

Senate Bill 418

By: Senators Carter of the 1st, Hawkins of the 49th, Harp of the 29th, Thomas of the 54th,
Goggans of the 7th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
2 controlled substances, so as to provide for the establishment of a program for the monitoring
3 of prescribing and dispensing Schedule II, III, IV, or V controlled substances; to provide for
4 definitions; to require dispensers to submit certain information regarding the dispensing of
5 such controlled substances; to provide for the confidentiality of submitted information except
6 under certain circumstances; to provide for the establishment of an Electronic Database
7 Review Advisory Committee; to provide for its membership, duties, and organization; to
8 provide for the establishment of rules and regulations; to provide for limited liability; to
9 provide for penalties; to provide for related matters; to provide for an effective date; to
10 repeal conflicting laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
14 substances, is amended by revising Code Section 16-13-21, relating to definitions relative
15 to regulation of controlled substances, as follows:

16 "16-13-21.

17 As used in this article, the term:

18 (0.5) 'Addiction' means a primary, chronic, neurobiologic disease with genetic,
19 psychosocial, and environmental factors influencing its development and manifestations.

20 It is characterized by behaviors that include the following: impaired control drug use,
21 craving, compulsive use, and continued use despite harm. Physical dependence and
22 tolerance are normal physiological consequences of extended opioid therapy for pain and
23 are not the same as addiction.

24 (1) 'Administer' means the direct application of a controlled substance, whether by
25 injection, inhalation, ingestion, or by any other means, to the body of a patient or research
26 subject by:

27 (A) A practitioner or, in his or her presence, by his or her authorized agent; or

28 (B) The patient or research subject at the direction and in the presence of the
29 practitioner.

30 (2) 'Agent' of a manufacturer, distributor, or dispenser means an authorized person who
31 acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does
32 not include a common or contract carrier, public warehouseman, or employee of the
33 carrier or warehouseman.

34 (2.1) 'Board' means the State Board of Pharmacy.

35 (3) 'Bureau' means the ~~Drug Enforcement Administration, United States Department of~~
36 ~~Justice, or its successor agency~~ Georgia Bureau of Investigation.

37 (4) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules
38 I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of
39 21 C.F.R. Part 1308.

40 (5) 'Conveyance' means any object, including aircraft, vehicle, or vessel, but not
41 including a person, which may be used to carry or transport a substance or object.

42 (6) 'Counterfeit substance' means:

43 (A) A controlled substance which, or the container or labeling of which, without
44 authorization, bears the trademark, trade name, or other identifying mark, imprint,
45 number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser
46 other than the person who in fact manufactured, distributed, or dispensed the controlled
47 substance;

48 (B) A controlled substance or noncontrolled substance, which is held out to be a
49 controlled substance or marijuana, whether in a container or not which does not bear
50 a label which accurately or truthfully identifies the substance contained therein; or

51 (C) Any substance, whether in a container or not, which bears a label falsely
52 identifying the contents as a controlled substance.

53 (6.1) 'Dangerous drug' means any drug, other than a controlled substance, which cannot
54 be dispensed except upon the issuance of a prescription drug order by a practitioner
55 authorized under this chapter.

56 (6.2) 'DEA' means the United States Drug Enforcement Administration.

57 (7) 'Deliver' or 'delivery' means the actual, constructive, or attempted transfer from one
58 person to another of a controlled substance, whether or not there is an agency
59 relationship.

60 (8) 'Dependent,' 'dependency,' 'physical dependency,' 'psychological dependency,' or
61 'psychic dependency' means and includes the state of ~~dependence by an individual toward~~
62 ~~or upon a substance, arising from the use of that substance, being characterized by~~
63 ~~behavioral and other responses which include the loss of self-control with respect to that~~

64 ~~substance, or a strong compulsion to use that substance on a continuous basis in order to~~
 65 ~~experience some psychic effect resulting from the use of that substance by that individual,~~
 66 ~~or to avoid any discomfort occurring when the individual does not use that substance~~
 67 adaptation that is manifested by drug class specific signs and symptoms that can be
 68 produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug,
 69 and administration of an antagonist. Physical dependence, by itself, does not equate with
 70 addiction.

