

The House Committee on Judiciary Non-civil offers the following substitute to SB 36:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 16 and Chapter 4 of Title 26 of the Official Code of Georgia
2 Annotated, relating to controlled substances and pharmacists and pharmacies, respectively,
3 so as to implement various measures relating to the regulation and security of prescribing and
4 dispensing controlled substances; to provide for the establishment of a program to monitor
5 the prescribing and dispensing of Schedule II, III, IV, and V controlled substances; to
6 provide for definitions; to require dispensers to submit certain information regarding the
7 dispensing of such controlled substances; to provide for the confidentiality of submitted
8 information except under certain circumstances; to provide for the establishment of an
9 Electronic Database Review Advisory Committee; to provide for its membership, duties, and
10 organization; to provide for the establishment of rules and regulations; to provide for limited
11 liability; to provide for penalties; to require that all hard copy prescriptions be on security
12 paper; to redefine the term "security paper" and provide for approval of such paper prior to
13 sale by the State Board of Pharmacy; to provide for exceptions; to provide for rules and
14 regulations; to require identification from persons picking up certain prescriptions; to limit
15 the number of units of Schedule II through Schedule IV drugs which may be obtained
16 through a single prescription; to provide for related matters; to provide for an effective date;
17 to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 SECTION 1.

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

23 "16-13-21.

24 As used in this article, the term:

25 (0.5) 'Addiction' means a primary, chronic, neurobiologic disease with genetic,
26 psychosocial, and environmental factors influencing its development and manifestations.

27 It is characterized by behaviors that include the following: impaired control drug use,
28 craving, compulsive use, and continued use despite harm. Physical dependence and
29 tolerance are normal physiological consequences of extended opioid therapy for pain and
30 are not the same as addiction.

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

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

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

37 (1.1) 'Agency' means the Georgia Drugs and Narcotics Agency established pursuant to
38 Code Section 26-4-29.

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

43 (2.1) 'Board' means the State Board of Pharmacy or its designee, so long as such
44 designee is another state entity.

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

47 (4) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules
48 I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of
49 21 C.F.R. Part 1308.

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

52 (6) 'Counterfeit substance' means:

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

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

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

63 (6.1) 'Dangerous drug' means any drug, other than a controlled substance, which cannot
 64 be dispensed except upon the issuance of a prescription drug order by a practitioner
 65 authorized under this chapter.

66 (6.2) 'DEA' means the United States Drug Enforcement Administration.

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

70 (8) 'Dependent,' 'dependency,' 'physical dependency,' 'psychological dependency,' or
 71 'psychic dependency' means and includes the state of ~~dependence by an individual toward~~
 72 ~~or upon a substance, arising from the use of that substance, being characterized by~~
 73 ~~behavioral and other responses which include the loss of self-control with respect to that~~
 74 ~~substance, or a strong compulsion to use that substance on a continuous basis in order to~~
 75 ~~experience some psychic effect resulting from the use of that substance by that individual,~~
 76 ~~or to avoid any discomfort occurring when the individual does not use that substance~~
 77 adaptation that is manifested by drug class specific signs and symptoms that can be
 78 produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug,
 79 and administration of an antagonist. Physical dependence, by itself, does not equate with
 80 addiction.

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

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

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

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

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

97 (D) A pharmacy operated by, on behalf of, or under contract with the Department of
 98 Corrections for the sole and exclusive purpose of providing services in a secure
 99 environment to prisoners within a penal institution, penitentiary, prison, detention

100 center, or other secure correctional institution. This shall include correctional
101 institutions operated by private entities in this state which house inmates under the
102 Department of Corrections.

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

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

106 (12.05) 'FDA' means the United States Food and Drug Administration.

107 (12.1) 'Imitation controlled substance' means:

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

112 (B) A product, not a controlled substance, which, by representations made and by
113 dosage unit appearance, including color, shape, size, or markings, would lead a
114 reasonable person to believe that, if ingested, the product would have a stimulant or
115 depressant effect similar to or the same as that of one or more of the controlled
116 substances included in Schedules I through V of Code Sections 16-13-25 through
117 16-13-29.

