

ADOPTED

Senator Carter of the 1st offered the following amendment:

1 *Amend the House substitute to SB 418 (SB 418/HCSFA) by striking lines 1 through 531 and*
 2 *inserting in lieu thereof the following:*

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

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

SECTION 1.

14 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
 15 substances, is amended by revising Code Section 16-13-21, relating to definitions relative
 16 to regulation of controlled substances, as follows:
 17

18 "16-13-21.

19 As used in this article, the term:

20 (0.5) 'Addiction' means a primary, chronic, neurobiologic disease with genetic,
 21 psychosocial, and environmental factors influencing its development and manifestations.
 22 It is characterized by behaviors that include the following: impaired control drug use,
 23 craving, compulsive use, and continued use despite harm. Physical dependence and
 24 tolerance are normal physiological consequences of extended opioid therapy for pain and
 25 are not the same as addiction.

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

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

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

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

36 (2.1) 'Board' means the State Board of Pharmacy.

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

39 (4) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules
 40 I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of
 41 21 C.F.R. Part 1308.

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

44 (6) 'Counterfeit substance' means:

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

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

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

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

58 (6.2) 'DEA' means the United States Drug Enforcement Administration.

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

62 (8) 'Dependent,' 'dependency,' 'physical dependency,' 'psychological dependency,' or
 63 'psychic dependency' means and includes the state of ~~dependence by an individual toward~~
 64 ~~or upon a substance, arising from the use of that substance, being characterized by~~
 65 ~~behavioral and other responses which include the loss of self-control with respect to that~~
 66 ~~substance, or a strong compulsion to use that substance on a continuous basis in order to~~
 67 ~~experience some psychic effect resulting from the use of that substance by that individual,~~
 68 ~~or to avoid any discomfort occurring when the individual does not use that substance~~

69 adaptation that is manifested by drug class specific signs and symptoms that can be
 70 produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug,
 71 and administration of an antagonist. Physical dependence, by itself, does not equate with
 72 addiction.

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

80 (10) 'Dispenser' means a practitioner who dispenses a person that delivers a Schedule II
 81 or III controlled substance to the ultimate user but shall not include:

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

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

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

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

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

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

102 (12.05) 'FDA' means the United States Food and Drug Administration.

103 (12.1) 'Imitation controlled substance' means:

104 (A) A product specifically designed or manufactured to resemble the physical
 105 appearance of a controlled substance; such that a reasonable person of ordinary

106 knowledge would not be able to distinguish the imitation from the controlled substance
107 by outward appearances; or

108 (B) A product, not a controlled substance, which, by representations made and by
109 dosage unit appearance, including color, shape, size, or markings, would lead a
110 reasonable person to believe that, if ingested, the product would have a stimulant or
111 depressant effect similar to or the same as that of one or more of the controlled
112 substances included in Schedules I through V of Code Sections 16-13-25 through
113 16-13-29.

