

House Bill 219 (AS PASSED HOUSE AND SENATE)

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 condition.

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

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

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

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

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

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

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

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

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

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

63 **SECTION 2.**

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

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"ARTICLE 567 43-26-70.68 As used in this article, the term:69 (1) 'Board' means the Georgia Board of Nursing.70 (2) 'Entity' means an organization or medical professional association which conducts
71 professional health programs.72 (3) 'Healthcare professional' means any individual licensed, certified, or permitted by the
73 board under this chapter.74 (4) 'Impaired' means the inability of a healthcare professional to practice with reasonable
75 skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,
76 chemicals, or any other type of material, or as a result of any mental or physical condition.77 (5) 'Professional health program' means a program established for the purposes of
78 monitoring and rehabilitation of impaired healthcare professionals.79 43-26-71.80 (a) The board shall be authorized to conduct a professional health program to provide
81 monitoring and rehabilitation of impaired healthcare professionals in this state. To this
82 end, the board shall be authorized to enter into a contract with an entity for the purpose of
83 establishing and conducting such professional health program, including, but not limited
84 to:85 (1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose
86 of ensuring the fitness of each such healthcare professional to resume or continue the
87 practice of his or her healthcare profession while maintaining the safety of the public;88 (2) Performing duties related to paragraph (2) of Code Section 43-26-11; and89 (3) Performing such other related activities as determined by the board.

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

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

106 43-26-72.

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

110 43-26-73.

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

115 43-26-74.

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

120 **SECTION 3.**

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