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

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

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

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

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

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

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

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

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

151 (C) Opium poppy and poppy straw; or

152 (D) Coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or
 153 preparation of coca leaves, and any salt, compound, stereoisomers of cocaine,
 154 derivative, or preparation thereof which is chemically equivalent or identical ~~with~~ to
 155 any of these substances, but not including decocainized coca leaves or extractions of
 156 coca leaves which do not contain cocaine or ecgonine.

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

163 (19) 'Opium poppy' means the plant of the species Papaver somniferum L., except its
 164 seeds.

165 (19.1) 'Patient' means the person who is the intended consumer of a drug for whom a
 166 prescription is issued or for whom a drug is dispensed.

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

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

171 (22) 'Potential for abuse' means and includes a substantial potential for a substance to be
 172 used by an individual to the extent of creating hazards to the health of the user or the

173 safety of the public, or the substantial potential of a substance to cause an individual
 174 using that substance to become dependent upon that substance.

175 (23) 'Practitioner' means:

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

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

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

188 (D) A physician assistant acting pursuant to the authority of subsection (e.1) of Code
 189 Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section
 190 43-34-103, a physician assistant is authorized to register with the federal Drug
 191 Enforcement Administration and appropriate state authorities.

192 (23.1) 'Prescriber' means a physician, dentist, scientific investigator, or other person
 193 licensed, registered, or otherwise authorized under the laws of this state to prescribe a
 194 controlled substance in the course of professional practice or research in this state.

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

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

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

199 (26.1) 'Schedule II, III, IV, or V controlled substance' means a controlled substance that
 200 is classified as a Schedule II, III, IV, or V controlled substance under Code Section
 201 16-13-26, 16-13-27, 16-13-28, or 16-13-29, respectively, or under the Federal Controlled
 202 Substances Act, 21 U.S.C. Section 812.

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

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

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

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

216 (30) 'Wholesaler' means any person, firm, corporation, association, dealer, or broker
 217 selling or offering for sale, in or into this state, any Schedule II, III, IV, or V controlled
 218 substance that is classified as a Schedule II, III, IV, or V controlled substance under Code
 219 Section 16-13-26, 16-13-27, 16-13-28, or 16-13-29, respectively, or under the Federal
 220 Controlled Substances Act, 21 U.S.C. Section 812."

221 **SECTION 2.**

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

224 "Part 2

225 16-13-57.

226 (a) Subject to funds as may be appropriated by the General Assembly or otherwise
 227 available for such purpose, the agency shall, in consultation with members of the Georgia
 228 Composite Medical Board, establish and maintain a program to electronically record into
 229 an electronic data base prescription information resulting from the dispensing of Schedule
 230 II, III, IV, or V controlled substances and to electronically review such prescription
 231 information that has been entered into such data base. The purpose of such program shall
 232 be to assist in the reduction of the abuse of controlled substances, to improve, enhance, and
 233 encourage a better quality of health care by promoting the proper use of medications to
 234 treat pain and terminal illness, and to reduce duplicative prescribing and overprescribing
 235 of controlled substance practices.

236 (b) Such program shall be administered by the agency at the direction and oversight of the
 237 board.

238 16-13-58.

239 (a) The agency shall be authorized to apply for available grants and may accept any gifts,
 240 grants, donations, and other funds, including funds from the disposition of forfeited
 241 property, to assist in developing and maintaining the program established pursuant to Code
 242 Section 16-13-57; provided, however, that neither the board, agency, nor any other state

243 entity shall accept a grant that requires as a condition of the grant any sharing of
 244 information that is inconsistent with this part.

245 (b) The agency shall be authorized to grant funds to dispensers for the purpose of covering
 246 costs for dedicated equipment and software for dispensers to use in complying with the
 247 reporting requirements of Code Section 16-13-59. Such grants to dispensers shall be funded
 248 by gifts, grants, donations, or other funds, including funds from the disposition of forfeited
 249 property, received by the agency for the operation of the program established pursuant to
 250 Code Section 16-13-57. The agency shall be authorized to establish standards and
 251 specifications for any equipment and software purchased pursuant to a grant received by
 252 a dispenser pursuant to this Code section. Nothing in this part shall be construed to require
 253 a dispenser to incur costs to purchase equipment or software to comply with this part.

