

Senate Bill 88

By: Senators Mullis of the 53rd, Watson of the 1st, Harbison of the 15th, Burke of the 11th, Unterman of the 45th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 26 of the Official Code of Georgia Annotated, relating to drug  
2 abuse treatment and education programs, so as to provide for regulation of narcotic treatment  
3 programs; to provide for a short title; to provide for definitions; to provide for department  
4 authorization to promulgate rules and regulations; to provide for minimum standards of  
5 quality and services for narcotic treatment programs; to provide for licensure of programs;  
6 to provide for an application review committee; to provide for application review  
7 requirements; to provide for the creation of regions; to provide for record requirements; to  
8 provide for inspections; to provide for license application denial, license revocation, and  
9 license suspension; to provide for appeal; to provide for penalties; to provide for priority  
10 admission for drug dependent pregnant females; to revise provisions for purposes of  
11 conformity; to provide for related matters; to provide for an effective date; to repeal  
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 5 of Title 26 of the Official Code of Georgia Annotated, relating to drug abuse  
16 treatment and education programs, is amended by designating the existing provisions of  
17 Chapter 5 as Article 1 of said chapter and adding a new article to read as follows:

18 "ARTICLE 2

19 26-5-40.

20 This article shall be known and may be cited as the 'Narcotic Treatment Programs  
21 Enforcement Act.'

22 26-5-41.

23 As used in this article, the term:

24 (1) 'Department' means the Department of Community Health, or its successor.

25 (2) 'Governing body' means the county board of health, the partnership, the corporation,  
 26 the association, or the person or group of persons who maintains and controls a narcotic  
 27 treatment program, who is legally responsible for its operation, and who holds the license  
 28 to operate that program.

29 (3) 'License' means the official permit issued by the department that authorizes the holder  
 30 to operate a narcotic treatment program for the term provided therein.

31 (4) 'Licensee' means any person holding a license issued by the department under this  
 32 article.

33 (5) 'Narcotic treatment program' means any system of treatment provided for chronic  
 34 heroin or opiate-like drug-dependent individuals that administers narcotic drugs under  
 35 physicians' orders either for detoxification purposes or for maintenance treatment in a  
 36 rehabilitative context offered by any county board of health, partnership, corporation,  
 37 association, or person or groups of persons engaged in such administration.

38 (6) 'Patient' means any individual who undergoes treatment in a narcotic treatment  
 39 program.

40 26-5-42.

41 The department shall create and promulgate minimum standards of quality and services for  
 42 narcotic treatment programs. At least the following areas shall be covered in the rules and  
 43 regulations:

44 (1) Adequate and safe buildings or housing facilities where programs are offered;

45 (2) Adequate equipment for the delivery of programs;

46 (3) Sufficient trained or experienced staff who are competent in the duties they are to  
 47 perform;

48 (4) The content and quality of services to be provided;

49 (5) Requirements for intake, discharge, and aftercare of drug dependent persons;

50 (6) Referral to other appropriate agencies;

51 (7) Continuing evaluation of the effectiveness of programs;

52 (8) Maintenance of adequate records on each drug dependent person treated or advised;

53 (9) A formal plan of cooperation with other programs in the state to allow for continuity  
 54 of care for drug dependent persons; and

55 (10) Criteria for providing priority in access to services and admissions to programs for  
 56 drug dependent pregnant females.

57 26-5-43.

58 The department is authorized and directed to create and promulgate all rules and  
59 regulations necessary for the implementation of this article.

60 26-5-44.

61 No governing body shall operate a narcotic treatment program without having a valid  
62 license or provisional license issued pursuant to this article.

63 26-5-45.

64 (a) Application for a license to operate a narcotic treatment program shall be submitted by  
65 the governing authority to the department in the manner prescribed by rules and regulations  
66 and shall contain a comprehensive outline of the program to be offered by the applicant.

67 (b) Proof of compliance with all applicable federal and state laws for the handling and  
68 dispensing of drugs and all state and local health, safety, sanitation, building, and zoning  
69 codes shall be attached to the narcotic treatment application submitted to the department.

70 26-5-46.

