

# Health Care Fraud and Abuse Laws: Georgia

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A Q&A guide to health care-related fraud and abuse laws in Georgia. This Q&A addresses civil and criminal actions, consequences for violation, and Medicaid program integrity provisions. Answers to questions can be compared across a number of jurisdictions (see Health Care Fraud and Abuse Laws: State Q&A Tool).

## Laws and Regulations

### 1. Please list each state equivalent of the federal False Claims Act, Anti-Kickback Statute, and the Stark Law in your jurisdiction. For each statute or regulation, please:

- Identify the statute or regulation.
- Provide a description of the statute or regulation, including the elements to prove a violation.
- Identify each person or entity covered by the statute or regulation, including providers and payors.
- Identify the state agency or entity that administers and/or enforces the statute or regulation.

Significant Georgia statutes or regulations that govern health care fraud and abuse are:

- The Patient Self-Referral Act of 1993: O.C.G.A. §§ 43-1B-1 to 43-1B-8.
- The Georgia State False Medicaid Claims Act: O.C.G.A. §§ 49-4-168 to 49-4-168.6.
- The Georgia Taxpayers Protection False Claims Act: O.C.G.A. §§ 23-3-120 to 23-3-127.
- The Prohibition of Patient Brokering for Substance Abuse Programs law: O.C.G.A. § 26-5-80.

### Patient Self-Referral Act of 1993: O.C.G.A. §§ 43-1B-1 to 43-1B-8

#### Description

Under the Georgia Patient Self-Referral Act, unless an exception applies, a health care provider may not refer a patient for designated health services to an entity in which the provider or an immediate family member of the provider, as defined, has an investment interest (O.C.G.A. § 43-1B-4). To prove a violation of this law, the health care provider's regulating board must show that:

- The violating party works in a profession regulated by the board (O.C.G.A. §§ 43-1B-3(6), 43-1B-4, and 43-1B-5).
- The violating party committed at least one of the following acts:
  - referred a patient for designated health services to an entity in which the health care provider or an immediate family member of the health care provider has an investment interest;
  - presented or caused to be presented a claim for payment to an individual, third-party payor, or other entity for a service furnished pursuant to the prohibited referral;
  - entered an arrangement or scheme that the health care provider or entity knew or should have known had a principal purpose of

assuring referrals by the health care provider to a particular entity that would be a prohibited referral if the health care provider directly made the referral to the entity;

- agreed to divide fees received for a designated health service with a health care provider or entity solely for referring a patient; or
- referred a patient to an entity in which the health care provider has an investment interest and did not provide the patient with a written disclosure form before making the referral or failed to post a copy of the disclosure form in a conspicuous place in the health care provider's office (O.C.G.A. § 43-1B-5).

(O.C.G.A. § 43-1B-4.)

- No exception applies to the violating party (O.C.G.A. §§ 43-1B-6 and 43-1B-8).

### Covered Persons and Entities

This law covers all licensed physicians, chiropractors, podiatrists, optometrists, pharmacists, and physical therapists (O.C.G.A. § 43-1B-3(6)).

### State Agency

The health care provider's regulatory board administers and enforces this law (O.C.G.A. §§ 43-1B-3(1), 43-1B-4(8), and 43-1B-5(d)).

The [Georgia Department of Community Health](#) regulates entities relying on financing as the exception for prohibited referrals (if there is no entity of reasonable quality, price, or service in the community, alternative financing is not reasonably available, and all other related requirements are met) (O.C.G.A. § 43-1B-6(b)).

## Georgia State False Medicaid Claims Act: O.C.G.A. §§ 49-4-168 to 49-4-168.6

### Description

Under the Georgia State False Medicaid Claims Act (SFMCA), an individual or entity may not make a claim with the Georgia State Medicaid program by making, using, or causing to be made or used false or fraudulent information (O.C.G.A. § 49-4-168.1(a)). To prove a violation of this law, the [Georgia Office of the Attorney General](#) (GA OAG) or private party must

show by a preponderance of the evidence that the defendant:

- Knowingly presented or caused to be presented to the Georgia Medicaid program a false or fraudulent claim for payment or approval.
- Knowingly made, used, or caused to be made or used a false record or statement material to a false or fraudulent claim.
- Had possession, custody, or control of property or money used or to be used by the Georgia Medicaid program and knowingly delivered or caused to be delivered less than all the property or money.
- Was authorized to make or deliver a document certifying receipt of property used or to be used by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program, made or delivered the receipt without completely knowing that the information on the receipt was true.
- Knowingly bought or received as a pledge of an obligation or debt public property from an officer or employee of the Georgia Medicaid program who lawfully may not sell or pledge the property.
- Knowingly made, used, or caused to be made or used a false record or statement material to an obligation to pay or transmit property or money to the Georgia Medicaid program, or knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit property or money to the Georgia Medicaid program.
- Conspired to violate this law.

