

Georgia Composite Medical Board

Executive Director
Daniel R. Dorsey, MBA



Chairperson
William K. Bostock, DO

Vice Chairperson
Sreeni Gangasani, MD

2 MLK Jr. Drive SE • East Tower, 11th Floor • Atlanta, Georgia 30334 • (404) 656-3913 • www.medicalboard.georgia.gov

January 29, 2024

VIA EMAIL

American Oversight
Attn: Khahilia Shaw
1030 15th Street NW, Suite B255
Washington, DC 20005
records@americanoversight.org

RE: Open Records Request GA-CMB-24-0007

Dear Ms. Shaw:

The Georgia Composite Medical Board (“Board”) received your request for the following information:

“All records reflecting any formal or informal guidance created by or provided to all members and officers of the Georgia Composite Medical Board regarding the implementation or enforcement of state law limiting the treatment of gender dysphoria in minors, including, but not limited to, Senate Bill 140 (2023).

Please provide all responsive records from March 23, 2023, to the date the request is received.”

In an effort to preserve any objection(s) to records that the Board may have under the law, please be advised that O.C.G.A. §50-18-71(a), the Georgia Open Records Act, provides “All public records shall be open for personal inspection and copying, except those which by order of a court of this state or by law are specifically exempt from disclosure.”

Pursuant to O.C.G.A. § 50-18-72(a)(41) and (42), records containing communications subject to attorney-client privilege and confidential attorney work product are not subject to disclosure.

Please be advised that after a diligent search, three (3) correspondence items were identified as potentially responsive to your request and are attached.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Dorsey".

Daniel R. Dorsey
Executive Director

DD/ke

From: Dorsey, Daniel
Sent: Friday, August 11, 2023 11:21 PM
To: [REDACTED]; Bhat, Subrahmanya; [REDACTED]; Simmons, Barby; Dalton, Debi; [REDACTED]; Gardner, Judy; William Bostock; [REDACTED]; Faucher, Charmaine; [REDACTED]; Norman, Matthew; Crider, Ruth; Harrison George; Gangasani, Sreenivasulu
Cc: Battle, Kierra; Lemieux, Kimberly
Subject: Board updates (8/11/23)
Attachments: SwearingIns080923-040.jpg; SwearingIns080923-035.jpg; 2024 Full Board meeting schedule.pdf; BM Committee Assignment List_v2023-08.xlsx

Good evening all,

Hope everyone has had a great week! A few updates for the Board:

- On Wednesday, Dr. George Harrison was sworn-in as the newest Board member of the GCMB! Attached are some photos from the swearing-in ceremony at the Capitol. He will serve on Physician Licensure, Orthotists & Prosthetists, and Rules committees.
- And speaking of committees, Dr. Bostock has tweaked some committees to ensure we have enough Board members to cover everything each month. The goal is to have at least two Board members on each committee. Attached is an updated list of committee assignments. There are some changes (listed below), which will take effect for the Aug. 31 meeting, and we will adjust BoardEffect next week to ensure everyone who has switched committees can access materials. Congrats to our newest committee chairs!
 - Dr. Gangasani joins Investigative
 - Dr. Gangasani joins Perfusion
 - Dr. Gangasani leaves Licensure
 - Dr. Harrison joins Licensure
 - Dr. Harrison joins O&P
 - Dr. Norman joins PA
 - Dr. Norman leaves APRN
 - Dr. Cheek is now chair of APRN
 - Dr. Flint is now chair of Lasers
 - Dr. Bostock joins Public Outreach
- We will be in Augusta for the October 5th meeting. Kierra has sent an email asking about hotel rooms for the night before (Wednesday, 10/4) and dietary restrictions. Please let us know so we can plan effectively for it. MCG is looking forward to hosting us and showing off their facilities at the medical school. They also will be planning a dinner the night before, which should be a fun time to socialize with the Dean and some of the MCG team. All mileage and lodging will be covered by the Board. Hope all can make the trip, but if not, there will be a Teams option for the meeting.
- There was a hearing on the gender affirming care lawsuit yesterday and today where both sides presented arguments. A ruling is expected next week, which will give us a more concrete idea about the law and our potential rules. If we do move forward with rules on this, we will plan to hold the Rules hearing at the

November meeting. We may use a larger Board room at the Twin Towers for this meeting, as there is sure to be some outside interest. More info to come.

