Senate Bill 81

By: Senator Carter of the 1st

**AS PASSED**

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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

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

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

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

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

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

**SECTION 2.**

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

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

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

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

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

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

(D) If any licensee or applicant could, in the absence of this paragraph, invoke a privilege to prevent the disclosure of the results of the examination provided for in subparagraph (B) of this paragraph or the records relating to the mental or physical condition of such licensee or applicant obtained pursuant to subparagraph (C) of this paragraph, all such information shall be received by the board in camera and shall not be disclosed to the public, nor shall any part of the record containing such information be used against any licensee or applicant in any other type of proceeding;″

**SECTION 3.**

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