

House Bill 397

By: Representatives Cox of the 102<sup>nd</sup> and Gardner of the 57<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to  
2 controlled substances, Chapter 4 of Title 26 of the Official Code of Georgia Annotated,  
3 relating to pharmacists, Article 8 of Chapter 7 of Title 31 of the Official Code of Georgia  
4 Annotated, relating to health service provider psychologists, and Chapter 39 of Title 43 of  
5 the Official Code of Georgia Annotated, relating to psychologists, so as to authorize certain  
6 psychologists to prescribe drugs in certain circumstances; to provide that psychologists  
7 certified to prescribe drugs are exempt from civil and criminal liability as are other medical  
8 professionals licensed to prescribe; to exempt from liability pharmacists and nurses acting  
9 in good faith upon the orders of a psychologist certified to prescribe; to provide for  
10 prescriptions by psychologists certified to prescribe who are health service provider  
11 psychologists; to provide that the practice of psychology includes administering, ordering,  
12 and prescribing drugs in certain circumstances; to limit such prescriptions to those for mental  
13 or nervous disorders or illnesses; to revise provisions relating to penalties; to provide for the  
14 adoption of rules for certification; to provide for training and an examination; to provide for  
15 consultation with the patient's treating physician; to provide for the creation of a  
16 psychopharmacological formulary; to provide for related matters; to provide an effective  
17 date; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 style="text-align:center">**SECTION 1.**

20 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled  
21 substances, is amended in Code Section 16-13-21, relating to definitions, by revising  
22 paragraph (23) as follows:

23 "(23) 'Practitioner' means:

24 (A) A physician, dentist, pharmacist, podiatrist, veterinarian, psychologist certified to  
25 prescribe as defined in paragraph (4) of Code Section 43-39-1, scientific investigator,  
26 or other person licensed, registered, or otherwise authorized under the laws of this state

1 to distribute, dispense, conduct research with respect to, or to administer a controlled  
2 substance in the course of professional practice or research in this state;

3 (B) A pharmacy, hospital, or other institution licensed, registered, or otherwise  
4 authorized by law to distribute, dispense, conduct research with respect to, or to  
5 administer a controlled substance in the course of professional practice or research in  
6 this state;

7 (C) An advanced practice registered nurse acting pursuant to the authority of Code  
8 Section 43-34-26.3. For purposes of this chapter and Code Section 43-34-26.3, an  
9 advanced practice registered nurse is authorized to register with the federal Drug  
10 Enforcement Administration and appropriate state authorities; or

11 (D) A physician's assistant acting pursuant to the authority of subsection (e.1) of Code  
12 Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section  
13 43-34-103, a physician's assistant is authorized to register with the federal Drug  
14 Enforcement Administration and appropriate state authorities."

## 15 SECTION 2.

16 Said chapter is further amended by revising Code Section 16-13-77, relating to the article's  
17 applicability to practitioners of the healing arts, as follows:

18 "16-13-77.

19 Nothing in this article shall be construed to prohibit the administration of dangerous drugs  
20 by or under the direction of a practitioner of the healing arts. For purposes of this article,  
21 the terms 'practitioner' and 'practitioner of the healing arts' mean a practitioner as defined  
22 in Code Section 16-13-21."

## 23 SECTION 3.

24 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists, is  
25 amended in Code Section 26-4-5, relating to definitions, by revising paragraph (33) and by  
26 adding a new paragraph to be designated paragraph (37.1), to read as follows:

27 "(33) 'Practitioner' or 'practitioner of the healing arts' means a physician, dentist,  
28 podiatrist, ~~or~~ veterinarian, or psychologist certified to prescribe and shall include any  
29 other person licensed under the laws of this state to use, mix, prepare, dispense, prescribe,  
30 and administer drugs in connection with medical treatment to the extent provided by the  
31 laws of this state."

32 "(37.1) 'Psychologist certified to prescribe' means an individual who is certified by the  
33 State Board of Examiners of Psychologists to administer, order, and prescribe drugs for  
34 the diagnosis, care, and treatment of mental or nervous disorders or illnesses, including

1 the ordering and review of laboratory tests in conjunction with the prescription, as  
2 provided in Code Sections 43-39-5.1 and 43-39-21."

3 **SECTION 4.**

4 Said chapter is further amended by inserting a new Code section to read as follows:

5 "26-4-31.

6 Nothing in this chapter shall be construed to create a presumption of liability, either civil  
7 or criminal, on the part of a pharmacist who is duly licensed under this chapter and who in  
8 good faith fills a prescription drug ordered or prescribed by a psychologist certified to  
9 prescribe."

10 **SECTION 5.**

11 Article 8 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to  
12 health service provider psychologists, is amended by revising Code Section 31-7-160,  
13 relating to definitions, as follows:

14 "31-7-160.

15 As used in this article, the term:

16 (1) 'Health service provider psychologist' means a licensed psychologist who meets the  
17 criteria of training and experience as provided in Code Section 31-7-162 in the delivery  
18 of direct, preventive, assessment and therapeutic intervention services to individuals  
19 whose growth, adjustment, or functioning is actually impaired or is demonstrably at a  
20 high risk of impairment.

21 (2) 'Psychologist's order' means an order issued by a health service provider psychologist  
22 practicing psychology in accordance with Chapter 39 of Title 43 for the care and  
23 treatment rendered to a person in a medical facility or institution, including admission and  
24 discharge. Such care and treatment ~~does not include~~ includes the ordering or prescribing  
25 of medications; and the ordering and review of laboratory tests only by a psychologist  
26 certified to prescribe. Such care and treatment does not include nursing assessments or  
27 interventions; or medical procedures."