- Attached are the dates for the 2024 meetings. It also is on BoardEffect in the Downloadable folder in Board Meeting Info and on the Board's website.
- As a reminder, we have the event at Dr. Flint's farm at the end of the month. Please let Kierra or me know if you need more information. Hope everyone will be able to join!

Have a wonderful weekend, all. Please let us know if you have any questions.

Daniel R. Dorsey
Executive Director
Georgia Composite Medical Board
<https://medicalboard.georgia.gov/>
ddorsey1@dch.ga.gov

Upcoming Unavailability:

Aug. 18: PTO
Aug. 28: Limited Availability
Aug. 31: Limited Availability / GCMB Meeting
Sept. 4: State Holiday

Reader Advisory Notice: Email to and from a Georgia state agency is generally public record, except for content that is confidential under specific laws. Security by encryption is applied to all emails sent from the Georgia Department of Community Health email accounts.

From: [Dorsey, Daniel](#)
To: [Smith, Mark](#)
Subject: Proposed rule change - Rule 360-3-.02
Date: Tuesday, November 7, 2023 2:54:00 PM
Attachments: [Notice of Intent to Amend And Adopt Rules Rule 360-3-.02.pdf](#)

Daniel R. Dorsey
Executive Director
Georgia Composite Medical Board
<https://medicalboard.georgia.gov/>
ddorsey1@dch.ga.gov
O: 404-656-3913
[REDACTED]

Upcoming Unavailability:

Nov. 9: Limited Availability
Nov. 10: State Holiday
Nov. 13-15: Limited Availability
Nov. 17: PTO
Nov. 23-24: State Holidays
Dec. 7: Limited Availability / GCMB Meeting
Dec. 25-26: State Holidays

Reader Advisory Notice: Email to and from a Georgia state agency is generally public record, except for content that is confidential under specific laws. Security by encryption is applied to all emails sent from the Georgia Department of Community Health email accounts.

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NOTICE OF INTENT TO AMEND AND/OR ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Composite Medical Board (hereinafter “Board”) proposes amendments to the Georgia Composite Medical Board Rules by amending **Rule 360-3-.02 “Unprofessional Conduct Defined.”** An exact copy of the proposed rule is attached to this Notice.

This notice, together with an exact copy of the proposed rules and a synopsis of the proposed amendments may be reviewed between 8:00 a.m. and 4:00 p.m., Monday through Friday, except official state holidays, at 2 MLK Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334. These documents can also be reviewed online at <https://medicalboard.georgia.gov/board/notice-intent-amendadopt-rules>.

A public hearing is scheduled to begin at **8:30 a.m. on December 7, 2023**, in Board Room 470, located at 2 MLK Jr. Drive SE, East Tower, 4th Floor, Atlanta, GA 30334 to provide the public an opportunity to comment upon and provide input into the proposed rules. At the public hearing, any interested person may present data, make a statement or comment, or offer a viewpoint or argument orally or in writing. Lengthy statements and statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to five minutes per person. Additional comments should be presented in writing. To ensure their consideration, submit all written comments by **November 27, 2023**, to Kimberly.Lemieux@dch.ga.gov or via mail to the Georgia Composite Medical Board Rules Committee at 2 MLK Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334.