(O.C.G.A. §§ 49-4-168.1(a) and 49-4-168.3(a).)

In addition, an employer may not discriminate against an employee, contractor, or agent for taking lawful actions to stop a violation or further a civil action brought under this law. For a retaliation claim, an aggrieved employee, contractor, or agent must show that:

- They committed a lawful act to either further a civil action under this law or prevent a violation of this law.
- The employer discriminated against them in the terms and conditions of employment.
- The discriminatory act was because of the employee's lawful act.

(O.C.G.A. § 49-4-168.4.)

### Covered Persons and Entities

This law covers all individuals and entities that participate in the Georgia Medicaid program (O.C.G.A. §§ 49-4-168.1 and 49-4-168.4).

### State Agency

The GA OAG administers and enforces this law (O.C.G.A. §§ 49-4-168.2 and 49-4-168.3).

### Georgia Taxpayers Protection False Claims Act: O.C.G.A. §§ 23-3-120 to 23-3-127

#### Description

Under the Georgia Taxpayers Protection False Claims Act, an individual or entity may not make a claim by making, using, or causing to be made or used false or fraudulent information (O.C.G.A. § 23-3-121(a)). To prove a violation of this law, the GA OAG, state or local government, or private party must show by a preponderance of the evidence that the defendant:

- Knowingly presented or caused to be presented a false or fraudulent claim for payment or approval.
- Knowingly made, used, or caused to be made or used a false record or statement material to a false or fraudulent claim.
- Had possession, custody, or control of property or money used, or to be used, by the state or local government and knowingly delivered, or caused to be delivered, less than all of that money or property.
- Was authorized to make or deliver a document certifying receipt of property used, or to be used, by the state or local government and, intending to defraud the state or local government, made or delivered the receipt without completely knowing that the information on the receipt was true.
- Knowingly bought or received as a pledge of an obligation or debt public property from an officer or employee of the state or local government who lawfully may not sell or pledge the property.
- Knowingly made, used, or caused to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state or local government, or knowingly concealed, knowingly and improperly avoided, or decreased an obligation to pay or transmit money or property to the state or a local government.
- Conspired to violate this law.

(O.C.G.A. § 23-3-121(a) and 23-3-123(e).)

An employer may not discriminate against an employee, contractor, or agent for taking lawful actions to prevent a violation or further a civil action brought under this law. For a retaliation claim, an aggrieved employee, contractor, or agent must show that:

- They committed a lawful act to either further a civil action under this law or prevent a violation of this law.
- The employer discriminated against them in the terms and conditions of employment.
- The discriminatory act was because of the employee's lawful act.

(O.C.G.A. § 23-3-122(l).)

### Covered Persons and Entities

This law covers all individuals and entities (O.C.G.A. § 23-3-121).

### State Agency

The GA OAG administers and enforces this law (O.C.G.A. §§ 23-3-122, 23-3-127, 49-4-168.2 and 49-4-168.3). In addition:

- A private individual or entity may also bring a civil action under this law if they have the GA OAG's written approval, with exceptions.
- The GA OAG may delegate authority to bring a civil action under this law to a district attorney or local government.

(O.C.G.A. § 23-3-122(a), (b).)

### Prohibition of Patient Brokering for Substance Abuse Programs: O.C.G.A. § 26-5-80

#### Description

It is a crime for a person, including a substance abuse provider, to do any of the following:

- Pay or offer to pay remuneration or engage in a split-fee arrangement, in any form, to induce the referral of a patient or patronage to or from a substance abuse provider.
- Solicit or receive remuneration or engage in a split-fee arrangement, in any form, in return for the referral of a patient or patronage to or from a substance abuse provider.
- Solicit or receive remuneration or engage in any split-fee arrangement, in any form, in return for the

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acceptance or acknowledgment of treatment from a substance abuse provider.

