

The House Committee on Health and Human Services offers the following substitute to SB 418:

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 to monitor the  
3 prescribing and dispensing of certain controlled substances; to provide for definitions; to  
4 require dispensers to submit certain information regarding the dispensing of such controlled  
5 substances; to provide for the confidentiality of submitted information except under certain  
6 circumstances; to provide for the establishment of an Electronic Database Review Advisory  
7 Committee; to provide for its membership, duties, and organization; to provide for the  
8 establishment of rules and regulations; to provide for limited liability; to provide for  
9 penalties; to provide for related matters; to provide for an effective date; to repeal conflicting  
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**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 (1) 'Administer' means the direct application of a controlled substance, whether by  
19 injection, inhalation, ingestion, or by any other means, to the body of a patient or research  
20 subject by:

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

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

24 (1.1) 'Agency' means the Georgia Drugs and Narcotics Agency.

25 (2) 'Agent' of a manufacturer, distributor, or dispenser means an authorized person who  
26 acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does

27 not include a common or contract carrier, public warehouseman, or employee of the  
28 carrier or warehouseman.

29 (3) 'Bureau' means the Drug Enforcement Administration, United States Department of  
30 Justice, or its successor agency.

31 (4) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules  
32 I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of  
33 21 C.F.R. Part 1308.

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

36 (6) 'Counterfeit substance' means:

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

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

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

47 (6.1) 'Dangerous drug' means any drug, other than a controlled substance, which cannot  
48 be dispensed except upon the issuance of a prescription drug order by a practitioner  
49 authorized under this chapter.

50 (6.2) 'DEA' means the United States Drug Enforcement Administration.

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

54 (8) 'Dependent,' 'dependency,' 'physical dependency,' 'psychological dependency,' or  
55 'psychic dependency' means and includes the state of dependence by an individual toward  
56 or upon a substance, arising from the use of that substance, being characterized by  
57 behavioral and other responses which include the loss of self-control with respect to that  
58 substance, or a strong compulsion to use that substance on a continuous basis in order to  
59 experience some psychic effect resulting from the use of that substance by that individual,  
60 or to avoid any discomfort occurring when the individual does not use that substance.

61 (9) 'Dispense' means to deliver a controlled substance to an ultimate user or research  
62 subject by or pursuant to the lawful order of a practitioner, including the prescribing,  
63 administering, packaging, labeling, or compounding necessary to prepare the substance

64 for that delivery, or the delivery of a controlled substance by a practitioner, acting in the  
 65 normal course of his or her professional practice and in accordance with this article, or  
 66 to a relative or representative of the person for whom the controlled substance is  
 67 prescribed.

68 (10) 'Dispenser' means ~~a practitioner who dispenses~~ a person that delivers a monitored  
 69 controlled substance to the ultimate user but shall not include:

70 (A) A licensed pharmacy of a hospital that dispenses such substances for the purpose  
 71 of inpatient or outpatient hospital care, a licensed pharmacy of a hospital that dispenses  
 72 prescriptions for controlled substances at the time of dismissal or discharge from such  
 73 a facility, or a licensed pharmacy of a hospital that dispenses or administers such  
 74 substances for long-term care patients or inpatient hospice facilities;

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

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

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

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

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

89 (12.05) 'FDA' means the United States Food and Drug Administration.

90 (12.1) 'Imitation controlled substance' means:

91 (A) A product specifically designed or manufactured to resemble the physical  
 92 appearance of a controlled substance; such that a reasonable person of ordinary  
 93 knowledge would not be able to distinguish the imitation from the controlled substance  
 94 by outward appearances; or

95 (B) A product, not a controlled substance, which, by representations made and by  
 96 dosage unit appearance, including color, shape, size, or markings, would lead a  
 97 reasonable person to believe that, if ingested, the product would have a stimulant or  
 98 depressant effect similar to or the same as that of one or more of the controlled  
 99 substances included in Schedules I through V of Code Sections 16-13-25 through  
 100 16-13-29.

101 (13) 'Immediate precursor' means a substance which the State Board of Pharmacy has  
102 found to be and by rule identifies as being the principal compound commonly used or  
103 produced primarily for use, and which is an immediate chemical intermediary used or  
104 likely to be used in the manufacture of a controlled substance, the control of which is  
105 necessary to prevent, curtail, or limit manufacture.

