

House Bill 498 (COMMITTEE SUBSTITUTE)

By: Representatives Hawkins of the 27th, Maxwell of the 17th, Chandler of the 105th, Clark of the 101st, Taylor of the 173rd, and others

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 clarify that persons licensed as professional counselors, social workers,
3 and marriage and family therapists are not authorized to conduct psychological testing; to
4 provide for legislative findings and intent; to clarify that psychological testing is part of the
5 practice of psychology; to provide that certain licensed persons are able to perform certain
6 tests other than psychological testing; to revise definitions; to amend Code Section 37-1-1
7 of the Official Code of Georgia Annotated, relating to definitions relative to the general
8 provisions governing and regulating mental health, so as to conform a cross-reference; to
9 provide an effective date; 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 the mental health and wellness needs of Georgia's citizens
13 require the availability of trained mental health professionals who can accurately diagnose,
14 treat, prescribe, and appropriately assess the mental and emotional illnesses, disorders, and
15 conditions from which they suffer and the vocational, educational, interpersonal, and
16 intrapersonal needs essential to living and learning how to live productive and useful lives.
17 It is the intent of the General Assembly to assure geographical and financial access for all of
18 Georgia's citizens to excellent mental health services to the extent that Georgia's resources
19 and regulations permit. To these ends, Georgia regulates its licensed psychiatrists,
20 psychologists, professional counselors, marriage and family therapists, and clinical social
21 workers who provide graduate level professional services to Georgia's private and public
22 mental health services and to its public mental health, educational, and vocational support
23 systems. The General Assembly seeks in such regulatory process to protect the public and
24 assure it receives high quality and appropriate services and to define the scopes of practice
25 and diagnostic authority for each of these professional groups consistent with the graduate
26 level training and supervision, or its equivalent, that the members of each profession have

27 sought and successfully completed. The General Assembly has empowered and authorized
 28 the Georgia Composite Medical Board, the State Board of Examiners of Psychologists, and
 29 the Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and
 30 Family Therapists to fulfill these responsibilities and expects them to work together to assure
 31 a continuum of professional services that ensure appropriate diagnostic and assessment
 32 functions for each profession and the psychotherapeutic and counseling treatment services
 33 appropriate to each profession. The General Assembly recognizes that advances in medicine,
 34 science, education, training, and service delivery occur constantly in our modern history and
 35 therefore also expects the regulatory boards for each profession to assure that its licensees
 36 seek and successfully complete appropriate continuing education and training for the
 37 functions and services authorized to each profession.

38 SECTION 2.

39 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 40 is amended in Code Section 43-10A-3, relating to definitions relative to professional
 41 counselors, social workers, and others, by revising paragraph (10) as follows:

42 "(10) 'Professional counseling' means that specialty which utilizes counseling techniques
 43 based on principles, methods, and procedures of counseling that assist people in
 44 identifying and resolving personal, social, vocational, intrapersonal, and interpersonal
 45 concerns; utilizes counseling and psychotherapy to evaluate, diagnose, treat, and
 46 recommend a course of treatment for emotional and mental problems and conditions,
 47 whether cognitive, behavioral, or affective, provided that the counselor shall have
 48 graduate level education, training, and supervised experience, or its equivalency, working
 49 with people with mental illness, developmental disability, or substance abuse; administers
 50 and interprets educational and vocational assessment instruments and other tests which
 51 the professional counselor is qualified to employ by virtue of education, training, and
 52 experience; utilizes information, community resources, and goal setting for personal,
 53 social, or vocational development; utilizes individual and group techniques for facilitating
 54 problem solving, decision making, and behavior change; utilizes functional assessment
 55 and vocational planning and guidance for persons requesting assistance in adjustment to
 56 a disability or disabling condition; utilizes referral for persons who request counseling
 57 services; performs service planning; and utilizes and interprets counseling research."

58 SECTION 3.

59 Said title is further amended by revising Code Section 43-10A-22, relating to restrictions on
 60 scope of practice relative to professional counselors, social workers, and marriage and family
 61 therapists, as follows:

62 "43-10A-22.

63 Nothing in this chapter shall be construed to authorize persons licensed under this chapter
 64 to practice nursing, occupational therapy, physical therapy, medicine, or psychology, as
 65 regulated under Chapters 26, 28, 33, 34, and 39, respectively, of this title nor shall anything
 66 in this chapter be construed to limit or regulate the practice of those licensed under ~~said~~
 67 Chapters 26, 28, 33, 34, and 39 of this title, nor shall anything in this chapter be construed
 68 to authorize persons licensed under this chapter to perform psychological testing as defined
 69 in Code Section 43-39-1."