- Aid, abet, advise, or otherwise participate in the conduct listed above.

Remuneration includes, but is not limited to, a commission, benefit, bonus, rebate, kickback, or bribe. (O.C.G.A. § 26-5-80(b).)

This does not apply to the remuneration, payments, and other financial arrangements specified in O.C.G.A. § 26-5-80(c), such as:

- A discount, payment, payment waiver, or payment practice not prohibited by 42 U.S.C. § 1320a-7b(b) or its regulations.
- A payment, compensation, or financial arrangement within a group practice if the payment, compensation, or arrangement is not to or from a person who is not a member of the group practice.
- Payments to a health care provider for professional services.

(O.C.G.A. § 26-5-80(c).)

### Covered Persons and Entities

This law covers all individuals and entities (O.C.G.A. § 26-5-80(a), (b)).

### State Agency

The GA OAG and the district attorney of the judicial circuit where the violation occurred enforce this law (O.C.G.A. § 26-5-80(e)).

For additional information on other significant fraud and abuse laws, see Question 5.

## 2. For each law and regulation identified in Question 1, please list the key terms of art used and the definition of each.

### Patient Self-Referral Act of 1993: O.C.G.A. §§ 43-1B-1 to 43-1B-8

Key terms of art include:

- Designated health services. They are:
  - clinical laboratory services;
  - physical therapy services;
  - rehabilitation services;

- diagnostic imaging services;
- pharmaceutical services;
- durable medical equipment;
- home infusion therapy services (including related pharmaceuticals and equipment);
- home health care services; and
- outpatient surgical services.

- **Entity.** This is:

- an individual;
- a partnership;
- a firm;
- a corporation; or
- another business entity.

- **Group practice.** This is a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

- where each member health care provider provides substantially the full range of services that the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;
- for which substantially all the services of the member health care providers are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and
- where the overhead expenses of and the income from the practice are distributed according to methods previously determined by members of the group.

- **Health care provider.** This is a Georgia-licensed:

- physician;
- chiropractor;
- podiatrist;
- optometrist;
- pharmacist; or
- physical therapist.

- **Immediate family member.** This is the health care provider's:

- spouse;
  - child;
  - child’s spouse;
  - grandchild;
  - grandchild’s spouse;
  - parent;
  - parent-in-law; or
  - sibling.
- **Investment interest.** This is an equity or debt security issued by an entity, including, without limitation, stock shares in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments, but does **not** include:
    - an investment interest in an entity that is a provider of a designated health service solely in a rural area;
    - an investment interest in notes, bonds, debentures, or other debt instruments issued by an entity that provides designated health services, as an integral part of a plan by the entity to acquire the investor’s equity investment interest in the entity, if certain specified conditions are met;
    - an investment interest in real property resulting in a landlord-tenant relationship between the health care provider and the entity where the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or exceeds fair market value;
    - a financial relationship between an entity providing education and training in the health sciences, including its owned and affiliated hospitals, and any entity or entities through which its faculty and employees who are health care providers provide designated health services; or
    - an investment interest in a publicly held corporation that meets certain specified criteria, including that there are no special stock classes for health care provider investors.

(O.C.G.A. § 43-1B-3.)

### Georgia State False Medicaid Claims Act: O.C.G.A. §§ 49-4-168 to 49-4-168.6

Key terms of art include:

- **Claim.** This includes a request or demand:
  - made to the Georgia Medicaid program or to an officer, employee, fiscal intermediary, grantee, agent, or contractor of the Georgia Medicaid program or to other persons or entities if it results in the Georgia Medicaid program making payments; or
  - resulting in payments by the Georgia Medicaid program, including if the Georgia Medicaid program provides, has provided, or will provide a portion of the money or property requested, will reimburse the recipient for a portion of the money or property requested or demanded, or if the money or property is to be spent or used on behalf of or to advance the Georgia Medicaid program.
- **Knowing and knowingly.** This does not require proof of a specific intent to defraud. This means that a person:
  - has actual knowledge of the information;
  - acts in deliberate ignorance of the veracity of the information; or
  - acts in reckless disregard of the veracity of the information.
- **Material.** This means having a natural tendency to influence, or be capable of influencing, the receipt of money or property.
- **Obligation.** An established duty, fixed or not, arising from any of the following:
  - a contractual relationship;
  - a grantor-grantee relationship;
  - a licensor-licensee relationship;
  - a fee-based or similar relationship;
  - a statute or regulation; or
  - retention of an overpayment.
- **Person.** This means a natural person or entity that can sue or be sued.