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

255 16-13-59.

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

261 (1) DEA permit number or approved dispenser facility controlled substance
 262 identification number;

263 (2) Date the prescription was dispensed;

264 (3) Prescription serial number;

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

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

267 (6) Quantity and strength dispensed;

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

269 (8) Patient's name;

270 (9) Patient's address;

271 (10) Patient's date of birth;

272 (11) Patient gender;

273 (12) Method of payment;

274 (13) Approved prescriber identification number or prescriber's DEA permit number;

275 (14) Date the prescription was issued by the prescriber; and

276 (15) Other data elements consistent with standards established by the American Society
 277 for Automation in Pharmacy, if designated by regulations of the agency.

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

284 (c) The agency may issue a waiver to a dispenser that is unable to submit prescription
285 information by electronic means acceptable to the agency. Such waiver may permit the
286 dispenser to submit prescription information to the agency by paper form or other means,
287 provided all information required in subsection (a) of this Code section is submitted in this
288 alternative format and in accordance with the frequency requirements established pursuant
289 to subsection (b) of this Code section. Requests for waivers shall be submitted in writing
290 to the agency.

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

295 (e) The agency shall not access or allow others to access any identifying prescription
296 information from the electronic data base after one year from the date such information was
297 originally received by the agency. The agency may retain aggregated prescription
298 information for a period of one year from the date the information is received but shall
299 promulgate regulations and procedures that will ensure that any identifying information the
300 agency receives from any dispenser or reporting entity that is one year old or older is
301 deleted or destroyed on an ongoing basis in a timely and secure manner.

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

305 (g) On and after July 1, 2012, on a monthly basis, wholesalers shall provide the agency
306 with the type and quantity of any Schedule II, III, IV, or V controlled substance that is
307 shipped to a dispenser in this state. Such information shall be provided by the tenth day
308 of each month with respect to the previous month's information and shall be in the
309 electronic format required by the board for such information.

310 16-13-60.

311 (a) Except as otherwise provided in subsections (c) and (d) of this Code section,
312 prescription information submitted pursuant to Code Section 16-13-59 shall be confidential

313 and shall not be subject to open records requirements, as contained in Article 4 of Chapter
314 18 of Title 50.

315 (b) The agency, in conjunction with the board, shall establish and maintain strict
316 procedures to ensure that the privacy and confidentiality of patients, prescribers, and
317 patient and prescriber information collected, recorded, transmitted, and maintained
318 pursuant to this part are protected. Such information shall not be disclosed to any person
319 or entity except as specifically provided in this part and only in a manner which in no way
320 conflicts with the requirements of the federal Health Insurance Portability and
321 Accountability Act (HIPAA) of 1996, P.L. 104-191.

322 (c) The agency shall be authorized to provide requested prescription information collected
323 pursuant to this part only as follows:

324 (1) To persons authorized to prescribe or dispense controlled substances for the sole
325 purpose of providing medical or pharmaceutical care to a specific patient;

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

329 (3) To local, state, or federal law enforcement or prosecutorial officials pursuant to the
330 issuance of a search warrant pursuant to Article 2 of Chapter 5 of Title 17; and

331 (4) To the agency or the Georgia Composite Medical Board upon the issuance of an
332 administrative subpoena issued by a Georgia state administrative law judge.

333 (d) The board may provide data to government entities for statistical, research,
334 educational, or grant application purposes after removing information that could be used
335 to identify prescribers or individual patients or persons who received prescriptions from
336 dispensers.

337 (e) Any person or entity who receives electronic data base prescription information or
338 related reports relating to this part from the agency shall not provide such information or
339 reports to any other person or entity except by order of a court of competent jurisdiction
340 pursuant to this part.

341 (f) Any permissible user identified in this part who directly accesses electronic data base
342 prescription information shall implement and maintain a comprehensive information
343 security program that contains administrative, technical, and physical safeguards that are
344 substantially equivalent to the security measures of the agency. The permissible user shall
345 identify reasonably foreseeable internal and external risks to the security, confidentiality,
346 and integrity of personal information that could result in the unauthorized disclosure,
347 misuse, or other compromise of the information and shall assess the sufficiency of any
348 safeguards in place to control the risks.

