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PROFESSIONS AND BUSINESSES Physicians, Physician's Assistants, and Respiratory Care: Enact Patient Right to Know Act; Provide for Creation, Contents, and Dissemination of Physician Profiles; Provide for Right to File Grievance Against Medical Provider; Require Board to Investigate Every Grievance Filed; Establish Right of Patient to Inquire About Cost of Treatment Prior to Receiving Such Treatment

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PROFESSIONS AND BUSINESSES

Physicians, Physician's Assistants, and Respiratory Care: Enact Patient Right to Know Act; Provide for Creation, Contents, and Dissemination of Physician Profiles; Provide for Right to File Grievance Against Medical Provider; Require Board to Investigate Every Grievance Filed; Establish Right of Patient to Inquire About Cost of Treatment Prior to Receiving Such Treatment

CODE SECTIONS: O.C.G.A. §§ 31-7-8, -131, -133, 43-34-37 (amended), 43-34A (new)

BILL NUMBER: HB 156

ACT NUMBER: 31

GEORGIA LAWS: 2001 Ga. Laws 192

SUMMARY: The Act changes confidentiality provisions concerning investigations of and disciplinary actions against doctors. By adding a new chapter to the Georgia Code, the Act enacts the Patient Right to Know Act, which creates a physician profiling system. The profiles contain background information about doctors, including education, number of years in practice, any felony convictions, malpractice judgments, and revocation of hospital privileges. The Act allows patients to review the profiles. The Act also allows patients to find out the cost of medical treatments. Finally, the Act provides that patients can file grievances against doctors for treatment received.

EFFECTIVE DATE: April 11, 2001.¹

History

Prior to the passage of HB 156, patients in Georgia had little, if any, access to information about doctors that they considered visiting for

1. See 2001 Ga. Laws 192, §§ 6-7, at 200-01. The Act took effect upon the Governor's signing it into law; however, the physician profiles need not be available until July 1, 2002. See *id.*, §§ 5-6, at 200.

treatment.² This situation had been exacerbated by the emergence of managed care programs to which many patients had been relegated and which gave patients very few options when selecting a primary care physician.³

HB 156 was written to establish a system of physician profiles, which would contain background information about doctors—including such items as education, years in practice, felony convictions, and malpractice judgments—that patients could easily access to help them decide which doctor to see.⁴ The medical community was initially concerned about disclosing sensitive information to the public, but agreed to support the bill when it was written to only require disclosure of events occurring after the bill went into effect.⁵ The bill was a collaborative effort amongst legislators, the Medical Association of Georgia, health insurance companies, and the State Composite Board of Medical Examiners.⁶

HB 156

Introduction

Representatives Larry Walker, Tom Murphy, Stephanie Stuckey, and Jim Martin, of the 141st, 18th, 67th, and 47th House Districts, respectively, sponsored HB 156.⁷ After the bill was introduced on the House floor on January 12, 2001, the House assigned the bill to its Judiciary Committee.⁸ The Committee favorably reported the bill, as substituted, on February 2, 2001.⁹ The House amended the Committee substitute and unanimously passed the bill on February 8, 2001.¹⁰

2. See Audio Recording of House Proceedings, Feb. 8, 2000 (remarks by Rep. Larry Walker), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio]; Chad Roedemeier, *Patients' Rights Get Boost Bill Urges Access to Doctors' Blemishes*, FLA. TIMES-UNION, Jan. 13, 2001, at A1.

3. See House Audio, *supra* note 2 (remarks by Rep. Larry Walker).

4. See *id.*

5. See Electronic Mail Interview with Rep. Larry Walker, House District No. 141 (Apr. 19, 2001) [hereinafter Walker Interview].

6. See House Audio, *supra* note 2 (remarks by Rep. Larry Walker).

7. See HB 156, as introduced, 2001 Ga. Gen. Assem.

8. See State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

9. See *id.*

10. See Georgia House of Representatives Voting Record, HB 156 (Feb. 8, 2001).

HB 156 was introduced in the Senate on February 9, 2001.¹¹ The Senate assigned the bill to its Health and Human Services Committee, which favorably reported the bill, as substituted, on March 15, 2001.¹² The Senate adopted the Committee substitute and unanimously passed the bill on March 19, 2001.¹³ The House agreed to the Senate's version on March 21, 2001.¹⁴ Governor Roy Barnes signed HB 156 into law on April 11, 2001.¹⁵

Consideration by the House Judiciary Committee

As introduced, HB 156 proposed striking and reserving subsection (e) of Code section 31-7-8, thus repealing confidentiality provisions concerning reports of disciplinary actions against doctors.¹⁶ The bill also proposed striking and reserving subsection (d) of Code section 43-34-37, thus repealing confidentiality of investigations of doctors.¹⁷

