

HOUSE SUBSTITUTE TO SENATE BILL 319

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 provide that professional counseling includes diagnosing emotional and
 3 mental problems and conditions; to clarify that persons licensed as professional counselors,
 4 social workers, and marriage and family therapists are not authorized to conduct
 5 psychological testing; to provide for legislative findings and intent; to provide for a
 6 curriculum of continuing education relating to diagnosing; to provide for the establishment
 7 of rules and regulations regarding testing conducted by licensed professional counselors; to
 8 clarify that psychological testing is part of the practice of psychology; to provide that certain
 9 licensed persons are able to perform certain tests other than psychological testing; to revise
 10 definitions; to amend Code Section 37-1-1 of the Official Code of Georgia Annotated,
 11 relating to definitions relative to the general provisions governing and regulating mental
 12 health, so as to conform a cross-reference; to provide for related matters; to provide an
 13 effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 The General Assembly finds that the mental health and wellness needs of Georgia's citizens
 17 require the availability of trained mental health professionals who can accurately diagnose,
 18 treat, prescribe, and appropriately assess the mental and emotional illnesses, disorders, and
 19 conditions from which they suffer and the vocational, educational, interpersonal, and
 20 intrapersonal needs essential to living and learning how to live productive and useful lives.
 21 It is the intent of the General Assembly to assure geographical and financial access for all of
 22 Georgia's citizens to excellent mental health services to the extent that Georgia's resources
 23 and regulations permit. To these ends, Georgia regulates its licensed psychiatrists,
 24 psychologists, professional counselors, marriage and family therapists, and clinical social
 25 workers who provide graduate level professional services to Georgia's private and public
 26 mental health services and to its public mental health, educational, and vocational support

27 systems. The General Assembly seeks in such regulatory process to protect the public and
 28 assure it receives high quality and appropriate services and to define the scopes of practice
 29 and diagnostic authority for each of these professional groups consistent with the graduate
 30 level training and supervision, or its equivalent, that the members of each profession have
 31 sought and successfully completed. The General Assembly has empowered and authorized
 32 the Georgia Composite Medical Board, the State Board of Examiners of Psychologists, and
 33 the Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and
 34 Family Therapists to fulfill these responsibilities and expects them to work together to assure
 35 a continuum of professional services that ensure appropriate diagnostic and assessment
 36 functions for each profession and the psychotherapeutic and counseling treatment services
 37 appropriate to each profession. The General Assembly recognizes that advances in medicine,
 38 science, education, training, and service delivery occur constantly in our modern history and
 39 therefore also expects the regulatory boards for each profession to assure that its licensees
 40 seek and successfully complete appropriate continuing education and training for the
 41 functions and services authorized to each profession.

42 SECTION 2.

43 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 44 is amended in Code Section 43-10A-3, relating to definitions relative to professional
 45 counselors, social workers, and others, by adding a new paragraph and by revising paragraph
 46 (10) to read as follows:

47 "(4.1) 'Diagnose' means the use, administration, or application of any criteria contained
 48 within standard classification or diagnostic systems for mental disorders and that are
 49 related to the scope of practice as provided pursuant to this chapter. Diagnose shall not
 50 mean the diagnosis of any neuropsychological functioning or conditions."

51 "(10) 'Professional counseling' means that specialty which utilizes counseling techniques
 52 based on principles, methods, and procedures of counseling that assist people in
 53 identifying and resolving personal, social, vocational, intrapersonal, and interpersonal
 54 concerns; utilizes counseling and psychotherapy to evaluate, diagnose, treat, and
 55 recommend a course of treatment for emotional and mental problems and conditions,
 56 whether cognitive, behavioral, or affective, provided that the counselor shall have training
 57 and experience working with people with mental illness, developmental disability, or
 58 substance abuse; administers and interprets educational and vocational assessment
 59 instruments and other tests which the professional counselor is qualified to employ by
 60 virtue of education, training, and experience; utilizes information, community resources,
 61 and goal setting for personal, social, or vocational development; utilizes individual and
 62 group techniques for facilitating problem solving, decision making, and behavior change;

63 utilizes functional assessment and vocational planning and guidance for persons
 64 requesting assistance in adjustment to a disability or disabling condition; utilizes referral
 65 for persons who request counseling services; performs service planning; and utilizes and
 66 interprets counseling research."

67 **SECTION 3.**

68 Said title is further amended by designating the present provisions as subsection (a) and by
 69 adding a new subsection to Code Section 43-10A-16, relating to continuing education for
 70 professional counselors, to read as follows:

71 "(b) On or before January 1, 2017, the board shall develop a curriculum of continuing
 72 education relating to diagnosing by persons licensed under this chapter working with
 73 people with mental illness, developmental disabilities, or substance abuse. All persons
 74 licensed under this chapter who have not already completed as of January 1, 2017,
 75 sufficient training, experience, or classes related to diagnosing as part of their licensure
 76 requirements as required by the board shall complete such curriculum no later than January
 77 1, 2018. As of the effective date of this subsection, persons licensed under this chapter
 78 with at least ten years of experience as a professional counselor, clinical social worker, or
 79 marriage and family therapist working with people with mental illness, developmental
 80 disabilities, or substance abuse and in good standing with the board shall be exempt from
 81 the requirements of this subsection."

82 **SECTION 4.**

83 Said title is further amended by revising Code Section 43-10A-22, relating to restrictions on
 84 the scope of practice relative to professional counselors, social workers, and marriage and
 85 family therapists, as follows:

86 "43-10A-22.

