

Senate Bill 81

By: Senator Carter of the 1st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to
2 pharmacists and pharmacies, so as to provide for mental and physical examinations of
3 licensees or applicants for the practice of pharmacy and for applicants for registration as
4 pharmacy technicians under certain circumstances; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and
9 pharmacies, is amended by revising paragraph (7) of subsection (a) of Code Section 26-4-28,
10 relating to powers, duties, and authority of the State Board of Pharmacy, as follows:

11 "(7)(A) The regulation of other employees in the prescription or pharmacy department,
12 including but not limited to the registration and regulation of pharmacy technicians.
13 The board shall be required to establish the minimum qualifications for the registration
14 of pharmacy technicians and shall be authorized to require the completion of a
15 background check and criminal history record check for each person applying for
16 registration as a pharmacy technician in this state. The certificate of registration, once
17 issued, may be valid for no more than two years and shall be renewable biennially upon
18 payment of a renewal fee and compliance with such other conditions as the board may
19 establish by rule or regulation. The board shall be authorized to deny registration, to
20 deny renewal, or to revoke or suspend the registration of a pharmacy technician for any
21 of the grounds set forth in Code Section 26-4-60 or Code Section 43-1-19. However,
22 said denial of a technician application, denial of the renewal of a certificate, or
23 suspension or revocation of a technician registration shall not be considered a contested
24 case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' but said
25 applicant or registrant shall be entitled to an appearance before the board. The board
26 shall be required to establish and maintain a registry of pharmacy technicians in this

27 state which contains the name and home address of each pharmacy technician and his
28 or her employer and location of employment. The board shall establish a process by
29 which the pharmacist in charge of each pharmacy shall provide updated information on
30 the pharmacy technicians in the pharmacy. The board may establish and collect fees
31 from pharmacy technicians, their employers, or both for the registration of pharmacy
32 technicians and maintenance of the registry;

33 (B)(i) In enforcing this paragraph, the board may, upon reasonable grounds, require
34 a registrant or applicant to submit to a mental or physical examination by licensed
35 health care providers designated by the board. The results of such examination shall
36 be admissible in any hearing before the board, notwithstanding any claim of privilege
37 under a contrary rule of law or statute, including, but not limited to, Code Section
38 24-9-21. Every person who shall accept the privilege of practicing as a pharmacy
39 technician in this state or who shall file an application for a certificate of registration
40 to practice pharmacy in this state shall be deemed to have given his or her consent to
41 submit to such mental or physical examination and to have waived all objections to
42 the admissibility of the results in any hearing before the board, upon the grounds that
43 the same constitutes a privileged communication. If a registrant or applicant fails to
44 submit to such an examination when properly directed to do so by the board, unless
45 such failure was due to circumstances beyond his or her control, the board may enter
46 a final order upon proper notice, hearing, and proof of such refusal. Any registrant
47 or applicant who is prohibited from practicing as a pharmacy technician under this
48 paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to
49 the board that he or she can resume or begin practicing as a pharmacy technician with
50 reasonable skill and safety to patients.

51 (ii) For the purposes of this paragraph, the board may, upon reasonable grounds,
52 obtain any and all records relating to the mental or physical condition of a registrant
53 or applicant, including psychiatric records; and such records shall be admissible in
54 any hearing before the board, notwithstanding any claim of privilege under a contrary
55 rule of law or statute, including, but not limited to, Code Section 24-9-21. Every
56 person who shall accept the privilege of practicing as a pharmacy technician in this
57 state or who shall file an application for a certificate of registration to practice as a
58 pharmacy technician in this state shall be deemed to have given his or her consent to
59 the board's obtaining any such records and to have waived all objections to the
60 admissibility of such records in any hearing before the board, upon the grounds that
61 the same constitutes a privileged communication;"

SECTION 2.

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63 Said chapter is further amended by revising paragraph (7) of subsection (a) of Code Section
64 26-4-60, relating to grounds for suspension, revocation, or refusal to grant licenses relating
65 to pharmacists, as follows:

66 "(7)(A) Becoming unfit or incompetent to practice pharmacy by reason of:

67 (A)(i) Intemperance in the use of alcoholic beverages, narcotics, or habit-forming
68 drugs or stimulants; or

69 (B)(ii) Any abnormal physical or mental condition which threatens the safety of
70 persons to whom such person may compound or dispense prescriptions, drugs, or
71 devices or for whom he or she might manufacture, prepare, or package or supervise
72 the manufacturing, preparation, or packaging of prescriptions, drugs, or devices;

73 (B) In enforcing this paragraph, the board may, upon reasonable grounds, require a
74 licensee or applicant to submit to a mental or physical examination by licensed health
75 care providers designated by the board. The results of such examination shall be
76 admissible in any hearing before the board, notwithstanding any claim of privilege
77 under a contrary rule of law or statute, including, but not limited to, Code Section
78 24-9-21. Every person who shall accept the privilege of practicing pharmacy in this
79 state or who shall file an application for a license to practice pharmacy in this state shall
80 be deemed to have given his or her consent to submit to such mental or physical
81 examination and to have waived all objections to the admissibility of the results in any
82 hearing before the board, upon the grounds that the same constitutes a privileged
83 communication. If a licensee or applicant fails to submit to such an examination when
84 properly directed to do so by the board, unless such failure was due to circumstances
85 beyond his or her control, the board may enter a final order upon proper notice, hearing,
86 and proof of such refusal. Any licensee or applicant who is prohibited from practicing
87 pharmacy under this paragraph shall at reasonable intervals be afforded an opportunity
88 to demonstrate to the board that he or she can resume or begin the practice of pharmacy
89 with reasonable skill and safety to patients.

90 (C) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain
91 any and all records relating to the mental or physical condition of a licensee or
92 applicant, including psychiatric records; and such records shall be admissible in any
93 hearing before the board, notwithstanding any claim of privilege under a contrary rule
94 of law or statute, including, but not limited to, Code Section 24-9-21. Every person
95 who shall accept the privilege of practicing pharmacy in this state or who shall file an
96 application for a license to practice pharmacy in this state shall be deemed to have
97 given his or her consent to the board's obtaining any such records and to have waived

98 all objections to the admissibility of such records in any hearing before the board, upon
99 the grounds that the same constitutes a privileged communication;"

100

SECTION 3.

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