

The Senate Health and Human Services Committee offered the following substitute to SB 81:

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 nondisclosure examination  
5 results under certain circumstances; to provide for related matters; to repeal conflicting laws;  
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

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

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

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

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

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

63 (iii) If any registrant or applicant could, in the absence of this paragraph, invoke a  
 64 privilege to prevent the disclosure of the results of the examination provided for in  
 65 division (i) of this subparagraph or the records relating to the mental or physical  
 66 condition of such registrant or applicant obtained pursuant to division (ii) of this  
 67 subparagraph, all such information shall be received by the board in camera and shall  
 68 not be disclosed to the public, nor shall any part of the record containing such  
 69 information be used against any registrant or applicant in any other type of  
 70 proceeding;"

71 **SECTION 2.**

72 Said chapter is further amended by revising paragraph (7) of subsection (a) of Code Section  
 73 26-4-60, relating to grounds for suspension, revocation, or refusal to grant licenses relating  
 74 to pharmacists, as follows:

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

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

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

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

99           (C) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
100           any and all records relating to the mental or physical condition of a licensee or  
101           applicant, including psychiatric records; and such records shall be admissible in any  
102           hearing before the board, notwithstanding any claim of privilege under a contrary rule  
103           of law or statute, including, but not limited to, Code Section 24-9-21. Every person  
104           who shall accept the privilege of practicing pharmacy in this state or who shall file an  
105           application for a license to practice pharmacy in this state shall be deemed to have  
106           given his or her consent to the board's obtaining any such records and to have waived  
107           all objections to the admissibility of such records in any hearing before the board, upon  
108           the grounds that the same constitutes a privileged communication.  
109           (D) If any licensee or applicant could, in the absence of this paragraph, invoke a  
110           privilege to prevent the disclosure of the results of the examination provided for in  
111           subparagraph (B) of this paragraph or the records relating to the mental or physical  
112           condition of such licensee or applicant obtained pursuant to subparagraph (C) of this  
113           paragraph, all such information shall be received by the board in camera and shall not  
114           be disclosed to the public, nor shall any part of the record containing such information  
115           be used against any licensee or applicant in any other type of proceeding;"

116

**SECTION 3.**

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