

SENATE SUBSTITUTE TO HB 330

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to
 2 pharmacists and pharmacies, so as to provide for the registration of pharmacy technicians;
 3 to require the Georgia State Board of Pharmacy to establish and maintain a registry of
 4 pharmacy technicians; to authorize the board to require background checks; to provide for
 5 rules and regulations; to revise certain provisions relating to patient counseling; to require
 6 pharmacists in charge to provide updated information for the registry; to provide data
 7 reporting requirements for pharmacies; to provide for an effective date contingent on
 8 funding; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and
 11 pharmacies, is amended by revising subsection (a) of Code Section 26-4-28, relating to the
 12 powers, duties, and authority of the Georgia State Board of Pharmacy, as follows:
 13

14 "(a) The board shall have the power, duty, and authority for the control and regulation of
 15 the practice of pharmacy in the State of Georgia including, but not limited to, the
 16 following:

- 17 (1) The licensing by examination or by license transfer of applicants who are qualified
 18 to engage in the practice of pharmacy under the provisions of this chapter;
- 19 (2) The renewal of licenses to engage in the practice of pharmacy;
- 20 (3) The establishment and enforcement of compliance with professional standards and
 21 rules of conduct of pharmacists engaged in the practice of pharmacy;
- 22 (4) The determination and issuance of standards for recognition and approval of degree
 23 programs of schools and colleges of pharmacy whose graduates shall be eligible for
 24 licensure in this state, and the specification and enforcement of requirements for practical
 25 training including internship;

1 (5) The enforcement of those provisions of this chapter relating to the conduct or
2 competence of pharmacists practicing in this state and the suspension, revocation, or
3 restriction of licenses to engage in the practice of pharmacy;

4 (6) The licensure and regulation of pharmacies and pharmacy interns;

5 (7) The regulation of other employees in the prescription or pharmacy department,
6 including but not limited to the registration and regulation of pharmacy technicians. The
7 board shall be required to establish the minimum qualifications for the registration of
8 pharmacy technicians and shall be authorized to require the completion of a background
9 check and criminal history record check for each person applying for registration as a
10 pharmacy technician in this state. The certificate of registration, once issued, may be
11 valid for no more than two years and shall be renewable biennially upon payment of a
12 renewal fee and compliance with such other conditions as the board may establish by rule
13 or regulation. The board shall be authorized to deny registration, to deny renewal, or to
14 revoke or suspend the registration of a pharmacy technician for any of the grounds set
15 forth in Code Section 26-4-60 or Code Section 43-1-19. However, said denial of a
16 technician application, denial of the renewal of a certificate, or suspension or revocation
17 of a technician registration shall not be considered a contested case under Chapter 13 of
18 Title 50, the 'Georgia Administrative Procedure Act,' but said applicant or registrant shall
19 be entitled to an appearance before the board. The board shall be required to establish
20 and maintain a registry of pharmacy technicians in this state which contains the name and
21 home address of each pharmacy technician and his or her employer and location of
22 employment. The board shall establish a process by which the pharmacist in charge of
23 each pharmacy shall provide updated information on the pharmacy technicians in the
24 pharmacy. The board may establish and collect fees from pharmacy technicians, their
25 employers, or both for the registration of pharmacy technicians and maintenance of the
26 registry;

27 (8) The collection of professional demographic data;

28 (9) The right to seize any such drugs and devices found by the board to constitute an
29 imminent danger to the public health and welfare;

30 (10) The establishment of minimum specifications for the physical facilities, technical
31 equipment, environment, supplies, personnel, and procedures for the storage,
32 compounding, and dispensing of such drugs or devices utilized within the practice of
33 pharmacy;

34 (11) The establishment of minimum standards for the purity and quality of such drugs
35 utilized within the practice of pharmacy;

36 (12) The establishment of minimum standards for the purity and quality of such devices
37 and other materials utilized within the practice of pharmacy;

1 (13) The issuance and renewal of licenses of all persons engaged in the manufacture and
2 distribution of drugs;

3 (14) The issuance and renewal of licenses of all persons engaged in the manufacture and
4 distribution of devices utilized within the practice of pharmacy;

5 (15) The inspection of any licensed person at all reasonable hours for the purpose of
6 determining if any provisions of the laws governing the legal distribution of drugs or
7 devices or the practice of pharmacy are being violated. The board and its officers, agents,
8 and designees shall cooperate with all agencies charged with the enforcement of the laws
9 of the United States, of this state, and of all other states relating to drugs, devices, and the
10 practice of pharmacy;

