

House Bill 246 (AS PASSED HOUSE AND SENATE)

By: Representatives Graves of the 137th, Stephens of the 164th, Carter of the 159th, Burmeister of the 119th, Parham of the 141st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 26-4-60 of the Official Code of Georgia Annotated, relating to
2 grounds for suspension, revocation, or refusal to grant licenses by the State Board of
3 Pharmacy, so as to change certain provisions relating to selling, distributing, and delivering
4 prescription drugs by mail or other common carriers; to amend Code Section 26-4-80 of the
5 Official Code of Georgia Annotated, relating to dispensing prescription drugs, electronically
6 transmitting drug orders, refills, and Schedule II controlled substance prescriptions, so as to
7 change certain provisions relating to the electronic transmission of prescription drug orders;
8 to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Code Section 26-4-60 of the Official Code of Georgia Annotated, relating to grounds for
12 suspension, revocation, or refusal to grant licenses by the State Board of Pharmacy, is
13 amended by striking paragraph (11) of subsection (a) and inserting in lieu thereof the
14 following:

15 "(11) Regularly employing the mails or other common carriers to sell, distribute, and
16 deliver a drug which requires a prescription directly to a patient; provided, however, that
17 this provision shall not prohibit the use of the mails or other common carriers to sell,
18 distribute, and deliver a prescription drug directly to an institution or to sell, distribute,
19 or deliver prescription drug refills, upon his or her request, to an enrollee in a health
20 benefits plan of a group model health maintenance organization or its affiliates by a
21 pharmacy which is operated by that same group model health maintenance organization
22 and licensed under Code Section 26-4-110. Any pharmacy using the mails or other
23 common carriers to dispense prescriptions pursuant to this paragraph shall comply with
24 the following conditions:

25 (A) The pharmacy shall provide an electronic, telephonic, or written communications
26 mechanism which reasonably determines whether the medications distributed by the

1 mails or other common carriers have been received by the enrollee and through which
 2 a pharmacist employed by the group model health maintenance organization or a
 3 pharmacy intern under his or her direct supervision is enabled to offer counseling to the
 4 enrollee as authorized by and in accordance with his or her obligations under Code
 5 Section 26-4-85, unless the enrollee refuses such consultation or counseling pursuant
 6 to subsection (e) of such Code section. In addition, the enrollee shall receive
 7 information indicating what he or she should do if the integrity of the packaging or
 8 medication has been compromised during shipment;

9 (B) In accordance with clinical and professional standards, the State Board of
 10 Pharmacy shall promulgate a list of medications which may not be delivered by the
 11 mails or other common carriers. However, until such list is promulgated, the group
 12 model health maintenance organization shall not deliver by use of the mails or other
 13 common carriers Class II controlled substance medications, medications which require
 14 refrigeration, chemotherapy medications deemed by the federal Environmental
 15 Protection Agency as dangerous, medications in suppository form, and other
 16 medications which, in the professional opinion of the dispensing pharmacist, may be
 17 clinically compromised by distribution through the mail or other common carriers;

18 (C) The pharmacy shall utilize, as appropriate and in accordance with standards of the
 19 manufacturer, United States Pharmacopeia, and Federal Drug Administration and other
 20 standards adopted by the State Board of Pharmacy, temperature tags, time temperature
 21 strips, insulated packaging, or a combination of these; and

22 (D) The pharmacy shall establish and notify the enrollee of its policies and procedures
 23 to address instances in which medications do not arrive in a timely manner or in which
 24 they have been compromised during shipment and to assure that the pharmacy replaces
 25 or makes provisions to replace such drugs.

26 For purposes of this paragraph, the term 'group model health maintenance organization'
 27 means a health maintenance organization that has an exclusive contract with a medical
 28 group practice to provide or arrange for the provision of substantially all physician
 29 services to enrollees in health benefits plans of the health maintenance organization;"

30 SECTION 2.

31 Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to dispensing
 32 prescription drugs, electronically transmitting drug orders, refills, and Schedule II controlled
 33 substance prescriptions, is amended by striking paragraphs (1) and (5) of subsection (c) and
 34 inserting in their places the following:

35 "(1) Electronically transmitted prescription drug orders shall be transmitted by the
 36 practitioner or, in the case of a prescription drug order to be transmitted via facsimile, by

1 the practitioner or the practitioner's agent under supervision of the practitioner, to the
2 pharmacy of the patient's choice with no intervening person or intermediary having
3 access to the prescription drug order. For purposes of this paragraph, 'intervening person
4 or intermediary' shall not include a person who electronically formats or reconfigures data
5 or information for purposes of integrating into and between computer or facsimile
6 systems of practitioners and pharmacists;"

7 "(5) An electronically encrypted, issued, or produced prescription drug order transmitted
8 from a practitioner to a pharmacist shall be considered a highly confidential transaction
9 and the said transmission, issuance, or production shall not be compromised by
10 unauthorized interventions, control, change, altering, manipulation, or accessing patient
11 record information by any other person or party in any manner whatsoever between the
12 time after the practitioner has electronically transmitted, issued, or produced a
13 prescription drug order and such order has been received by the pharmacy of the patient's
14 choice. For purposes of this paragraph, 'unauthorized interventions, control, change,
15 altering, manipulation, or accessing patient record information' shall not include
16 electronic formatting or reconfiguring of data or information for purposes of integrating
17 into and between computer or facsimile systems of practitioners and pharmacists;"

18 SECTION 3.

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