

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 1264:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide certain licensure requirements and programs for certain
3 healthcare professionals; to authorize the Georgia Composite Board of Professional
4 Counselors, Social Workers, and Marriage and Family Therapists to establish a professional
5 health program to provide for monitoring and rehabilitation of impaired healthcare
6 professionals; to authorize the Georgia Board of Nursing to establish a professional health
7 program to provide for monitoring and rehabilitation of impaired healthcare professionals;
8 to provide for funding or gifts in kind; to provide for licensure of certain qualifying foreign
9 medical graduates; to provide for a nonrenewable limited provisional license under certain
10 conditions; to provide for a renewable restricted license under certain conditions; to provide
11 for the application for full licensure under certain conditions; to provide for rules and
12 regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14

SECTION 1.

15 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
16 is amended in Chapter 10A, relating to professional counselors, social workers, and marriage
17 and family therapists, by adding a new Code section to read as follows:

18 "43-10A-24.

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

20 (1) 'Entity' means an organization or medical professional association which conducts
21 professional health programs.

22 (2) 'Healthcare professional' means any individual licensed, certified, or permitted by the
23 board under this chapter.

24 (3) 'Impaired' means the inability of a healthcare professional to practice with reasonable
25 skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,
26 chemicals, or any other type of material, or as a result of any mental or physical
27 condition.

28 (4) 'Professional health program' means a program established for the purposes of
29 monitoring and rehabilitation of impaired healthcare professionals.

30 (b) The board shall be authorized to conduct a professional health program to provide
31 monitoring and rehabilitation of impaired healthcare professionals in this state. To this
32 end, the board shall be authorized to enter into a contract with an entity for the purpose of
33 establishing and conducting such professional health program, including, but not limited
34 to:

35 (1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose
36 of ensuring the fitness of each such healthcare professional to resume or continue the
37 practice of his or her healthcare profession while maintaining the safety of the public;

38 (2) Performing duties related to paragraph (10) of subsection (a) of Code
39 Section 43-10A-17; and

40 (3) Performing such other related activities as determined by the board.

41 (c) Notwithstanding subsection (k) of Code Section 43-1-2 and Code Section 43-10A-17,
42 the board shall be authorized to provide pertinent information regarding healthcare
43 professionals, as determined by the board and in its sole discretion, to an entity for its
44 purposes in conducting a professional health program pursuant to this Code section.

45 (d) All information, interviews, reports, statements, memoranda, or other documents
46 furnished to an entity by the board or other source or produced by an entity and any
47 findings, conclusions, recommendations, or reports resulting from the monitoring or
48 rehabilitation of healthcare professionals pursuant to this Code section are declared to be
49 privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,
50 relating to open records. All such records of an entity shall be confidential and shall be
51 used by such entity and its employees and agents only in the exercise of the proper function
52 of the entity pursuant to its contract with the board. Such information, interviews, reports,
53 statements, memoranda, or other documents furnished to or produced by an entity and any
54 findings, conclusions, recommendations, or reports resulting from the monitoring or
55 rehabilitation of healthcare professionals shall not be available for court subpoenas or for
56 discovery proceedings.

57 (e) An impaired healthcare professional who participates in a professional health program
58 conducted pursuant to this Code section shall bear all costs associated with such
59 participation.

60 (f) Any entity that contracts with the board pursuant to this Code section shall be immune
61 from any liability, civil or criminal, that might otherwise be incurred or imposed for the
62 performance of any functions or duties under the contract, if performed in accordance with
63 the terms of such contract and the provisions of this Code section.

64 (g) This Code section shall be subject to appropriation by the General Assembly. The
65 board may accept and solicit private funding, public grants, in-kind gifts, or any other
66 funding or donations that may be available to facilitate the purpose of conducting a
67 professional health program."

68

SECTION 2.

69 Said title is further amended in Chapter 26, relating to nurses, by adding a new article to read
70 as follows:

71

"ARTICLE 572 43-26-70.73 As used in this article, the term:74 (1) 'Board' means the Georgia Board of Nursing.75 (2) 'Entity' means an organization or medical professional association which conducts
76 professional health programs.77 (3) 'Healthcare professional' means any individual licensed, certified, or permitted by the
78 board under this chapter.79 (4) 'Impaired' means the inability of a healthcare professional to practice with reasonable
80 skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,
81 chemicals, or any other type of material, or as a result of any mental or physical
82 condition.83 (5) 'Professional health program' means a program established for the purposes of
84 monitoring and rehabilitation of impaired healthcare professionals.85 43-26-71.86 (a) The board shall be authorized to conduct a professional health program to provide
87 monitoring and rehabilitation of impaired healthcare professionals in this state. To this
88 end, the board shall be authorized to enter into a contract with an entity for the purpose of
89 establishing and conducting such professional health program, including, but not limited
90 to:

91 (1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose
92 of ensuring the fitness of each such healthcare professional to resume or continue the
93 practice of his or her healthcare profession while maintaining the safety of the public;

94 (2) Performing duties related to paragraph (2) of Code Section 43-26-11; and

95 (3) Performing such other related activities as determined by the board.

96 (b) Notwithstanding subsection (k) of Code Section 43-1-2 and Code Section 43-26-11,
97 the board shall be authorized to provide pertinent information regarding healthcare
98 professionals, as determined by the board and in its sole discretion, to an entity for its
99 purposes in conducting a professional health program pursuant to this Code section.

