The House Committee on Insurance offered the following substitute to SB 96:

# A BILL TO BE ENTITLED
## AN ACT

1    To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to

2    provide a definition; to require health benefit policy coverage for off-label prescription drug

3    use for insureds with life-threatening or chronic and disabling conditions or diseases; to

4    provide definitions; to provide for conditions of coverage; to provide for exclusions; to

5    provide for related matters; to repeal conflicting laws; and for other purposes.

6                  BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7                                         **SECTION 1.**

8    Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by

9    adding a new paragraph (1.1) to Code Section 33-1-2, relating to definitions, to read as

10   follows:

11       "(1.1) 'Health benefit policy,' 'health benefit plan,' or other similar terms do not include

12       limited benefit insurance policies designed, advertised, and marketed to supplement

13       major medical insurance such as accident only, Champus supplement, dental, disability

14       income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision,

15       and any other type of accident and sickness insurance other than basic hospital expense,

16       basic medical-surgical expense, or major medical insurance."

17                                        **SECTION 2.**

18   Said title is further amended by inserting a new Code Section 33-24-59.11 to read as follows:

19       "33-24-59.11.

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

21    (1)  'Chronic and seriously debilitating' means diseases or conditions that cause

22       significant long-term morbidity and that require ongoing treatment to maintain remission

23       or prevent deterioration.

24    (2)  'Health benefit policy' means any individual or group plan, policy, or contract for

25       health care services issued, delivered, issued for delivery, executed, or renewed in this

26       state on or after July 1, 2003, including, but not limited to, those contracts executed by

1      the State of Georgia on behalf of state employees under Article 1 of Chapter 18 of

2      Title 45, by an insurer; provided, however, that 'health benefit policy' shall not include

3      the limited benefit policies as defined in paragraph (4) of subsection (e) of Code Section

4      33-30-12.

5      (3) 'Insurer' means any person, corporation, or other entity authorized to provide health

6      benefit policies under this title.

7      (4) 'Life-threatening' means:

8        (A)  Diseases or conditions where the likelihood of death is high unless the course of

9        the disease is interrupted;

10       (B)  Diseases or conditions with potentially fatal outcomes, where the end point of

11       clinical intervention is survival; or

12       (C) The natural process of aging shall not be construed as a disease or condition for the

13       purposes of this definition or this Code section.

14   (b)  No health benefit policy issued, delivered, or renewed in this state that, as a provision

15   of hospital, medical, or surgical services, directly or indirectly covers prescription drugs

16   shall limit or exclude coverage for a drug on the basis that the drug is prescribed for a use

17   that is different from the use for which that drug has been approved for marketing by the

18   federal Food and Drug Administration, provided that all of the following conditions have

19   been met and subject to the prior authorization process or other restrictions of the insurer:

20   (1)  The drug has been approved by the federal Food and Drug Administration;

21     (2)(A)  The drug is prescribed by a contracting licensed health care professional for the

22       treatment of a life-threatening disease or condition;

23     (B)  The drug is prescribed by a contracting licensed health care professional for the

24       treatment of a chronic and seriously debilitating disease or condition, the drug is

25       medically necessary to treat that disease or condition, and the drug is on the insurer´s

26       formulary or preferred drug list, if any; or

27     (C)  The drug is prescribed by a contracting licensed health care professional to treat

28       a disease or condition in a child where the drug has been approved by the federal Food

29       and Drug Administration for similar conditions or diseases in adults and the drug is

30       medically necessary to treat that disease or condition; and

31   (3)  The drug has been recognized for treatment of that disease or condition or pediatric

32   application by one of the following:

33     (A)  The American Medical Association Drug Evaluations;

34     (B)  The American Hospital Formulary Service Drug Information; or

35     (C)  The United States Pharmacopoeia Dispensing Information, Volume 1, 'Drug

36       Information for the Health Care Professional'; or

1           (D)   Two articles from major peer reviewed medical journals that present data

2                 supporting the proposed off-label use or uses as generally safe and effective unless

3                 there is clear and convincing contradictory evidence presented in a major peer reviewed

4                 medical journal.

5       (c)   It shall be the responsibility of the contracting prescriber to submit to the insurer

6       documentation supporting compliance with the requirements of subsection (b) of this Code

7       section, if requested by the insurer.

8       (d)   Any coverage required by this Code section shall also include medically necessary

9       services associated with the administration of a drug subject to the conditions of the

10      contract.

11      (e)   The provisions of this Code section shall not be deemed to require coverage for any of

12      the following:

13        (1)   The treatment of a condition or disease that is excluded under the terms of the health

14        benefit policy;

15        (2)   An experimental drug not approved for indication by the federal Food and Drug

16        Administration; or

17        (3)   Drug treatment by a drug not listed on the health benefit plan formulary or preferred

18        drug list.

19      (f)   The benefits provided in this Code section shall be subject to the same annual

20      deductibles or coinsurance established for all other covered benefits within a given health

21      benefit policy."


22                                            **SECTION 3.**

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