The bill also proposed creating a new Chapter 34A of Title 43 to create a system of physician profiles, which would contain basic information about doctors, including education, years in practice, treatment costs, felony convictions, malpractice judgments, and revocation of hospital privileges.¹⁸ The bill also allowed patients to review the profiles prior to engaging a particular doctor and to file grievances against doctors and their offices for treatment received.¹⁹

Upon review, the Judiciary Committee favorably reported the bill, as substituted, on February 2, 2001.²⁰ The substitute amended Code section 31-7-8 by reinstating the confidentiality of disciplinary action reports, except as to information provided in the physician profiles created under Chapter 34A of Title 43.²¹ The substitute also amended Code section 43-34-37 by reinstating the confidentiality of investigations, except as to information provided in the physician profiles.²²

11. See State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

12. See *id.*

13. See Georgia House of Representatives Voting Record, HB 156 (Mar. 19, 2001); see also State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

14. See Georgia House of Representatives Voting Record, HB 156 (Mar. 21, 2001).

15. See 2001 Ga. Laws 192, § 7, at 201.

16. See HB 156, as introduced, 2001 Ga. Gen. Assem.

17. See *id.*

18. See *id.*

19. See *id.*

20. See State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

21. Compare HB 156, as introduced, 2001 Ga. Gen. Assem., with HB 156 (HCS), 2001 Ga. Gen. Assem.

22. Compare HB 156, as introduced, 2001 Ga. Gen. Assem., with HB 156 (HCS), 2001 Ga. Gen.

Consideration on the House Floor

The Committee substitute was amended on the House floor to add the number of abortions performed in the last ten years to the information compiled in the physician profile.²³

Anti-abortion legislators offered two other amendments, which were ruled not to be germane.²⁴ One would have required a young woman to get parental consent to get an abortion.²⁵ Another would have required doctors to provide background information to patients seeking abortions, including risks involved and alternatives such as adoption.²⁶ The House adopted the Committee substitute, passed the floor amendment, and passed the bill on February 8, 2001.²⁷

Consideration by the Senate Health and Human Services Committee

Upon introduction in the Senate on February 9, 2001, the bill was assigned to the Health and Human Services Committee.²⁸ The Committee favorably reported the bill, as substituted, on March 15, 2001.²⁹ The Committee substitute amended Code section 31-7-131 by changing the definition regarding peer review organizations.³⁰ The substitute also amended Code section 31-7-133 by expanding confidentiality protection to peer review reports disclosed to government agencies.³¹ The substitute further provided for the copying and inspection of peer review materials without waiving their

Assem.

23. Compare HB 156 (HCS), 2001 Ga. Gen. Assem., with HB 156 (HCSFA), 2001 Ga. Gen. Assem. This amendment was added by anti-abortion legislators who had been trying to provide more information to patients about abortion services. See Walker Interview, *supra* note 5. Some parties worried that publicizing the names of doctors who performed abortions would make them targets for violent anti-abortion activists, and that the amendment threatened to kill an otherwise important bill. See *Anti-Choice Forces Ruin Health Care Bill*, ATLANTA J. CONST., Feb. 13, 2001, at A10.

24. See House Audio, *supra* note 2 (remarks on proposed amendments); see also *Anti-Choice Forces Ruin Health Care Bill*, *supra* note 23, at A10.

25. See House Audio, *supra* note 2 (remarks by Rep. Jeffrey Williams); Failed House Floor Amendment to HB 156, introduced by Rep. Jeffrey Williams, Feb. 8, 2001.

26. See House Audio, *supra* note 2 (remarks by Rep. Brian Joyce); Failed House Floor Amendment to HB 156, introduced by Rep. Brian Joyce, Feb. 8, 2001.

27. See Georgia House of Representatives Voting Record, HB 156 (Feb. 8, 2001); State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

28. See State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

29. See *id.*

30. Compare HB 156 (HCSFA), 2001 Ga. Gen. Assem., with HB 156 (SCS), 2001 Ga. Gen. Assem.

31. Compare HB 156 (HCSFA), 2001 Ga. Gen. Assem., with HB 156 (SCS), 2001 Ga. Gen. Assem.

confidentiality.³² The substitute amended Code section 43-34-37 to excuse from confidentiality those reports of state board investigations which are included in the physician profile.³³ Finally, the substitute deleted the provision requiring doctors to report the number of abortions performed in the last ten years, which had been added on the House floor.³⁴

Consideration on the Senate Floor

On the Senate floor, the Committee substitute was adopted unanimously without changes on March 19, 2001.³⁵ The House agreed to the Senate version on March 21, 2001.³⁶

