within this state approved by the board. (7) "Podiatrist" means a physician and surgeon of the human foot and leg who is subject to this chapter.

HISTORY: Code 1981, § 43-35-3, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 2000, p. 1706, § 19; Ga. L. 2009, p. 859, § 2/HB 509.

§ 43-35-4. Continuation of board

The State Board of Podiatry Examiners which existed on January 1, 1994, is continued in existence on and after that date. The members serving on the board on January 1, 1994, and any person appointed to fill a vacancy in such office shall continue to serve out their respective terms of office and until their successors are appointed and qualified. Their successors shall be appointed as provided by this chapter.

HISTORY: Code 1981, § 43-35-4, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-5. Members of board; appointment; oath; removal

The State Board of Podiatry Examiners continued pursuant to Code Section 43-35-4 shall consist of four members. Any vacancy in office of such board resulting from expiration of term after this chapter becomes effective on July 1, 1994, shall be filled by appointment by the Governor and approval by the Senate for a term of three years. Three members shall be podiatrists and may be appointed from a list of at least three persons submitted to the Governor by the Georgia Podiatric Medical Association. The fourth member shall be appointed from the public at large and shall have no connection to the practice of podiatric medicine. All appointees to the board shall, immediately following their appointment, take and subscribe to a written oath or affirmation required by law for public officers. The Governor, after notice and opportunity for hearing, may remove any member for neglect of duty, incompetence, revocation or suspension of license, or other dishonorable conduct. After such removal, or after a vacancy due to other reasons, the Governor shall appoint a successor to serve the unexpired term.

HISTORY: Code 1981, § 43-35-5, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 1999, p. 81, § 43; Ga. L. 2002, p. 415, § 43.

§ 43-35-6. Eligibility for appointment to board

To be eligible for appointment to the board, a person must be a citizen of the United States and a resident of this state and, except for the person appointed from the public at large, must:

- (1) Hold a license issued under the provisions of this chapter; and
- (2) Have actively practiced or taught podiatry for at least five years.

HISTORY: Code 1981, § 43-35-6, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-7. Quorum of board; conduct of business by telephone

A majority of the board members shall constitute a quorum for all board business and, with the exception of hearings in contested cases, may conduct business in conference by telephone.

HISTORY: Code 1981, § 43-35-7, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-8. Duties of division director

The division director shall perform such administrative duties as may be prescribed by the board.

HISTORY: Code 1981, § 43-35-8, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-35-9. Duties of board

The board shall:

- (1) Approve all examinations of applicants for licensure;
- (2) Determine the qualifications of and authorize the issuance of licenses to qualified podiatrists and podiatric residents;
- (3) Determine the qualifications and approve qualified colleges of podiatric medicine and courses in podiatry for the purpose of determining the qualifications of applicants for licensure;
- (4) Prescribe and enforce minimum standards of professional conduct for the practice of podiatric medicine in this state;

- (5) Initiate investigations into alleged or suspected violations of the provisions of this chapter or any other law of this state pertaining to podiatry and any rules and regulations adopted by the board;
- (6) Conduct all hearings in contested cases according to state law;
- (7) Suspend, revoke, or cancel the license of, or refuse to grant, renew, or restore a license to any person upon any ground specified in this chapter;
- (8) Adopt a seal, the imprint of which, together with the authorized signature of the division director or other member authorized by the board, shall be effective to evidence its official acts;
- (9) Maintain in the office of the division director a register of all persons holding a license; and
- (10) Adopt such rules and regulations as shall be reasonably necessary for the enforcement and implementation of the provisions and purposes of this chapter and other laws of this state insofar as they relate to the practice of podiatric medicine.

HISTORY: Code 1981, § 43-35-9, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-35-10. Rules and regulations

All rules and regulations adopted by the board as it existed prior to January 1, 1994, shall continue in effect until modified or repealed.

HISTORY: Code 1981, § 43-35-10, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-11. License requirement; exceptions; training and practice of podiatric residents; limited temporary licenses; delegation

(a) No person shall practice podiatric medicine unless he or she holds a license and otherwise complies with the provisions of this chapter and the rules and regulations adopted by the board; provided, however, that this chapter shall not apply to any person licensed to practice medicine, as defined in Chapter 34 of this title; nor shall it apply to the recommending, fitting, or sale of corrective shoes or orthomechanical supports or similar appliances by retail dealers or manufacturers; provided, however, that such dealers or manufacturers shall not otherwise be entitled to practice podiatric medicine as defined in this chapter unless duly licensed to do so.

(b)(1) Nothing in this chapter or any other law of this state shall prohibit the training and practice, for a period of one year or for such additional periods as the board may determine, by persons appointed as podiatric residents in programs utilizing training protocols approved by the board.

(2) Residents in podiatric medicine and surgery may perform such duties, tasks, or functions as considered appropriate for their educational advancement under the supervision of the appropriate health care practitioner.

(3) While serving in an approved postgraduate training program, residents in podiatric medicine and surgery shall not be subject to the continuing education requirements as set forth in Code Section 43-35-15.

