

The House Committee on Rules offers the following substitute to SB 12:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward,  
2 so as to revise the list of providers who are authorized to participate in the processes for  
3 appointment of a guardian for an adult, the modification and termination of such  
4 guardianship, and the appointment of emergency guardian; to revise the list of providers who  
5 are authorized to participate in the processes for appointment of a conservator for an adult,  
6 the modification and termination of such conservatorship, and the appointment of emergency  
7 conservator; to provide for limitations on the powers and duties of certain emergency  
8 conservators; to amend Title 43 of the Official Code of Georgia Annotated, relating to  
9 professions and businesses, so as to provide certain licensure requirements and programs for  
10 certain healthcare professionals; to authorize the Georgia Composite Board of Professional  
11 Counselors, Social Workers, and Marriage and Family Therapists to establish a professional  
12 health program to provide for monitoring and rehabilitation of impaired healthcare  
13 professionals; to authorize the Georgia Board of Nursing to establish a professional health  
14 program to provide for monitoring and rehabilitation of impaired healthcare professionals;  
15 to provide for funding or gifts in kind; to provide for licensure of certain qualifying foreign  
16 medical graduates; to provide for a nonrenewable limited provisional license under certain  
17 conditions; to provide for a renewable restricted license under certain conditions; to provide  
18 for the application for full licensure under certain conditions; to provide for rules and

19 regulations; to revise and provide for definitions; to provide for related matters; to repeal  
20 conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is  
24 amended by revising paragraph (10) of Code Section 29-1-1, relating to definitions, as  
25 follows:

26 "(10) 'Licensed clinical social worker' means a social worker who is licensed as such in  
27 accordance with the provisions of Chapter 10A of Title 43."

28 **SECTION 2.**

29 Said title is further amended in Code Section 29-4-10, relating to petition for appointment  
30 of guardian and requirements for petition, by revising paragraph (1) of subsection (c) as  
31 follows:

32 "(c)(1) The petition shall be sworn to by two or more petitioners or shall be supported  
33 by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43,  
34 a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant  
35 licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in  
36 psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage  
37 and family therapist or professional counselor licensed under Chapter 10A of Title 43,  
38 or a licensed clinical social worker, or, if the proposed ward is a patient in any federal  
39 medical facility in which such a physician, psychologist, or physician assistant, nurse  
40 practitioner, clinical nurse specialist in psychiatric/mental health, marriage and family  
41 therapist, professional counselor, or licensed clinical social worker is not available, a  
42 physician, psychologist, or physician assistant, nurse practitioner, clinical nurse specialist

43 in psychiatric/mental health, marriage and family therapist, professional counselor, or  
 44 licensed clinical social worker who is authorized to practice in that such federal facility."

45 **SECTION 3.**

46 Said title is further amended in Code Section 29-4-11, relating to prerequisite judicial finding  
 47 of probable cause, notice, petition, evaluations, and reporting requirements for appointment  
 48 for guardians for adults, by revising subsection (d) as follows:

49 "(d)(1) If the petition is not dismissed ~~under~~ pursuant to subsection (b) of this Code  
 50 section, the court shall appoint an ~~evaluating physician~~ evaluator who shall be a physician  
 51 licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to  
 52 practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of  
 53 Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health  
 54 licensed or registered under Chapter 26 of Title 43, a marriage and family therapist or  
 55 professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical  
 56 social worker, or, if the proposed ward is a patient in any federal medical facility in which  
 57 such a physician, psychologist, or physician assistant, nurse practitioner, clinical nurse  
 58 specialist in psychiatric/mental health, marriage and family therapist, professional  
 59 counselor, or licensed clinical social worker is not available, a physician, psychologist,  
 60 or physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental  
 61 health, marriage and family therapist, professional counselor, or licensed clinical social  
 62 worker who is authorized to practice in that such federal facility, other than the physician,  
 63 psychologist, or physician assistant, nurse practitioner, clinical nurse specialist in  
 64 psychiatric/mental health, marriage and family therapist, professional counselor, or  
 65 licensed clinical social worker who completed the affidavit attached to the petition  
 66 pursuant to subsection (c) of Code Section 29-4-10.

67 (2) When evaluating the proposed ward, the physician, psychologist, ~~or~~ physician  
 68 assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health,

69 marriage and family therapist, professional counselor, or licensed clinical social worker  
70 shall explain the purpose of the evaluation to the proposed ward. The proposed ward may  
71 remain silent. Any statements made by the proposed ward during the evaluation shall be  
72 privileged and shall be inadmissible as evidence in any proceeding other than a  
73 proceeding under this chapter. The proposed ward's legal counsel shall have the right to  
74 be present but shall not participate in the evaluation.

