

Senate Bill 36

By: Senators Carter of the 1st, Unterman of the 45th, Goggans of the 7th, Ligon, Jr. of the 3rd, Bethel of the 54th and others

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

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

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

16 "16-13-21.

17 As used in this article, the term:

18 (0.5) 'Addiction' means a primary, chronic, neurobiologic disease with genetic,
19 psychosocial, and environmental factors influencing its development and manifestations.
20 It is characterized by behaviors that include the following: impaired control drug use,
21 craving, compulsive use, and continued use despite harm. Physical dependence and
22 tolerance are normal physiological consequences of extended opioid therapy for pain and
23 are not the same as addiction.

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

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

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

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

34 (2.1) 'Board' means the State Board of Pharmacy or its designee, so long as such
35 designee is another state entity.

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

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

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

43 (6) 'Counterfeit substance' means:

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

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

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

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

57 (6.2) 'DEA' means the United States Drug Enforcement Administration.

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

61 (8) 'Dependent,' 'dependency,' 'physical dependency,' 'psychological dependency,' or
62 'psychic dependency' means and includes the state of ~~dependence by an individual toward~~
63 ~~or upon a substance, arising from the use of that substance, being characterized by~~

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

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

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

81 (A) A licensed pharmacy of a hospital that dispenses such substances for the purpose
 82 of inpatient hospital care;

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

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

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

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

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

97 (12.05) 'FDA' means the United States Food and Drug Administration.

98 (12.1) 'Imitation controlled substance' means:

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

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

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

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

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

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

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

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

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

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

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

173 administer a controlled substance in the course of professional practice or research in
174 this state;

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

179 (D) A physician assistant acting pursuant to the authority of subsection (e.1) of Code
180 Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section
181 43-34-103, a physician assistant is authorized to register with the federal Drug
182 Enforcement Administration and appropriate state authorities.

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

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

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

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

191 (26.1) 'Schedule II, III, IV, or V controlled substance' means a controlled substance that
192 is classified as a Schedule II, III, IV, or V controlled substance under Code Section
193 16-13-26, 16-13-27, 16-13-28, or 16-13-29, respectively, or under the Federal Controlled
194 Substances Act, 21 U.S.C. Section 812.

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

198 (27.1) 'Tolerance' means a physiologic state resulting from regular use of a drug in which
199 an increased dosage is needed to produce a specific effect or a reduced effect is observed
200 with a constant dose over time. Tolerance may or may not be evident during opioid
201 treatment and does not equate with addiction.

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

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

208 **SECTION 2.**

209 Said chapter is further amended by designating Article 2 as Part 1 of Article 2 and by adding
 210 a new part to Article 2 to read as follows:

211 "Part 2

212 16-13-57.

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

223 (b) Such program shall be administered by the board at the direction and oversight of the
 224 board.

225 16-13-58.

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

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

239 (c) Nothing in this part shall be construed to require any appropriation of state funds.

240 16-13-59.

241 (a) For purposes of the program established pursuant to Code Section 16-13-57, each
242 dispenser shall submit to the board by electronic means information regarding each
243 prescription dispensed for a Schedule II, III, IV, or V controlled substance. The information
244 submitted for each prescription shall include at a minimum, but shall not be limited to:

245 (1) DEA permit number or approved dispenser facility controlled substance
246 identification number;

247 (2) Date the prescription was dispensed;

248 (3) Prescription serial number;

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

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

251 (6) Quantity and strength dispensed;

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

253 (8) Patient's name;

254 (9) Patient's address;

255 (10) Patient's date of birth;

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

257 (12) Date the prescription was issued by the prescriber; and

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

260 (b) Each dispenser shall submit the prescription information required in subsection (a) of
261 this Code section in accordance with transmission methods and frequency requirements
262 established by the board on at least a weekly basis and shall report, at a minimum, such
263 prescription information no later than ten days after the prescription is dispensed. If a
264 dispenser is temporarily unable to comply with this subsection due to an equipment failure
265 or other circumstances, such dispenser shall notify the board.

