

House Bill 455 (AS PASSED HOUSE AND SENATE)

By: Representatives LaHood of the 175th, Cooper of the 45th, Newton of the 127th, Silcox of the 53rd, and Reese of the 140th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to professions and businesses, so as to provide that professional
3 programs that are established to address career fatigue and wellness in healthcare
4 professionals are not obligated to report to licensing boards except in certain circumstances;
5 to provide for definitions; to provide for immunity; to provide that certain documents and
6 information of professional programs are not discoverable; to provide for related matters; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
11 provisions relative to professions and businesses, is amended by adding a new Code section
12 to read as follows:

13 "43-1-36.

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

15 (1) 'Healthcare professional' means a person licensed, registered, or certified by a
16 licensing board or a student enrolled in a school of medicine, osteopathic medicine,
17 nursing, or pharmacy.

18 (2) 'Licensing board' means:

19 (A) Georgia Board of Nursing;

20 (B) Georgia Composite Medical Board; and

21 (C) State Board of Pharmacy.

22 (3) 'Professional program' means a program created to address issues related to career
23 fatigue and wellness in healthcare professionals that is established or contracted for by
24 a state-wide association, that is exempt from federal income taxes pursuant to Section
25 501(c)(6) of the Internal Revenue Code, and that primarily represents healthcare
26 professionals licensed to practice medicine or osteopathic medicine in multiple
27 specialties.

28 (b) No person or entity shall be obligated to report information regarding a healthcare
29 professional who is a participant in a professional program to his or her respective licensing
30 board unless the person or entity has determined that there is reasonable probability that
31 such participant is not competent to continue in practice or is a danger to himself or herself
32 or to the health and welfare of his or her patients or the public, unless such person or entity
33 is otherwise under a duty to report such information.

34 (c) Every member of, or healthcare professional consultant to, any committee, board,
35 group, commission, or other entity that functions primarily to review, evaluate, or make
36 recommendations on a professional program shall be immune from civil liability for any
37 act, decision, omission, or utterance done or made in performance of his or her duties while
38 serving as a member of or consultant to such committee, board, group, commission, or
39 other entity. No active participant in a professional program shall be employed or engaged
40 by such professional program or have a financial ownership interest in such professional
41 program.

42 (d) The proceedings, minutes, records, reports, analyses, findings, conclusions,
43 recommendations, and the deliberative process, including opinions and reports of a
44 professional program, both oral and written, originating in or provided to such professional
45 program, shall not be subject to discovery or introduction into evidence in any civil action,
46 unless a court of competent jurisdiction, after a hearing in camera, determines that the
47 evidence is not otherwise available and extraordinary circumstances exist such that the
48 need for the evidence substantially outweighs the interest in protecting such evidence from
49 disclosure and orders the disclosure of such proceedings, minutes, records, reports, or
50 communications; provided, however that nothing in this subsection shall be construed as
51 providing any privilege to any healthcare professional or healthcare facility or entity with
52 respect to any factual information regarding specific patient healthcare or treatment,
53 whether oral, electronic, or written. A person involved in the work of a professional
54 program may not be questioned as a witness in a civil action regarding his or her
55 knowledge of any factual information regarding specific patient healthcare or treatment by
56 virtue of his or her involvement in the professional program. Exchange of information
57 between professional programs shall not constitute a waiver of any privilege provided in
58 this subsection."

59 **SECTION 2.**

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