

House Bill 219

By: Representatives Stephens of the 164th, Davis of the 87th, and Clark of the 100th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to authorize the Georgia Composite Board of Professional Counselors,
3 Social Workers, and Marriage and Family Therapists to establish a professional health
4 program to provide for monitoring and rehabilitation of impaired healthcare professionals;
5 to authorize the Georgia Board of Nursing to establish a professional health program to
6 provide for monitoring and rehabilitation of impaired healthcare professionals; to provide for
7 funding or gifts in kind; to provide for related matters; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
12 is amended in Chapter 10A, relating to professional counselors, social workers, and marriage
13 and family therapists, by adding a new Code section to read as follows:

14 "43-10A-24.

15 (a) As used in this Code section, the term:

16 (1) 'Entity' means an organization or medical professional association which conducts
17 professional health programs.

18 (2) 'Healthcare professional' means any individual licensed, certified, or permitted by the
19 board under this chapter.

20 (3) 'Impaired' means the inability of a healthcare professional to practice with reasonable
21 skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,
22 chemicals, or any other type of material, or as a result of any mental or physical
23 condition.

24 (4) 'Professional health program' means a program established for the purposes of
25 monitoring and rehabilitation of impaired healthcare professionals.

26 (b) The board shall be authorized to conduct a professional health program to provide
27 monitoring and rehabilitation of impaired healthcare professionals in this state. To this
28 end, the board shall be authorized to enter into a contract with an entity for the purpose of
29 establishing and conducting such professional health program, including, but not limited
30 to:

31 (1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose
32 of ensuring the fitness of each such healthcare professional to resume or continue the
33 practice of his or her healthcare profession while maintaining the safety of the public;

34 (2) Performing duties related to paragraph (10) of subsection (a) of Code
35 Section 43-10A-17; and

36 (3) Performing such other related activities as determined by the board.

37 (c) Notwithstanding subsection (k) of Code Section 43-1-2 and Code Section 43-10A-17,
38 the board shall be authorized to provide pertinent information regarding healthcare
39 professionals, as determined by the board and in its sole discretion, to an entity for its
40 purposes in conducting a professional health program pursuant to this Code section.

41 (d) All information, interviews, reports, statements, memoranda, or other documents
42 furnished to an entity by the board or other source or produced by an entity and any
43 findings, conclusions, recommendations, or reports resulting from the monitoring or
44 rehabilitation of healthcare professionals pursuant to this Code section are declared to be
45 privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,
46 relating to open records. All such records of an entity shall be confidential and shall be
47 used by such entity and its employees and agents only in the exercise of the proper function
48 of the entity pursuant to its contract with the board. Such information, interviews, reports,
49 statements, memoranda, or other documents furnished to or produced by an entity and any
50 findings, conclusions, recommendations, or reports resulting from the monitoring or
51 rehabilitation of healthcare professionals shall not be available for court subpoenas or for
52 discovery proceedings.

53 (e) An impaired healthcare professional who participates in a professional health program
54 conducted pursuant to this Code section shall bear all costs associated with such
55 participation.

56 (f) Any entity that contracts with the board pursuant to this Code section shall be immune
57 from any liability, civil or criminal, that might otherwise be incurred or imposed for the
58 performance of any functions or duties under the contract, if performed in accordance with
59 the terms of such contract and the provisions of this Code section.

60 (g) This Code section shall be subject to appropriation by the General Assembly. The
61 board may accept and solicit private funding, public grants, in-kind gifts, or any other
62 funding or donations that may be available to facilitate the purpose of conducting a
63 professional health program."

64 **SECTION 2.**

65 Said title is further amended in Chapter 26, relating to nurses, by adding a new article to read
66 as follows:

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"ARTICLE 568 43-26-70.69 As used in this article, the term:70 (1) 'Board' means the Georgia Board of Nursing.71 (2) 'Entity' means an organization or medical professional association which conducts
72 professional health programs.73 (3) 'Healthcare professional' means any individual licensed, certified, or permitted by the
74 board under this chapter.75 (4) 'Impaired' means the inability of a healthcare professional to practice with reasonable
76 skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,
77 chemicals, or any other type of material, or as a result of any mental or physical
78 condition.79 (5) 'Professional health program' means a program established for the purposes of
80 monitoring and rehabilitation of impaired healthcare professionals.81 43-26-71.82 (a) The board shall be authorized to conduct a professional health program to provide
83 monitoring and rehabilitation of impaired healthcare professionals in this state. To this
84 end, the board shall be authorized to enter into a contract with an entity for the purpose of
85 establishing and conducting such professional health program, including, but not limited
86 to:87 (1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose
88 of ensuring the fitness of each such healthcare professional to resume or continue the
89 practice of his or her healthcare profession while maintaining the safety of the public;90 (2) Performing duties related to paragraph (2) of Code Section 43-26-11; and91 (3) Performing such other related activities as determined by the board.

92 (b) Notwithstanding subsection (k) of Code Section 43-1-2 and Code Section 43-26-11,
93 the board shall be authorized to provide pertinent information regarding healthcare
94 professionals, as determined by the board and in its sole discretion, to an entity for its
95 purposes in conducting a professional health program pursuant to this Code section.

96 (c) All information, interviews, reports, statements, memoranda, or other documents
97 furnished to an entity by the board or other source or produced by an entity and any
98 findings, conclusions, recommendations, or reports resulting from the monitoring or
99 rehabilitation of healthcare professionals pursuant to this Code section are declared to be
100 privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,
101 relating to open records. All such records of an entity shall be confidential and shall be
102 used by such entity and its employees and agents only in the exercise of the proper function
103 of the entity pursuant to its contract with the board. Such information, interviews, reports,
104 statements, memoranda, or other documents furnished to or produced by an entity and any
105 findings, conclusions, recommendations, or reports resulting from the monitoring or
106 rehabilitation of healthcare professionals shall not be available for court subpoenas or for
107 discovery proceedings.

108 43-26-72.

109 An impaired healthcare professional who participates in a professional health program
110 conducted pursuant to Code Section 43-26-71 shall bear all costs associated with such
111 participation.

112 43-26-73.

113 Any entity that contracts with the board pursuant to Code Section 43-26-71 shall be
114 immune from any liability, civil or criminal, that might otherwise be incurred or imposed
115 for the performance of any functions or duties under the contract if performed in
116 accordance with the terms of such contract and the provisions of this article.

117 43-26-74.

118 This article shall be subject to appropriation by the General Assembly. The board may
119 accept and solicit private funding, public grants, in-kind gifts, or any other funding or
120 donations that may be available to facilitate the purpose of conducting a professional health
121 program."

122 **SECTION 3.**

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