71 (9) 'Dispense' means to deliver a controlled substance to an ultimate user or research
 72 subject by or pursuant to the lawful order of a practitioner, including the prescribing,
 73 administering, packaging, labeling, or compounding necessary to prepare the substance
 74 for that delivery, or the delivery of a controlled substance by a practitioner, acting in the
 75 normal course of his or her professional practice and in accordance with this article, or
 76 to a relative or representative of the person for whom the controlled substance is
 77 prescribed.

78 (10) 'Dispenser' means ~~a practitioner who dispenses~~ a person that delivers a Schedule II,
 79 III, IV, or V controlled substance to the ultimate user but shall not include:

80 (A) A licensed pharmacy of a hospital that dispenses such substances for the purpose
 81 of inpatient or outpatient hospital care, a licensed pharmacy of a hospital or retail
 82 pharmacy of a hospital that dispenses prescriptions for controlled substances at the time
 83 of dismissal or discharge from such a facility, or a licensed pharmacy of a hospital or
 84 retail pharmacy of a hospital that dispenses or administers such substances for
 85 long-term care patients or inpatient hospice facilities;

86 (B) An institutional pharmacy that serves only a health care facility, including, but not
 87 limited to, a nursing home, an intermediate care home, a personal care home, or a
 88 hospice program, which provides inpatient care and which pharmacy dispenses such
 89 substances to be administered and used by a patient on the premises of the facility;

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

91 (D) A pharmacy operated by, on behalf of, or under contract with the Department of
 92 Corrections for the sole and exclusive purpose of providing services in a secure
 93 environment to prisoners within a penal institution, penitentiary, prison, detention
 94 center, or other secure correctional institution. This shall include correctional
 95 institutions operated by private entities in this state which house inmates under the
 96 Department of Corrections.

97 (11) 'Distribute' means to deliver a controlled substance, other than by administering or
 98 dispensing it.

99 (12) 'Distributor' means a person who distributes.

100 (12.05) 'FDA' means the United States Food and Drug Administration.

- 101 (12.1) 'Imitation controlled substance' means:
- 102 (A) A product specifically designed or manufactured to resemble the physical
103 appearance of a controlled substance; such that a reasonable person of ordinary
104 knowledge would not be able to distinguish the imitation from the controlled substance
105 by outward appearances; or
- 106 (B) A product, not a controlled substance, which, by representations made and by
107 dosage unit appearance, including color, shape, size, or markings, would lead a
108 reasonable person to believe that, if ingested, the product would have a stimulant or
109 depressant effect similar to or the same as that of one or more of the controlled
110 substances included in Schedules I through V of Code Sections 16-13-25 through
111 16-13-29.
- 112 (13) 'Immediate precursor' means a substance which the State Board of Pharmacy has
113 found to be and by rule identifies as being the principal compound commonly used or
114 produced primarily for use, and which is an immediate chemical intermediary used or
115 likely to be used in the manufacture of a controlled substance, the control of which is
116 necessary to prevent, curtail, or limit manufacture.
- 117 (14) 'Isomers' means stereoisomers (optical isomers), geometrical isomers, and structural
118 isomers (chain and positional isomers;) but shall not include functional isomers).
- 119 (15) 'Manufacture' means the production, preparation, propagation, compounding,
120 conversion, or processing of a controlled substance, either directly or indirectly by
121 extraction from substances of natural origin, or independently by means of chemical
122 synthesis, and includes any packaging or repackaging of the substance or labeling or
123 relabeling of its container, except that this term does not include the preparation,
124 compounding, packaging, or labeling of a controlled substance:
- 125 (A) By a practitioner as an incident to his or her administering or dispensing of a
126 controlled substance in the course of his or her professional practice; or
- 127 (B) By a practitioner or by his or her authorized agent under his or her supervision for
128 the purpose of, or as an incident to, research, teaching, or chemical analysis and not for
129 sale.
- 130 (16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or
131 not, the seeds thereof, the resin extracted from any part of such plant, and every
132 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
133 or resin; but shall not include samples as described in subparagraph (P) of paragraph (3)
134 of Code Section 16-13-25 and shall not include the completely defoliated mature stalks
135 of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized
136 samples of seeds of the plant which are incapable of germination.