100 (c) All information, interviews, reports, statements, memoranda, or other documents
101 furnished to an entity by the board or other source or produced by an entity and any
102 findings, conclusions, recommendations, or reports resulting from the monitoring or
103 rehabilitation of healthcare professionals pursuant to this Code section are declared to be
104 privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,
105 relating to open records. All such records of an entity shall be confidential and shall be
106 used by such entity and its employees and agents only in the exercise of the proper function
107 of the entity pursuant to its contract with the board. Such information, interviews, reports,
108 statements, memoranda, or other documents furnished to or produced by an entity and any
109 findings, conclusions, recommendations, or reports resulting from the monitoring or
110 rehabilitation of healthcare professionals shall not be available for court subpoenas or for
111 discovery proceedings.

112 43-26-72.

113 An impaired healthcare professional who participates in a professional health program
114 conducted pursuant to Code Section 43-26-71 shall bear all costs associated with such
115 participation.

116 43-26-73.

117 Any entity that contracts with the board pursuant to Code Section 43-26-71 shall be
118 immune from any liability, civil or criminal, that might otherwise be incurred or imposed
119 for the performance of any functions or duties under the contract if performed in
120 accordance with the terms of such contract and the provisions of this article.

121 43-26-74.

122 This article shall be subject to appropriation by the General Assembly. The board may
123 accept and solicit private funding, public grants, in-kind gifts, or any other funding or
124 donations that may be available to facilitate the purpose of conducting a professional health
125 program."

126 **SECTION 3.**

127 Said title is further amended in Chapter 34, relating to physicians, physician assistants, and
128 others, by revising Code Section 43-34-34, relating to limited provisional licenses relative
129 to physicians, as follows:

130 "43-34-34.

131 (a) A person who held a valid provisional license on or before April 16, 1979, shall be able
132 to renew such license annually without any one-time-only renewal limitation, as long as
133 such person continues to meet the other requirements specified in this article and does not
134 otherwise violate this article.

135 (b) The board may issue a limited provisional license to a physician licensed or otherwise
136 authorized to practice in a jurisdiction outside of the United States, provided that the board
137 receives acceptable evidence that the applicant has:

138 (1) Received a degree of doctor of medicine or its equivalent from an accredited medical
139 school outside of the United States, has been licensed or otherwise authorized to practice

140 medicine in a jurisdiction outside of the United States, and has practiced medicine for at
141 least three years;

142 (2) Received a valid certificate issued by the Educational Commission for Foreign
143 Medical Graduates or other credential evaluation service approved by the board;
144 provided, however, that the board may waive such certification at its discretion when the
145 applicant is unable to obtain the required documentation from a noncooperative country;

146 (3) Achieved a passing score on both Step 1 and Step 2 Clinical Knowledge of the
147 United States Medical Licensing Examination;

148 (4) Entered into an agreement for a full-time employment relationship with a hospital
149 licensed by the Department of Community Health, a board approved medical school, a
150 teaching hospital within this state, a federally qualified health center, or a clinic within
151 this state that services Medicaid, indigent, or underserved populations, provided that any
152 such prospective employing entity shall carry medical malpractice insurance covering
153 such licensee for the duration of employment; and

154 (5) Satisfied any other criteria that the board may require for issuance of a limited
155 provisional license pursuant to this subsection.

156 (c) The limited provisional license provided for in subsection (b) of this Code section shall
157 be valid for a period not to exceed two years and shall not be renewed.

158 (d) A person who holds a current, valid limited provisional license as provided for in
159 subsection (b) of this Code section for two years shall be eligible to apply for a restricted
160 license to practice medicine in a designated health professional shortage area or medically
161 underserved area or with a medically underserved population in this state as determined by
162 the board. The board may issue such restricted license to an applicant, provided that the
163 board receives acceptable evidence that the applicant has:

164 (1) Maintained in good standing a provisional license pursuant to subsection (b) of this
165 Code section;

- 166 (2) Achieved a passing score on Step 3 of the United States Medical Licensing
167 Examination; and
- 168 (3) Entered into an agreement for a full-time employment relationship with a hospital
169 licensed by the Department of Community Health, a board approved medical school, a
170 teaching hospital within this state, a federally qualified health center, or a clinic within
171 this state that services Medicaid, indigent, or underserved populations, provided that any
172 such prospective employing entity shall carry medical malpractice insurance covering
173 such licensee for the duration of employment.
- 174 (e) The restricted license provided for in subsection (d) of this Code section shall be valid
175 for two years and may be renewed.
- 176 (f) A person who holds a current, valid restricted license issued pursuant to subsection (d)
177 of this Code section for two years shall be eligible to apply for a full, unrestricted license
178 to practice medicine in this state, and the board may establish standards for evaluating such
179 applications.
- 180 (g) A person licensed pursuant to this Code section shall be subject to the rules and
181 regulations of the board. Any license provided for in this Code section may be granted or
182 denied at the discretion of the board but shall be subject to revocation by the board after
183 notice and opportunity for hearing.
- 184 (h) The board shall not grant a license under this Code section unless the foreign medical
185 graduate possesses federal immigration status that allows him or her to practice as a
186 physician in the United States.
- 187 (i) The board shall promulgate rules and regulations necessary to implement the provisions
188 of this Code section."

189

SECTION 4.

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