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

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

277 (e) The board shall not access or allow others to access any identifying prescription
 278 information from the electronic data base after two years after the date such information
 279 was originally received. The board may retain aggregated prescription information that is
 280 two years old or great but shall ensure that any identifying information that is two years old
 281 or greater is deleted or destroyed on an ongoing basis in a timely and secure manner.

282 (f) A dispenser may apply to the board for an exemption to be excluded from compliance
 283 with this Code section if compliance would impose an undue hardship on such dispenser.
 284 The board shall provide guidelines and criteria for what constitutes an undue hardship.

285 16-13-60.

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

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

296 (c) The board shall be authorized to provide requested prescription information collected
 297 pursuant to this part:

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

300 (2) Upon the request of a patient, prescriber, or dispenser about whom the prescription
 301 information requested concerns or upon the request on his or her behalf of his or her
 302 attorney;

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

305 (4) To any local, state, or federal law enforcement, regulatory, or prosecutorial officials
 306 upon receipt of a subpoena issued by a court of record, located within or outside of this
 307 state;

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

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

312 (7) To personnel of the board for purposes of administration and enforcement of this part
313 or any other applicable state law.

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

322 (f) Any person who receives electronic data base prescription information or related
323 reports relating to this part from the board shall not provide such information or reports to
324 any other person except by order of a court of competent jurisdiction or as otherwise
325 permitted pursuant to this part.

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

334 16-13-61.

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

342 (b) The advisory committee shall consist of nine members as follows:

343 (1) A representative from the board;

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

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

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

347 (5) A representative from a specialty profession that deals in addictive medicine,
 348 appointed by the Georgia Composite Medical Board;

349 (6) A pain management specialist, appointed by the Georgia Composite Medical Board;

350 (7) An oncologist, appointed by the Georgia Composite Medical Board;

351 (8) A representative from a hospice or hospice organization, appointed by the Georgia
 352 Composite Medical Board; and

353 (9) A representative from the State Board of Optometry.

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

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

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

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

364 16-13-62.

365 The board shall establish rules and regulations to implement the requirements of this part.
 366 Nothing in this part shall be construed to authorize the board to establish policies, rules, or
 367 regulations which limit, revise, or expand or purport to limit, revise, or expand any
 368 prescription or dispensing authority of any prescriber or dispenser subject to this part.

369 16-13-63.

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

376 16-13-64.

377 (a) A dispenser who knowingly and intentionally fails to submit prescription information
 378 to the board as required by this part or knowingly and intentionally submits incorrect
 379 prescription information shall be guilty of a misdemeanor and, upon conviction thereof,
 380 shall be punished for each such offense by imprisonment for a period not to exceed 12

381 months, a fine not to exceed \$1,000.00, or both, and such actions shall be reported to the
 382 licensing board responsible for issuing such dispenser's dispensing license for action to be
 383 taken against such dispenser's license.

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

391 (c)(1) An individual authorized to access electronic data base prescription information
 392 pursuant to this part who knowingly obtains or discloses such information in a manner
 393 or for a purpose in violation of this part shall be guilty of a felony and, upon conviction
 394 thereof, shall be punished by a fine not to exceed \$50,000.00, imprisonment for not more
 395 than one year, or by both.

396 (2) Any person who knowingly obtains, attempts to obtain, or discloses electronic data
 397 base prescription information pursuant to this part under false pretenses shall be guilty
 398 of a felony and, upon conviction thereof, shall be punished by a fine not to exceed
 399 \$100,000.00, by imprisonment for not more than five years, or by both.

400 (3) Any person who obtains or discloses electronic data base prescription information
 401 pursuant to this part with the intent to sell, transfer, or use such information for
 402 commercial advantage, personal gain, or malicious harm shall be guilty of a felony and,
 403 upon conviction thereof, shall be punished by a fine not to exceed \$250,000.00, by
 404 imprisonment for not more than ten years, or by both.

405 (d) Any person who is injured by reason of any violation of this part shall have a cause of
 406 action for the actual damages sustained and, where appropriate, punitive damages. Such
 407 person may also recover attorney's fees in the trial and appellate courts and the costs of
 408 investigation and litigation reasonably incurred.

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

411 **SECTION 3.**

412 This Act shall become effective on July 1, 2011.

413 **SECTION 4.**

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