

Senate Bill 179

By: Senators Thomas of the 54th, Unterman of the 45th, Mullis of the 53rd, Smith of the 52nd, Balfour of the 9th and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To enact the "Patient Safe Prescription Drug Act"; to amend Chapter 4 of Title 26 of the  
2 Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to provide  
3 for electronic prescription drug orders; to define certain terms; to require electronic  
4 prescription drug orders to meet certain requirements; to prohibit access to electronic  
5 prescription drug orders from the time of transmission until receipt by the designated  
6 pharmacy; to prohibit certain restrictions of practitioners; to prohibit a patient's choice of  
7 retail pharmacy; to provide for an exemption for institutions using electronic medical record  
8 systems; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Patient Safe Prescription Drug Act."

12 **SECTION 2.**

13 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and  
14 pharmacies, is amended by adding to Code Section 26-4-5, relating to definitions, new  
15 paragraphs (14.1) through (14.5), (18.05), and (38.5) to read as follows:

16 "(14.1) 'Electronic data prescription drug order' means any digitalized prescription drug  
17 order transmitted to a pharmacy, other than by facsimile, which contains the secure,  
18 personalized digital key, code, number, or other identifier used to identify and  
19 authenticate the prescribing practitioner in a manner required by state laws and board  
20 regulations and includes all other information required by state laws and board  
21 regulations.

22 (14.2) 'Electronic data signature' means a secure, personalized digital key, code, number,  
23 or other identifier used for secure electronic data transmissions which identifies and  
24 authenticates the prescribing practitioner as a part of an electronic data prescription drug  
25 order transmitted to a pharmacy.

1 (14.3) 'Electronic signature' means an electronic visual image signature or an electronic  
2 data signature of a practitioner which appears on an electronic prescription drug order.

3 (14.4) 'Electronic visual image prescription drug order' means any exact visual image of  
4 a prescription drug order issued by a practitioner electronically and which bears an  
5 electronic reproduction of the visual image of the practitioner's signature, is either printed  
6 on security paper and presented as a hard copy to the patient or transmitted by the  
7 practitioner via facsimile machine or equipment to a pharmacy, and contains all  
8 information required by state law and regulations of the board.

9 (14.5) 'Electronic visual image signature' means any exact visual image of a  
10 practitioner's signature which is reproduced electronically on a hard copy prescription  
11 drug order presented to the patient by the practitioner or is a prescription drug order  
12 transmitted to a pharmacy by a practitioner via facsimile machine or equipment."

13 "(18.05) 'Hard copy prescription drug order' means a written, typed, reproduced, or  
14 printed prescription drug order prepared on a piece of paper."

15 "(38.5) 'Security paper' means paper utilizing security features on which the electronic  
16 visual image prescription drug order of a practitioner is printed and presented to a patient  
17 so as to ensure that the prescription drug order is not subject to any form of copying,  
18 reproduction, or alteration, or any combination of copying, reproduction, or alteration,  
19 and may include a watermark produced by the electronic digital process when a  
20 prescription is printed to clearly show if a prescription has been reproduced or copied in  
21 an unauthorized manner."

### 22 SECTION 3.

23 Said chapter is further amended by striking paragraph (36) of Code Section 26-4-5, relating  
24 to definitions, and inserting in its place the following:

25 "(36) 'Prescription drug order' means a lawful order of a practitioner for a drug or device  
26 for a specific patient; such order includes an electronic visual image prescription drug  
27 order and an electronic data prescription drug order."

### 28 SECTION 4.

29 Said chapter is further amended by striking subsections (c), (i), and (l) of Code Section  
30 26-4-80, relating to dispensing, electronically transmitted drug orders, refills, and Schedule  
31 II controlled substance prescriptions, and inserting in their respective places the following:

32 "(c) A prescription drug order may be accepted by a pharmacist, ~~or~~ pharmacy intern, or  
33 extern in written form, orally, ~~via facsimile, or electronically~~ via an electronic visual image  
34 prescription drug order, or an electronic data prescription drug order as set forth in this  
35 chapter or as set forth in regulations promulgated by the board. Provisions for accepting

1 a prescription drug order for a Schedule II controlled substance are set forth in subsection  
 2 (l) of this Code section, the board's regulations, or the regulations of the United States  
 3 Drug Enforcement Administration in 21 C.F.R. 1306. Electronic prescription drug orders  
 4 shall either be an electronic visual image of a prescription drug order or an electronic data  
 5 prescription drug order and shall meet the requirements set forth in regulations  
 6 promulgated by the board. A hard copy prescription prepared by a practitioner or a  
 7 practitioner's agent, which bears an electronic visual image of the practitioner's signature  
 8 and is not sent by facsimile, must be printed on security paper. Prescriptions transmitted  
 9 either electronically or via facsimile shall meet the following requirements:

10 (1) Electronically transmitted prescription drug orders shall be transmitted by the  
 11 practitioner or, in the case of a prescription drug order to be transmitted via facsimile, by  
 12 the practitioner or the practitioner's agent under supervision of the practitioner, to the  
 13 pharmacy of the patient's choice with no intervening person or intermediary having  
 14 access to the prescription drug order;

15 (2) Prescription drug orders transmitted by facsimile or computer shall include:

16 (A) In the case of a prescription drug order for a dangerous drug, the complete name  
 17 and address of the practitioner;

18 (B) In the case of a prescription drug order for a controlled substance, the complete  
 19 name, address, and DEA registration number of the practitioner;

20 (C) The telephone number of the practitioner for verbal confirmation;

21 (D) The name and address of the patient;