The Board voted to adopt this Notice of Intent on **November 2, 2023**. Upon conclusion of the public hearing on **December 7, 2023**, the Board will consider whether the formulation and adoption of these proposed rule amendments imposes excessive regulatory costs on any license or entity, and whether any cost to comply with the proposed rule amendments could be reduced by a less expensive alternative that accomplishes the objectives of the statutes which are the basis of the proposed rule. Additionally, the Board will consider whether it is legal or feasible in meeting the objectives of the applicable laws to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A), (B), (C), and (D).

This Notice is adopted and posted in compliance with O.C.G.A. § 50-13-4 of the Georgia Administrative Procedures Act. A synopsis of the proposed rules and an economic impact statement are attached to this Notice. The authority for promulgation of these rules is O.C.G.A. Secs. 43-34-5, 43-34-8, and 43-34-15.

Issued this day November 6, 2023.

Daniel R. Dorsey
Executive Director

ECONOMIC IMPACT AND SYNOPSIS FOR

RULE CHAPTER 360-3 Investigations and Discipline.

ECONOMIC IMPACT:

The attached rules are promulgated under the authority of Title 43, Chapter 34. The Georgia Composite Medical Board licenses and regulates nine professions. The formulation and adoption of these rules do not impose excessive regulatory cost on any licensee, and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of Chapter 34 of Title 43 of the Official Code of Georgia Annotated. Additionally, it is not legal or feasible to meet the objectives of Chapter 34 of Title 43 of the Official Code of Georgia Annotated to adopt or implement differing actions for businesses listed in O.C.G.A. §50-13-4(a)(3)(A), (B), (C) and (D).

RULE SYNOPSIS:

Rule 360-3-.02 Unprofessional Conduct Defined

Purpose/Main Features: The proposed change reflects the legislative enactment of O.C.G.A. § 43-34-15 which places a prohibition on certain irreversible procedures and treatments performed on minors with the treatment of gender dysphoria and requires the Georgia Composite Medical Board to create rules regarding the prohibitions and specified limited exceptions.

Authority: O.C.G.A. §§ 16-13-41, 16-13-74, 31-9-6.1, 31-33-2, 43-1-19, 43-1-25, 43-34-5(c), 43-34-8(a)(7), 43-34-15, 43-34-21, 43-34-23, 43-34-24, 43-34-24.1, 43-34-25, 43-34-37, 21 U.S.C. § 802(54) (the Ryan Haight Act).

**RULES
OF
GEORGIA COMPOSITE MEDICAL BOARD**

**CHAPTER 360-3
INVESTIGATIONS AND DISCIPLINE**

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Rule 360-3-.02 Unprofessional Conduct Defined

Rule 360-3-.02 Unprofessional Conduct Defined

O.C.G.A. §§ 43-1-19 and 43-34-37 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.
 6. Weight loss management if drug has been approved by the FDA for that indication.
 - (b) For clinical investigations conducted 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 from prescribing a dangerous drug for a patient pursuant to a valid physician-patient relationship in accordance with O.C.G.A. 33-24-56.4 or a licensee who is on-call or covering for another licensee from prescribing up to a 30-day supply of medications for a patient of such other licensee nor shall it prohibit a licensee from prescribing medications when documented emergency circumstances exist.

This shall also not prevent a licensed physician from prescribing Schedule II sympathomimetic amine drugs for the treatment of attention deficit disorder to a patient in the physical presence of a licensed nurse, provided the initial diagnosis was made and an initial prescription was issued in accordance with 21 U.S.C. § 829(e), as amended from time to time, including but not limited to the following:

- (a) The physician has conducted at least one in-person medical evaluation of the patient; or
- (b) The physician is covering for a licensee who is temporarily unavailable and has conducted at least one in-person medical evaluation of the patient; or
- (c) The physician is engaged in the practice of telemedicine in accordance with Board Rule 360-3-.07 and with 21 U.S.C. §§ 802(54) and 829(e)(3)(A), including, but not limited to:
 - 1. Where the patient is being treated by, and physically located in, a hospital or clinic registered with the U.S. Drug Enforcement Agency ("DEA"), the physician is registered with the DEA, and all other requirements of 21 U.S.C. § 802(54)(A) are met; or
 - 2. Where the patient is being treated by, and physically in the presence of, a licensee who is registered with the DEA, and all other requirements of 21 U.S.C. § 802(54)(B) are met; or
 - 3. Where the physician has obtained from the U.S. Attorney General a special registration for telemedicine in accordance with 21 U.S.C. §§ 802(54)(E) and 831(h).