The Act

The Act amends Code section 31-7-8 by waiving confidentiality and allowing for public disclosure of information in any reports of disciplinary proceedings made to a licensing board so that such information can become part of a physician's profile pursuant to Code section 43-34A.³⁷

The Act also amends Georgia Code section 31-7-131 by changing the definitions of peer review organizations.³⁸

The Act amends Georgia Code section 31-7-133 by expanding confidentiality protection to reports of peer review organizations disclosed to government agencies.³⁹ The Act also adds language to section 31-7-133 which ensures that the Department of Human Resources' inspection and copying of peer review materials will not waive those materials' confidentiality.⁴⁰

32. Compare HB 156 (HCSFA), 2001 Ga. Gen. Assem., with HB 156 (SCS), 2001 Ga. Gen. Assem.

33. Compare HB 156 (HCSFA), 2001 Ga. Gen. Assem., with HB 156 (SCS), 2001 Ga. Gen. Assem.

34. Compare HB 156 (HCSFA), 2001 Ga. Gen. Assem., with HB 156 (SCS), 2001 Ga. Gen. Assem.

35. See Georgia House of Representatives Voting Record, HB 156 (Mar. 19, 2001); State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

36. See Georgia Senate Voting Record, HB 156 (Mar. 21, 2001); State of Georgia Final Composite Status Sheet, HB 156, Mar. 21, 2001.

37. Compare 1977 Ga. Laws 257, § 1, at 259 (formerly found at O.C.G.A. § 31-7-8 (1996)), with O.C.G.A. § 31-7-8 (2001).

38. Compare 1995 Ga. Laws 612, § 3, at 615 (formerly found at O.C.G.A. § 31-7-131 (1996)), with O.C.G.A. § 31-7-131 (2001).

39. Compare 1991 Ga. Laws 1016, § 2, at 259 (formerly found at O.C.G.A. § 31-7-133 (1996)), with O.C.G.A. § 31-7-133 (2001).

40. Compare 1991 Ga. Laws 1016, § 2, at 259 (formerly found at O.C.G.A. § 31-7-133 (1996)), with O.C.G.A. § 31-7-133 (2001).

The Act amends Georgia Code section 43-34-37 by waiving confidentiality of investigation reports made by the State Board of Medical Examiners so that information contained therein may be included in physician profiles.⁴¹

The Act adds a new chapter, 34A, to Title 43, also known as the Patient Right to Know Act of 2001.⁴² The Act requires the Composite State Board of Medical Examiners to create physician profiles on every doctor licensed to practice in Georgia.⁴³

The profiles will include a wide variety of information, including, but not limited to, names of medical schools attended, specialty board certification, number of years in practice, current hospital privileges and felony convictions.⁴⁴ The profiles will also include disciplinary actions and restriction or revocation of hospital privileges occurring after the bill takes effect.⁴⁵ Further, the profiles will include medical malpractice court judgments over \$100,000, as well as medical malpractice settlements over \$300,000.⁴⁶ Only judgments and settlements occurring after the bill takes effect will be included.⁴⁷

The Act further provides that any person has the right to request and receive a profile from the State Board of Medical Examiners, either in hard copy or over the Internet.⁴⁸ The person's identity will remain confidential.⁴⁹ The Board must respond to all requests within three business days by sending a copy of the profile to the person making the request.⁵⁰

The Act also allows a patient to inquire as to the estimated costs for a routine office visit, treatments and lab tests, and requires the doctor or

41. Compare 1974 Ga. Laws 1156, § 6, at 1167 (formerly found at O.C.G.A. § 43-34-37 (1999)), with O.C.G.A. § 43-34-37 (Supp. 2001).

42. See O.C.G.A. § 43-34A-1 (Supp. 2001).

43. See *id.* § 43-34A-3(a).

44. See *id.* § 43-34A-3(c).

45. See *id.* § 43-34A-3(c)(14).

46. See *id.* § 43-34A-3(c)(16), (17)(a).

47. See *id.* The profiles will not cover any pre-Act incidents because the physician community felt that had doctors known their malpractice judgments and settlements would be made accessible to the public, the doctors might have acted differently in settlement negotiations. See Telephone Interview with Jim Martin, House District No. 47 (Apr. 6, 2001).

48. See O.C.G.A. § 43-34A-4 (Supp. 2001).

49. See *id.*

50. See *id.*

other authorized person to provide such information.⁵¹ Finally, the Act allows any patient to file a grievance with the Board concerning a doctor, staff member, or treatment received.⁵²

Josh Marks

51. *See id.* § 43-34A-5.

52. *See id.* § 43-34A-6.