(O.C.G.A. § 49-4-168.)

### Georgia Taxpayers Protection False Claims Act: O.C.G.A. §§ 23-3-120 to 23-3-127

Key terms of art include:

- **Claim.** This is a request or demand for money or property that is:
  - presented to an officer, employee, or agent of the state or local government; or
  - made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's or local government's behalf or to advance a state or local government program or interest, and if the state or local government provides a portion of the money or property or will reimburse the contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.
- **Knowing and knowingly.** This does not require proof of a specific intent to defraud. This means that a person:
  - has actual knowledge of the information;
  - acts in deliberate ignorance of the veracity of the information; or
  - acts in reckless disregard of the veracity of the information.
- **Local government.** This is a Georgia:
  - county;
  - municipal corporation;
  - consolidated government;
  - authority;
  - board of education or other local public board, body, or commission;
  - town;
  - school district;
  - board of cooperative educational services;
  - local public benefit corporation;
  - hospital authority;
  - taxing authority; or
  - political subdivision or a local government political subdivision, including the Metropolitan Atlanta Rapid Transit Authority.
- **Material.** This means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.
- **Obligation.** An established duty arising from any of the following:

- a contractual relationship;
- a grantor-grantee relationship;
- a licensor-licensee relationship;
- a fee-based or similar relationship;
- a statute or regulation; or
- retention of an overpayment.

(O.C.G.A. § 23-3-120.)

### Prohibition of Patient Brokering for Substance Abuse Programs: O.C.G.A. § 26-5-80

Key terms of art include:

- **Health insurer.** This is:
  - an accident and sickness insurer;
  - a health care corporation;
  - a health maintenance organization; or
  - a provider sponsored health care corporation or similar entity regulated by the Georgia Department of Insurance.
- **Recovery residence.** This is a residential dwelling unit or other form of group housing offered or advertised as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.
- **Substance abuse provider.** This is:
  - a state-owned or state-operated hospital, community mental health center, or other facility used to diagnose, care, treat, or hospitalize people who are alcoholics, drug-dependent individuals, or drug abusers, including a hospital or facility in Georgia approved for these purposes by the Georgia Department of Behavioral Health and Developmental Disabilities;
  - a community service provider contracting with a state or local entity to provide mental health, developmental disability, and addictive disease services;
  - a Georgia-licensed drug abuse treatment and education program and narcotic treatment program; or
  - a recovery residence.

(O.C.G.A. § 26-5-80(a).)



### 3. For each law or regulation identified in Question 1, please specify the possible consequences for violating the statute or regulation.

In addition to the penalties listed, a provider may be terminated from participating in the Georgia Medicaid program for conduct that includes fraudulent or abusive practices (O.C.G.A. § 49-4-146.1(f)). For more information, see Question 5: Georgia Medical Assistance Act of 1977.

A party may also be in violation of unprofessional conduct laws and subject to disciplinary actions including license revocation, suspension, or non-renewal. For more information, see Question 5: Provisions for Specific Professions and Entities Regarding Unprofessional Conduct.

#### **Patient Self-Referral Act of 1993: O.C.G.A. §§ 43-1B-1 to 43-1B-8**

Penalties for violation of this Act vary depending on the nature of the violation.

A person who presents and collects payment from a bill or claim for service that the person knows or should know is for a service furnished under a prohibited referral and does not refund the payment may face:

- A civil penalty of up to \$15,000 for each service.
- Disciplinary action by the person's regulatory board, which may include license revocation.

(O.C.G.A. § 43-1B-4(5), (8).)