70 **SECTION 4.**

71 Said title is further amended by revising Code Section 43-39-1, relating to definitions relative
 72 to psychologists, as follows:

73 "43-39-1.

74 As used in this chapter, the term:

75 (1) 'Board' means the State Board of Examiners of Psychologists.

76 (2) 'Mental abilities' means abilities that are psychological in nature, as opposed to
 77 physical in nature. Mental abilities include but are not limited to intelligence, cognition,
 78 attention, concentration, memory, language, abstraction, creativity, and problem solving.

79 (3) 'Neuropsychological functioning' means the psychological manifestations of brain
 80 functioning. Neuropsychological functioning includes but is not limited to sensory motor
 81 functioning, attention, concentration, memory, language, abstraction, problem solving,
 82 visual-spatial ability, executive functioning, and personality.

83 ~~(2)~~(4) 'Neuropsychology' means the subspecialty of psychology concerned with the
 84 relationship between the brain and behavior, including the diagnosis of brain pathology
 85 through the use of psychological tests and assessment techniques.

86 (5) 'Personality characteristics' means personality states, traits, attitudes, emotional
 87 conditions, self-image, and motivation.

88 (6) 'Psychological testing' means the use of assessment instruments to:

89 (A) Measure mental abilities, personality characteristics, or neuropsychological
 90 functioning; and

91 (B) Diagnose, evaluate, classify, or render opinions regarding mental and nervous
 92 disorders and illnesses, including, but not limited to, organic brain disorders, brain
 93 damage, and other neuropsychological conditions.

94 ~~(3)~~(7) 'To practice psychology' means to render or offer to render to individuals, groups,
 95 organizations, or the public for a fee or any remuneration, monetary or otherwise, any
 96 service involving the application of recognized principles, methods, and procedures of
 97 the science and profession of psychology, ~~such as~~ including, but not limited to,

98 diagnosing and treating mental and nervous disorders and illnesses; rendering opinions
 99 concerning diagnoses of mental disorders, including, but not limited to, organic brain
 100 disorders and brain damage; engaging in neuropsychology; engaging in psychotherapy;
 101 interviewing, administering, and interpreting tests of mental abilities, aptitudes, interests,
 102 and personality characteristics, including, but not limited to, psychological testing, for
 103 such purposes as psychological classification or evaluation; or for ~~education~~ educational
 104 or vocational placement, or for such purposes as psychological counseling, guidance, or
 105 readjustment. When engaged in the practice of psychology, licensed psychologists may
 106 describe or label any testing, assessment, or evaluation they conduct within the scope of
 107 practice described in this Code section as 'psychological' in nature; provided, however,
 108 that any such description or labeling shall not be construed to alter the meaning of
 109 psychological testing as provided in paragraph (6) of this Code section and in paragraph
 110 (9) of Code Section 43-39-7. Nothing in this paragraph shall be construed as permitting
 111 the administration or prescription of drugs or in any way infringing upon or restricting
 112 the practice of medicine as defined in the laws of this state."

113 **SECTION 5.**

114 Said title is further amended by revising Code Section 43-39-7, relating to the practice of
 115 psychology without a license, use of psychologist title, and exceptions, by striking the word
 116 "and" at the end of paragraph (7), by replacing the period at the end of paragraph (8) with
 117 "; and", and by adding a new paragraph to read as follows:

118 "(9) Nothing in this chapter shall be construed as prohibiting any person licensed under
 119 Chapter 10A of this title from providing services he or she is authorized to perform under
 120 Chapter 10A of this title, including, but not limited to, administering and interpreting
 121 educational and vocational tests; functional assessments; interest inventories; tests that
 122 evaluate marital and family functioning; mental health symptom screening and
 123 assessment instruments that evaluate emotional, mental, behavioral, and interpersonal
 124 problems or conditions including substance use, health, and disability."

125 **SECTION 6.**

126 Code Section 37-1-1 of the Official Code of Georgia Annotated, relating to definitions
 127 relative to the general provisions governing and regulating mental health, is amended by
 128 revising paragraph (17) as follows:

129 "(17) 'Psychologist' means any person authorized under the laws of this state to practice
 130 as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1 ~~duly~~
 131 licensed to practice psychology in this state under Chapter 39 of Title 43."

132 **SECTION 7.**

133 This Act shall become effective upon its approval by the Governor or upon its becoming law
134 without such approval.

135 **SECTION 8.**

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