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

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

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

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

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

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

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

- 142 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
143 opiate;
- 144 (B) Any salt, compound, isomer, derivative, or preparation thereof which is chemically
145 equivalent or identical ~~with~~ to any of the substances referred to in subparagraph (A) of
146 this paragraph, but not including the isoquinoline alkaloids of opium;
- 147 (C) Opium poppy and poppy straw;
- 148 (D) Coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or
149 preparation of coca leaves, and any salt, compound, stereoisomers of cocaine,
150 derivative, or preparation thereof which is chemically equivalent or identical with any
151 of these substances, but not including decocainized coca leaves or extractions of coca
152 leaves which do not contain cocaine or ecgonine.
- 153 (18) 'Opiate' means any substance having an addiction-forming or addiction-sustaining
154 liability similar to morphine or being capable of conversion into a drug having
155 addiction-forming or addiction-sustaining liability. It does not include, unless
156 specifically designated as controlled under Code Section 16-13-22, the dextrorotatory
157 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
158 include its racemic and levorotatory forms.
- 159 (19) 'Opium poppy' means the plant of the species *Papaver somniferum* L., except its
160 seeds.
- 161 (19.1) 'Patient' means the person who is the ultimate user of a drug for whom a
162 prescription is issued or for whom a drug is dispensed.
- 163 (20) 'Person' means an individual, corporation, government, or governmental subdivision
164 or agency, business trust, estate, trust, partnership, or association, or any other legal
165 entity.
- 166 (21) 'Poppy straw' means all parts, except the seeds, of the opium poppy after mowing.
- 167 (22) 'Potential for abuse' means and includes a substantial potential for a substance to be
168 used by an individual to the extent of creating hazards to the health of the user or the
169 safety of the public, or the substantial potential of a substance to cause an individual
170 using that substance to become dependent upon that substance.
- 171 (23) 'Practitioner' means:
- 172 (A) A physician, dentist, pharmacist, podiatrist, ~~veterinarian~~, scientific investigator, or
173 other person licensed, registered, or otherwise authorized under the laws of this state
174 to distribute, dispense, conduct research with respect to, or to administer a controlled
175 substance in the course of professional practice or research in this state;
- 176 (B) A pharmacy, hospital, or other institution licensed, registered, or otherwise
177 authorized by law to distribute, dispense, conduct research with respect to, or to

178 administer a controlled substance in the course of professional practice or research in
179 this state;

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

184 (D) A physician assistant acting pursuant to the authority of subsection (e.1) of Code
185 Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section
186 43-34-103, a physician assistant is authorized to register with the federal Drug
187 Enforcement Administration and appropriate state authorities.

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

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

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

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

196 (26.1) 'Schedule II or III controlled substance' means a controlled substance that is
197 classified as a Schedule II or III controlled substance under Code Section 16-13-26 or
198 16-13-27, respectively, or under the Federal Controlled Substances Act, 21 U.S.C.
199 Section 812.

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

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

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

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

SECTION 2.

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

"16-13-57.

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

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

16-13-58.

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

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

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

16-13-59.

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

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

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

253 (2) Date prescription dispensed;

254 (3) Prescription serial number;

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

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

257 (6) Quantity and strength dispensed;

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

259 (8) Patient's name;

260 (9) Patient's address;

261 (10) Patient's date of birth;

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

263 (12) Date prescription issued by prescriber; and

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

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

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

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

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

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

289 16-13-60.

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

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

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

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

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

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

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

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

313 (6) To personnel of the board 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 board 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 board 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 board.

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 board 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 base prescription information shall implement and maintain a
330 comprehensive information security program that contains administrative, technical, and
331 physical safeguards that are appropriate to the user's size and complexity and to the
332 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 board on matters related to the establishment,
340 maintenance, and operation of how prescriptions are electronically reviewed pursuant to
341 Code Sections 16-13-57 through 16-13-64. This shall include, but shall not be limited to,
342 data collection, regulation of access to data, evaluation of data to identify benefits and
343 outcomes of the reviews, communication to prescribers and dispensers as to the intent of
344 the reviews and how to use the data base, and security of data collected.

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

346 (1) A representative from the board;

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

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

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

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

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

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

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

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

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

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

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

365 16-13-62.

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

372 16-13-63.

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

380 16-13-64.

381 (a) A dispenser who knowingly and intentionally fails to submit electronic data base
382 prescription information to the board as required by Code Sections 16-13-57 through
383 16-13-64 or knowingly and intentionally submits incorrect prescription information shall
384 be guilty of a misdemeanor and, upon conviction thereof, shall be punished for each such
385 offense by imprisonment for a period not to exceed 12 months, a fine not to exceed
386 \$1,000.00, or both, and such actions shall be reported to the board responsible for issuing
387 such dispenser's dispensing license for action to be taken against such dispenser's license.

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

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

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

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

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

422

SECTION 3.

423

This Act shall become effective on July 1, 2010.

424

SECTION 4.