A health care provider or entity that:

- Enters in an arrangement or scheme that it knows or should know has a principal purpose of assuring prohibited referrals may face:
  - a civil penalty of up to \$50,000 for each arrangement or scheme; and
  - disciplinary action from the provider's regulatory board, which may include license revocation.
- Divides fees or agrees to do so for a designated health service with a health care provider or entity solely for referring a patient may face:
  - a civil penalty of up to \$15,000 for each service; and
  - disciplinary action from the provider's regulatory board, which may include license revocation.

(O.C.G.A. § 43-1B-4(6)-(8).)

A provider who does not disclose their ownership interest may face disciplinary action by their regulatory board (O.C.G.A. § 43-1B-5(d)).

#### **Georgia State False Medicaid Claims Act: O.C.G.A. §§ 49-4-168 to 49-4-168.6**

A person who violates this law may face:

- A civil penalty in an amount allowed under the federal False Claims Act (31 U.S.C. §§ 3729 to 3733).
- Three times the amount of damages sustained by the Georgia Medicaid program.
- Attorneys' fees and costs.

(O.C.G.A. § 49-4-168.1(a), (c).)

A court may not assess more than twice the amount of actual damages sustained by the Georgia Medicaid program if:

- The individual or entity provided the Georgia Medicaid program with all information that the individual or entity knew about the violation within 30 days after the date they first obtained the information.
- The individual or entity fully cooperated with any government investigation of the violation.
- There was no criminal, civil, or administrative proceeding regarding the violation when the individual or entity provided the information, and the individual or entity did not have actual knowledge of the existence of an investigation.

(O.C.G.A. § 49-4-168.1(b).)

An employer who discriminates against an employee, contractor, or agent may be required to:

- Reinstatement the employee, contractor, or agent with the same seniority status that they would have had but for the discrimination.
- Pay the employee, contractor, or agent:
  - double the amount of back pay;
  - interest on the back pay; and
  - compensation for any special damages sustained due to the discrimination, including litigation costs and reasonable attorneys' fees.

(O.C.G.A. § 49-4-168.4(b).)

### Georgia Taxpayers Protection False Claims Act: O.C.G.A. §§ 23-3-120 to 23-3-127

A person who violates this law may be required to pay:

- A civil penalty of:
  - \$5,500.00 to \$11,000 for each false or fraudulent claim; and
  - three times the amount of damages that the state or local government sustains because of the violation (O.C.G.A. § 23-3-121(a)).
- Costs, expenses, and attorneys' fees.

(O.C.G.A. §§ 23-3-121(a) and 23-3-122(a).)

A court may not assess more than twice the amount of actual damages sustained by the state or local government if:

- The individual or entity provided the state or local government with all information that the individual or entity knew about the violation within 30 days after the date they first obtained the information.
- The individual or entity fully cooperated with any government investigation of the violation.
- There was no criminal, civil, or administrative proceeding regarding the violation when the individual or entity provided the information, and the individual or entity did not have actual knowledge of the existence of an investigation.

(O.C.G.A. § 23-3-121(b).)

An employer who discriminates against an employee, contractor, or agent may be required to:

- Reinstate the employee, contractor, or agent with the same seniority status that they would have had but for the discrimination.
- Pay the employee, contractor, or agent:
  - double the amount of back pay;
  - interest on the back pay; and
  - compensation for any special damages sustained due to the discrimination, including litigation costs and reasonable attorneys' fees.

(O.C.G.A. § 23-3-122(l).)

### Prohibition of Patient Brokering for Substance Abuse Programs: O.C.G.A. § 26-5-80

A person who violates this law may face:

- If the violation involves fewer than ten patients, misdemeanor charges punishable by:
  - imprisonment for up to 12 months; and
  - a fine of up to \$1,000 per violation.
- If the violation involves 10 to 19 patients, felony charges punishable by:
  - imprisonment for up to five years; and
  - a fine of up to \$100,000 per violation.
- If the violation involves 20 or more patients, felony charges punishable by:
  - imprisonment for up to ten years; and
  - a fine of up to \$500,000 per violation.

(O.C.G.A. § 26-5-80(d).)

In addition, the person violating this law may be subject to:

- An injunction.
- An order to pay reasonable expenses in obtaining injunctive relief. This includes investigative costs, court costs, reasonable attorneys' fees, witness costs, and deposition expenses.

(O.C.G.A. § 26-5-80(e), (g).)