106 (14) 'Isomers' means stereoisomers (optical isomers), geometrical isomers, and structural  
107 isomers (chain and positional isomers;) but shall not include functional isomers).

108 (15) 'Manufacture' means the production, preparation, propagation, compounding,  
109 conversion, or processing of a controlled substance, either directly or indirectly by  
110 extraction from substances of natural origin, or independently by means of chemical  
111 synthesis, and includes any packaging or repackaging of the substance or labeling or  
112 relabeling of its container, except that this term does not include the preparation,  
113 compounding, packaging, or labeling of a controlled substance:

114 (A) By a practitioner as an incident to his or her administering or dispensing of a  
115 controlled substance in the course of his or her professional practice; or

116 (B) By a practitioner or by his or her authorized agent under his or her supervision for  
117 the purpose of, or as an incident to, research, teaching, or chemical analysis and not for  
118 sale.

119 (16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or  
120 not, the seeds thereof, the resin extracted from any part of such plant, and every  
121 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,  
122 or resin; but shall not include samples as described in subparagraph (P) of paragraph (3)  
123 of Code Section 16-13-25 and shall not include the completely defoliated mature stalks  
124 of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized  
125 samples of seeds of the plant which are incapable of germination.

126 (16.1) 'Monitored controlled substance' means:

127 (A) A controlled substance that is classified as a Schedule II controlled substance  
128 under Code Section 16-13-26 or under the Federal Controlled Substances Act, 21  
129 U.S.C. Section 812; and

130 (B) Hydrocodone and carisoprodol or a derivative of or a compound containing either  
131 such drug.

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

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

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

140 (C) Opium poppy and poppy straw;

141 (D) Coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or  
142 preparation of coca leaves, and any salt, compound, stereoisomers of cocaine,  
143 derivative, or preparation thereof which is chemically equivalent or identical with any  
144 of these substances, but not including decocainized coca leaves or extractions of coca  
145 leaves which do not contain cocaine or ecgonine.

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

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

154 (19.1) 'Patient' means the person who is the ultimate user of a drug for whom a  
155 prescription is issued or for whom a drug is dispensed.

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

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

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

164 (23) 'Practitioner' means:

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

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

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

177 (D) A physician assistant acting pursuant to the authority of subsection (e.1) of Code  
 178 Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section  
 179 43-34-103, a physician assistant is authorized to register with the federal Drug  
 180 Enforcement Administration and appropriate state authorities.

181 (23.1) 'Prescriber' means a physician, dentist, scientific investigator, or other person  
 182 licensed, registered, or otherwise authorized under the laws of this state to prescribe,  
 183 distribute, dispense, conduct research with respect to, or administer a controlled substance  
 184 in the course of professional practice or research in this state.

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

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

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

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

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

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

## 198 SECTION 2.

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

200 "16-13-57.

201 (a) Subject to funds as may be appropriated by the General Assembly or otherwise  
 202 available for such purpose, the agency shall, in consultation with the Georgia Composite  
 203 Medical Board and the State Board of Pharmacy, establish and maintain a method to  
 204 electronically record into a data base prescription information which results in the  
 205 dispensing of monitored controlled substances and to electronically review such  
 206 prescription information that has been entered into such data base. The purpose of such  
 207 electronic data base and review process shall be to assist in the reduction of the illegal

208 abuse of monitored controlled substances and to reduce duplicative prescribing of  
209 monitored controlled substance practices.

210 (b) Such electronic data base and review process shall be administered by the agency at  
211 the direction and oversight of the advisory committee established in Code Section  
212 16-13-61.

213 16-13-58.

214 (a) The agency shall apply for available grants and may accept any gifts, grants, donations,  
215 and other funds, including funds from the disposition of forfeited property, to assist in  
216 developing and maintaining the electronic data base established pursuant to Code Section  
217 16-13-57.