75 (3) The evaluation shall be conducted with as little interference with the proposed ward's  
76 activities as possible. The evaluation shall take place at the place and time set in the  
77 notice to the proposed ward and ~~the~~ his or her legal counsel and the time set shall not be  
78 sooner than the fifth day after the service of notice on the proposed ward. The court,  
79 however, shall have the exclusive power to change the place and time of the examination  
80 at any time upon reasonable notice being given to the proposed ward and to his or her  
81 legal counsel. If the proposed ward fails to appear, the court may order that the proposed  
82 ward be taken directly to and from a medical facility or the office of the physician,  
83 psychologist, ~~or~~ physician assistant, nurse practitioner, clinical nurse specialist in  
84 psychiatric/mental health, marriage and family therapist, professional counselor, or  
85 licensed clinical social worker for purposes of evaluation only. The evaluation shall be  
86 conducted during the normal business hours of the facility or office and the proposed  
87 ward shall not be detained in the facility or office overnight. The evaluation may include,  
88 but not be limited to:

- 89 (A) A self-report from the proposed ward, if possible;
- 90 (B) Questions and observations of the proposed ward to assess the functional abilities  
91 of the proposed ward;
- 92 (C) A review of the records for the proposed ward, including, but not limited to,  
93 medical records, medication charts, and other available records;
- 94 (D) An assessment of cultural factors and language barriers that may impact the  
95 proposed ward's abilities and living environment; and

- 96 (E) All other factors the evaluator determines to be appropriate to the evaluation.
- 97 (4) A written report shall be filed with the court no later than seven days after the
- 98 evaluation, and the court shall serve a copy of the report by first-class mail upon the
- 99 proposed ward and the proposed ward's legal counsel and, ~~if any, the guardian ad litem~~
- 100 if appointed.
- 101 (5) The report shall be signed under oath by the ~~physician, psychologist, or licensed~~
- 102 ~~clinical social worker~~ evaluator and shall:
- 103 (A) State the circumstances and duration of the evaluation, including a summary of
- 104 questions or tests utilized, and the elements of the evaluation;
- 105 (B) List all persons and other sources of information consulted in evaluating the
- 106 proposed ward;
- 107 (C) Describe the proposed ward's mental and physical state and condition, including
- 108 all observed facts considered by the ~~physician or psychologist or licensed clinical social~~
- 109 ~~worker~~ evaluator;
- 110 (D) Describe the overall social condition of the proposed ward, including support, care,
- 111 education, and well-being; and
- 112 (E) Describe the needs of the proposed ward and their foreseeable duration.
- 113 (6) The proposed ward's legal counsel may file a written response to the evaluation,
- 114 provided the response is filed no later than the date of the commencement of the hearing
- 115 on the petition for guardianship. The response may include, but is not limited to,
- 116 independent evaluations, affidavits of individuals with personal knowledge of the
- 117 proposed ward, and a statement of applicable law."

118 **SECTION 4.**

119 Said title is further amended in Code Section 29-4-14, relating to petition for appointment

120 of emergency guardian of an adult and requirements of petition, by revising paragraph (1)

121 of subsection (d) as follows:

122 "(d)(1) The petition shall be sworn to by two or more petitioners or shall be supported  
 123 by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43,  
 124 a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant  
 125 licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in  
 126 psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage  
 127 and family therapist or professional counselor licensed under Chapter 10A of Title 43,  
 128 or a licensed clinical social worker, or, if the proposed ward is a patient in any federal  
 129 medical facility in which such a physician, psychologist, ~~or~~ physician assistant, nurse  
 130 practitioner, clinical nurse specialist in psychiatric/mental health, marriage and family  
 131 therapist, professional counselor, or licensed clinical social worker is not available, a  
 132 physician, psychologist, ~~or~~ physician assistant, nurse practitioner, clinical nurse specialist  
 133 in psychiatric/mental health, marriage and family therapist, professional counselor, or  
 134 licensed clinical social worker authorized to practice in ~~that~~ such federal facility."

135 **SECTION 5.**

136 Said title is further amended in Code Section 29-4-15, relating to prerequisite findings prior  
 137 to appointment of emergency guardian, evaluation, notice, and hearing, by revising  
 138 subsection (c) as follows:

139 "(c) If the court determines that there is probable cause to believe that the proposed ward  
 140 is in need of an emergency guardian, the court shall:

141 (1) Immediately appoint legal counsel to represent the proposed ward at the emergency  
 142 hearing, which counsel may be the same counsel who is appointed to represent the  
 143 proposed ward in the hearing on the petition for guardianship or conservatorship, if any  
 144 such petition has been filed, and shall inform counsel of the appointment;

145 (2) Order an emergency hearing to be conducted not sooner than three days nor later than  
 146 five days after the filing of the petition;

147 (3) Order an evaluation of the proposed ward by ~~a physician~~ an evaluator who shall be  
148 a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist  
149 licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under  
150 Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in  
151 psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage  
152 and family therapist or professional counselor licensed under Chapter 10A of Title 43,  
153 or a licensed clinical social worker, other than the physician, psychologist, ~~or physician~~  
154 assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health,  
155 marriage and family therapist, professional counselor, or licensed clinical social worker  
156 who completed the affidavit attached to the petition pursuant to paragraph (1) of  
157 subsection (d) of Code Section 29-4-10. The evaluation shall be conducted within 72  
158 hours of the time the order was issued and a written report shall be furnished to the court  
159 and made available to the parties within this time frame, which evaluation and report  
160 shall be governed by the provisions of subsection (d) of Code Section 29-4-11;