137 (17) 'Narcotic drug' means any of the following, whether produced directly or indirectly
138 by extraction from substances of vegetable origin, or independently by means of chemical
139 synthesis, or by a combination of extraction and chemical synthesis:

140 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
141 opiate;

142 (B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically
143 equivalent or identical ~~with~~ to any of the substances referred to in subparagraph (A) of
144 this paragraph, but not including the isoquinoline alkaloids of opium;

145 (C) Opium poppy and poppy straw;

146 (D) Coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or
147 preparation of coca leaves, and any salt, compound, stereoisomers of cocaine,
148 derivative, or preparation thereof which is chemically equivalent or identical with any
149 of these substances, but not including decocainized coca leaves or extractions of coca
150 leaves which do not contain cocaine or ecgonine.

151 (18) 'Opiate' means any substance having an addiction-forming or addiction-sustaining
152 liability similar to morphine or being capable of conversion into a drug having
153 addiction-forming or addiction-sustaining liability. It does not include, unless
154 specifically designated as controlled under Code Section 16-13-22, the dextrorotatory
155 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
156 include its racemic and levorotatory forms.

157 (19) 'Opium poppy' means the plant of the species *Papaver somniferum* L., except its
158 seeds.

159 (19.1) 'Patient' means the person who is the ultimate user of a drug for whom a
160 prescription is issued or for whom a drug is dispensed.

161 (20) 'Person' means an individual, corporation, government, or governmental subdivision
162 or agency, business trust, estate, trust, partnership, or association, or any other legal
163 entity.

164 (21) 'Poppy straw' means all parts, except the seeds, of the opium poppy after mowing.

165 (22) 'Potential for abuse' means and includes a substantial potential for a substance to be
166 used by an individual to the extent of creating hazards to the health of the user or the
167 safety of the public, or the substantial potential of a substance to cause an individual
168 using that substance to become dependent upon that substance.

169 (23) 'Practitioner' means:

170 (A) A physician, dentist, pharmacist, podiatrist, ~~veterinarian~~, scientific investigator, or
171 other person licensed, registered, or otherwise authorized under the laws of this state
172 to distribute, dispense, conduct research with respect to, or to administer a controlled
173 substance in the course of professional practice or research in this state;

174 (B) A pharmacy, hospital, or other institution licensed, registered, or otherwise
175 authorized by law to distribute, dispense, conduct research with respect to, or to
176 administer a controlled substance in the course of professional practice or research in
177 this state;

178 (C) An advanced practice registered nurse acting pursuant to the authority of Code
179 Section 43-34-25. For purposes of this chapter and Code Section 43-34-25, an
180 advanced practice registered nurse is authorized to register with the federal Drug
181 Enforcement Administration and appropriate state authorities; or

182 (D) A physician assistant acting pursuant to the authority of subsection (e.1) of Code
183 Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section
184 43-34-103, a physician assistant is authorized to register with the federal Drug
185 Enforcement Administration and appropriate state authorities.

186 (23.1) 'Prescriber' means a physician, dentist, scientific investigator, or other person
187 licensed, registered, or otherwise authorized under the laws of this state to prescribe,
188 distribute, dispense, conduct research with respect to, or administer a controlled substance
189 in the course of professional practice or research in this state.

190 (24) 'Production' includes the manufacture, planting, cultivation, growing, or harvesting
191 of a controlled substance.

192 (25) 'Registered' or 'register' means registration as required by this article.

193 (26) 'Registrant' means a person who is registered under this article.

194 (26.1) 'Schedule II, III, IV, or V controlled substance' means a controlled substance that
195 is classified as a Schedule II, III, IV, or V controlled substance under Code Section
196 16-13-26, 16-13-27, 16-13-28, or 16-13-29, respectively, or under the Federal Controlled
197 Substances Act, 21 U.S.C. Section 812.

198 (27) 'State,' when applied to a part of the United States, includes any state, district,
199 commonwealth, territory, insular possession thereof, or any area subject to the legal
200 authority of the United States.

201 (27.1) 'Tolerance' means a physiologic state resulting from regular use of a drug in which
202 an increased dosage is needed to produce a specific effect or a reduced effect is observed
203 with a constant dose over time. Tolerance may or may not be evident during opioid
204 treatment and does not equate with addiction.

205 (28) 'Ultimate user' means a person who lawfully possesses a controlled substance for
206 his or her own use, for the use of a member of his or her household, or for administering
207 to an animal owned by him or her or by a member of his or her household or an agent or
208 representative of the person.

209 (29) 'Noncontrolled substance' means any drug or other substance other than a controlled
210 substance as defined by paragraph (4) of this Code section."

