

Senate Bill 346

By: Senators Balfour of the 9th, Carter of the 1st and Henson of the 41st

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 26-4-60 of the Official Code of Georgia Annotated, relating to
2 grounds for suspension, revocation, or refusal to grant licenses by the State Board of
3 Pharmacy, so as to change certain provisions relating to selling, distributing, and delivering
4 prescription drugs by mail or other common carriers; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 26-4-60 of the Official Code of Georgia Annotated, relating to grounds for
9 suspension, revocation, or refusal to grant licenses by the State Board of Pharmacy, is
10 amended by revising paragraph (11) of subsection (a) as follows:

11 ~~"(11) Regularly employing the mails or other common carriers to sell, distribute, and~~
12 ~~deliver a drug which requires a prescription directly to a patient; provided, however, that~~
13 ~~this provision shall not prohibit the use of the mails or other common carriers to sell,~~
14 ~~distribute, and deliver a prescription drug directly to:~~

15 ~~(A) A patient or directly to a patient's guardian or caregiver or a physician or physician~~
16 ~~acting as the patient's agent for whom the prescription drug was prescribed if:~~

17 ~~(i) Such prescription drugs are prescribed for complex chronic, terminal, or rare~~
18 ~~conditions;~~

19 ~~(ii) Such prescription drugs require special administration, comprehensive patient~~
20 ~~training, or the provision of supplies and medical devices or have unique patient~~
21 ~~compliance and safety monitoring requirements;~~

22 ~~(iii) Due to the prescription drug's high monetary cost, short shelf life, special~~
23 ~~manufacturer specified packaging and shipping requirements or instructions which~~
24 ~~require temperature sensitive storage and handling, limited availability or distribution,~~
25 ~~or other factors, the drugs are not carried in the regular inventories of retail~~

26 ~~pharmacies such that the drugs could be immediately dispensed to multiple retail~~
27 ~~walk-in patients;~~

28 ~~(iv) Such prescription drug has an annual retail value to the patient of more than~~
29 ~~\$10,000.00;~~

30 ~~(v) The patient receiving the prescription drug consents to the delivery of the~~
31 ~~prescription drug via expedited overnight common carrier and designates the specialty~~
32 ~~pharmacy to receive the prescription drug on his or her behalf;~~

33 ~~(vi) The specialty pharmacy utilizes, as appropriate and in accordance with standards~~
34 ~~of the manufacturer, United States Pharmacopeia, and Federal Drug Administration~~
35 ~~and other standards adopted by the State Board of Pharmacy, temperature tags, time~~
36 ~~temperature strips, insulated packaging, or a combination of these; and~~

37 ~~(vii) The specialty pharmacy establishes and notifies the enrollee of its policies and~~
38 ~~procedures to address instances in which medications do not arrive in a timely manner~~
39 ~~or in which they have been compromised during shipment and to assure that the~~
40 ~~pharmacy replaces or makes provisions to replace such drugs; or~~

41 ~~(B) An institution or to sell, distribute, or deliver prescription drug refills, upon his or~~
42 ~~her request, to an enrollee in a health benefits plan of a group model health maintenance~~
43 ~~organization or its affiliates by a pharmacy which is operated by that same group model~~
44 ~~health maintenance organization and licensed under Code Section 26-4-110. Any~~
45 ~~pharmacy using the mails or other common carriers to dispense prescriptions pursuant~~
46 ~~to this paragraph shall comply with the following conditions:~~

47 ~~(i) The pharmacy shall provide an electronic, telephonic, or written communications~~
48 ~~mechanism which reasonably determines whether the medications distributed by the~~
49 ~~mails or other common carriers have been received by the enrollee and through which~~
50 ~~a pharmacist employed by the group model health maintenance organization or a~~
51 ~~pharmacy intern under his or her direct supervision is enabled to offer counseling to~~
52 ~~the enrollee as authorized by and in accordance with his or her obligations under Code~~
53 ~~Section 26-4-85, unless the enrollee refuses such consultation or counseling pursuant~~
54 ~~to subsection (e) of such Code section. In addition, the enrollee shall receive~~
55 ~~information indicating what he or she should do if the integrity of the packaging or~~
56 ~~medication has been compromised during shipment;~~