161 (4) Immediately notify the proposed ward of the proceedings by service of all pleadings  
162 on the proposed ward, which notice shall:

163 (A) Be served personally on the proposed ward by an officer of the court and shall not  
164 be served by mail;

165 (B) Inform the proposed ward that a petition has been filed to have an emergency  
166 guardian appointed for the proposed ward, that the proposed ward has the right to attend  
167 any hearing that is held, and that, if an emergency guardian is appointed, the proposed  
168 ward may lose important rights to control the management of the proposed ward's  
169 person;

170 (C) Inform the proposed ward of the place and time at which the proposed ward shall  
171 submit to the evaluation provided for by paragraph (3) of this subsection;

172 (D) Inform the proposed ward of the appointment of legal counsel; and

173 (E) Inform the proposed ward of the date and time of the hearing on the emergency  
174 guardianship; and  
175 (5) Appoint an emergency guardian to serve until the emergency hearing, with or without  
176 prior notice to the proposed ward, if the threatened risk is so immediate and the potential  
177 harm so irreparable that any delay is unreasonable and the existence of the threatened risk  
178 and potential for irreparable harm is certified by the affidavit of a physician licensed to  
179 practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under  
180 Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a  
181 nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or  
182 registered under Chapter 26 of Title 43, a marriage and family therapist or professional  
183 counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker.  
184 Appointment of an emergency guardian under this paragraph is not a final determination  
185 of the proposed ward's need for a nonemergency guardian. Any emergency guardian  
186 appointed under this paragraph shall have only those powers and duties specifically  
187 enumerated in the letters of emergency guardianship, and the powers and duties shall not  
188 exceed those absolutely necessary to respond to the immediate threatened risk to the  
189 ward."

190 **SECTION 6.**

191 Said title is further amended in Code Section 29-4-41, relating to modification of  
192 guardianship, by revising subsection (b) as follows:

193 "(b) If the petition for modification alleges a significant change in the capacity of the ward,  
194 it must be supported either by the affidavits of two persons who have knowledge of the  
195 ward, one of whom may be the petitioner, or of a physician licensed to practice medicine  
196 under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title  
197 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or  
198 clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter



199 26 of Title 43, a marriage and family therapist or professional counselor licensed under  
200 Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the supporting  
201 facts and determinations. If, after reviewing the petition and the affidavits, the court  
202 determines that there is no probable cause to believe that there has been a significant  
203 change in the capacity of the ward, the court shall dismiss the petition. If the petition is not  
204 dismissed, the court shall order that an evaluation be conducted, in accordance with the  
205 provisions of subsection (d) of Code Section 29-4-11. If, after reviewing the evaluation  
206 report, the court finds that there is no probable cause to believe that there has been a  
207 significant change in the capacity of the ward, the court shall dismiss the petition. If the  
208 petition is not dismissed, the court shall schedule a hearing, with notice as the court deems  
209 appropriate."

210

**SECTION 7.**

211 Said title is further amended in Code Section 29-4-42, relating to termination of  
212 guardianship, required evidence, burden of proof, and return of property, by revising  
213 subsection (b) as follows:

214 "(b) A petition for termination must be supported either by the affidavits of two persons  
215 who have knowledge of the ward, one of whom may be the petitioner, or of a physician  
216 licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to  
217 practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of  
218 Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health  
219 licensed or registered under Chapter 26 of Title 43, a marriage and family therapist or  
220 professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social  
221 worker, setting forth the supporting facts and determinations. If, after reviewing the  
222 petition and the affidavits, the court determines that there is no probable cause to believe  
223 that the guardianship should be terminated, the court shall dismiss the petition. If the  
224 petition is not dismissed, the court shall order that an evaluation be conducted, in

225 accordance with the provisions of subsection (d) of Code Section 29-4-11. If, after  
226 reviewing the evaluation report, the court finds that there is no probable cause to believe  
227 that the guardianship should be terminated, the court shall dismiss the petition. If the  
228 petition is not dismissed, the court shall schedule a hearing, with such notice as the court  
229 deems appropriate."

230 **SECTION 8.**

231 Said title is further amended in Code Section 29-4-70, relating to right of ward to appeal,  
232 procedure, and appointment of emergency guardian, by revising subsection (d) as follows:

233 "(d) Pending any appeal, the superior court or a probate court that is described in  
234 paragraph (2) of Code Section 15-9-120 may appoint an emergency guardian with such  
235 powers and duties as are described in Code Section 29-4-16; provided, however, that an  
236 emergency guardian may be appointed only upon the filing of an affidavit of a physician  
237 licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to  
238 practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of  
239 Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health  
240 licensed or registered under Chapter 26 of Title 43, a marriage and family therapist or  
241 professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social  
242 worker, setting forth the existence of the emergency circumstances described in subsection  
243 (d) of Code Section 29-4-14 and after a hearing at which other evidence may be presented.  
244 The appointment of an emergency guardian is not appealable."

245 **SECTION 9.**

246 Said title is further amended in Code Section 29-5-10, relating to petition for appointment  
247 of conservator and requirements of petition, by revising paragraph (1) of subsection (c) as  
248 follows:

249 "(c)(1) The petition shall be sworn to by two or more petitioners or shall be supported  
 250 by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43,  
 251 a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant  
 252 licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in  
 253 psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage  
 254 and family therapist or professional counselor licensed under Chapter 10A of Title 43,  
 255 or a licensed clinical social worker, or, if the proposed ward is a patient in any federal  
 256 medical facility in which such a physician, psychologist, ~~or physician assistant, nurse~~  
 257 ~~practitioner, clinical nurse specialist in psychiatric/mental health, marriage and family~~  
 258 ~~therapist, professional counselor, or licensed clinical social worker is not available, a~~  
 259 ~~physician, psychologist, or physician assistant, nurse practitioner, clinical nurse specialist~~  
 260 ~~in psychiatric/mental health, marriage and family therapist, professional counselor, or~~  
 261 licensed clinical social worker authorized to practice in ~~that~~ such federal facility."

262 **SECTION 10.**

263 Said title is further amended in Code Section 29-5-11, relating to prerequisite finding prior  
 264 to appointment of conservator, notice, evaluation, and written report, by revising  
 265 subsection (d) as follows:

266 "(d)(1) If the petition is not dismissed pursuant to subsection (b) of this Code section, the  
 267 court shall appoint an ~~evaluating physician~~ evaluator who shall be a physician licensed  
 268 to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice  
 269 under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43,  
 270 a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or  
 271 registered under Chapter 26 of Title 43, a marriage and family therapist or professional  
 272 counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, or,  
 273 if the proposed ward is a patient in any federal medical facility in which such a physician,  
 274 psychologist, ~~or physician assistant, nurse practitioner, clinical nurse specialist in~~

275 psychiatric/mental health, marriage and family therapist, professional counselor, or  
276 licensed clinical social worker is not available, a physician, psychologist, ~~or physician~~  
277 assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health,  
278 marriage and family therapist, professional counselor, or licensed clinical social worker  
279 authorized to practice in ~~that~~ such federal facility other than the physician, psychologist,  
280 ~~or physician~~ assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental  
281 health, marriage and family therapist, professional counselor, or licensed clinical social  
282 worker who completed the affidavit attached to the petition pursuant to subsection (c) of  
283 Code Section 29-5-10.

284 (2) When evaluating the proposed ward, the physician, psychologist, ~~or physician~~  
285 assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health,  
286 marriage and family therapist, professional counselor, or licensed clinical social worker  
287 shall explain the purpose of the evaluation to the proposed ward. The proposed ward may  
288 remain silent. Any statements made by the proposed ward during the evaluation shall be  
289 privileged and shall be inadmissible as evidence in any proceeding other than a  
290 proceeding under this chapter. The proposed ward's legal counsel shall have the right to  
291 be present but shall not participate in the evaluation.

292 (3) The evaluation shall be conducted with as little interference with the proposed ward's  
293 activities as possible. The evaluation shall take place at the place and time set in the  
294 notice to the proposed ward and to his or her legal counsel and the time set shall not be  
295 sooner than the fifth day after the service of notice on the proposed ward. The court,  
296 however, shall have the exclusive power to change the place and time of the examination  
297 at any time upon reasonable notice being given to the proposed ward and to his or her  
298 legal counsel. If the proposed ward fails to appear, the court may order that the proposed  
299 ward be taken directly to and from a medical facility, office of a physician, psychologist,  
300 ~~or physician~~ assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental  
301 health, marriage and family therapist, professional counselor, or licensed clinical social

302 worker for purposes of evaluation only. The evaluation shall be conducted during the  
303 normal business hours of the facility or office, and the proposed ward shall not be  
304 detained in the facility or office overnight. The evaluation may include, but not be  
305 limited to:

- 306 (A) A self-report from the proposed ward, if possible;
- 307 (B) Questions and observations of the proposed ward to assess the functional abilities  
308 of the proposed ward;
- 309 (C) A review of the records for the proposed ward, including, but not limited to,  
310 medical records, medication charts, and other available records;
- 311 (D) An assessment of cultural factors and language barriers that may impact the  
312 proposed ward's abilities and living environment; and
- 313 (E) All other factors the evaluator determines to be appropriate to the evaluation.

314 (4) A written report shall be filed with the court no later than seven days after the  
315 evaluation, and the court shall serve a copy of the report by first-class mail upon the  
316 proposed ward and the proposed ward's legal counsel and guardian ad litem, if appointed.