211 **SECTION 2.**

212 Said chapter is further amended by adding new Code sections to read as follows:

213 "16-13-57.

214 (a) Subject to funds as may be appropriated by the General Assembly or otherwise
215 available for such purpose, the board shall, in consultation with members of the Georgia
216 Composite Medical Board, establish and maintain a method to electronically record into
217 a data base prescription information which results in the dispensing of Schedule II, III, IV,
218 or V controlled substances and to electronically review such prescription information that
219 has been entered into such data base. The purpose of such electronic data base and review
220 process shall be to assist in the reduction of the abuse of controlled substances, to improve,
221 enhance, and encourage a better quality of health care by promoting the proper use of
222 medications to treat pain and terminal illness, and to reduce duplicative prescribing and
223 overprescribing of controlled substance practices.

224 (b) Such electronic data base and review process shall be administered by the board at the
225 direction and oversight of the board.

226 16-13-58.

227 (a) The board shall apply for available grants and may accept any gifts, grants, donations,
228 and other funds, including funds from the disposition of forfeited property, to assist in
229 developing and maintaining the electronic data base established pursuant to Code Section
230 16-13-57.

231 (b) The board shall be authorized to grant funds to dispensers for the purpose of covering
232 costs for dedicated equipment and software for dispensers to use in complying with the
233 reporting requirements of Code Section 16-13-59. Such grants shall be funded by gifts,
234 grants, donations, or other funds, including funds from the disposition of forfeited property,
235 received by the board for the operation of the electronic data base established pursuant to
236 Code Section 16-13-57. The board shall be authorized to establish standards and
237 specifications for any equipment and software purchased pursuant to a grant received by
238 a dispenser pursuant to this Code section. Nothing in Code Sections 16-13-57 through
239 16-13-64 shall be construed to require a dispenser to incur costs to purchase equipment and
240 software to comply with such Code sections.

241 (c) Nothing in Code Sections 16-13-57 through 16-13-64 shall be construed to require any
242 appropriation of state funds.

243 16-13-59.

244 (a) For purposes of the electronic data base and review process established pursuant to
245 Code Section 16-13-57, each dispenser shall submit to the board by electronic means

246 information regarding each prescription dispensed for a Schedule II, III, IV, or V controlled
247 substance. The information submitted for each prescription shall include at a minimum, but
248 shall not be limited to:

249 (1) United States Drug Enforcement Administration (DEA) permit number or approved
250 dispenser facility controlled substance identification number;

251 (2) Date prescription dispensed;

252 (3) Prescription serial number;

253 (4) If the prescription is new or a refill;

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

255 (6) Quantity and strength dispensed;

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

257 (8) Patient's name;

258 (9) Patient's address;

259 (10) Patient's date of birth;

260 (11) Approved prescriber identification number or prescriber's DEA permit number;

261 (12) Date prescription issued by prescriber; and

262 (13) Other data elements consistent with standards established by the American Society
263 for Automation in Pharmacy, if designated by regulations of the board.

264 (b) Each dispenser shall submit the prescription information in accordance with
265 transmission methods and frequency requirements established by the board on a weekly
266 basis and shall report, at a minimum, prescriptions dispensed up to 72 hours prior to data
267 submission. If a dispenser is temporarily unable to comply with this subsection due to an
268 equipment failure or other circumstances, such dispenser shall notify the board.

269 (c) The board may issue a waiver to a dispenser that is unable to submit prescription
270 information by electronic means acceptable to the board. Such waiver may permit the
271 dispenser to submit prescription information to the board by paper form or other means,
272 provided all information required in subsection (a) of this Code section is submitted in this
273 alternative format subject to the frequency requirements of subsection (b) of this Code
274 section. Requests for waivers shall be submitted in writing to the board.

275 (d) The board shall not revise the information required to be submitted by dispensers
276 pursuant to subsection (a) of this Code section more frequently than annually. Any such
277 change to the required information shall neither be effective nor be applicable to dispensers
278 until six months after the adoption of such changes.

279 (e) The board shall not access electronic data base prescription information for more than
280 two years after the date it was originally received, and after two years, all such information
281 shall be deleted or destroyed in a timely and secure manner.

282 (f) A hospital, clinic, or other health care facility may apply to the board for an exemption
283 to be excluded from compliance with this Code section if compliance would impose an
284 undue hardship on such facility. The board shall provide guidelines and criteria for what
285 constitutes an undue hardship which shall include criteria relating to the number of indigent
286 patients served and the lack of electronic capabilities of the facility.