(c)(1) Licensed podiatrists of other states and foreign countries may be permitted to enter this state for consultation with any licensed podiatric physician of this state. Such podiatrist from another state or foreign country shall not be permitted to establish offices in this state for the practice of podiatric medicine, either temporary or permanent, unless he or she obtains a license as elsewhere set forth in this chapter.

(2) A limited temporary license may, upon the approval of the board, be issued to a podiatrist from another state or country for the purpose of advancing medical education and enhancing the individual's training provided such podiatrist is fully licensed and a member in good standing in that state or country, and provided such podiatrist is under the supervision of a licensed podiatric physician of this state.

(3) A podiatrist from another state or foreign country issued a limited temporary license shall not be subject to the continuing education requirements as set forth in Code Section 43-35-15.

(d) Nothing in this chapter or other laws of this state shall prohibit the delegation by a podiatric physician to a podiatric assistant or other qualified person of any acts, duties, or functions which are otherwise permitted by law or established by custom, nor shall the state prohibit the performance of such acts, duties, or functions by such person.

HISTORY: Code 1981, § 43-35-11, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-12. Eligibility for license

A license to practice podiatric medicine shall be issued to any person who:

- (1) Is a graduate of an accredited college of podiatric medicine approved by the board;
- (2) Holds a doctoral degree or its equivalent;
- (3) Satisfactorily passes a board approved examination, if an examination is required by the board;
- (4) Successfully completes postdoctoral training of no less than 12 months as a resident in podiatric medicine and surgery in a program or institution approved by, and in good standing with, the board;
- (5) Has attained the age of 21 years;
- (6) Is not disqualified to receive a license under the provisions of Code Section 43-35-16; and
- (7) Pays the required fee to the board.

HISTORY: Code 1981, § 43-35-12, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 2010, p. 266, § 38/SB 195.

§ 43-35-13. Issuance of license without examination

A license may, at the discretion of the board, be issued without examination to any person who:

- (1) Holds a current license authorizing him or her to practice podiatric medicine in another state or country; provided, however, the state or country has statutory requirements substantially equal to or exceeding those of this chapter;
- (2) Otherwise substantially meets all requirements for a license issued by the board;
- (3) Is not disqualified to receive a license under the provisions of Code Section 43-35-16; and
- (4) Pays the required fee to the board.

HISTORY: Code 1981, § 43-35-13, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-14. Examination of applicants

The board may require applicants to be examined upon the subjects required for the practice of podiatric medicine. Any standardized examination which the board shall approve may be administered to all applicants in lieu of or in conjunction with any other examination which the board may require.

HISTORY: Code 1981, § 43-35-14, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 2010, p. 266, § 38/SB 195.

§ 43-35-15. Renewal of licenses; continuing education requirements

(a) Licenses shall expire biennially. All applications for renewal of a license shall be filed with the division director prior to the expiration date, accompanied by the renewal fee prescribed by the board.

(b)(1) In order to maintain and enhance the professional competence of podiatrists licensed under the provisions of this chapter and for the protection of the health and welfare of the people of this state:

(A) As a requirement for the biennial renewal of his or her license, a podiatric physician must submit proof to the board of the completion of not less than 50 hours of approved continuing education in the preceding two years;

(B) A podiatrist licensed by reciprocity under Code Section 43-35-13 or by examination during the first six months of the biennial licensing cycle, September through February, shall be required to obtain the full 50 hours of continuing education; if licensed during the following 12 months, March through February, the podiatrist shall be required to obtain 30 hours of continuing education; if licensed during the last six months, March through August, the podiatrist shall be exempt from continuing education requirements for that biennial licensing cycle.

(2) In lieu of individual state regulations, the board will recognize for continuing education purposes all providers and sponsors of programs approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

HISTORY: Code 1981, § 43-35-15, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 2000, p. 1706, § 19.

§ 43-35-16. Suspension, revocation, cancellation, or denial of license; other discipline; judicial review; reinstatement; immunity; failure of licensee to appear; voluntary surrender of license

(a) The board shall, after notice and opportunity for hearing, have the power to suspend, revoke, or cancel the license of, or refuse to grant, renew, or restore a license to, any licensee or applicant for a license upon proof of any one of the following grounds:

- (1) Employment of fraud or deception or cheating in applying for a license or in taking an examination for a license;
- (2) Failing to demonstrate the qualifications or standards for a license as provided by this chapter;
- (3) Knowingly making a misleading, deceptive, false, or fraudulent representation concerning the practice of podiatry or in any document connected therewith, or practicing fraud or deceit or cheating or intentionally making any false statement in taking an examination or in obtaining a license to practice podiatry or intentionally making any false statement in any document submitted to the board;
- (4) Conviction of a felony in this state or any other state, territory, or country which, if committed in this state, would be deemed a felony without regard to its designation elsewhere. For this purpose, a conviction shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether an adjudication of guilt or sentence is entered thereon;
- (5) Commission of a crime involving moral turpitude within this state or within any other state, territory, or country which, if committed in this state, would be deemed a crime involving moral turpitude without regard to its designation elsewhere where:
 - (A) A plea of nolo contendere was entered to the charge;
 - (B) First offender treatment was granted pursuant to the charge, without adjudication of guilt; or
 - (C) An adjudication or sentence was otherwise withheld or not entered on the charge;
- (6) Revocation, suspension, or annulment of a license to practice podiatric medicine by any lawful licensing authority in any state, territory, or country, or any other disciplinary action taken against a licensee by any lawful licensing authority, or having been denied a license by any other licensing authority;
- (7) Advertising for or soliciting patients by any means other than as provided by the rules and regulations of the board;
- (8) The displaying of an inability to practice podiatric medicine with reasonable skill and safety to patients or having become unable to practice podiatric medicine with reasonable skill and safety to patients by reason of illness, the use of alcohol or drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical condition. In enforcing this paragraph, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by physicians designated by the board. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute. Every person who shall accept the privilege of practicing podiatric medicine in this state or who shall file an application for a license to practice podiatric medicine in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If the licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal;