317 (5) The report shall be signed under oath by the ~~physician, psychologist, or licensed~~  
318 ~~clinical social worker~~ evaluator and shall:

- 319 (A) State the circumstances and duration of the evaluation, including a summary of  
320 questions or tests utilized, and the elements of the evaluation;
- 321 (B) List all persons and other sources of information consulted in evaluating the  
322 proposed ward;
- 323 (C) Describe the proposed ward's mental and physical state and condition, including  
324 all observed facts considered by the ~~physician, psychologist, or licensed clinical social~~  
325 ~~worker~~ evaluator;
- 326 (D) Describe the overall social condition of the proposed ward, including support, care,  
327 education, and well-being; and
- 328 (E) Describe the needs of the proposed ward and their foreseeable duration.

329 (6) The proposed ward's legal counsel may file a written response to the evaluation,  
330 provided the response is filed no later than the date of the commencement of the hearing  
331 on the petition for conservatorship. The response may include, but is not limited to,  
332 independent evaluations, affidavits of individuals with personal knowledge of the  
333 proposed ward, and a statement of applicable law."

334 **SECTION 11.**

335 Said title is further amended in Code Section 29-5-14, relating to appointment of emergency  
336 conservator and requirements of petition, by revising paragraph (1) of subsection (d) as  
337 follows:

338 "(d)(1) The petition shall be sworn to by two or more petitioners or shall be supported  
339 by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43,  
340 a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant  
341 licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in  
342 psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage  
343 and family therapist or professional counselor licensed under Chapter 10A of Title 43,  
344 or a licensed clinical social worker, or, if the proposed ward is a patient in any federal  
345 medical facility in which such a physician, psychologist, or physician assistant, nurse  
346 practitioner, clinical nurse specialist in psychiatric/mental health, marriage and family  
347 therapist, professional counselor, or licensed clinical social worker is not available, a  
348 physician, psychologist, or physician assistant, nurse practitioner, clinical nurse specialist  
349 in psychiatric/mental health, marriage and family therapist, professional counselor, or  
350 licensed clinical social worker authorized to practice in ~~that~~ such federal facility."

351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377

## SECTION 12.

Said title is further amended in Code Section 29-5-15, relating to review of petition, dismissal, and requirements of court upon finding need for emergency conservator, by revising subsection (c) as follows:

"(c) If the court determines that there is probable cause to believe that the proposed ward is in need of an emergency conservator, the court shall:

(1) Immediately appoint legal counsel to represent the proposed ward at the emergency hearing, which counsel may be the same counsel who is appointed to represent the proposed ward in the hearing on the petition for guardianship or conservatorship, if any such petition has been filed, and shall inform counsel of the appointment;

(2) Order an emergency hearing to be conducted not sooner than three days nor later than five days after the filing of the petition;

(3) Order an evaluation of the proposed ward by ~~a physician~~ an evaluator who shall be a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage and family therapist or professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, other than the physician, psychologist, ~~or physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, marriage and family therapist, professional counselor, or licensed clinical social worker~~ who completed the affidavit attached to the petition pursuant to paragraph (1) of subsection (d) of Code Section 29-5-10, ~~to~~ Such evaluation shall be conducted within 72 hours of the time such order was issued, and a written report ~~to~~ shall be furnished to the court and made available to the parties within ~~72 hours~~ such time, which evaluation and report shall be governed by the provisions of subsection (d) of Code Section ~~29-5-14~~ 29-5-11;

- 378 (4) Immediately notify the proposed ward of the proceedings by service of all pleadings  
379 on the proposed ward, which notice shall:
- 380 (A) Be served personally on the proposed ward by an officer of the court and shall not  
381 be served by mail;
  - 382 (B) Inform the proposed ward that a petition has been filed to have an emergency  
383 conservator appointed for the proposed ward, that the proposed ward has the right to  
384 attend any hearing that is held, and that, if an emergency conservator is appointed, the  
385 proposed ward may lose important rights to control the management of the proposed  
386 ward's property;
  - 387 (C) Inform the proposed ward of the place and time at which the proposed ward shall  
388 submit to the evaluation provided for by paragraph (3) of this subsection;
  - 389 (D) Inform the proposed ward of the appointment of legal counsel; and
  - 390 (E) Inform the proposed ward of the date and time of the hearing on the emergency  
391 conservatorship; and
- 392 (5) Appoint an emergency conservator to serve until the emergency hearing, with or  
393 without prior notice to the proposed ward, if the threatened risk is so immediate and the  
394 potential harm so irreparable that any delay is unreasonable and the existence of the  
395 threatened risk and potential for irreparable harm is certified by the affidavit of a  
396 physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist  
397 licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under  
398 Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in  
399 psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage  
400 and family therapist or professional counselor licensed under Chapter 10A of Title 43,  
401 or a licensed clinical social worker; provided, however, that, pending the emergency  
402 hearing, the court shall order that no withdrawals may be made from any account on the  
403 authority of the proposed ward's signature without the court's prior approval and that the  
404 emergency conservator shall not expend any funds of the proposed ward without prior



405 court approval. Appointment of an emergency conservator under this paragraph is not  
406 a final determination of the proposed ward's need for a nonemergency conservator. Any  
407 emergency conservator appointed under this paragraph shall have only those powers and  
408 duties specifically enumerated in the letters of emergency conservatorship; such powers  
409 and duties shall not exceed those absolutely necessary to respond to the immediate  
410 threatened risk to the ward; and such powers and duties shall be subject to the limitations  
411 provided in this paragraph regarding the expenditures of funds of the ward."