22 (E) The time and date of the transmission; ~~and~~

23 (F) The full name of the person transmitting the order; and

24 (G) The signature of the practitioner in a manner as defined in regulations promulgated  
 25 by the board or, in the case of a controlled substances prescription, in accordance with  
 26 21 C.F.R. 1301.22;

27 (3) An electronically transmitted, issued, or produced prescription drug order which  
 28 meets the requirements of this Code section shall be deemed the original order;

29 (4) The pharmacist shall exercise professional judgment regarding the accuracy and  
 30 authenticity of the any electronically transmitted, issued, or produced prescription drug  
 31 order consistent with federal and state laws and rules and regulations adopted pursuant  
 32 to the same;

33 (5) An electronically ~~transmitted~~ encrypted, issued, or produced prescription drug order  
 34 transmitted from a ~~prescriber~~ practitioner to a pharmacist shall be considered a highly  
 35 confidential transaction and the said transmission, issuance, or production shall not be  
 36 compromised by interventions, control, change, altering, ~~or~~ manipulation, or accessing  
 37 patient record information by any other person or party in any manner whatsoever

1 between the time after the practitioner has electronically transmitted, issued, or produced  
 2 a prescription drug order and such order has been received by the pharmacy of the  
 3 patient's choice;

4 (6) Any pharmacist that transmits, receives, or maintains any prescription or prescription  
 5 refill either orally, in writing, or electronically shall ensure the security, integrity, and  
 6 confidentiality of the prescription and any information contained therein; and

7 (7) The board shall promulgate rules and regulations which may provide specific  
 8 exceptions under this Code section for institutional settings such as hospital pharmacies,  
 9 nursing home pharmacies, clinic pharmacies, or pharmacies owned or operated directly  
 10 by health maintenance organizations."

11 "(i) ~~A written~~ All prescription drug order orders must bear ~~an original~~ the signature of the  
 12 prescribing practitioner as defined in Code Section 16-13-21. Physician assistants must  
 13 comply with all applicable laws regarding signatures. Further, the nature of such signature  
 14 must meet the requirements set forth in regulations promulgated by the board. A physically  
 15 applied signature stamp ~~or other signature facsimile~~ is not acceptable in lieu of an original  
 16 signature. When an oral prescription drug order or the oral authorization for the refilling  
 17 of a prescription drug order is received ~~which is~~ which has been transmitted by someone  
 18 other than the practitioner, the name of the individual making the transmission and the date,  
 19 time, and location of the origin of the transmission must be recorded on the original  
 20 prescription drug order or other ~~uniform~~ record by the pharmacist receiving the  
 21 transmission. No one other than the practitioner or an agent employed by the practitioner  
 22 shall transmit such prescriptions in any manner."

23 "(l) A Schedule II controlled substance prescription drug order in written form signed in  
 24 indelible ink by the practitioner may be accepted by a pharmacist and the Schedule II  
 25 controlled substance may be dispensed by such pharmacist. Other forms of Schedule II  
 26 controlled substance prescription ~~forms~~ drug orders may be accepted by a pharmacist and  
 27 the Schedule II controlled substance may be dispensed by such pharmacist in accordance  
 28 with regulations promulgated by the board and in accordance with DEA regulations found  
 29 in 21 C.F.R. 1306."

### 30 SECTION 5.

31 Said chapter is further amended by adding at the end of Code Section 26-4-80, relating to  
 32 dispensing, electronically transmitted drug orders, refills, and Schedule II controlled  
 33 substance prescriptions, new subsections (m) and (n) to read as follows:

34 "(m) No licensee nor any other entity shall be permitted to provide facsimile machines or  
 35 equipment, computer software, technology, hardware, or supplies related to the electronic  
 36 transmission of prescription drug orders to any practitioner which restricts such practitioner

1 from issuing prescription drug orders for certain prescription drugs or restricts a patient  
 2 from choosing the retail pharmacy to which an electronic prescription drug order may be  
 3 transmitted.

4 § 26-4-80. Dispensing; electronically transmitted drug orders; refills; schedule II  
 5 controlled substance prescriptions

6 (m) No prescription drugs shall be dispensed by any person unless such person has  
 7 received satisfactory evidence that the manufacturer of such prescription drugs has made  
 8 adequate provision for the return of outdated drugs pursuant to policy that meets the  
 9 requirements of the rules and regulations of the board of pharmacy. The board shall be  
 10 authorized to promulgate rules and regulations to facilitate compliance with this Code  
 11 section. Additionally striking subsection (c) of Code Section 26-4-115, relating to  
 12 wholesale drug distributors, registration, fees, reports of excessive purchases, and penalty  
 13 for violations.

14 (n) Institutions including, but not limited to, hospitals, long-term care facilities, and  
 15 inpatient hospice facilities which utilize electronic medical record systems that meet the  
 16 information requirements for prescription drug orders for patients pursuant to this Code  
 17 section shall be considered to be in compliance with this Code section."

18 **SECTION 6.**

19 Said chapter is further amended by striking subsection (g) of Code Section 26-4-81, relating  
 20 to substitution of generic drugs for name brand drugs, and inserting in its place the following:

21 "(g) A practitioner of the healing arts may instruct the pharmacist not to substitute a  
 22 generic name drug in lieu of a brand name drug by including the words 'brand necessary'  
 23 in the body of the prescription. When a prescription is a hard copy prescription drug order,  
 24 such ~~Such~~ indication of brand necessary must be in the practitioner's own handwriting and  
 25 shall not be printed, applied by rubber stamp, or any such similar means."

26 **SECTION 7.**

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