218 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering  
219 costs for dedicated equipment and software for dispensers to use in complying with the  
220 reporting requirements of Code Section 16-13-59. Such grants shall be funded by gifts,  
221 grants, donations, or other funds, including funds from the disposition of forfeited property,  
222 received by the agency for the operation of the electronic data base established pursuant  
223 to Code Section 16-13-57. The agency shall be authorized to establish standards and  
224 specifications for any equipment and software purchased pursuant to a grant received by  
225 a dispenser pursuant to this Code section. Nothing in Code Sections 16-13-57 through  
226 16-13-64 shall be construed to require a dispenser to incur costs to purchase equipment and  
227 software to comply with such Code sections.

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

230 16-13-59.

231 (a) For purposes of the electronic data base and review process established pursuant to  
232 Code Section 16-13-57, each dispenser shall submit to the agency by electronic means  
233 information regarding each prescription dispensed for a monitored controlled substance.  
234 The information submitted for each prescription shall include at a minimum, but shall not  
235 be limited to:

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

238 (2) Date prescription dispensed;

239 (3) Prescription serial number;

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

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

242 (6) Quantity and strength dispensed;

- 243 (7) Number of days supply of the drug;  
244 (8) Patient's name;  
245 (9) Patient's address;  
246 (10) Patient's date of birth;  
247 (11) Approved prescriber identification number or prescriber's DEA permit number;  
248 (12) Date prescription issued by prescriber; and  
249 (13) Other data elements consistent with standards established by the American Society  
250 for Automation in Pharmacy, if designated by regulations of the agency.
- 251 In the event that the agency adds any additional data elements pursuant to this subsection,  
252 the agency shall provide notice at least 30 days prior to any such proposed addition to the  
253 chairpersons of the Senate Health and Human Services Committee, the House Committee  
254 on Health and Human Services, the Senate Judiciary Committee, and the House Committee  
255 on Judiciary, Non-civil; provided, however, that this shall be in addition to the  
256 requirements contained in Code Section 16-13-62.
- 257 (b) Each dispenser shall submit the prescription information in accordance with  
258 transmission methods and frequency requirements established by the agency within 96  
259 hours of dispensing or more frequently at the dispenser's discretion. If a dispenser is  
260 temporarily unable to comply with this subsection due to an equipment failure or other  
261 circumstances, such dispenser shall notify the agency.
- 262 (c) The agency may issue a waiver to a dispenser that is unable to submit prescription  
263 information by electronic means acceptable to the agency. Such waiver may permit the  
264 dispenser to submit prescription information to the agency by paper form or other means,  
265 provided all information required in subsection (a) of this Code section is submitted in this  
266 alternative format subject to the frequency requirements of subsection (b) of this Code  
267 section. Requests for waivers shall be submitted in writing to the agency.
- 268 (d) The agency shall not revise the information required to be submitted by dispensers  
269 pursuant to subsection (a) of this Code section more frequently than annually. Any such  
270 change to the required information shall neither be effective nor be applicable to dispensers  
271 until six months after the adoption of such changes.
- 272 (e) The agency shall not access electronic data base prescription information for more than  
273 two years after the date it was originally received and shall delete or destroy such  
274 information which is two years old or older in a timely and secure manner.
- 275 (f) A hospital, clinic, or other health care facility may apply to the agency for an  
276 exemption to be excluded from compliance with this Code section if compliance would  
277 impose an undue hardship on such facility. The agency shall provide guidelines and criteria  
278 for what constitutes an undue hardship which shall include criteria relating to the number  
279 of indigent patients served and the lack of electronic capabilities of the facility.



280 (g) If, due to a lack of funding, or for other reasons, the agency ceases its ability to operate  
 281 the electronic data base or to collect information through the data base for any period of  
 282 time, no dispenser shall be required to report prescription information to the agency during  
 283 such period of time, nor shall any dispenser be held criminally or civilly liable for not  
 284 reporting prescription information as required by Code Sections 16-13-57 through  
 285 16-13-64 during any such period of time.

286 16-13-60.

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

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

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

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

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

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

306 (4) Upon receipt of either a subpoena issued by a court of record, located within or  
 307 outside of this state, to any local, state, or federal law enforcement, regulatory, or  
 308 prosecutorial officials, or an administrative subpoena issued by a state agency, board, or  
 309 entity with administrative subpoena power and which is authorized to receive such  
 310 prescription information;

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

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

314 (d) The agency may provide data to government entities for statistical, research,  
 315 educational, or grant application purposes after removing information that could be used

316 to identify prescribers or individual patients or persons who received prescriptions from  
317 dispensers.