412 **SECTION 13.**

413 Said title is further amended in Code Section 29-5-23, relating to authority of conservator  
414 and cooperation with guardian or other interested parties, by revising paragraph (13) of  
415 subsection (a) and paragraph (5) of subsection (c) as follows:

416 "(13) Compromise any contested or doubtful claim for or against the ward if the  
417 proposed gross settlement ~~as defined in Code Section 29-3-3~~ is in the amount  
418 of \$25,000.00 or less, provided that, for purposes of this paragraph, the term 'gross  
419 settlement' means the present value of all amounts paid or to be paid in settlement of the  
420 claim, including cash, medical expenses, expenses of litigation, attorney's fees, and any  
421 amounts allocated to a structured settlement or other similar financial arrangement; and"

422 "(5) To compromise a contested or doubtful claim for or against the ward if the proposed  
423 gross settlement ~~as defined in Code Section 29-3-3~~ is more than \$25,000.00, provided  
424 that, for purposes of this paragraph, the term 'gross settlement' means the present value  
425 of all amounts paid or to be paid in settlement of the claim, including cash, medical  
426 expenses, expenses of litigation, attorney's fees, and any amounts allocated to a structured  
427 settlement or other similar financial arrangement;"

428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448

#### SECTION 14.

Said title is further amended in Code Section 29-5-71, relating to modification of conservatorship, contents of petition for modification, and burden of proof, by revising subsection (b) as follows:

"(b) If the petition for modification alleges a significant change in the capacity of the ward, it must be supported either by the affidavits of two persons who have knowledge of the ward, one of whom may be the petitioner, or of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a marriage and family therapist or professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the supporting facts and determinations. If, after reviewing the petition and the affidavits, the court determines that there is no probable cause to believe that there has been a significant change in the capacity of the ward, the court shall dismiss the petition. If the petition is not dismissed, the court shall order that an evaluation be conducted, in accordance with the provisions of subsection (d) of Code Section 29-5-11. If, after reviewing the evaluation report, the court finds that there is no probable cause to believe that there has been a significant change in the capacity of the ward, the court shall dismiss the petition. If the petition is not dismissed, the court shall schedule a hearing, with such notice as the court deems appropriate."

449  
450  
451  
452

#### SECTION 15.

Said title is further amended in Code Section 29-5-72, relating to termination of conservatorship, required evidence to support, burden of proof, and death of ward, by revising subsection (b) as follows:

453 "(b) A petition for termination must be supported either by the affidavits of two persons  
454 who have knowledge of the ward, one of whom may be the petitioner, or of a physician  
455 licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to  
456 practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of  
457 Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health  
458 licensed or registered under Chapter 26 of Title 43, a marriage and family therapist or  
459 professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social  
460 worker, setting forth the supporting facts and determinations. If, after reviewing the  
461 petition and the affidavits, the court determines that there is no probable cause to believe  
462 that the conservatorship should be terminated, the court shall dismiss the petition. If the  
463 petition is not dismissed, the court shall order that an evaluation be conducted in  
464 accordance with the provisions of subsection (d) of Code Section 29-5-11. If, after  
465 reviewing the evaluation report, the court finds that there is no probable cause to believe  
466 that the conservatorship should be terminated, the court shall dismiss the petition. If the  
467 petition is not dismissed, the court shall schedule a hearing with such notice as the court  
468 deems appropriate."

469 **SECTION 16.**

470 Said title is further amended in Code Section 29-5-110, relating to proceedings for appeal,  
471 appointment of guardians ad litem, bond and security prior to removal, liability of surety of  
472 predecessor conservator, and jurisdiction, by revising subsection (d) as follows:

473 "(d) Pending any appeal, the superior court or a probate court that is described in  
474 paragraph (2) of Code Section 15-9-120 may appoint an emergency conservator with  
475 powers and duties as are described in Code Section 29-5-16; provided, however, that such  
476 emergency conservator may be appointed only upon the filing of an affidavit of a physician  
477 licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to  
478 practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of

479 Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health  
 480 licensed or registered under Chapter 26 of Title 43, a marriage and family therapist or  
 481 professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social  
 482 worker, setting forth the existence of the emergency circumstances described in subsection  
 483 (d) of Code Section 29-5-14 and after a hearing at which other evidence may be presented.  
 484 The appointment of an emergency conservator is not appealable."

