

HOUSE SUBSTITUTE TO SENATE BILL 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) To any local, state, or federal law enforcement, regulatory, or prosecutorial officials,
 307 upon receipt of a subpoena issued by a court of record, located within or outside of this
 308 state;

309 (5) To a state agency, board, or entity with administrative subpoena powers and which
 310 is authorized to receive such prescription information, upon receipt of an administrative
 311 subpoena issued by such state agency, board, or entity;

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

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

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

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

323 (f) Any person who receives electronic data base prescription information or related
324 reports relating to Code Sections 16-13-57 through 16-13-64 from the agency shall not
325 provide such data or reports to any other person except by order of a court of competent
326 jurisdiction or as otherwise permitted pursuant to Code Sections 16-13-57 through
327 16-13-64.

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

337 16-13-61.

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

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

346 (1) A representative from the agency;

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

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

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

372 16-13-62.

- 373 (a) The advisory committee established in Code Section 16-13-61 shall establish rules and
 374 regulations to implement the requirements of Code Sections 16-13-57 through 16-13-64.
 375 Nothing in Code Sections 16-13-57 through 16-13-64 shall be construed to authorize the
 376 advisory committee to establish policies, rules, or regulations which limit, revise, or expand
 377 or purport to limit, revise, or expand any prescription or dispensing authority of any
 378 prescriber or dispenser subject to Code Sections 16-13-57 through 16-13-64. Nothing in
 379 Code Sections 16-13-57 through 16-13-64 shall be construed to impede, impair, or limit
 380 a prescriber from prescribing pain medication in accordance with the pain management
 381 guidelines developed and adopted by the Georgia Composite Medical Board.
- 382 (b) Rules established by the advisory committee pursuant to this Code section shall be
 383 adopted, promulgated, and implemented as provided in this Code section and in Chapter
 384 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the advisory
 385 committee shall not be required to comply with subsections (c) through (g) of Code Section
 386 50-13-4.

387 (c) The advisory committee shall transmit three copies of the notice provided for in
 388 paragraph (1) of subsection (a) of Code Section 50-13-4 to the legislative counsel. The
 389 copies shall be transmitted at least 30 days prior to the advisory committee's intended
 390 action. Within five days after receipt of the copies, if possible, the legislative counsel shall
 391 furnish the presiding officer of each house with a copy of the notice and mail a copy of the
 392 notice to each member of the Senate Health and Human Services Committee, the House
 393 Committee on Health and Human Services, the Senate Judiciary Committee, and the House
 394 Committee on Judiciary, Non-civil. Each such rule and any part thereof shall be subject
 395 to the making of an objection by any such committee within 30 days of transmission of the
 396 rule to the members of such committees. Any rule or part thereof to which no objection is
 397 made by two or more such committees may become adopted by the advisory committee
 398 at the end of such 30 day period. The advisory committee shall not adopt any such rule or
 399 part thereof which has been changed since having been submitted to those committees
 400 unless:

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

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

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

424 day but before the thirtieth day of the session in which occurs the notification of intent not
425 to withdraw a rule or part thereof. In the event the resolution is adopted by the branch of
426 the General Assembly in which the resolution was introduced, it shall be immediately
427 transmitted to the other branch of the General Assembly. It shall be the duty of the
428 presiding officer of the other branch to have that branch, within five days after receipt of
429 the resolution, consider the resolution for purposes of objecting to the intended adoption
430 of the rule or part thereof. Upon such resolution being adopted by two-thirds of the vote
431 of each branch of the General Assembly, the rule or part thereof objected to in that
432 resolution shall be disapproved and not adopted by the advisory committee. If the
433 resolution is adopted by a majority but by less than two-thirds of the vote of each such
434 branch, the resolution shall be submitted to the Governor for his or her approval or veto.
435 In the event of a veto, or if no resolution is introduced objecting to the rule, or if the
436 resolution introduced is not approved by at least a majority of the vote of each such branch,
437 the rule shall automatically become adopted the day following adjournment sine die of that
438 regular session. In the event of the Governor's approval of the resolution, the rule shall be
439 disapproved and not adopted by the advisory committee.

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

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

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

463 (h) The agency shall ensure that the prescription information in the data base shall only be
 464 used or reviewed for the purposes delineated in Code Section 16-13-57. No review or
 465 access to prescription information shall be authorized except in accordance with the
 466 guidelines established by the advisory committee. No prescription information shall be
 467 accessed on a random basis but shall only be accessed based on patterns detected through
 468 the data base indicating possible illegal abuse, which may include factors such as multiple
 469 prescriptions in a relatively short period of time to the same individual for the same
 470 monitored controlled substance from the same prescriber. No agency staff member,
 471 contractor, or agent or other individual accessing the data base shall be authorized to
 472 review or access individual or other prescription information in the data base except in
 473 accordance with this Code section.

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

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

480 16-13-63.

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

488 16-13-64.

489 (a) A dispenser who knowingly and intentionally fails to submit electronic data base
 490 prescription information to the agency as required by Code Sections 16-13-57 through
 491 16-13-64 or knowingly and intentionally submits incorrect prescription information shall
 492 be guilty of a misdemeanor and, upon conviction thereof, shall be punished for each such
 493 offense by imprisonment for a period not to exceed 12 months, a fine not to exceed

494 \$1,000.00, or both, and such actions shall be reported to the board responsible for issuing
495 such dispenser's dispensing license for action to be taken against such dispenser's license.

496 (b)(1) An individual authorized to access electronic data base prescription information
497 pursuant to Code Sections 16-13-57 through 16-13-64 who negligently uses, releases, or
498 discloses such information in a manner or for a purpose in violation of Code Sections
499 16-13-57 through 16-13-64 shall be guilty of a misdemeanor. Any person who is
500 convicted of negligently using, releasing, or disclosing such information in violation of
501 Code Sections 16-13-57 through 16-13-64 shall, upon the second or subsequent
502 conviction, be guilty of a felony and shall be punished by imprisonment for not less than
503 one nor more than three years, by a fine not to exceed \$5,000.00, or by both.

504 (2) Any individual who accesses electronic data base prescription information who
505 knowingly and intentionally uses, releases, or discloses such information in a manner or
506 for a purpose in violation of Code Sections 16-13-57 through 16-13-64 shall be guilty of
507 a felony and, upon conviction thereof, shall be punished by imprisonment for not less
508 than two nor more than ten years, by a fine not to exceed \$100,000.00, or by both. Any
509 person who is convicted of knowingly and intentionally using, releasing, or disclosing
510 such information in violation of Code Sections 16-13-57 through 16-13-64 shall, upon
511 the second or subsequent conviction, be guilty of a felony and shall be punished by
512 imprisonment for not less than three nor more than 15 years, by a fine not to exceed
513 \$250,000.00, or by both.

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

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

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

529 **SECTION 3.**

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

531 **SECTION 4.**

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