

The Senate Health and Human Services Committee offered the following substitute to SB 36:

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:

SECTION 1.

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

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 dispenses a Schedule
 80 II, III, IV, or V controlled substance to the ultimate user but shall not include:

81 (A) A pharmacy licensed as a hospital pharmacy by the Georgia Board of Pharmacy
 82 pursuant to Code Section 26-4-110;

83 (B) An institutional pharmacy that serves only a health care facility, including, but not
 84 limited to, a clinic, a nursing home, an intermediate care home, a personal care home,
 85 or a hospice program, which provides patient 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."

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SECTION 2.

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

"Part 2

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 program to electronically record into an electronic data base prescription information resulting from the dispensing of Schedule II, III, IV, or V controlled substances and to electronically review such prescription information that has been entered into such data base. The purpose of such program 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 program shall be administered by the board at the direction and oversight of the board.

16-13-58.

(a) The board shall be authorized to 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 program 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 to dispensers shall be funded by gifts, grants, donations, or other funds received by the board for the operation of the program 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 this part shall be construed to require a dispenser to incur costs to purchase equipment or software to comply with this part.

(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 for which a Schedule II, III, IV, or V controlled substance was dispensed. The
244 information submitted for each prescription shall include at a minimum, but shall not be
245 limited to:

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

248 (2) Date the prescription was dispensed;

249 (3) Prescription serial number;

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

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

252 (6) Quantity and strength dispensed;

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

254 (8) Patient's name;

255 (9) Patient's address;

256 (10) Patient's date of birth;

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

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

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

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

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

275 (d) The board shall not revise the information required to be submitted by dispensers
276 pursuant to subsection (a) of this Code section more frequently than annually. Any such

277 change to the required information shall neither be effective nor applicable to dispensers
 278 until six months after the adoption of such changes.

279 (e) The board shall not access or allow others to access any identifying prescription
 280 information from the electronic data base after two years after the date such information
 281 was originally received. The board may retain aggregated prescription information that is
 282 two years old or greater but shall ensure that any identifying information that is two years
 283 old or greater is deleted or destroyed on an ongoing basis in a timely and secure manner.
 284 (f) A dispenser may apply to the board for an exemption to be excluded from compliance
 285 with this Code section if compliance would impose an undue hardship on such dispenser.
 286 The board shall provide guidelines and criteria for what constitutes an undue hardship.

287 16-13-60.

288 (a) Prescription information submitted pursuant to Code Section 16-13-59 shall not be
 289 considered a record under Article 4 of Chapter 18 of Title 50 and shall not be subject to
 290 disclosure as provided in Article 4 of Chapter 18 of Title 50.

291 (b) The board shall establish and maintain strict procedures to ensure that the privacy and
 292 confidentiality of patients, prescribers, and patient and prescriber information collected,
 293 recorded, transmitted, and maintained pursuant to this part are protected. Except as
 294 provided herein, no part of the information shall be released. Such information shall be
 295 disclosed to persons in a manner which does not conflict with the requirements of the
 296 federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, P.L.
 297 104-191.

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

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

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

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

307 (4) To any local, state, or federal law enforcement, regulatory, or prosecutorial officials
 308 upon receipt of a subpoena issued by a superior court in compliance with Georgia law
 309 and the Georgia Constitution;

310 (5) To a state agency, board, or entity with administrative subpoena powers upon receipt
 311 of a subpoena issued by a superior court;

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

313 (7) To personnel of the board for purposes of administration and enforcement of this part
314 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 monitoring program in another state if the confidentiality, security,
321 privacy, and utilization standards of the requesting state are determined to be equivalent
322 to those of the board.

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

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

335 (h) Nothing provided in this Code section shall be construed to limit the authority of the
336 board, the Georgia Composite Medical Board, or other licensing board from being able to
337 obtain a patient medical record from a licensed practitioner merely because the practitioner
338 had placed electronic data base prescription information in the patient medical record. In
339 addition, nothing provided in the Code section shall be construed to limit any other
340 authority of the board, the Georgia Composite Medical Board, or other licensing board or
341 state agency.

342 16-13-61.

343 (a) There is established an Electronic Database Review Advisory Committee for the
344 purposes of consulting with and advising the board on matters related to the establishment,
345 maintenance, and operation of how prescriptions are electronically reviewed pursuant to
346 this part. This shall include, but shall not be limited to, data collection, regulation of access
347 to data, evaluation of data to identify benefits and outcomes of the reviews, communication

348 to prescribers and dispensers as to the intent of the reviews and how to use the data base,
349 and security of data collected.

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

351 (1) A representative from the board;

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

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

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

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

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

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

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

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

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

364 (d) The advisory committee shall elect a chairperson and vice chairperson from among its
365 membership to serve a term of one year. 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 The board shall establish rules and regulations to implement the requirements of this part.
374 Nothing in this part shall be construed to authorize the board to establish policies, rules, or
375 regulations which limit, revise, or expand or purport to limit, revise, or expand any
376 prescription or dispensing authority of any prescriber or dispenser subject to this part.

377 16-13-63.

378 Nothing in this part shall require a dispenser or prescriber to obtain information about a
379 patient from the program established pursuant to this part. A dispenser or prescriber shall
380 not have a duty and shall not be held liable for damages to any person in any civil,
381 criminal, or administrative action for injury, death, or loss to person or property on the

382 basis that the dispenser or prescriber did or did not seek or obtain information from the
383 electronic data base established pursuant to Code Section 16-13-57.

384 16-13-64.

385 (a) The board shall certify when the electronic prescription data base established pursuant
386 to Code Section 16-13-57 is operational and shall post a notice of this certification on the
387 board's website. No later than 30 days after the board certifies that the data base is
388 operational, dispensers shall begin to submit prescription information to the board.

389 (b) A dispenser who knowingly and intentionally fails to submit prescription information
390 to the board as required by this part or knowingly and intentionally submits incorrect
391 prescription information shall be guilty of a misdemeanor and, upon conviction thereof,
392 shall be punished for each such offense by imprisonment for a period not to exceed 12
393 months, a fine not to exceed \$1,000.00, or both, and such actions shall be reported to the
394 licensing board responsible for issuing such dispenser's dispensing license for action to be
395 taken against such dispenser's license.

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

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

408 (2) Any person who knowingly obtains, attempts to obtain, or discloses electronic data
409 base prescription information pursuant to this part under false pretenses shall be guilty
410 of a felony and, upon conviction thereof, shall be punished by a fine not to exceed
411 \$100,000.00, by imprisonment for not more than five years, or by both.

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

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

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

423 16-13-65.

424 This part shall not apply to any veterinarian."

425 **SECTION 3.**

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

427 **SECTION 4.**

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