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

322 (f) Any person who receives electronic data base prescription information or related  
323 reports relating to Code Sections 16-13-57 through 16-13-64 from the agency shall not  
324 provide such data or reports to any other person except by order of a court of competent  
325 jurisdiction or as otherwise permitted pursuant to Code Sections 16-13-57 through  
326 16-13-64.

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

336 16-13-61.

337 (a) There is established an Electronic Database Review Advisory Committee for the  
338 purposes of consulting with and advising the agency solely on matters related to  
339 implementation of Code Sections 16-13-57 through 16-13-64. This shall include, but shall  
340 not be limited to, data collection, regulation of access to data, evaluation of data to identify  
341 irregular patterns indicating possible illegal abuse, communication to prescribers and  
342 dispensers as to the intent of the data collection and analysis and how to use the data base,  
343 and security of data collected.

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

345 (1) A representative from the agency;

346 (2) A representative from the Georgia Composite Medical Board, appointed by the  
347 Governor;

348 (3) A representative from the Georgia Board of Dentistry, appointed by the Lieutenant  
349 Governor;

350 (4) A consumer representative, appointed by the Speaker of the House of  
351 Representatives;

- 352 (5) A representative from the Georgia Chapter of the American Society of Addictive  
 353 Medicine, appointed by the Governor;
- 354 (6) A representative from the Georgia Society of Clinical Oncology, appointed by the  
 355 Speaker of the House of Representatives;
- 356 (7) A representative from a hospice or hospice organization, appointed by the Lieutenant  
 357 Governor; and
- 358 (8) A representative from the State Board of Pharmacy, appointed by the Governor.
- 359 (c) Each member of the advisory committee shall serve a three-year term or until the  
 360 appointment and qualification of such member's successor.
- 361 (d) The advisory committee shall elect a chairperson and vice chairperson from among its  
 362 membership to serve a term of one year; provided, however, that the member appointed  
 363 pursuant to paragraph (1) of subsection (b) of this Code section shall not be eligible to  
 364 serve as the chairperson or vice chairperson. The vice chairperson shall serve as the  
 365 chairperson at times when the chairperson is absent.
- 366 (e) The advisory committee shall meet at the call of the chairperson or upon request by at  
 367 least three of the members and shall meet at least one time per year. Five members of the  
 368 committee shall constitute a quorum.
- 369 (f) The members shall receive no compensation or reimbursement of expenses from the  
 370 state for their services as members of the advisory committee.

371 16-13-62.

- 372 (a) The agency shall establish rules and regulations to implement the requirements of Code  
 373 Sections 16-13-57 through 16-13-64. Nothing in Code Sections 16-13-57 through  
 374 16-13-64 shall be construed to authorize the agency to establish policies, rules, or  
 375 regulations which limit, revise, or expand or purport to limit, revise, or expand any  
 376 prescription or dispensing authority of any prescriber or dispenser subject to Code Sections  
 377 16-13-57 through 16-13-64. Nothing in Code Sections 16-13-57 through 16-13-64 shall  
 378 be construed to impede, impair, or limit a prescriber from prescribing pain medication in  
 379 accordance with the pain management guidelines developed and adopted by the Georgia  
 380 Composite Medical Board.
- 381 (b) Rules established by the agency pursuant to this Code section shall be adopted,  
 382 promulgated, and implemented as provided in this Code section and in Chapter 13 of Title  
 383 50, the 'Georgia Administrative Procedure Act,' except that the agency shall not be required  
 384 to comply with subsections (c) through (g) of Code Section 50-13-4.
- 385 (c) The agency shall transmit three copies of the notice provided for in paragraph (1) of  
 386 subsection (a) of Code Section 50-13-4 to the legislative counsel. The copies shall be  
 387 transmitted at least 30 days prior to that agency's intended action. Within five days after