485 **SECTION 17.**

486 Said title is further amended by revising Code Section 29-9-16, relating to compensation to  
 487 physicians, psychologists, or licensed clinical social workers, as follows:

488 "29-9-16.

489 (a) For the evaluation or examination required by subsection (d) of Code Section 29-4-11,  
 490 subsection (c) of Code Section 29-4-15, subsection (b) of Code Section 29-4-42,  
 491 subsection (d) of Code Section 29-5-11, subsection (c) of Code Section 29-5-15, or  
 492 subsection (b) of Code Section 29-5-71, the evaluating physician, psychologist, ~~or~~  
 493 physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health,  
 494 marriage and family therapist, professional counselor, or licensed clinical social worker  
 495 shall receive a reasonable fee commensurate with the task performed, plus actual expenses.  
 496 (b) In the event the attendance of the evaluating physician, psychologist, ~~or~~ physician  
 497 assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, marriage  
 498 and family therapist, professional counselor, or licensed clinical social worker shall be  
 499 required by the court for a hearing under subsection (d) of Code Section 29-4-12,  
 500 subsection (a) of Code Section 29-4-16, subsection (b) of Code Section 29-4-42, subsection  
 501 (d) of Code Section 29-5-12, subsection (a) of Code Section 29-5-16, or subsection (b) of  
 502 Code Section 29-5-71, other than pursuant to a subpoena requested by a party to the  
 503 proceeding, the evaluating physician, psychologist, ~~or~~ physician assistant, nurse  
 504 practitioner, clinical nurse specialist in psychiatric/mental health, marriage and family

505 therapist, professional counselor, or licensed clinical social worker shall receive a  
 506 reasonable fee commensurate with the task performed, plus actual expenses.  
 507 (c) All fees and expenses payable under subsection (a) or (b) of this Code section shall be  
 508 assessed by the court and paid in accordance with the provisions of Code Section 29-9-3."

509 **SECTION 18.**

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

513 "43-10A-24.

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

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

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

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

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

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

- 530       (1) Monitoring and rehabilitation of impaired healthcare professionals for the purpose  
531       of ensuring the fitness of each such healthcare professional to resume or continue the  
532       practice of his or her healthcare profession while maintaining the safety of the public;  
533       (2) Performing duties related to paragraph (10) of subsection (a) of Code  
534       Section 43-10A-17; and  
535       (3) Performing such other related activities as determined by the board.
- 536       (c) Notwithstanding subsection (k) of Code Section 43-1-2 and Code Section 43-10A-17,  
537       the board shall be authorized to provide pertinent information regarding healthcare  
538       professionals, as determined by the board and in its sole discretion, to an entity for its  
539       purposes in conducting a professional health program pursuant to this Code section.
- 540       (d) All information, interviews, reports, statements, memoranda, or other documents  
541       furnished to an entity by the board or other source or produced by an entity and any  
542       findings, conclusions, recommendations, or reports resulting from the monitoring or  
543       rehabilitation of healthcare professionals pursuant to this Code section are declared to be  
544       privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,  
545       relating to open records. All such records of an entity shall be confidential and shall be  
546       used by such entity and its employees and agents only in the exercise of the proper function  
547       of the entity pursuant to its contract with the board. Such information, interviews, reports,  
548       statements, memoranda, or other documents furnished to or produced by an entity and any  
549       findings, conclusions, recommendations, or reports resulting from the monitoring or  
550       rehabilitation of healthcare professionals shall not be available for court subpoenas or for  
551       discovery proceedings.
- 552       (e) An impaired healthcare professional who participates in a professional health program  
553       conducted pursuant to this Code section shall bear all costs associated with such  
554       participation.
- 555       (f) Any entity that contracts with the board pursuant to this Code section shall be immune  
556       from any liability, civil or criminal, that might otherwise be incurred or imposed for the

557 performance of any functions or duties under the contract, if performed in accordance with  
558 the terms of such contract and the provisions of this Code section.  
559 (g) This Code section shall be subject to appropriation by the General Assembly. The  
560 board may accept and solicit private funding, public grants, in-kind gifts, or any other  
561 funding or donations that may be available to facilitate the purpose of conducting a  
562 professional health program."

563 **SECTION 19.**

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

566 "ARTICLE 5

567 43-26-70.

568 As used in this article, the term:

569 (1) 'Board' means the Georgia Board of Nursing.

570 (2) 'Entity' means an organization or medical professional association which conducts  
571 professional health programs.

572 (3) 'Healthcare professional' means any individual licensed, certified, or permitted by the  
573 board under this chapter.

574 (4) 'Impaired' means the inability of a healthcare professional to practice with reasonable  
575 skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,  
576 chemicals, or any other type of material, or as a result of any mental or physical  
577 condition.

578 (5) 'Professional health program' means a program established for the purposes of  
579 monitoring and rehabilitation of impaired healthcare professionals.