57 ~~(ii) In accordance with clinical and professional standards, the State Board of~~
58 ~~Pharmacy shall promulgate a list of medications which may not be delivered by the~~
59 ~~mails or other common carriers. However, until such list is promulgated, the group~~
60 ~~model health maintenance organization shall not deliver by use of the mails or other~~
61 ~~common carriers Class II controlled substance medications, medications which~~
62 ~~require refrigeration, chemotherapy medications deemed by the federal~~

63 Environmental Protection Agency as dangerous, medications in suppository form, and
64 other medications which, in the professional opinion of the dispensing pharmacist,
65 may be clinically compromised by distribution through the mail or other common
66 carriers;

67 (iii) ~~The pharmacy shall utilize, as appropriate and in accordance with standards of~~
68 ~~the manufacturer, United States Pharmacopeia, and Federal Drug Administration and~~
69 ~~other standards adopted by the State Board of Pharmacy, temperature tags, time~~
70 ~~temperature strips, insulated packaging, or a combination of these; and~~

71 (iv) ~~The pharmacy shall establish and notify the enrollee of its policies and~~
72 ~~procedures to address instances in which medications do not arrive in a timely manner~~
73 ~~or in which they have been compromised during shipment and to assure that the~~
74 ~~pharmacy replaces or makes provisions to replace such drugs.~~

75 ~~For purposes of subparagraph (B) of this paragraph, the term 'group model health~~
76 ~~maintenance organization' means a health maintenance organization that has an~~
77 ~~exclusive contract with a medical group practice to provide or arrange for the provision~~
78 ~~of substantially all physician services to enrollees in health benefits plans of the health~~
79 ~~maintenance organization; Operating a pharmacy that employs the mails or other~~
80 ~~common carriers to sell, dispense, distribute, or deliver a prescription drug to a patient~~
81 ~~that does not utilize the following guidelines:~~

82 ~~(A) The patient receiving a prescription drug at a specialty pharmacy or office of a~~
83 ~~practitioner, electronically or in writing, shall consent to the delivery of the prescription~~
84 ~~drug via expedited overnight common carrier and shall designate the practitioner or~~
85 ~~pharmacy to receive the prescription drug on his or her behalf;~~

86 ~~(B) The pharmacist or pharmacy selling, dispensing, distributing, or delivering a~~
87 ~~prescription drug to a patient shall utilize, as appropriate and in accordance with~~
88 ~~standards of the manufacturer, United States Pharmacopeia, and Federal Drug~~
89 ~~Administration and other standards adopted by the State Board of Pharmacy,~~
90 ~~temperature tags, time temperature strips, insulated packaging, or a combination of~~
91 ~~these;~~

92 ~~(C) The pharmacist or pharmacy shall establish and notify the patient of its policies and~~
93 ~~procedures to address instances in which medications do not arrive in a timely manner~~
94 ~~or in which they have been compromised during shipment and shall assure that it~~
95 ~~replaces or makes provisions to replace such drugs;~~

96 ~~(D) The pharmacist or pharmacy shall not deliver by use of the mails or other common~~
97 ~~carriers Class II controlled substance medications, medications which require~~
98 ~~refrigeration, chemotherapy medications deemed by the federal Environmental~~
99 ~~Protection Agency as dangerous, medications in suppository form, and other~~

100 medications which, in the professional opinion of the dispensing pharmacist, may be
101 clinically compromised by distribution through the mails or other common carriers; and
102 (E) A pharmacist or pharmacy may dispense a prescription and deliver it to another
103 pharmacist or pharmacy for a patient to pick up and receive counseling on so long as
104 the consent of the patient is given."

105 **SECTION 2.**

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