### Medicaid Program Integrity

**4. If your jurisdiction has a law or regulation governing Medicaid program integrity requirements, please identify the law or regulation and provide a brief description.**

The Georgia Department of Community Health (DCH) may investigate and audit any provider or other party with information relating to the amount of medical assistance that a provider has claimed (O.C.G.A. § 49-4-151).

The DCH may terminate a provider from participating in the Georgia Medicaid program for conduct that



includes fraudulent or abusive practices (O.C.G.A. § 49-4-146.1(f)). For more information, see Question 5: Georgia Medical Assistance Act of 1977.

### Other Significant State Laws

#### 5. Please briefly describe any other significant laws used by your jurisdiction to prevent, address, or prosecute health care fraud and abuse.

#### Georgia Medical Assistance Act of 1977: O.C.G.A. §§ 49-4-140 to 49-4-157

It is a crime for a person or provider to:

- Obtain (or attempt to) or retain medical assistance, benefits, or payments under the Georgia Medicaid program or under a managed care program operated, funded, or reimbursed by the Georgia Medicaid program, that they know they are not entitled to, or in an amount greater than that to which they are entitled, when the assistance, benefit, or payment is obtained or retained by:
  - knowingly and willfully making a false statement or false representation;
  - deliberately concealing a material fact; or
  - a fraudulent scheme or device.
- Knowingly and willfully:
  - accept medical assistance payments to which they are not entitled;
  - accept medical assistance payments in an amount greater than that to which they are entitled; or
  - falsify a report or document required under the Georgia Medicaid program.

(O.C.G.A. § 49-4-146.1(b).)

A person who violates this law may face felony criminal charges and may also be required to pay civil penalties and interest (O.C.G.A. § 49-4-146.1(c), (c.1), (d).)

In addition, a provider may be required to pay an additional civil penalty of twice the amount of any excess benefit or payment if they knowingly obtain or attempt to obtain medical assistance, benefits, or payments under the Georgia Medicaid program:

- That they know they are not entitled to.
- When the assistance, benefits, or payments are greater than an amount that would be paid according to the Georgia Department of Community Health (DCH)'s policies and procedures manual.
- When the assistance, benefits, or payments result in unnecessary costs to the medical assistance program.

(O.C.G.A. § 49-4-146.1(c.1).)

This does not include:

- Isolated instances of an unintentional error in billing, coding, and costs reports.
- Miscoding in situations where:
  - there was a good faith basis that the codes used were appropriate; and
  - the provider did not have deceptive intent.

(O.C.G.A. § 49-4-146.1(c.1).)

In addition, DCH may refuse to accept a statement of participation, deny a request for reinstatement, refuse to renew participation, suspend or withhold payments arising from fraud or willful misrepresentation under the Medicaid program from, or terminate the participation of a provider who is not a natural person if the provider (or an agent or managing employee of, or a person with ownership or control interest in the provider) has been:

- Convicted of violating O.C.G.A. § 49-4-146.1(b).
- Convicted of committing a crime related to a program administered by the federal Medicare, Medicaid, or Social Services Block Grant programs.
- Excluded or suspended from participating in the federal Medicare program for fraud or abuse.

DCH decides on a case-by-case basis. (O.C.G.A. § 49-4-146.1(f).)

DCH must refuse to accept a statement of participation, deny a request for reinstatement, refuse to renew a statement of participation, or terminate the participation of a provider who is a natural person if the provider (or the provider's agent or managing employee) has been convicted of:

- Violating O.C.G.A. § 49-4-146.1(b).
- Committing a crime related to a program administered by the federal Medicare, Medicaid, or Social Services Block Grant programs.

(O.C.G.A. § 49-4-146.1(g).)

### **Offenses Against Public Administration: False Statements, Concealment of Facts, and Conspiracy to Defraud the State or a Political Subdivision: O.C.G.A. §§ 16-10-20 and 16-10-21**

It is a crime for a person to:

- Knowingly and willingly do the following relating to a matter within Georgia or one of its political subdivisions, government departments, or agencies:
  - falsify, conceal, or cover up a material fact by a trick, scheme, or device; or
  - make a false, fictitious, or fraudulent statement or representation; or
  - make or use a false writing or document knowing that the writing or document contains a false, fictitious, or fraudulent statement or entry.
- Conspire or agree with another to commit theft of property that belongs to either:
  - the state of Georgia;
  - a political subdivision of the state of Georgia;
  - a governmental department or agency; or
  - an officer or employee who has control of or possesses the property in their official capacity.