28 **SECTION 6.**

29 Chapter 39 of Title 43 of the Official Code of Georgia Annotated, relating to psychologists,  
30 is amended in Code Section 43-39-1, relating to definitions, by revising paragraph (3) as  
31 follows:

32 "(3) 'To practice psychology' means to render or offer to render to individuals, groups,  
33 organizations, or the public for a fee or any remuneration, monetary or otherwise, any  
34 service involving the application of recognized principles, methods, and procedures of

1 the science and profession of psychology, such as, but not limited to, diagnosing and  
 2 treating mental and nervous disorders and illnesses, rendering opinions concerning  
 3 diagnoses of mental disorders, including organic brain disorders and brain damage,  
 4 engaging in neuropsychology, engaging in psychotherapy, interviewing, administering,  
 5 and interpreting tests of mental abilities, aptitudes, interests, and personality  
 6 characteristics for such purposes as psychological classification or evaluation, or for  
 7 education or vocational placement, or for such purposes as psychological counseling,  
 8 guidance, or readjustment. ~~Nothing in this paragraph shall be construed as permitting the~~  
 9 ~~administration or prescription of drugs or in any way infringing upon the~~ The practice of  
 10 ~~medicine as defined in the laws of this state~~ psychology shall include the administering,  
 11 ordering, and prescribing of drugs by a psychologist certified to prescribe for the  
 12 diagnosis, care, and treatment of mental or nervous disorders or illnesses.

13 (4) 'Psychologist certified to prescribe' means a licensed psychologist who meets the  
 14 criteria of training and experience as provided in Code Section 43-39-5.1 and is certified  
 15 by the board to administer, order, and prescribe drugs, including the ordering and review  
 16 of laboratory tests in conjunction with the prescription, as authorized by the board  
 17 pursuant to Code Sections 43-39-5.1 and 43-39-21."

#### 18 SECTION 7.

19 Said chapter is further amended in Code Section 43-39-19, relating to penalties, as follows:  
 20 "43-39-19.

21 Any person who violates this chapter shall be guilty of a misdemeanor and, upon  
 22 conviction thereof, shall be fined no less than ~~\$100.00~~ \$1,000.00 nor more than ~~\$1,000.00~~  
 23 \$5,000.00 and may be imprisoned for a term not to exceed 12 months for such violation."

#### 24 SECTION 8.

25 Said chapter is further amended by inserting new Code sections to read as follows:

26 "43-39-5.1.

27 The board shall adopt rules for the certification of psychologists to administer, order, and  
 28 prescribe drugs for the diagnosis, care, and treatment of mental and nervous disorders and  
 29 illnesses. The rules shall include at least the following requirements for certification:

30 (1) The successful completion by the psychologist of 320 hours of post-doctoral  
 31 pharmacological training from an institution of higher education approved by the board;

32 (2) Three hundred hours of supervised clinical experience by the psychologist in  
 33 psychopharmacology treating at least 100 patients. The supervised clinical experience  
 34 shall be approved by the board and the supervisor or supervisors shall be approved in  
 35 advance by the board. A supervisor shall be a licensed, appropriately trained physician

1 or psychologist certified to prescribe. The supervisor shall maintain responsibility for the  
 2 psychopharmacological care provided to the patient during the supervised clinical  
 3 experience. The supervised clinical experience shall conform to standards adopted by the  
 4 board, which shall include the following:

5 (A) The clinical experience shall last for at least 12 but no more than 36 months;

6 (B) The supervisor shall approve the patient's diagnostic intake and treatment plan  
 7 developed by the supervisee, including recommended laboratory tests and prescriptions;

8 (C) The supervisor will personally meet with each patient prior to the implementation  
 9 of the treatment plan;

10 (D) The supervisor shall submit quarterly reports to the board and the supervisee on  
 11 a form approved by the board assessing the supervisee's skill, safety, and efficiency in  
 12 clinical psychopharmacology; and

13 (E) Upon completion of the clinical experience, the supervisor shall submit to the  
 14 board and the supervisee a report on a form approved by the board certifying  
 15 completion of the clinical experience and assessing the supervisee's ability to  
 16 independently prescribe; and

17 (3) Following successful completion of the supervised clinical experience, passage of the  
 18 Psychopharmacology Examination for Psychologists or a similar certification  
 19 examination in psychopharmacology approved by the board."

20 "43-39-21.

21 (a) The board, in consultation with the Composite State Board of Medical Examiners and  
 22 the State Board of Pharmacy, shall develop a drug formulary for the diagnosis, care, and  
 23 treatment of mental and nervous disorders by psychologists certified to prescribe.  
 24 Psychologists certified to prescribe may prescribe only from the approved drug formulary.  
 25 The board shall, on at least an annual basis, update the formulary to add new medications  
 26 and to remove those that are no longer appropriate.

27 (b) The board shall adopt rules providing that a psychologist certified to prescribe shall  
 28 consult with the patient's treating physician.

29 43-39-22.

30 Notwithstanding any other provision of law, a registered professional nurse and a licensed  
 31 practical nurse shall have the authority to execute an order for the administration of drugs  
 32 issued by a psychologist certified to prescribe, provided that a registered professional nurse  
 33 or licensed practical nurse may confer with the psychologist certified to prescribe prior to  
 34 executing such psychologist's order. Nothing contained in this Code section shall be  
 35 deemed to alter the standard of care of the registered professional nurse or the licensed

1 practical nurse applicable to the evaluation and execution of orders, including an order of  
2 a psychologist certified to prescribe."

3 **SECTION 9.**

4 This Act shall become effective on July 1, 2007.

5 **SECTION 10.**

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