580 43-26-71.

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

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

589 (2) Performing duties related to paragraph (2) of Code Section 43-26-11; and

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

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

595 (c) All information, interviews, reports, statements, memoranda, or other documents  
596 furnished to an entity by the board or other source or produced by an entity and any  
597 findings, conclusions, recommendations, or reports resulting from the monitoring or  
598 rehabilitation of healthcare professionals pursuant to this Code section are declared to be  
599 privileged and confidential and shall not be subject to Article 4 of Chapter 18 of Title 50,  
600 relating to open records. All such records of an entity shall be confidential and shall be  
601 used by such entity and its employees and agents only in the exercise of the proper function  
602 of the entity pursuant to its contract with the board. Such information, interviews, reports,  
603 statements, memoranda, or other documents furnished to or produced by an entity and any  
604 findings, conclusions, recommendations, or reports resulting from the monitoring or  
605 rehabilitation of healthcare professionals shall not be available for court subpoenas or for  
606 discovery proceedings.



607 43-26-72.

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

611 43-26-73.

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

616 43-26-74.

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

621 **SECTION 20.**

622 Said title is further amended in Chapter 34, relating to physicians, physician assistants, and  
623 others, by revising Code Section 43-34-34, relating to limited provisional licenses relative  
624 to physicians, as follows:

625 "43-34-34.

626 (a) A person who held a valid provisional license on or before April 16, 1979, shall be able  
627 to renew such license annually without any one-time-only renewal limitation, as long as  
628 such person continues to meet the other requirements specified in this article and does not  
629 otherwise violate this article.

630 (b) The board may issue a limited provisional license to a physician licensed or otherwise  
631 authorized to practice in a jurisdiction outside of the United States, provided that the board  
632 receives acceptable evidence that the applicant has:

633 (1) Received a degree of doctor of medicine or its equivalent from an accredited medical  
634 school outside of the United States, has been licensed or otherwise authorized to practice  
635 medicine in a jurisdiction outside of the United States, and has practiced medicine for at  
636 least three years;

637 (2) Received a valid certificate issued by the Educational Commission for Foreign  
638 Medical Graduates or other credential evaluation service approved by the board;  
639 provided, however, that the board may waive such certification at its discretion when the  
640 applicant is unable to obtain the required documentation from a noncooperative country;

641 (3) Achieved a passing score on both Step 1 and Step 2 Clinical Knowledge of the  
642 United States Medical Licensing Examination;

643 (4) Entered into an agreement for a full-time employment relationship with a hospital  
644 licensed by the Department of Community Health, a board approved medical school, a  
645 teaching hospital within this state, a federally qualified health center, or a clinic within  
646 this state that services Medicaid, indigent, or underserved populations, provided that any  
647 such prospective employing entity shall carry medical malpractice insurance covering  
648 such licensee for the duration of employment; and

649 (5) Satisfied any other criteria that the board may require for issuance of a limited  
650 provisional license pursuant to this subsection.

651 (c) The limited provisional license provided for in subsection (b) of this Code section shall  
652 be valid for a period not to exceed two years and shall not be renewed.

653 (d) A person who holds a current, valid limited provisional license as provided for in  
654 subsection (b) of this Code section for two years shall be eligible to apply for a restricted  
655 license to practice medicine in a designated health professional shortage area or medically  
656 underserved area or with a medically underserved population in this state as determined by

657 the board. The board may issue such restricted license to an applicant, provided that the  
658 board receives acceptable evidence that the applicant has:

659 (1) Maintained in good standing a provisional license pursuant to subsection (b) of this  
660 Code section;

661 (2) Achieved a passing score on Step 3 of the United States Medical Licensing  
662 Examination; and

663 (3) Entered into an agreement for a full-time employment relationship with a hospital  
664 licensed by the Department of Community Health, a board approved medical school, a  
665 teaching hospital within this state, a federally qualified health center, or a clinic within  
666 this state that services Medicaid, indigent, or underserved populations, provided that any  
667 such prospective employing entity shall carry medical malpractice insurance covering  
668 such licensee for the duration of employment.

669 (e) The restricted license provided for in subsection (d) of this Code section shall be valid  
670 for two years and may be renewed.

671 (f) A person who holds a current, valid restricted license issued pursuant to subsection (d)  
672 of this Code section for two years shall be eligible to apply for a full, unrestricted license  
673 to practice medicine in this state, and the board may establish standards for evaluating such  
674 applications.

675 (g) A person licensed pursuant to this Code section shall be subject to the rules and  
676 regulations of the board. Any license provided for in this Code section may be granted or  
677 denied at the discretion of the board but shall be subject to revocation by the board after  
678 notice and opportunity for hearing.

679 (h) The board shall not grant a license under this Code section unless the foreign medical  
680 graduate possesses federal immigration status that allows him or her to practice as a  
681 physician in the United States.

682 (i) The board shall promulgate rules and regulations necessary to implement the provisions  
683 of this Code section."