388 receipt of the copies, if possible, the legislative counsel shall furnish the presiding officer  
389 of each house with a copy of the notice and mail a copy of the notice to each member of  
390 the Senate Health and Human Services Committee, the House Committee on Health and  
391 Human Services, the Senate Judiciary Committee, and the House Committee on Judiciary,  
392 Non-civil. Each such rule and any part thereof shall be subject to the making of an  
393 objection by any such committee within 30 days of transmission of the rule to the members  
394 of such committees. Any rule or part thereof to which no objection is made by two or more  
395 such committees may become adopted by the agency at the end of such 30 day period. The  
396 agency may not adopt any such rule or part thereof which has been changed since having  
397 been submitted to those committees unless:

- 398 (1) That change is to correct only typographical errors;  
399 (2) That change is approved in writing by such committees and that approval expressly  
400 exempts that change from being subject to the public notice and hearing requirements of  
401 subsection (a) of Code Section 50-13-4;  
402 (3) That change is approved in writing by such committees and is again subject to the  
403 public notice and hearing requirements of subsection (a) of Code Section 50-13-4; or  
404 (4) That change is again subject to the public notice and hearing requirements of  
405 subsection (a) of Code Section 50-13-4 and the change is submitted and again subject to  
406 committee objection as provided in this subsection.

407 Nothing in this subsection shall prohibit the agency from adopting any rule or part thereof  
408 without adopting all of the rules submitted to the committees if the rule or part so adopted  
409 has not been changed since having been submitted to the committees and objection thereto  
410 was not made by such committees.

411 (d) Any rule or part thereof to which an objection is made by two or more committees  
412 within the 30 day objection period under subsection (c) of this Code section shall not be  
413 adopted by the agency and shall be invalid if so adopted. A rule or part thereof thus  
414 prohibited from being adopted shall be deemed to have been withdrawn by the agency  
415 unless the agency, within the first 15 days of the next regular session of the General  
416 Assembly, transmits written notification to each member of the objecting committees that  
417 the agency does not intend to withdraw that rule or part thereof but intends to adopt the  
418 specified rule or part effective the day following adjournment sine die of that regular  
419 session. A resolution objecting to such intended adoption may be introduced in either  
420 branch of the General Assembly after the fifteenth day but before the thirtieth day of the  
421 session in which occurs the notification of intent not to withdraw a rule or part thereof. In  
422 the event the resolution is adopted by the branch of the General Assembly in which the  
423 resolution was introduced, it shall be immediately transmitted to the other branch of the  
424 General Assembly. It shall be the duty of the presiding officer of the other branch to have

425 that branch, within five days after receipt of the resolution, consider the resolution for  
426 purposes of objecting to the intended adoption of the rule or part thereof. Upon such  
427 resolution being adopted by two-thirds of the vote of each branch of the General Assembly,  
428 the rule or part thereof objected to in that resolution shall be disapproved and not adopted  
429 by the agency. If the resolution is adopted by a majority but by less than two-thirds of the  
430 vote of each such branch, the resolution shall be submitted to the Governor for his or her  
431 approval or veto. In the event of a veto, or if no resolution is introduced objecting to the  
432 rule, or if the resolution introduced is not approved by at least a majority of the vote of each  
433 such branch, the rule shall automatically become adopted the day following adjournment  
434 sine die of that regular session. In the event of the Governor's approval of the resolution,  
435 the rule shall be disapproved and not adopted by the agency.

436 (e) Any rule or part thereof which is objected to by only one committee under subsection  
437 (c) of this Code section and which is adopted by the agency may be considered by the  
438 branch of the General Assembly whose committee objected to its adoption by the  
439 introduction of a resolution for the purpose of overriding the rule at any time within the  
440 first 30 days of the next regular session of the General Assembly. It shall be the duty of  
441 the agency in adopting a proposed rule over such objection so to notify the chairpersons  
442 of the Senate Health and Human Services Committee, the House Committee on Health and  
443 Human Services, the Senate Judiciary Committee, and the House Committee on Judiciary,  
444 Non-civil within ten days after the adoption of the rule. In the event the resolution is  
445 adopted by such branch of the General Assembly, it shall be immediately transmitted to the  
446 other branch of the General Assembly. It shall be the duty of the presiding officer of the  
447 other branch of the General Assembly to have such branch, within five days after the  
448 receipt of the resolution, consider the resolution for the purpose of overriding the rule. In  
449 the event the resolution is adopted by two-thirds of the votes of each branch of the General  
450 Assembly, the rule shall be void on the day after the adoption of the resolution by the  
451 second branch of the General Assembly. In the event the resolution is ratified by a  
452 majority but by less than two-thirds of the votes of either branch, the resolution shall be  
453 submitted to the Governor for his or her approval or veto. In the event of a veto, the rule  
454 shall remain in effect. In the event of the Governor's approval, the rule shall be void on the  
455 day after the date of approval.