87 (a) Nothing in this chapter shall be construed to authorize persons licensed under this
 88 chapter to practice nursing, occupational therapy, physical therapy, medicine, or
 89 psychology, as regulated under Chapters 26, 28, 33, 34, and 39, respectively, of this title
 90 nor shall anything in this chapter be construed to limit or regulate the practice of those
 91 licensed under said Chapters 26, 28, 33, 34, and 39 of this title, nor shall anything in this
 92 chapter be construed to authorize persons licensed under this chapter to perform
 93 psychological testing as defined in Code Section 43-39-1.

94 (b) On or before January 1, 2017, the board, in consultation with the State Board of
 95 Examiners of Psychologists, shall promulgate rules and regulations that define for its
 96 licensees testing and assessments authorized by this chapter and not prohibited by this
 97 Code section. The board shall retain its full authority to determine the education,

98 experience, and training necessary and appropriate to any testing or assessments conducted
 99 by its licensees. The board and the State Board of Examiners of Psychologists shall notify
 100 each other in the event of any enforcement inquiry, penalty, or legal order relating to
 101 testing or assessments that are not within the scope of authority for licensees of either board
 102 and permit the other board to render any advice or comment relating to such action 30 days
 103 prior to any final action by the board."

104 **SECTION 5.**

105 Said title is further amended by revising Code Section 43-39-1, relating to definitions relative
 106 to psychologists, as follows:

107 "43-39-1.

108 As used in this chapter, the term:

109 (1) 'Board' means the State Board of Examiners of Psychologists.

110 (2) 'Mental abilities' means abilities that are psychological in nature and are related to the
 111 practice of psychology.

112 (3) 'Neuropsychological functioning' means the psychological manifestations of brain
 113 functioning. Neuropsychological functioning includes but is not limited to sensory motor
 114 functioning, attention, concentration, memory, language, abstraction, problem solving,
 115 visual-spatial ability, executive functioning, and personality.

116 ~~(2)~~(4) 'Neuropsychology' means the subspecialty of psychology concerned with the
 117 relationship between the brain and behavior, including the diagnosis of brain pathology
 118 through the use of psychological tests and assessment techniques.

119 (5) 'Personality characteristics' means personality characteristics that are psychological
 120 in nature and related to the practice of psychology.

121 (6) 'Psychological testing' means the use of assessment instruments to both:

122 (A) Measure mental abilities, personality characteristics, or neuropsychological
 123 functioning; and

124 (B) Diagnose, evaluate, classify, or render opinions regarding mental and nervous
 125 disorders and illnesses, including, but not limited to, organic brain disorders, brain
 126 damage, and other neuropsychological conditions.

127 ~~(3)~~(7) 'To practice psychology' or 'practice of psychology' means to render or offer to
 128 render to individuals, groups, organizations, or the public for a fee or any remuneration,
 129 monetary or otherwise, any service involving the application of recognized principles,
 130 methods, and procedures of the science and profession of psychology, ~~such as~~ including,
 131 but not limited to, diagnosing and treating mental and nervous disorders and illnesses;
 132 rendering opinions concerning diagnoses of mental disorders, including, but not limited
 133 to, organic brain disorders and brain damage; engaging in neuropsychology; engaging

134 in psychotherapy; interviewing, administering, and interpreting tests of mental abilities,
 135 aptitudes, interests, and personality characteristics, including, but not limited to,
 136 psychological testing, for such purposes as psychological classification or evaluation; or
 137 for ~~education~~ educational or vocational placement, or for such purposes as psychological
 138 counseling, guidance, or readjustment. When engaged in the practice of psychology,
 139 licensed psychologists may describe or label any testing, assessment, or evaluation they
 140 conduct within the scope of practice described in this Code section as 'psychological' in
 141 nature; provided, however, that any such description or labeling shall not be construed
 142 to alter the meaning of psychological testing as defined in paragraph (6) of this Code
 143 section and in paragraph (9) of Code Section 43-39-7. Nothing in this paragraph shall be
 144 construed as permitting the administration or prescription of drugs or in any way
 145 infringing upon or restricting the practice of medicine as defined in the laws of this state."

146

SECTION 6.

147 Said title is further amended by revising Code Section 43-39-7, relating to the practice of
 148 psychology without a license, use of psychologist title, and exceptions, by striking the word
 149 "and" at the end of paragraph (7), by replacing the period at the end of paragraph (8) with
 150 "; and", and by adding a new paragraph to read as follows:

151 "(9) Nothing in this chapter shall be construed as prohibiting any person licensed under
 152 Chapter 10A of this title from providing services he or she is authorized to perform under
 153 Chapter 10A of this title, including, but not limited to, administering and interpreting
 154 educational and vocational tests; functional assessments; interest inventories; tests that
 155 evaluate marital and family functioning; mental health symptom screening and
 156 assessment instruments that evaluate emotional, mental, behavioral, and interpersonal
 157 problems or conditions including substance use, health, and disability; or any other
 158 assessments or tests which the person is qualified to employ by virtue of his or her
 159 education, training, or experience within the scope of practice of professional counselors.
 160 The Georgia Composite Board of Professional Counselors, Social Workers, and Marriage
 161 and Family Therapists shall have sole authority to regulate assessment and testing
 162 performed by persons licensed under Chapter 10A of this title."

163

SECTION 7.

164 Code Section 37-1-1 of the Official Code of Georgia Annotated, relating to definitions
 165 relative to the general provisions governing and regulating mental health, is amended by
 166 revising paragraph (17) as follows:

