

House Bill 261

By: Representatives Parham of the 94th, Stephens of the 123rd, Parrish of the 102nd, Twiggs of the 8th and Graves of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
2 controlled substances, so as to change the listings of controlled substances and dangerous
3 drugs; to provide for exempt over-the-counter controlled substances; to prohibit office based
4 opioid treatment by dispensing any controlled substance to a patient with opioid addiction;
5 to require certain information to be included on certain prescription drug orders; to permit
6 prescription drug orders to be transmitted by electronic means; to provide for penalties for
7 certain violations; to provide for related matters; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
12 substances, is amended by adding to Code Section 16-13-21, relating to definitions, new
13 paragraphs (6.1), (6.2), and (12.5) to read as follows:

14 "(6.1) 'Dangerous drug' means any drug, other than a controlled substance, which cannot
15 be dispensed except upon the issuance of a prescription drug order by a practitioner
16 authorized under this chapter.

17 (6.2) 'DEA' means the United States Drug Enforcement Administration."

18 "(12.05) 'FDA' means the United States Food and Drug Administration."

19 style="text-align:center">**SECTION 2.**

20 Said chapter is further amended by striking paragraphs (5) and (6) of Code Section 16-13-25,
21 relating to Schedule I controlled substances, and inserting in lieu thereof the following:

22 "(5) Any material, compound, mixture, or preparation which contains any quantity of the
23 following substances, their salts, isomers (whether optical, position, or geometrics), and
24 salts of isomers, unless specifically excepted, whenever the existence of these substances,

1 their salts, isomers, and salts of isomers is possible within the specific chemical
2 designation:

3 (A) Gamma hydroxybutyric acid (gamma hydroxy butyrate); provided, however, that
4 this does not include any amount naturally and normally occurring in the human body;
5 and

6 (B) Oxybate, when the FDA approved form of this drug is not:

7 (i) In a container labeled in compliance with subsection (a) or (b) of Code Section
8 26-3-8; and

9 (ii) In the possession of:

10 (I) A registrant permitted to dispense the drug;

11 (II) Any person other than to whom the drug was prescribed; or

12 (III) Any person who attempts to or does unlawfully possess, sell, distribute, or
13 give this drug to any other person;

14 (6) Notwithstanding the fact that Schedule I substances have no currently accepted
15 medical use, the General Assembly recognizes certain of these substances which are
16 currently accepted for certain limited medical uses in treatment in the United States but
17 have a high potential for abuse. Accordingly, unless specifically excepted or unless listed
18 in another schedule, any material, compound, mixture, or preparation which contains any
19 quantity of methaqualone, including its salts, isomers, optical isomers, salts of their
20 isomers, and salts of these optical isomers, is included in Schedule I;

21 (7) 2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);

22 (8) 1-(3-Trifluoromethylphenyl) Piperazine (TFMPP);

23 (9) N-Benzylpiperzine (BZP)."

24 SECTION 3.

25 Said chapter is further amended by adding following subparagraph (G) of paragraph (3) of
26 Code Section 16-13-26, relating to Schedule II controlled substances, the following:

27 "(H) Dexmethylphenidate;"

28 SECTION 4.

29 Said chapter is further amended by striking paragraph (8) of Code Section 16-13-27, relating
30 to Schedule III controlled substances, and inserting in its place the following:

31 "(8) Dronabinol (synthetic) in sesame oil and encapsulated in a U.S. Food and Drug
32 Administration approved drug product also known as Marinol;"

33 (9) Oxybate, when the FDA approved form of this drug is in a container labeled in
34 compliance with subsections (a) or (b) of Code Section 26-3-8, in the possession of a

1 registrant permitted to dispense the drug, or in the possession of a person to whom it has
 2 been lawfully prescribed;
 3 (10) Buprenorphine."

4 **SECTION 5.**

5 Said chapter is further amended by adding following paragraph (30) of subsection (a) of
 6 Code Section 16-13-28, relating to Schedule IV controlled substances, the following:

7 "(30.05) Propoxyphene;"

8 **SECTION 6.**

9 Said chapter is further amended by striking paragraph (2) from Code Section 16-13-29,
 10 relating to Schedule V controlled substances, and inserting in its place the following:

11 "(2) ~~Buprenorphine~~ Reserved."

12 **SECTION 7.**

13 Said chapter is further amended by adding a new Code Section 16-13-29.2 to read as follows:

14 "16-13-29.2.

15 The Georgia State Board of Pharmacy shall have the authority to exempt and control the
 16 sale of Schedule V controlled substances by rule which shall allow the sale of such
 17 substances without the need for issuance of a prescription from a medical practitioner and
 18 shall require such substances to be sold only in a pharmacy when such substances are sold
 19 without a prescription. Such substances shall be known as Exempt Over-the-Counter
 20 (OTC) Schedule V Controlled Substances."

21 **SECTION 8.**

22 Said chapter is further amended by adding a new subsection (h) to Code Section 16-13-35,
 23 relating to general registration requirements, to read as follows:

24 "(h) Except for those registered medical practitioners operating in an opioid treatment
 25 program licensed by the federal government and by this state, it shall be unlawful for any
 26 medical practitioner in this state to conduct office based opioid treatment from his or her
 27 office or any location by dispensing any controlled substance to treat a patient with opioid
 28 addiction pursuant to 21 C.F.R. Part 291 and 42 C.F.R. Part 8."

29 **SECTION 9.**

30 Said chapter is further amended by striking subsection (b) and paragraph (2) of subsection
 31 (d) of Code Section 16-13-41, relating to prescriptions, and inserting in their respective
 32 places the following:

1 "(b) When a ~~registered~~ practitioner writes a prescription drug order to cause the dispensing
 2 of a Schedule II substance, he or she shall include the name and address of the person for
 3 whom it is prescribed, the kind and quantity of such Schedule II controlled substance, the
 4 directions for taking, the signature, and the name, address, telephone number, and ~~federal~~
 5 DEA registration number of the prescribing practitioner. Such prescriptions shall be signed
 6 and dated by the ~~prescribing~~ practitioner on the date when issued, and the nature of such
 7 signatures shall be defined in regulations promulgated by the State Board of Pharmacy.
 8 Prescription drug orders for Schedule II controlled substances may be transmitted via
 9 facsimile machine or other electronic means only in accordance with regulations
 10 promulgated by the State Board of Pharmacy in accordance with Code Section 26-4-80 or
 11 26-4-80.1, or in accordance with DEA regulations at 21 C.F.R. 1306."

12 "(2) When a ~~registered~~ practitioner writes a prescription drug order to cause the
 13 dispensing of a Schedule III, IV, or V controlled substance, he or she shall include the
 14 name and address of the person for whom it is prescribed, the kind and quantity of such
 15 controlled substance, the directions for taking, the signature, and the name, address,
 16 telephone number, and ~~federal~~ DEA registration number of the ~~prescribing~~ practitioner.
 17 Such prescriptions shall be signed and dated or may be issued orally by the ~~prescribing~~
 18 practitioner on the date when issued, and the nature of the signature of the prescriber shall
 19 meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the
 20 State Board of Pharmacy, or both such guidelines and regulations."