349 16-13-61.

350 (a) There is established an Electronic Database Review Advisory Committee for the
351 purposes of consulting with and advising the agency on matters related to the
352 establishment, maintenance, and operation of how prescriptions are electronically reviewed
353 pursuant to this part. This shall include, but shall not be limited to, data collection,
354 regulation of access to data, evaluation of data to identify benefits and outcomes of the
355 reviews, communication to prescribers and dispensers as to the intent of the reviews and
356 how to use the data base, and security of data collected.

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

358 (1) A representative from the agency;

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

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

361 (4) A consumer representative with expertise in personal privacy matters, appointed by
362 the president of the State Bar of Georgia;

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

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

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

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

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

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

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

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

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

380 16-13-62.

381 The agency shall establish rules and regulations to implement the requirements of this part.
382 Nothing in this part shall be construed to authorize the agency to establish policies, rules,
383 or regulations which limit, revise, or expand or purport to limit, revise, or expand any
384 prescription or dispensing authority of any prescriber or dispenser subject to this part.

385 Nothing in this part shall be construed to impede, impair, or limit a prescriber from
386 prescribing pain medication in accordance with the pain management guidelines developed
387 and adopted by the Georgia Composite Medical Board.

388 16-13-63.

389 Nothing in this part shall require a dispenser or prescriber to obtain information about a
390 patient from the program established pursuant to this part. A dispenser or prescriber shall
391 not have a duty and shall not be held civilly liable for damages to any person in any civil
392 or administrative action or criminally responsible for injury, death, or loss to person or
393 property on the basis that the dispenser or prescriber did or did not seek or obtain
394 information from the electronic data base established pursuant to Code Section 16-13-57.

395 16-13-64.

396 (a) A dispenser who knowingly and intentionally fails to submit prescription information
397 to the agency as required by this part or knowingly and intentionally submits incorrect
398 prescription information shall be guilty of a felony and, upon conviction thereof, shall be
399 punished for each such offense by imprisonment for not less than one year nor more than
400 five years, a fine not to exceed \$50,000.00, or both, and such actions shall be reported to
401 the licensing board responsible for issuing such dispenser's dispensing license for action
402 to be taken against such dispenser's license.

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

410 (c)(1) An individual authorized to access electronic data base prescription information
411 pursuant to this part who knowingly obtains or discloses such information in a manner
412 or for a purpose in violation of this part shall be guilty of a felony and, upon conviction
413 thereof, shall be punished by imprisonment for not less than one year nor more than five
414 years, a fine not to exceed \$50,000.00, or both.

415 (2) Any person who knowingly obtains, attempts to obtain, or discloses electronic data
416 base prescription information pursuant to this part under false pretenses shall be guilty
417 of a felony and, upon conviction thereof, shall be punished by imprisonment for not less
418 than one year nor more than five years, a fine not to exceed \$100,000.00, or both.

419 (3) Any person who obtains or discloses electronic data base prescription information
 420 not specifically authorized herein with the intent to sell, transfer, or use such information
 421 for commercial advantage, personal gain, or malicious harm shall be guilty of a felony
 422 and, upon conviction thereof, shall be punished by imprisonment for not less than two
 423 years nor more than ten years, a fine not to exceed \$250,000.00, or both.

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

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

430 16-13-65.

431 (a) This part shall not apply to any veterinarian.

432 (b) This part shall not apply to any drug, substance, or immediate precursor classified as
 433 an exempt over the counter (OTC) Schedule V controlled substance pursuant to this chapter
 434 or pursuant to board rules established in accordance with Code Section 16-13-29.2."

435 **SECTION 3.**

436 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and
 437 pharmacies, is amended in Code Section 26-4-5, relating to definitions applicable to said
 438 chapter, by revising paragraph (38.5) as follows:

439 "(38.5) 'Security paper' means a prescription pad or paper that has been approved by the
 440 board for use and contains the following characteristics:

441 (A) One or more industry recognized features designed to prevent unauthorized
 442 copying of a completed or blank prescription form;

443 (B) One or more industry recognized features designed to prevent the erasure or
 444 modification of information written on the prescription form by the practitioner; and

445 (C) One or more industry recognized features designed to prevent the use of counterfeit
 446 prescription forms.