71 (a) The department shall establish an annual or biannual open enrollment period to accept  
72 applications for narcotic treatment programs.

73 (b) The department shall establish an information forum for potential applicants prior to  
74 the beginning of the open enrollment period that shall be no less than 14 days prior to the  
75 start of the open enrollment period. It shall be mandatory for a representative of a  
76 prospective applicant for such open enrollment period to attend the information forum.  
77 Failure to attend and comply with such record of attendance requirements shall disqualify  
78 any applicant from consideration during open enrollment.

79 (c) It shall be mandatory for an applicant to submit a letter of intent stating such applicant's  
80 intention to apply for a narcotic treatment program license. Such letter of intent shall  
81 include the intended address and region location. The letter shall be delivered to the  
82 department at least seven days prior to the beginning of the open enrollment period.

83 (d) The first open enrollment period shall be held December 1, 2017, through  
84 December 31, 2017, and the department shall not accept any applications for licensure until  
85 December 1, 2017.

86 (e) After the first open enrollment period, the department shall administratively determine  
87 the annual or biennial open enrollment period no later than December 1 of the preceding  
88 calendar year.

89 26-5-47.

90 (a) The department shall, consistent with the requirements of this Code section, establish  
91 an application review process committee. The members of the committee shall include  
92 representation from department staff members and the Department of Behavioral Health  
93 and Developmental Disabilities.

94 (b) Such application review requirements shall include, but not be limited to:

95 (1) Data and details regarding treatment and counseling plans;

96 (2) Biographical and qualifications of owners, medical directors, counselors, and other  
97 required staff;

98 (3) The proposed location of the program in comparison to current programs within 75  
99 miles and within the region of care;

100 (4) Patient levels of currently licensed programs in the proposed region of care and  
101 within 75 miles, including:

102 (A) The number of patients admitted to current narcotic treatment programs in the most  
103 recent month;

104 (B) The number of patients served by current narcotic treatment programs in the most  
105 recent month; and

106 (C) The number of patients delayed admission into programs and the number of  
107 patients placed on a waiting list for admission and the average amount of time such  
108 patients remained on the waiting list quantified by hours and days;

109 (5) Data on demographic, social, health, economic, alcohol and drug related crimes,  
110 alcohol and drug overdoses, and hospital and emergency department admission of  
111 individuals addicted to opioids for the program location;

112 (6) Applicant experience operating a narcotic treatment program or working at such  
113 program, including a complete history of such experience both within this state and in  
114 any other state;

115 (7) Program ownership in other locations, if any, including a complete and accurate  
116 description of narcotic treatment program experience, including whether the applicant  
117 currently holds, has held, or had revoked any licenses, registrations, enrollments,  
118 accreditations, contracts, and network memberships. The applicant shall disclose any  
119 adverse actions against the applicant while employed by or as a result of ownership of a  
120 narcotic treatment program;

121 (8) Evidence the applicant sought community input for the proposed location from  
122 substance abuse advocacy organizations, civic organizations, neighborhood associations,  
123 locally elected officials, and other groups;

124 (9) Proof of notification of intent to file an application with all law enforcement offices  
125 within a 25 mile radius of the program location;

126 (10) Proof of notification of intent to file an application with all drug courts within a 75  
127 mile radius of the program location; and

128 (11) A narrative description of and information about adjoining businesses and  
129 occupancies within 200 feet of the facility, including a description of transportation  
130 access, traffic patterns, security features, local area police and crime reports, and  
131 neighborhood safety.

132 (c) The department shall require currently operating programs that have a change of  
133 ownership or change of location to submit an application for the change of ownership or  
134 change of location in accordance with its rules and regulations. The department shall have  
135 the authority to waive certain application requirements if the narcotic treatment program  
136 is in good standing with the department.

137 (d) Upon application for an additional program by a current licensee, each location  
138 operated by such licensee shall be inspected. Any such location inspected within the  
139 preceding 36 months shall be exempt from such inspection requirement of this subsection.  
140 Such inspections are in addition to all other application requirements for an additional  
141 program application by such licensee.

142 26-5-48.

