

Senate Bill 252

By: Senators Thomas of the 54th, Goggans of the 7th, Mullis of the 53rd, Unterman of the 45th and Hill of the 4th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated,
2 relating to the Georgia Composite Medical Board, so as to authorize the board to establish
3 a professional health program to provide for monitoring and rehabilitation of impaired health
4 care professionals; to authorize the board to enter into a contract with an entity to conduct
5 such program; to provide for definitions; to provide for transfer and confidentiality of
6 information; to provide for immunity; to provide for related matters; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

10 Article 1 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to the
11 Georgia Composite Medical Board, is amended by revising subsection (g) of Code Section
12 43-34-2, relating to creation of the Georgia Composite Medical Board, physician assistants
13 advisory committee, review of qualifications, and impaired physicians programs, as follows:
14 "~~(g) The board shall have the authority to contract with medical associations or other~~
15 ~~professionally qualified organizations to conduct impaired physicians programs.~~
16 Reserved."

17 style="text-align:center">**SECTION 2.**

18 Said article is further amended by adding a new Code section to read as follows:

19 "43-34-5.1.

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

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

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

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

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

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

35 (1) Monitoring and rehabilitation of impaired health care professionals;

36 (2) Performing duties related to paragraph (13) of subsection (a) of Code Section
37 43-34-8; and

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

39 (c) Notwithstanding the provisions of Code Sections 43-34-7 and 43-34-8, the board shall
40 be authorized to provide pertinent information regarding health care professionals, as
41 determined by the board and in its sole discretion, to the entity for its purposes in
42 conducting a professional health program pursuant to this Code section.

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

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

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

99 all objections to the admissibility of such records in any hearing before the board, upon
100 the grounds that the same constitute a privileged communication; and
101 (C) If any licensee, certificate holder, or permit holder or applicant could, in the
102 absence of this paragraph, invoke a privilege to prevent the disclosure of the results of
103 the examination provided for in subparagraph (A) of this paragraph or the records
104 relating to the mental or physical condition of such licensee, certificate holder, or
105 permit holder or applicant obtained pursuant to subparagraph (B) of this paragraph, all
106 such information shall be received by the board in camera and shall not be disclosed to
107 the public, nor shall any part of the record containing such information be used against
108 any licensee, certificate holder, or permit holder or applicant in any other type of
109 proceeding;"

110 "(K) Condition the penalty, or withhold formal disposition, which actions shall be kept
111 confidential, unless there is a public order upon the ~~licensee or applicant~~, licensee,
112 certificate holder, or permit holder's submission to the care, counseling, or treatment by
113 physicians or other professional persons, which may be provided pursuant to Code
114 Section 43-34-5.1, and the completion of such care, counseling, or treatment, as
115 directed by the board; or"

116 **SECTION 4.**

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