21 SECTION 10.

22 Said chapter is further amended by striking from subsection (b) of Code Section 16-13-71,
 23 relating to the list of dangerous drugs, the following paragraphs:

24 "(119.05) Butenafine;"

25 "(349.7) Reserved;"

26 "(529.9) Loratadine;"

27 "(623.5) Mometazone;"

28 "(752.2) Poractant Alpha;"

29 "(1002) Triprolidine;"

30 SECTION 11.

31 Said chapter is further amended by adding in the appropriate positions in subsection (b) of
 32 Code Section 16-13-71, relating to the list of dangerous drugs, the following paragraphs:

33 "(22.2) Almotriptan;"

34 "(50.4) Anakinra;"

35 "(68.15) Atomoxetine;"

- 1 "(98.2) Bimatoprost;"
- 2 "(102.5) Bivalirudin;"
- 3 "(105.5) Bosentan;"
- 4 "(105.7) Botulinum toxin (B);"
- 5 "(119.05) Butenafine — See exceptions;"
- 6 "(146.6) Caspofungin;"
- 7 "(151.45) Cefditoren;"
- 8 "(240.5) Darbepoetin alfa;"
- 9 "(251.5) Desloratadine;"
- 10 "(293.5) Dimyristoyl;"
- 11 "(325.3) Drospirenone;"
- 12 "(325.4) Drotrecogin alfa;"
- 13 "(325.5) Dutasteride;"
- 14 "(346.5) Ertapenem;"
- 15 "(349.7) Esomeprazole;"
- 16 "(404.7) Fondaparinux;"
- 17 "(406.2) Formoterol;"
- 18 "(406.95) Frovatriptan;"
- 19 "(408.9) Galantamine;"
- 20 "(464.8) Imatinib;"
- 21 "(474.2) Insulin aspart;"
- 22 "(513.8) Letrozole;"
- 23 "(529.9) Loratadine — See exceptions;"
- 24 "(623.5) Mometasone;"
- 25 "(625.3) Moxidectin;"
- 26 "(640.2) Nesiritide;"
- 27 "(644.8) Nitisinone;"
- 28 "(703.45) Perflexane;"
- 29 "(703.65) Perflutren;"
- 30 "(732.9) Pimecrolimus;"
- 31 "(752.2) Poractant alfa;"
- 32 "(930.9) Tadalafil;"
- 33 "(931.55) Tegaserod;"
- 34 "(931.85) Tenofovir;"
- 35 "(932.3) Teriparatide;"
- 36 "(974.4) Travoprost;"
- 37 "(974.7) Treprostinil;"

SECTION 14.

Said chapter is further amended by striking subsection (a) of Code Section 16-13-74, relating to written prescriptions for dangerous drugs, content, and signature, and inserting in its place the following:

"(a) All written ~~prescriptions~~ prescription drug orders for dangerous drugs shall be dated as of, and be signed on, the date when issued and shall bear the full name and address of the patient, together with the name and strength of the drug, the quantity to be dispensed, complete directions for administration, the printed name, address, and telephone number of the practitioner, and the number of permitted refills. ~~A practitioner may sign a prescription as he would sign a check or a legal document. The prescription shall be written with indelible pencil or indelible ink or typewritten and shall be manually signed by the practitioner. The prescription may be prepared by a secretary or other agent, for the signature of the practitioner, but the prescribing practitioner shall be responsible if the prescription does not conform in all essential respects to state and federal laws and regulations. A prescription drug order for a dangerous drug is not required to bear the DEA permit number of the prescribing practitioner. A prescription drug order for a dangerous drug may be prepared by the practitioner or the practitioner's agent. The practitioner's signature must appear on each prescription prepared by the practitioner or the practitioner's agent and the nature of the practitioner's signature must meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the State Board of Pharmacy, or both such guidelines and regulations.~~ Any practitioner who shall dispense dangerous drugs shall comply with the provisions of Code Section 16-13-73."

SECTION 15.

Said chapter is further amended by adding a new subsection (d) to Code Section 16-13-79, relating to violations, to read as follows:

"(d)(1) Any person who obtains sildenafil by fraud, deceit, theft, misrepresentation, subterfuge, or forgery shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one year nor more than three years or by a fine not to exceed \$3,000.00 or both.

(2) Any person who distributes or possesses with the intent to distribute sildenafil shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one year nor more than five years or by a fine not to exceed \$5,000.00 or both."

1 **SECTION 16.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

4 **SECTION 17.**

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