447 Where security paper is in the form of a prescription pad, each pad shall bear an
 448 identifying lot number, and each piece of paper in the pad shall be numbered sequentially
 449 beginning with the number one. ~~paper utilizing security features on which the electronic~~
 450 visual image prescription drug order of a practitioner is printed and presented to a patient
 451 so as to ensure that the prescription drug order is not subject to any form of copying,
 452 reproduction, or alteration, or any combination of copying, reproduction, or alteration,
 453 and may include a watermark produced by the electronic digital process when a

454 prescription is printed to clearly show if a prescription has been reproduced or copied in
 455 an unauthorized manner."

456 **SECTION 4.**

457 Said chapter is further amended in Code Section 26-4-80, relating to dispensing of
 458 prescription drugs, by revising subsection (l) as follows:

459 "(l) A Schedule II controlled substance prescription drug order in written form signed in
 460 indelible ink by the practitioner may be accepted by a pharmacist and the Schedule II
 461 controlled substance may be dispensed by such pharmacist. Other forms of Schedule II
 462 controlled substance prescription drug orders may be accepted by a pharmacist and the
 463 Schedule II controlled substance may be dispensed by such pharmacist in accordance with
 464 regulations promulgated by the board and in accordance with DEA regulations found in 21
 465 C.F.R. 1306. A pharmacist shall require a person picking up a Schedule II controlled
 466 substance prescription to present a government issued photo identification document or
 467 such other form of identification document as may be authorized by rules adopted by the
 468 board. If the person picking up the prescription is someone other than the person to whom
 469 the prescription was issued, the identification document shall be copied or converted to a
 470 digital image by the pharmacy, and the copy or digital image shall be maintained with the
 471 pharmacy's other records relating to the prescription."

472 **SECTION 5.**

473 Said chapter is further amended by adding new Code Sections 26-4-80.1 and 26-4-80.2 to
 474 read as follows:

475 "26-4-80.1.

476 (a) Effective October 1, 2011, every hard copy prescription drug order written in this state
 477 by a practitioner must be written on security paper.

478 (b) A pharmacist shall not fill a hard copy prescription drug order from a practitioner
 479 unless it is written on security paper, except that a pharmacist may provide emergency
 480 supplies in accordance with the board and other insurance contract requirements.

481 (c) If a hard copy of an electronic data prescription drug order is given directly to the
 482 patient, the manually signed hard copy prescription drug order must be on approved
 483 security paper that meets the requirements of paragraph (38.5) of Code Section 26-4-5.

484 (d) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized
 485 use of security paper and shall promptly report to appropriate authorities any theft or
 486 unauthorized use.

487 (e) All vendors shall have their security paper approved by the board prior to marketing
 488 or sale in this state.

489 (f) The board shall create a seal of approval that confirms that security paper contains all
490 three industry recognized characteristics required by paragraph (38.5) of Code Section
491 26-4-5. The seal shall be affixed to all security paper used in this state.

492 (g) The board may adopt rules necessary for the administration of this Code section.

493 (h) The security paper requirements in this Code section shall not apply to:

494 (1) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or
495 electronic means; or

496 (2) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents
497 of a nursing home, inpatients or residents of a mental health facility, or individuals
498 incarcerated in a local, state, or federal correctional facility when the health care
499 practitioner authorized to write prescriptions writes the order into the patient's medical
500 or clinical record, the order is given directly to the pharmacy, and the patient never has
501 the opportunity to handle the written order.

502 26-4-80.2.

503 Effective July 1, 2011, a pharmacist shall not fill a prescription drug order for more than
504 60 units of any drug in Schedules II through IV listed in Code Sections 16-13-26 through
505 16-13-28 and Schedules II through IV of 21 C.F.R. Part 1308."

506 **SECTION 6.**

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

508 **SECTION 7.**

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