(O.C.G.A. §§ 16-10-20 and 16-10-21.)

A person who violates this law may face criminal charges punishable by either or both a fine of up to \$1,000 and imprisonment for between one and five years (O.C.G.A. §§ 16-10-20 and 16-10-21).

### **Provisions for Specific Professions and Entities Regarding Unprofessional Conduct**

Professionals licensed by the Georgia Composite Medical Board (which includes physicians, physician assistants, respiratory care professionals, perfusionists, acupuncturists, orthotists, prosthetists, auricular detoxification specialists, genetic counselors, cosmetic laser practitioners, and pain management clinics) may face license revocation if they divide fees or agree to divide fees received for professional services with any person, firm, association, corporation, or other entity for bringing or referring a patient (O.C.G.A. § 43-34-8(a)(9)). Georgia also has laws that prohibit specific health care

professions from engaging in unprofessional conduct, which includes offering or receiving for example, remuneration or compensation to obtain the referral of patients. Professions include, but are not limited to:

- Dentists (Ga. Comp. R. & Regs. 150-8-.01 to 150-8-.04). Unprofessional conduct includes giving rebates or splitting fees with a referral source and knowingly submitting a misleading, deceptive, untrue, or fraudulent misrepresentation on a claim form, bill, or statement to a third party (Ga. Comp. R. & Regs. 150-8-.01 and 150-8-.02).
- Optometrists (Ga. Comp. R. & Regs. 430-4-.01). Unprofessional conduct includes:
  - accepting a payment, gift, or other remuneration for an optometric service not actually rendered; or
  - offering, agreeing to accept, or receiving compensation for the referral of professional services to or from another health care provider or entity.

(Ga. Comp. R. & Regs. 430-4-.01(2)(p), (3).)

- Pharmacists (Ga. Comp. R. & Regs. 480-5-.03). Unprofessional conduct includes offering, accepting, or receiving compensation for the referral of professional services to or from another health care provider or entity (Ga. Comp. R. & Regs. 480-5-.03(2)).
- Professional counselors, social workers, and marriage and family therapists (Ga. Comp. R. & Regs. 135-7-.02). Unprofessional conduct includes accepting or giving a fee or anything of value for making or receiving a referral (Ga. Comp. R. & Regs. 135-7-.02(g)).

Violators are subject to:

- Disciplinary actions, including public reprimand, license non-renewal, license suspension, and license revocation (Ga. Comp. R. & Regs. 150-8-.01 (dentists); Ga. Comp. R. & Regs. 430-2-.02 (optometrists); Ga. Comp. R. & Regs. 480-5-.03(15) (pharmacists); O.C.G.A. § 43-34-8(a) (physicians, physician assistants, respiratory care professionals, perfusionists, acupuncturists, orthotists, prosthetists, auricular detoxification specialists, genetic counselors, cosmetic laser practitioners, and pain management clinics)).
- Fines (Ga. Comp. R. & Regs. 480-5-.03(15) (pharmacists)).

### **Advertisement for Waiver of Deductible or Copayments: O.C.G.A. § 43-1-19.1**

A health care provider may not advertise the waiver of a deductible or copayment that must be paid to the health care provider under the patient's health insurance policy or plan as an inducement to attract patients. This does not apply to:

- Nonprofit community health centers that primarily serve indigent patients.
- Occasional waivers that the insurer authorizes.
- Occasional waivers that are both:
  - based on an evaluation of the individual patient; and
  - not the health care provider's regular business practice.

(O.C.G.A. § 43-1-19.1.)

A health care provider who violates this law may face disciplinary action by their licensing board (O.C.G.A. §§ 43-1-19.1(a) and 43-1-19).

### **Financial Incentive Programs for Managed Health Care Plans: O.C.G.A. § 33-20A-6**

A managed care plan may not use a financial incentive or disincentive program that compensates a health care provider or hospital for:

- Ordering or providing less than medically necessary and appropriate care to their patients.
- Denying, reducing, limiting, or delaying the care.

(O.C.G.A. § 33-20A-6.)

The law does not specify the consequences for a violation.

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