

Senate Bill 81

By: Senator Carter of the 1st

AS PASSED SENATE

**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.