

The Senate Health and Human Services Committee offered the following substitute to HB 367:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated,  
2 relating to insurance generally, so as to define certain terms; to provide for health insurance  
3 coverage for nonformulary drug products and nonpreferred drug products for a limited  
4 supply under certain conditions; to provide for statutory construction; to provide for  
5 enforcement by the Commissioner of Insurance; to provide for monetary penalties for  
6 violations; to specify that a private cause of action is not created; to provide for related  
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

9 Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to  
10 insurance generally, is amended by inserting a new Code section to read as follows:  
11

12 "33-24-59.13.

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

14 (1) 'Health benefit plan' means any individual or group plan, policy, or contract for health  
15 care services issued, delivered, issued for delivery, or renewed in this state by a health  
16 benefit plan provider, including, but not limited to, those policies, plans, or contracts  
17 executed by the State of Georgia on behalf of state employees under Article 1 of Chapter  
18 18 of Title 45.

19 (2) 'Health benefit plan provider' means an insurance company, carrier, or similar  
20 third-party payor plan.

21 (b) Every health benefit plan that is delivered, issued, executed, or renewed in this state  
22 or approved for issuance or renewal in this state by the Commissioner on or after July 1,  
23 2008, which provides coverage for prescription drugs shall ensure that if a physician  
24 prescribes a drug product that is not on the health benefit plan provider's formulary or  
25 preferred drug list for the patient's health benefit plan, a pharmacist may dispense such  
26 prescribed drug product and the health benefit plan provider shall cover such nonformulary

1 drug product or nonpreferred drug product for up to a ten-day supply for each prescription  
2 but not more than once per year in order to allow time for the pharmacist or patient to  
3 contact the physician for approval of an alternate drug product that is on the formulary or  
4 preferred drug list or to obtain prior approval from the health benefit plan provider or its  
5 pharmacy benefits manager for the prescribed drug product; provided, however, that the  
6 health benefit plan provider shall not impose any penalty against the pharmacist or the  
7 patient, including, but not limited to, a higher copayment on the nonformulary drug product  
8 or nonpreferred drug product, for complying with the requirements of this subsection.

9 (c) Nothing in this Code section shall be construed to require any health benefit plan to  
10 include coverage for prescription drugs. Moreover, nothing in this Code section shall be  
11 construed to permit switching or substitution of a drug prescribed by a physician in any  
12 circumstance except as provided for in this Code section.

13 (d) The Commissioner is authorized to enforce this Code section and shall be authorized  
14 to impose on a health benefit plan provider a monetary penalty of \$500.00 for a violation  
15 of this Code section. If a monetary penalty is imposed by the Commissioner on a health  
16 benefit plan provider pursuant to this subsection, the health benefit plan provider may  
17 invoke the right to an administrative hearing in accordance with Chapter 2 of Title 33.  
18 Further, the Commissioner may exercise the powers granted by Code Section 33-2-24 and  
19 any other provision of this title.

20 (e) Nothing in this Code section shall be construed to create or imply a private cause of  
21 action for a violation of this Code section."

## 22 SECTION 2.

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