287 16-13-60.

288 (a) Prescription information submitted to the board pursuant to Code Section 16-13-59
289 shall be confidential and shall not be subject to open records requirements, as contained in
290 Article 4 of Chapter 18 of Title 50, except as provided in subsections (c) and (d) of this
291 Code section.

292 (b) The board shall establish and maintain strict procedures to ensure that the privacy and
293 confidentiality of patients and prescribers and patient and prescriber information collected,
294 recorded, transmitted, and maintained pursuant to Code Sections 16-13-57 through
295 16-13-64 are protected. Such information shall not be disclosed to persons except as
296 otherwise provided in Code Sections 16-13-57 through 16-13-64 and only in a manner
297 which in no way would conflict with the requirements of the federal Health Insurance
298 Portability and Accountability Act (HIPAA) of 1996, P.L. 104-191.

299 (c) The board shall be authorized to provide requested prescription information collected
300 pursuant to Code Sections 16-13-57 through 16-13-64:

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

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

305 (3) To the Georgia Composite Medical Board or any licensing board whose practitioners
306 have the authority to prescribe or dispense controlled substances;

307 (4) Upon receipt of a subpoena issued by a court of record, located within or outside of
308 this state, to any local, state, or federal law enforcement, regulatory, or prosecutorial
309 officials;

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

311 (6) To personnel of the board for purposes of administration and enforcement of Code
312 Sections 16-13-57 through 16-13-64 or any other applicable state law.

313 (d) The board may provide data to government entities for statistical, research,
314 educational, or grant application purposes after removing information that could be used
315 to identify prescribers or individual patients or persons who received prescriptions from
316 dispensers.

317 (e) The board may prepare a plan to provide electronic data base prescription information
318 to a prescription review program in another state if the confidentiality, security, privacy,
319 and utilization standards of the requesting state are determined to be equivalent to those of
320 the board.

321 (f) Any person who receives electronic data base prescription information or related
322 reports relating to Code Sections 16-13-57 through 16-13-64 from the board shall not
323 provide such data or reports to any other person except by order of a court of competent
324 jurisdiction or as otherwise permitted pursuant to Code Sections 16-13-57 through
325 16-13-64.

326 (g) Any permissible user identified in Code Sections 16-13-57 through 16-13-64 who
327 directly accesses electronic base prescription information shall implement and maintain a
328 comprehensive information security program that contains administrative, technical, and
329 physical safeguards that are appropriate to the user's size and complexity and to the
330 sensitivity of the personal information obtained. The permissible user shall identify
331 reasonably foreseeable internal and external risks to the security, confidentiality, and
332 integrity of personal information that could result in the unauthorized disclosure, misuse,
333 or other compromise of the information and shall assess the sufficiency of any safeguards
334 in place to control the risks.

335 16-13-61.

336 (a) There is established an Electronic Database Review Advisory Committee for the
337 purposes of consulting with and advising the board on matters related to the establishment,
338 maintenance, and operation of how prescriptions are electronically reviewed pursuant to
339 Code Sections 16-13-57 through 16-13-64. This shall include, but shall not be limited to,
340 data collection, regulation of access to data, evaluation of data to identify benefits and
341 outcomes of the reviews, communication to prescribers and dispensers as to the intent of
342 the reviews and how to use the data base, and security of data collected.

343 (b) The advisory committee shall consist of eight members as follows:

344 (1) A representative from the board;

345 (2) A representative from the Georgia Composite Medical Board;

346 (3) A representative from the Georgia Board of Dentistry;

347 (4) A consumer representative, appointed by the board;

348 (5) A representative from a specialty profession that deals in addictive medicine,
349 appointed by the board;

350 (6) An oncologist, appointed by the board;

351 (7) A representative from a hospice or hospice organization, appointed by the board; and

352 (8) A representative from the State Board of Optometry.

353 (c) Each member of the advisory committee shall serve a three-year term or until the
354 appointment and qualification of such member's successor.

355 (d) The advisory committee shall elect a chairperson and vice chairperson from among its
356 membership to serve a term of one year. The vice chairperson shall serve as the
357 chairperson at times when the chairperson is absent.

358 (e) The advisory committee shall meet at the call of the chairperson or upon request by at
359 least three of the members and shall meet at least one time per year. Five members of the
360 committee shall constitute a quorum.