143 (a) Prior to issuing a license to a governing body for any narcotic treatment program, the  
144 program shall demonstrate the following:

145 (1) Compliance with all state and federal law and regulations;

146 (2) Compliance with all applicable standards of practice;

147 (3) Program structure for successful service delivery; and

148 (4) Impact on the delivery of opioid treatment services in the applicable population.

149 (b) The department shall issue a license to a governing body for any narcotic treatment  
150 program which meets all the rules and regulations for such program and the licensing of  
151 such program does not exceed four licensed treatment programs per region pursuant to  
152 subsection (h) of this Code section.

153 (c) The department will evaluate the applications based on data submitted as required by  
154 Code Section 26-5-47.

155 (d) Applicants shall submit data on currently licensed narcotic treatment programs, for  
156 every program within the region of the proposed location and within a 50 mile radius,  
157 whether or not such other programs are outside of the region.

158 (e) Programs licensed prior to June 30, 2017, are not subject to the regional maximum  
159 allowable program limitations pursuant to this Code section. However, if a region has four  
160 or more licensed programs as of July 1, 2017, such region shall be considered to have  
161 reached its maximum allowable programs.

162 (f) The department shall establish a review process to determine if a waiver should be  
163 granted to an applicant and allow an application to be submitted for review in a region that  
164 has four or more licensed narcotic treatment programs. The department shall have full  
165 authority to determine the requirements that must be met for a waiver to be considered for  
166 review.

167 (g) In the event that the department receives multiple letters of intent before an open  
168 enrollment period for a specific region and the ensuing applications will lead to the  
169 regional license limit being exceeded, the department shall have the authority to develop  
170 a scoring system for the applications submitted and approve a program or programs  
171 determined to be most fit for licensure. The department shall develop an appeal process  
172 for those applications not selected under such scoring system.

173 (h) For the purpose of narcotic treatment program application evaluation for the  
174 department and delivery of services by narcotic treatment programs in communities and  
175 to citizens of this state and for the purpose of establishing narcotic treatment programs  
176 regional boundaries, there are created 49 regions with those counties designated as follows:

177 (1) Region 1 shall be composed of Dade, Catoosa, Walker, and Chattooga counties;

178 (2) Region 2 shall be composed of Whitfield and Murray counties;

179 (3) Region 3 shall be composed of Gordon and Bartow counties;

180 (4) Region 4 shall be composed of Floyd County;

181 (5) Region 5 shall be composed of Polk and Haralson counties;

182 (6) Region 6 shall be composed of Paulding County;

183 (7) Region 7 shall be composed of Cobb County;

184 (8) Region 8 shall be composed of Douglas County;

185 (9) Region 9 shall be composed of Fulton County;

186 (10) Region 10 shall be composed of Cherokee County;

187 (11) Region 11 shall be composed of Forsyth County;

188 (12) Region 12 shall be composed of Fannin, Gilmer, and Pickens counties;

189 (13) Region 13 shall be composed of Towns, Union, Lumpkin, and White counties;

190 (14) Region 14 shall be composed of Rabun, Habersham, and Stephens counties;

191 (15) Region 15 shall be composed of Hart, Franklin, Elbert, Oglethorpe, and Madison  
192 counties;

193 (16) Region 16 shall be composed of Banks, Jackson, and Barrow counties;

194 (17) Region 17 shall be composed of Hall and Dawson counties;

195 (18) Region 18 shall be composed of Gwinnett County;

196 (19) Region 19 shall be composed of DeKalb County;

197 (20) Region 20 shall be composed of Clayton County;

198 (21) Region 21 shall be composed of Henry County;