456 (f) Any proceeding to contest any rule on the ground of noncompliance with this Code  
457 section must be commenced within two years from the effective date of the rule.

458 (g) For purposes of this Code section, 'rules' shall mean rules and regulations.

459 (h) The agency shall ensure that the prescription information in the data base shall only be  
460 used or reviewed for the purposes delineated in Code Section 16-13-57. No review or  
461 access to prescription information shall be authorized except in accordance with the

462 guidelines established by the advisory committee. No prescription information shall be  
463 accessed on a random basis but shall only be accessed based on patterns detected through  
464 the data base indicating possible illegal abuse, which may include factors such as multiple  
465 prescriptions in a relatively short period of time to the same individual for the same  
466 monitored controlled substance from the same prescriber. No agency staff member,  
467 contractor, or agent or other individual accessing the data base shall be authorized to  
468 review or access individual or other prescription information in the data base except in  
469 accordance with this Code section.

470 (i) Upon detection of a pattern indicating possible illegal abuse, the agency shall be  
471 authorized to investigate the circumstances and, based on their findings, shall be authorized  
472 to refer an incident, as appropriate, to the board responsible for regulating the dispenser or  
473 prescriber, to appropriate law enforcement authorities, or to both.

474 (j) The agency shall annually report to the General Assembly aggregated, nonidentifying  
475 data on the number of occurrences identified for investigation and the resolution, if known.

476 16-13-63.

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

484 16-13-64.

485 (a) A dispenser who knowingly and intentionally fails to submit electronic data base  
486 prescription information to the agency as required by Code Sections 16-13-57 through  
487 16-13-64 or knowingly and intentionally submits incorrect prescription information shall  
488 be guilty of a misdemeanor and, upon conviction thereof, shall be punished for each such  
489 offense by imprisonment for a period not to exceed 12 months, a fine not to exceed  
490 \$1,000.00, or both, and such actions shall be reported to the board responsible for issuing  
491 such dispenser's dispensing license for action to be taken against such dispenser's license.

492 (b)(1) An individual authorized to access electronic data base prescription information  
493 pursuant to Code Sections 16-13-57 through 16-13-64 who negligently uses, releases, or  
494 discloses such information in a manner or for a purpose in violation of Code Sections  
495 16-13-57 through 16-13-64 shall be guilty of a misdemeanor. Any person who is  
496 convicted of negligently using, releasing, or disclosing such information in violation of

497 Code Sections 16-13-57 through 16-13-64 shall, upon the second or subsequent  
 498 conviction, be guilty of a felony and shall be punished by imprisonment for not less than  
 499 one nor more than three years, by a fine not to exceed \$5,000.00, or by both.

500 (2) Any individual who accesses electronic data base prescription information who  
 501 knowingly and intentionally uses, releases, or discloses such information in a manner or  
 502 for a purpose in violation of Code Sections 16-13-57 through 16-13-64 shall be guilty of  
 503 a felony and, upon conviction thereof, shall be punished by imprisonment for not less  
 504 than two nor more than ten years, by a fine not to exceed \$100,000.00, or by both. Any  
 505 person who is convicted of knowingly and intentionally using, releasing, or disclosing  
 506 such information in violation of Code Sections 16-13-57 through 16-13-64 shall, upon  
 507 the second or subsequent conviction, be guilty of a felony and shall be punished by  
 508 imprisonment for not less than three nor more than 15 years, by a fine not to exceed  
 509 \$250,000.00, or by both.

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

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

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

525 **SECTION 3.**

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

527 **SECTION 4.**

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