House Bill 455

By: Representative Stephens of the 164th

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, so as to enact the "Georgia Prescription Monitoring Program Act"; to provide for legislative intent; to provide for definitions; to provide for the establishment of a program for the monitoring of prescribing and dispensing Schedule II, III, or IV controlled substances by the Georgia Drugs and Narcotics Agency; to require dispensers to submit certain information regarding the dispensing of certain drugs; to provide for the confidentiality of submitted information except under certain circumstances; to authorize the Georgia Drugs and Narcotics Agency to contract for services relating to the program; to provide for the establishment of rules and regulations; to provide for penalties; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, is amended by adding a new article to read as follows:

″ARTICLE 6

16-13-120.

This article shall be known and may be cited as the 'Georgia Prescription Monitoring Program Act.'

16-13-121.

This article is intended to improve the state´s ability to identify and stop diversion of prescription drugs in an efficient and cost-effective manner that will not impede the

appropriate medical utilization of licit controlled substances or other licit drugs with potential for abuse.

16-13-122.

(a) As used in this article, the term:

(1) 'Agency' means the Georgia Drugs and Narcotics Agency.

(2) 'Board' means the Georgia State Board of Pharmacy.

(3) 'Controlled substance' has the same meaning given such term in paragraph (4) of Code Section 16-13-21.

(4) 'Dispenser' means a person who delivers a Schedule II, III, or IV controlled substance to the ultimate user but does not include:

(A) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care or the dispensing of prescriptions for controlled substances at the time of discharge from such a facility;

(B) A practitioner or other authorized person who administers such a substance; or

(C) A wholesale distributor of a Schedule II, III, or IV controlled substance.

(5) 'Patient' means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(6) 'Prescriber' means a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise authorized under the laws of this state to prescribe, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(7) 'Schedule II, III, or IV controlled substance' means a controlled substance that is classified as a Schedule II, III, or IV controlled substance under Code Section 16-13-26, 16-13-27, or 16-13-28, respectively, or under the Federal Controlled Substances Act, 21 U.S.C. Section 812.

16-13-123.

The board and agency may apply for available grants and accept any gifts, grants, or donations to assist in developing and maintaining the program established by this article.

16-13-124.

(a) The agency shall establish and maintain a program for the monitoring of prescribing and dispensing of all Schedule II, III or IV controlled substances.

(b) Each dispenser shall submit to the agency by electronic means information regarding each prescription dispensed for a drug included under subsection (a) of this Code section. The information submitted for each prescription shall include, but not be limited to:

(1) United States Drug Enforcement Administration (DEA) permit number or approved dispenser identification number;

(2) Date prescription filled;

(3) Prescription number;

(4) Whether prescription is new or a refill;

(5) National Drug Code (NDC) for drug dispensed;

(6) Quantity dispensed;

(7) Number of days´ supply of the drug;

(8) Patient´s social security number or approved identification number;

(9) Patient´s name;

(10) Patient´s address;

(11) Patient´s date of birth;

(12) Prescriber identification number;

(13) Date prescription issued by prescriber;

(14) Person who receives the prescription from the dispenser, if other than the patient; and

(15) Source of payment for prescription.

(c) Each dispenser shall submit the information in accordance with transmission methods and frequency requirements established by the agency but no less often than weekly and shall report, at a minimum, on the first day of the week following the week the prescription was dispensed.

(d) The agency may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required in subsection (b) of this Code section is submitted in this alternative format.

16 13-125.

(a) Prescription information submitted to the agency shall be confidential and shall not be subject to open records requirements, as contained in Article 4 of Chapter 18 of Title 50, except as provided in subsections (c) and (d) of this Code section.

(b) The agency shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as provided in subsections (c) and (d) of this Code section and in a manner which would not conflict with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191.

(c) The agency shall review the prescription information and if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the

agency shall notify the appropriate law enforcement or professional licensing, certification, or regulatory agency or entity and shall provide prescription information to such agency or entity which may be necessary for an investigation.

(d) The agency shall be authorized to provide data collected pursuant to this article to the following persons or under the following circumstances:

(1) Persons authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients;

(2) Upon the request of a person about whom the information requested concerns or upon the request on his or her behalf by his or her attorney;

(3) The Composite State Board of Medical Examiners or any licensing board whose practitioners have the authority to prescribe or dispense controlled substances;

(4) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing licit drugs;

(5) The Department of Community Health regarding Medicaid program recipients;

(6) Upon the lawful order of a court of competent jurisdiction; and

(7) Personnel of the agency for purposes of administration and enforcement of this article, Article 2 of this chapter, the 'Georgia Controlled Substances Act,' or any other applicable state law.

(e) The agency may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identity individual patients or persons who received prescriptions from dispensers.

16-13-126.

The agency is authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program established pursuant to this article. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in Code Section 16-13-125 and shall be subject to the penalties specified in Code Section 16-13-128 for unlawful acts.

16-13-127.

The agency and the board shall promulgate rules and regulations setting forth the procedures and methods for implementing this article.

16-13-128.

(a) A dispenser who knowingly fails to submit prescription monitoring information to the agency as required by this article or knowingly submits incorrect prescription information

shall be guilty of a misdemeanor and punished by imprisonment for a period not to exceed 12 months or a fine not to exceed $1,000.00, or both.

(b) A person authorized to have prescription monitoring information pursuant to this article who knowingly discloses such information in violation of this article shall be guilty of a misdemeanor and punished by imprisonment for a period not to exceed 12 months or a fine not to exceed $1,000.00, or both.

(c) A person authorized to have prescription monitoring information pursuant to this article who uses such information in a manner or for a purpose in violation of this article shall be guilty of a misdemeanor and punished by imprisonment for a period not to exceed 12 months or a fine not to exceed $1,000.00, or both.

(d) The penalties provided by this Code section are intended to be cumulative of other penalties which may be applicable and are not intended to repeal such other penalties."

SECTION 2.

This Act shall be effective on July 1, 2008.

SECTION 3.

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