- 199 (22) Region 22 shall be composed of Rockdale County;  
 200 (23) Region 23 shall be composed of Clarke and Oconee counties;  
 201 (24) Region 24 shall be composed of Walton and Newton counties;  
 202 (25) Region 25 shall be composed of Wilkes, Lincoln, Taliaferro, McDuffie, Warren, and  
 203 Glascocock counties;  
 204 (26) Region 26 shall be composed of Columbia, Richmond, and Burke counties;  
 205 (27) Region 27 shall be composed of Greene, Morgan, Hancock, Putnam, Jasper, Jones,  
 206 Baldwin, and Wilkinson counties;  
 207 (28) Region 28 shall be composed of Butts, Lamar, and Monroe counties;  
 208 (29) Region 29 shall be composed of Fayette, Spalding, Pike, and Upson counties;  
 209 (30) Region 30 shall be composed of Carroll, Heard, Troup, Coweta, and Meriwether  
 210 counties;  
 211 (31) Region 31 shall be composed of Muscogee, Harris, Talbot, Taylor, Marion, and  
 212 Chattahoochee counties;  
 213 (32) Region 32 shall be composed of Bibb, Crawford, and Twiggs counties;  
 214 (33) Region 33 shall be composed of Houston and Peach counties;  
 215 (34) Region 34 shall be composed of Laurens, Johnson, and Treutlen counties;  
 216 (35) Region 35 shall be composed of Washington, Jefferson, Emanuel, Candler, and  
 217 Toombs counties;  
 218 (36) Region 36 shall be composed of Jenkins, Screven, Bulloch, and Effingham counties;  
 219 (37) Region 37 shall be composed of Chatham County;  
 220 (38) Region 38 shall be composed of Bryan, Liberty, McIntosh, Long, Tattnall, and  
 221 Evans counties;  
 222 (39) Region 39 shall be composed of Glynn, Camden, Wayne, Appling, and Jeff Davis  
 223 counties;  
 224 (40) Region 40 shall be composed of Dodge, Telfair, Montgomery, Wheeler, Bleckley,  
 225 and Pulaski counties;  
 226 (41) Region 41 shall be composed of Charlton, Ware, Brantley, Pierce, Bacon, and  
 227 Coffee counties;  
 228 (42) Region 42 shall be composed of Clinch, Atkinson, Lanier, Berrien, and Cook  
 229 counties;  
 230 (43) Region 43 shall be composed of Lowndes, Colquitt, Echols, Brooks, and Thomas  
 231 counties;  
 232 (44) Region 44 shall be composed of Tift, Turner, Irwin, and Worth counties;  
 233 (45) Region 45 shall be composed of Dooly, Crisp, Ben Hill, and Wilcox counties;  
 234 (46) Region 46 shall be composed of Dougherty County;

235 (47) Region 47 shall be composed of Lee, Sumter, Macon, Schley, Webster, and Stewart  
 236 counties;

237 (48) Region 48 shall be composed of Calhoun, Baker, Mitchell, Decatur, and Grady  
 238 counties; and

239 (49) Region 49 shall be composed of Terrell, Randolph, Quitman, Clay, Early, Miller,  
 240 and Seminole counties.

241 (i) The license shall be nontransferable for a change of location or governing body.

242 26-5-49.

243 (a) Narcotic treatment programs shall not provide a bounty, free services, free medication,  
 244 or other rewards for patient referral to such program.

245 (b) Narcotic treatment programs shall not provide temporary discounted financial  
 246 incentives to a potential patient that does not conform to the schedule of fees established  
 247 by such program as required by the department's rules and regulations.

248 26-5-50.

249 Subject to the limitations of Code Section 26-5-55, the department may require at  
 250 reasonable intervals and each licensee shall furnish copies of complete records of each  
 251 person treated or advised pursuant to the narcotic treatment program.

252 26-5-51.

253 Each licensee shall permit the authorized department representatives to enter upon and  
 254 inspect any and all premises upon or in which a program is to be conducted or for which  
 255 a license has been applied so that verification of compliance with all relevant laws or  
 256 regulations can be made.

257 26-5-52.

258 (a) The department may deny any license applied for under this article that does not fulfill  
 259 the minimum requirements which the department may prescribe by rules and regulations  
 260 and may suspend or revoke a license which has been issued if an applicant or a licensee  
 261 violates any of such rules and regulations; provided, however, that before any order is  
 262 entered denying a license applied for or suspending or revoking a license previously  
 263 granted, the applicant or license holder, as the case may be, shall be afforded an  
 264 opportunity for a hearing as provided for in Chapter 13 of Title 50, the 'Georgia  
 265 Administrative Procedure Act.'