11 (16) The investigation of alleged violations of this chapter or any other law in this state
12 pertaining to, or in connection with, persons or firms licensed by the board or otherwise
13 authorized by the laws of this state to manufacture, sell, distribute, dispense, or possess
14 drugs, medicines, poisons, cosmetics, or devices, as related to misbranded or counterfeit
15 drugs, or any rules and regulations promulgated by the board under this chapter; the
16 conducting of investigative interviews or full board hearings, with or without the
17 necessity of utilizing the Office of State Administrative Hearings, in respect thereto when
18 in its discretion it appears to be necessary; and the bringing of such violations to the
19 notice of the Attorney General;

20 (17) The listing at any time upon either a list under Article 3 of Chapter 13 of Title 16,
21 the 'Dangerous Drug Act,' or upon a schedule under Article 2 of Chapter 13 of Title 16,
22 the 'Georgia Controlled Substances Act,' of any drug found to be potentially dangerous
23 to public safety if dispensed without prescription;

24 (18) The expunging of the pharmacy related practice record of any pharmacist whose
25 record consists of a sole sanction resulting from alcohol impairment and whose pharmacy
26 related practice record during a five-year time period dating from the time of the sanction
27 has incurred no additional charges or infractions;

28 (19) Restricting the inspection or examination of records or access to any area licensed
29 and under the control of any registrant, which has been issued a permit by the board, to
30 members of the board, agents for the Georgia Drugs and Narcotics Agency, the United
31 States Drug Enforcement Administration, the Georgia Department of Medical Assistance,
32 or other federal agencies or agencies of this state otherwise entitled to such inspections
33 or examinations by law, subpoena, or court order. This paragraph specifically prohibits
34 inspections or examinations of board registrants or any requirement which forces board
35 registrants to allow inspection or examination, or both, of their records by representatives
36 for any nongovernment affiliated, private organization for any purpose since the access
37 of patient prescription records is restricted by this chapter and access by such private

1 organizations is unnecessary in that this access only duplicates existing record-keeping
 2 and inspection requirements already addressed by the laws and regulations of the board
 3 and other government organizations. This restriction shall also prohibit a private,
 4 nongovernment affiliated organization from examining or copying continuing education
 5 certificates maintained by individual registrants. Nothing in this paragraph shall prohibit
 6 the pharmacist in charge from voluntarily allowing appropriate agencies and
 7 organizations to inspect or examine the records and pharmacy area under the control of
 8 the pharmacist in charge provided such inspections or examinations are for the purposes
 9 of ensuring the quality of care provided to patients; and

10 (20) The requiring of background checks, including, but not limited to, criminal history
 11 record checks, on any persons or firms applying for licensure or registration pursuant to
 12 this chapter; and

13 ~~(20)~~(21) Serving as the sole governmental or other authority which shall have the
 14 authority to approve or recognize accreditation or certification programs for specialty
 15 pharmacy practice or to determine the acceptability of entities which may accredit
 16 pharmacies or certify pharmacists in a specialty of pharmacy practice, and the board may
 17 require such accreditation or certification as a prerequisite for specialty or advanced
 18 pharmacy practice. Such accreditation and certification standards for specialties shall be
 19 set forth in rules promulgated by the board with such rules to contain the required
 20 qualifications or limitations. Any accreditation or certification for specialty pharmacy
 21 practice approved or recognized by the board shall be deemed sufficient to meet any and
 22 all standards, licensure, or requirements, or any combination thereof, otherwise set forth
 23 by any private entity or other government agency to satisfy its stated goals and standards
 24 for such accreditation or certification. Nothing in this paragraph shall prohibit private
 25 entities, government agencies, professional organizations, or educational institutions from
 26 submitting accreditation or certification programs for the review and potential approval
 27 or recognition by the board. Accreditation and certification for specialty pharmacy
 28 practice under this paragraph shall be subject to the following conditions:

29 (A) Applications shall be submitted as set forth in rules promulgated or approved by
 30 the board for accreditation or certification;

31 (B) Only a pharmacist registered by this state and maintaining an active license in good
 32 standing is eligible for certification in a specialty pharmacy practice by the board;

33 (C) Only a pharmacy registered by this state and maintaining an active license in good
 34 standing is eligible for accreditation for specialty pharmacy practice by the board;

35 (D) Any board approved or recognized accreditation for a specialty pharmacy practice
 36 of a pharmacy is to be deemed sufficient and shall satisfy any standards or
 37 qualifications required for payment of services rendered as set forth by any insurance

1 company, carrier, or similar third-party payor plan in any policy or contract issued,
2 issued for delivery, delivered, or renewed on or after July 1, 1999;