361 (f) The members shall receive no compensation or reimbursement of expenses from the
362 state for their services as members of the advisory committee.

363 16-13-62.

364 The board shall establish rules and regulations to implement the requirements of Code
365 Sections 16-13-57 through 16-13-64. Nothing in Code Sections 16-13-57 through
366 16-13-64 shall be construed to authorize the board to establish policies, rules, or regulations
367 which limit, revise, or expand or purport to limit, revise, or expand any prescription or
368 dispensing authority of any prescriber or dispenser subject to Code Sections 16-13-57
369 through 16-13-64.

370 16-13-63.

371 Nothing in Code Sections 16-13-57 through 16-13-64 shall require a dispenser or
372 prescriber to obtain information about a patient from the prescription monitoring program
373 established pursuant to Code Sections 16-13-57 through 16-13-64. A dispenser or
374 prescriber shall not have a duty and shall not be held liable for damages to any person in
375 any civil, criminal, or administrative action for injury, death, or loss to person or property
376 on the basis that the dispenser or prescriber did or did not seek or obtain information from
377 the electronic prescriptions data base established pursuant to Code Section 16-13-57.

378 16-13-64.

379 (a) A dispenser who knowingly and intentionally fails to submit electronic data base
380 prescription information to the board as required by Code Sections 16-13-57 through
381 16-13-64 or knowingly and intentionally submits incorrect prescription information shall
382 be guilty of a misdemeanor and, upon conviction thereof, shall be punished for each such
383 offense by imprisonment for a period not to exceed 12 months, a fine not to exceed
384 \$1,000.00, or both, and such actions shall be reported to the board responsible for issuing
385 such dispenser's dispensing license for action to be taken against such dispenser's license.

386 (b)(1) An individual authorized to access electronic data base prescription information
387 pursuant to Code Sections 16-13-57 through 16-13-64 who negligently uses, releases, or
388 discloses such information in a manner or for a purpose in violation of Code Sections
389 16-13-57 through 16-13-64 shall be guilty of a misdemeanor. Any person who is convicted
390 of negligently using, releasing, or disclosing such information in violation of Code Sections
391 16-13-57 through 16-13-64 shall, upon the second or subsequent conviction, be guilty of
392 a felony and shall be punished by imprisonment for not less than one nor more than three
393 years, by a fine not to exceed \$5,000.00, or by both.

394 (2) An individual authorized to access electronic data base prescription information
395 pursuant to Code Sections 16-13-57 through 16-13-64 who knowingly and intentionally
396 uses, releases, or discloses such information in a manner or for a purpose in violation of
397 Code Sections 16-13-57 through 16-13-64 shall be guilty of a felony and, upon
398 conviction thereof, shall be punished by imprisonment for not less than two nor more
399 than ten years, by a fine not to exceed \$100,000.00, or by both. Any person who is
400 convicted of knowingly and intentionally using, releasing, or disclosing such information
401 in violation of Code Sections 16-13-57 through 16-13-64 shall, upon the second or
402 subsequent conviction, be guilty of a felony and shall be punished by imprisonment for
403 not less than three nor more than 15 years, by a fine not to exceed \$250,000.00, or by
404 both.

405 (c) Any person who knowingly requests, obtains, or attempts to obtain electronic data base
406 prescription information pursuant to Code Sections 16-13-57 through 16-13-64 under false
407 pretenses, or who knowingly communicates or attempts to communicate electronic data
408 base prescription information to any board, agency, or person except in accordance with
409 Code Sections 16-13-57 through 16-13-64, or any member, officer, employee, or agent of
410 the board or the advisory council, or any person who knowingly falsifies electronic data
411 base prescription information or any records relating thereto shall be guilty of a felony and,
412 upon conviction thereof, shall be punished for each such offense by imprisonment for not
413 less than one year nor more than two years, by a fine not to exceed \$5,000.00, or by both.

414 (d) Any person who is injured by reason of any violation of Code Sections 16-13-57
415 through 16-13-64 shall have a cause of action for the actual damages sustained and, where
416 appropriate, punitive damages. Such person may also recover attorney's fees in the trial
417 and appellate courts and the costs of investigation and litigation reasonably incurred.

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

420 **SECTION 3.**

421 This Act shall become effective on July 1, 2010.

422 **SECTION 4.**

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