266 (b) The department may deny any license applied for under this article and may revoke or  
 267 suspend a license which has been issued if an applicant or a licensee has or has had an



268 adverse action taken against such applicant or licensee in this or any other state in  
269 compliance with subsection (a) of this Code section.

270 26-5-53.

271 Notice of a proposed denial, suspension, or revocation of a license shall be provided in  
272 writing by the department to any licensee so affected within 90 days after the application  
273 is filed or the grounds are discovered. Within ten days from receipt of such notice, the  
274 licensee so affected may request a hearing before the department. Upon receipt of such  
275 request for hearing in proper form, the department shall schedule a hearing within a  
276 reasonable time, but not later than 90 days.

277 26-5-54.

278 The promulgation of rules and regulations, the conduct of administrative hearings, and  
279 judicial review of the department's actions shall be subject to Chapter 13 of Title 50, the  
280 'Georgia Administrative Procedure Act.'

281 26-5-55.

282 For the purpose of providing more effective treatment and rehabilitation, the records and  
283 name of any drug dependent person who seeks or obtains treatment, therapeutic advice, or  
284 counsel from any program licensed under this chapter shall be confidential and shall not  
285 be revealed except to the extent authorized in writing by the drug dependent person  
286 affected; furthermore, any communication by such drug dependent person to an authorized  
287 employee of any holder of a license shall be deemed confidential; provided, however, that,  
288 except for matters privileged under other laws of this state, the records of such person and  
289 information about such person shall be produced in response to a valid court order of any  
290 court of competent jurisdiction after a full and fair show-cause hearing and in response to  
291 a departmental request for access for licensing purposes when such request is accompanied  
292 by a written statement that no record of patient identifying information will be made.

293 26-5-56.

294 The department is authorized to enforce this article and the rules and regulations  
295 promulgated under this article by injunction. Any violation of this article or any rule or  
296 regulation promulgated under this article shall be a nuisance per se; and it shall not be  
297 necessary to allege or prove the exhaustion of remedies at law to obtain an injunction under  
298 this Code section.

299 26-5-57.

300 Any person who violates this article shall be guilty of a misdemeanor.

301 26-5-58.

302 Any program licensed or funded by the department under this article shall implement a  
 303 priority admissions policy for the treatment of drug dependent pregnant females which  
 304 provides for immediate access to services for any such female applying for admission,  
 305 which access shall be contingent only upon the availability of space.

306 26-5-59.

307 Unless otherwise provided, this article shall not invalidate or affect any rules or regulations  
 308 which were in effect upon its effective date, promulgated pursuant to authority given by  
 309 law, and such rules and regulations shall remain in force until repealed, replaced, or  
 310 invalidated."

311 **SECTION 2.**

312 Said chapter is further amended by replacing "chapter" with "article" wherever the former  
 313 word occurs in:

- 314 (1) Code Section 26-5-1, relating to the short title;
- 315 (2) Code Section 26-5-2, relating to legislative intent;
- 316 (3) Code Section 26-5-3, relating to definitions regarding drug abuse treatment and  
 317 education programs;
- 318 (4) Code Section 26-5-6, relating to promulgation of rules and regulations;
- 319 (5) Code Section 26-5-7, relating to license required;
- 320 (6) Code Section 26-5-9, relating to provisional licenses;
- 321 (7) Code Section 26-5-10, relating to issuance of license and revocation or suspension;
- 322 (8) Code Section 26-5-14, relating to denial, suspension, or revocation of licenses;
- 323 (9) Code Section 26-5-16, relating to applicability of the Georgia Administrative  
 324 Procedure Act;
- 325 (10) Code Section 26-5-17, relating to confidentiality of records, names, and  
 326 communications;
- 327 (11) Code Section 26-5-18, relating to injunctions and nuisances per se;
- 328 (12) Code Section 26-5-19, relating to penalty;
- 329 (13) Code Section 26-5-20, relating to priority admissions policy for drug dependent  
 330 pregnant females; and
- 331 (14) Code Section 26-5-21, relating to the State Commission on Narcotic Treatment  
 332 Programs.

333

**SECTION 3.**

334 This Act shall become effective upon its approval by the Governor or upon its becoming law  
335 without such approval.

336

**SECTION 4.**

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