(6) Providing treatment via electronic or other means unless a history and physical examination of the patient has been performed by a Georgia licensee. 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 without a chaperone present, unless the patient or the patient's parent or guardian specifically requests that a chaperone not be present for this portion of the clinical encounter which shall be documented in the patient's medical record. Physicians at their discretion may refuse to conduct an examination of the breast and/or genitalia 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, X-ray 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 active 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 facade 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 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, unless the physician has reported to the Physician Health Program.

(21) (For a physician) Delegating the injection of botulinum toxin and/or dermal fillers to medical assistants.

(22) Failing to comply with Rule 360-3-.06.

(23) (a) Performing the irreversible procedures and therapies on a minor for the treatment of gender dysphoria:

1. Sex reassignment surgeries, or any other surgical procedures, that are performed for the purpose of altering primary or secondary sexual characteristics; and
 2. Hormone replacement therapies
- (b) Limited exceptions to the prohibitions contained in subsection (a) include:
1. Treatments for medical conditions other than gender dysphoria or for the purpose of sex reassignment where such treatments are deemed medically necessary;
 2. Treatments for individuals born with a medically verifiable disorder of sex development, including individuals born with ambiguous genitalia or chromosomal abnormalities resulting in ambiguity regarding the individual's biological sex;
 3. Treatments for individuals with partial androgen insensitivity syndrome; and
 4. Continued treatment of minors who are, prior to July 1, 2023, being treated with irreversible hormone replacement therapies.

Authority: O.C.G.A. §§ 16-13-41, 16-13-74, 31-9-6.1, 31-33-2, 43-1-19, 43-1-25, 43-34-5(c), 43-34-8(a)(7), 43-34-15, 43-34-21, 43-34-23, 43-34-24, 43-34-24.1, 43-34-25, 43-34-37, 21 U.S.C. § 802(54) (the Ryan Haight Act).

From: [REDACTED]
Sent: Thursday, June 8, 2023 4:20 PM
To: Dorsey, Daniel
Cc: mjchangus [REDACTED]; Norman, Matthew
Subject: RE: Proposed rule on gender dysphoria surgeries

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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Looks good to me. Thank you.
Max does this need any modifications?

Alex
--- Originally sent by ddorsey1@dch.ga.gov on Jun 8, 2023 3:34 PM ---

This message was sent securely using Zix®

Hey Dr. Gross,

Attached is a draft copy of proposed changes to the Unprofessional Conduct rule to incorporate Senate Bill 140 (also attached), which prohibits certain surgical procedures for the treatment of gender dysphoria in minors. It is my understanding that the law will take effect on July 1, so we will need to begin the rule process soon. Please let me know your thoughts on the draft.

Daniel R. Dorsey

Executive Director

Georgia Composite Medical Board

<https://medicalboard.georgia.gov/>

ddorsey1@dch.ga.gov

[REDACTED]

Upcoming Unavailability:

June 14: PTO

June 19: State Holiday

June 29: Limited Availability / GCMB Meeting

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Senate Bill 140

By: Senators Summers of the 13th, Watson of the 1st, Kirkpatrick of the 32nd, Kennedy of the 18th, Anderson of the 24th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
2 relating to regulation of hospitals and related institutions, so as to prohibit certain surgical
3 procedures for the treatment of gender dysphoria in minors from being performed in
4 hospitals and other licensed healthcare facilities; to provide for exceptions; to provide for
5 violations; to amend Article 1 of Chapter 34 of Title 43 of the Official Code of Georgia
6 Annotated, relating to the Georgia Composite Medical Board, so as to prohibit certain
7 surgical procedures for the treatment of gender dysphoria in minors; to provide for
8 exceptions; to provide for violations; to provide for legislative findings; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly finds that:

13 (1) There has been a massive unexplained rise in diagnoses of gender dysphoria among
14 children over the past ten years, with most of those experiencing this phenomenon being
15 girls;

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- 16 (2) Gender dysphoria is often comorbid with other mental health and developmental
17 conditions, including autism spectrum disorder;
- 18 (3) A significant portion of children with gender dysphoria do not persist in their gender
19 dysphoric conditions past early adulthood;
- 20 (4) Certain medical treatments for gender dysphoria, including hormone replacement
21 therapies and surgeries, have permanent and irreversible effects on children;
- 22 (5) No large-scale studies have tracked people who received gender-related medical care
23 as children to determine how many remained satisfied with their treatment as they aged
24 and how many eventually regretted transitioning; on the contrary, the General Assembly
25 is aware of statistics showing a rising number of such individuals who, as adults, have
26 regretted undergoing such treatment and the permanent physical harm it caused;
- 27 (6) Under the principle of "do no harm," taking a wait-and-see approach to minors with
28 gender dysphoria, providing counseling, and allowing the child time to mature and
29 develop his or her own identity is preferable to causing the child permanent physical
30 damage; and
- 31 (7) The General Assembly has an obligation to protect children, whose brains and
32 executive functioning are still developing, from undergoing unnecessary and irreversible
33 medical treatment.

34 **SECTION 2.**

35 Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
36 regulation of hospitals and related institutions, is amended by adding a new Code section to
37 read as follows:

38 "31-7-3.5.

39 (a) Except as provided in subsection (b) of this Code section, none of the following
40 irreversible procedures or therapies shall be performed on a minor for the treatment of
41 gender dysphoria in an institution licensed pursuant to this article:

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42 (1) Sex reassignment surgeries, or any other surgical procedures, that are performed for
43 the purpose of altering primary or secondary sexual characteristics; or

44 (2) Hormone replacement therapies.

45 (b) The provisions of subsection (a) of this Code section shall not apply to treatment
46 provided pursuant to an exception contained in subsection (b) of Code Section 43-34-15.

47 (c) The department shall establish sanctions, by rule and regulation, for violations of this
48 Code section up to and including the revocation of an institution's permit issued pursuant
49 to Code Section 31-7-3."

50 **SECTION 3.**

51 Article 1 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to the
52 Georgia Composite Medical Board, is amending by adding a new Code section to read as
53 follows:

54 "43-34-15.

55 (a) Except as otherwise provided in subsection (b) of this Code section, the following
56 irreversible procedures and therapies performed on a minor for the treatment of gender
57 dysphoria are prohibited in this state:

58 (1) Sex reassignment surgeries, or any other surgical procedures, that are performed for
59 the purpose of altering primary or secondary sexual characteristics; and

60 (2) Hormone replacement therapies.

61 (b) The board shall adopt rules and regulations regarding the prohibitions contained in
62 subsection (a) of this Code section, which shall contain limited exceptions for:

63 (1) Treatments for medical conditions other than gender dysphoria or for the purpose of
64 sex reassignment where such treatments are deemed medically necessary;

65 (2) Treatments for individuals born with a medically verifiable disorder of sex
66 development, including individuals born with ambiguous genitalia or chromosomal
67 abnormalities resulting in ambiguity regarding the individual's biological sex;

- 68 (3) Treatments for individuals with partial androgen insensitivity syndrome; and
69 (4) Continued treatment of minors who are, prior to July 1, 2023, being treated with
70 irreversible hormone replacement therapies.
71 (c) A licensed physician who violates this Code section shall be held administratively
72 accountable to the board for such violation."