- (9) Flagrant immorality;
 - (10) Practicing under a false name or the impersonation of another person except as may be permitted by the laws of this state and rules and regulations of the board concerning professional corporations or associations;
 - (11) In light of the condition of the patient at the time of prescription, knowingly prescribing controlled substances or any other medication without a legitimate medical purpose or knowingly overprescribing controlled substances or other medications or chemicals;
 - (12) Division of fees for professional services with any person, firm, association, or corporation for bringing or referring a patient;
 - (13) Engaging in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which need not have resulted in actual injury to any person, and shall also include departure from, or the failure to conform to, the minimum prevailing standards for the practice of podiatric medicine in this state; or
 - (14) Violating any other standard of professional conduct as may be prescribed by the board.
- (b) Upon a finding of the board that the public health, safety, or welfare imperatively requires emergency action and incorporating a finding to that effect in an order, summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.
- (c) Upon a finding by the board that a license should be denied or sanctioned pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:
- (1) Deny a license to an applicant or refuse to renew a license;
 - (2) Administer a public reprimand;
 - (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 or withhold formal disposition upon applicant's or licensee's submission to such care, counseling, or treatment as the board may direct; or
 - (7) In addition to and in conjunction with the actions provided for in this subsection, may make a finding adverse to the licensee or applicant but withhold imposition of judgment and penalty or may impose the judgment and penalty but suspend the enforcement thereof and place a licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the board may impose.
- (d) Initial judicial review of a final decision of the board shall be had solely in the superior court of the county of domicile of the board.
- (e) In its discretion, the 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 adopt by rule; and, as a condition thereof, the board may impose any disciplinary or corrective measure authorized by this chapter.
- (f) 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.
- (g) A person, partnership, firm, corporation, association, authority, or other entity shall be immune from civil or criminal liability for reporting or investigating the acts or omissions of a licensee or applicant or for initiating or conducting proceedings against such licensee or applicant pursuant to the provisions of this chapter or any other provision of law relating to the licensee's or applicant's fitness to practice podiatric medicine, if such action is taken in good faith, without fraud or malice. Any person who testifies in good faith or who makes a recommendation to the board in the nature of peer review, in good faith, without fraud or malice, before the board in any proceeding concerning a violation of this chapter or any other law relating to the licensee's or applicant's fitness to practice

podiatric medicine shall be immune from civil and criminal liability for so testifying, participating, or recommending.

(h) Neither a denial of a license on grounds other than those enumerated in subsection (a) of this Code section nor 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 shall be considered a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Notice and hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the licensee or applicant shall be allowed to appear before the board if he or she so requests.

(i) If any licensee fails to appear at any hearing after reasonable notice, the board may proceed to hear evidence against such licensee and take action as if such licensee had been present. A notice of hearing, initial or recommended decision, or final decision of the board in a disciplinary proceeding shall be served upon the licensee or applicant by certified mail or statutory overnight delivery, return receipt requested, to the last known address of record with the board. If such material 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 shall be deemed to be the agent for such service for such licensee or applicant for the purposes of this Code section; and service upon the division director shall be deemed to be service upon the licensee or applicant.

(j) The voluntary surrender of license shall have the same effect as a revocation of said license, subject to reinstatement in the discretion of the board.

HISTORY: Code 1981, § 43-35-16, enacted by Ga. L. 1994, p. 1375, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2000, p. 1706, §§ 18, 19.

§ 43-35-17. Practice without license deemed public nuisance; injunctions

The practice of podiatric medicine is declared to be an activity affecting the public interest and involving the health, safety, and welfare of the public. Such practice when engaged in by a person who is not licensed under the provisions of this chapter is declared to be a public nuisance, harmful to the public health, safety, and welfare. The board, or the district attorney of the district where such nuisance exists, may bring a petition to restrain and enjoin such unlicensed practice in the appropriate court of the county where such unlicensed person resides. It shall not be necessary in order to obtain an injunction under this Code section to allege or prove that there is no adequate remedy at law.

HISTORY: Code 1981, § 43-35-17, enacted by Ga. L. 1994, p. 1375, § 1.

§ 43-35-18. Criminal penalty Any person who violates any provision of this chapter shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment from two to five years or both.

HISTORY: Code 1981, § 43-35-18, enacted by Ga. L. 1994, p. 1375, § 1.

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