3 (E) Any board approved or recognized specialty certification issued to a pharmacist is
4 deemed sufficient and shall satisfy any standards or qualifications required for payment
5 of services rendered as set forth by any insurance company, carrier, or similar
6 third-party payor plan in any policy or contract issued, issued for delivery, delivered,
7 or renewed on or after July 1, 1999; and

8 (F) The board may deny, revoke, limit, suspend, probate, or fail to renew the
9 accreditation or specialty certification of a pharmacy, pharmacist, or both for cause as
10 set forth in Code Section 26-4-60 or for a violation of Chapter 13 of Title 16 or if the
11 board determines that a pharmacy, pharmacist, or both, no longer meet the accreditation
12 or certification requirements of the board. Before such action, the board shall serve
13 upon the pharmacist in charge of a pharmacy or pharmacist an order to show cause why
14 accreditation or certification should not be denied, revoked, limited, suspended, or
15 probated or why the renewal should not be refused. The order to show cause shall
16 contain a statement for the basis therefor and shall call upon the pharmacist in charge
17 of a pharmacy, the pharmacist, or both, to appear before the board at a time and place
18 not more than 60 days after the date of the service of the order."

19 SECTION 2.

20 Said chapter is further amended by revising subsection (d) of Code Section 26-4-82, relating
21 to duties requiring professional judgment and responsibilities of a licensed pharmacist, as
22 follows:

23 "(d) The board of pharmacy shall promulgate rules and regulations regarding the activities
24 and utilization of pharmacy technicians in pharmacies, including the establishment of a
25 registry as required in paragraph (7) of subsection (a) of Code Section 26-4-28; provided,
26 however, that the pharmacist to pharmacy technician ratio shall not exceed one pharmacist
27 providing direct supervision of three pharmacy technicians. The board may consider and
28 approve an application to increase the ratio in a pharmacy located in a licensed hospital.
29 Such application must be made in writing and must be submitted to the board by the
30 pharmacist in charge of a specific hospital pharmacy in this state. One of the three
31 technicians must:

- 32 (1) Have successfully passed a certification program approved by the board of pharmacy;
- 33 (2) Have successfully passed an employer's training and assessment program which has
34 been approved by the board of pharmacy; or
- 35 (3) Have been certified by either the Pharmacy Technician Certification Board or any
36 other nationally recognized certifying body approved by the board of pharmacy."

SECTION 3.

Said chapter is further amended by revising subsection (b) of Code Section 26-4-85, relating to patient counseling, as follows:

"(b) Upon receipt of a prescription drug order and following a review of the patient's record, the pharmacist or the pharmacy intern operating under the direct supervision of the pharmacist shall personally ~~personally~~ offer to discuss matters which will enhance or optimize drug therapy with each patient or caregiver of such a patient. Such discussion shall be in person, whenever practicable, or by telephone and shall include appropriate elements of patient counseling, based on the professional judgment of the pharmacist. Such elements may include but are not limited to the following:

- (1) The name and description of the drug;
- (2) The dosage form, dose, route of administration and duration of therapy;
- (3) The intended use of the drug and expected action or result;
- (4) Any special directions or precautions for preparation, administration, or use by the patient;
- (5) Common severe side effects or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if such side effect, adverse effect, interaction, or therapeutic contraindication occurs;
- (6) Techniques for self-monitoring of drug therapy;
- (7) The proper storage of the drug;
- (8) Prescription refill information;
- (9) The action to be taken in the event of a missed dose; and
- (10) The comments of the pharmacist relevant to the patient's drug therapy, including any other information peculiar to the specific patient or drug."

SECTION 4.

Said chapter is further amended by revising subsection (d) of Code Section 26-4-110, relating to pharmacy licenses, as follows:

"(d) Each pharmacy shall have a pharmacist in charge. Whenever an applicable rule requires or prohibits action by a pharmacy, responsibility shall be that of the owner and the pharmacist in charge of the pharmacy, whether the owner is a sole proprietor, partnership, association, corporation, or otherwise. The pharmacist in charge shall be responsible for notifying the board in accordance with its rules and regulations of updated information regarding the registration of pharmacy technicians."

SECTION 5.

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2 Pharmacies, as defined in Article 1 of Chapter 4 of Title 26, shall provide data regarding
3 services and programs available, pricing information, and any other information as
4 prescribed by the rules and regulations of the department.

SECTION 6.

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6 This Act shall become effective only if funds are specifically appropriated for purposes of
7 this Act in an appropriations Act making specific reference to this Act and shall become
8 effective when funds so appropriated become available for expenditure.

SECTION 7.

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