73 **SECTION 4.**

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

**RULES
OF
GEORGIA COMPOSITE MEDICAL BOARD**

**CHAPTER 360-3
INVESTIGATIONS AND DISCIPLINE**

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Rule 360-3-.02 Unprofessional Conduct Defined

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O.C.G.A. §§ 43-1-19 and 43-34-37 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;
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 - (b) For clinical investigations conducted 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 from prescribing a dangerous drug for a patient pursuant to a valid physician-patient relationship in accordance with O.C.G.A. 33-24-56.4 or a licensee who is on-call or covering for another licensee from prescribing up to a 30-day supply of medications for a patient of such other licensee nor shall it prohibit a licensee from prescribing medications when documented emergency circumstances exist.

This shall also not prevent a licensed physician from prescribing Schedule II sympathomimetic amine drugs for the treatment of attention deficit disorder to a patient in the physical presence of a licensed nurse, provided the initial diagnosis was made and an initial prescription was issued in accordance with 21 U.S.C. § 829(e), as amended from time to time, including but not limited to the following:

- (a) The physician has conducted at least one in-person medical evaluation of the patient; or
- (b) The physician is covering for a licensee who is temporarily unavailable and has conducted at least one in-person medical evaluation of the patient; or
- (c) The physician is engaged in the practice of telemedicine in accordance with Board Rule 360-3-.07 and with 21 U.S.C. §§ 802(54) and 829(e)(3)(A), including, but not limited to:
 - 1. Where the patient is being treated by, and physically located in, a hospital or clinic registered with the U.S. Drug Enforcement Agency ("DEA"), the physician is registered with the DEA, and all other requirements of 21 U.S.C. § 802(54)(A) are met; or
 - 2. Where the patient is being treated by, and physically in the presence of, a licensee who is registered with the DEA, and all other requirements of 21 U.S.C. § 802(54)(B) are met; or
 - 3. Where the physician has obtained from the U.S. Attorney General a special registration for telemedicine in accordance with 21 U.S.C. §§ 802(54)(E) and 831(h).

(6) Providing treatment via electronic or other means unless a history and physical examination of the patient has been performed by a Georgia licensee. 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 without a chaperone present, unless the patient or the patient's parent or guardian specifically requests that a chaperone not be present for this portion of the clinical encounter which shall be documented in the patient's medical record. Physicians at their discretion may refuse to conduct an examination of the breast and/or genitalia 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, X-ray 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 active 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 facade 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 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, unless the physician has reported to the Physician Health Program.

(21) (For a physician) Delegating the injection of botulinum toxin and/or dermal fillers to medical assistants.

(22) Failing to comply with Rule 360-3-.06.

(23) Performing the irreversible procedures and therapies on a minor for the treatment of gender dysphoria:

(a) Sex reassignment surgeries, or any other surgical procedures, that are performed for the purpose of altering primary or secondary sexual characteristics; and

(b) Hormone replacement therapies

(c) Limited exceptions to the prohibitions contained in subsections (a) and (b) include:

1. Treatments for medical conditions other than gender dysphoria or for the purpose of sex reassignment where such treatments are deemed medically necessary;

2. Treatments for individuals born with a medically verifiable disorder of sex development, including individuals born with ambiguous genitalia or chromosomal abnormalities resulting in ambiguity regarding the individual's biological sex;

3. Treatments for individuals with partial androgen insensitivity syndrome; and

4. Continued treatment of minors who are, prior to July 1, 2023, being treated with irreversible hormone replacement therapies.

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Authority: O.C.G.A. §§ 16-13-41, 16-13-74, 31-9-6.1, 31-33-2, 43-1-19, 43-1-25, 43-34-5(c), 43-34-8(a)(7), 43-34-15, 43-34-21, 43-34-23, 43-34-24, 43-34-24.1, 43-34-25, 43-34-37, 21 U.S.C. § 802(54) (the Ryan Haight Act).