

The Senate Health and Human Services Committee offered the following substitute to SB 346:

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:

**SECTION 1.**

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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~~ drugs, upon  
42 his or her request, to an enrollee in a health benefits plan of a group model health  
43 maintenance organization or its affiliates by a pharmacy which is operated by that same  
44 group model health maintenance organization and licensed under Code Section  
45 26-4-110 or to a patient on behalf of a pharmacy. Any pharmacy using the mails or  
46 other common carriers to dispense prescriptions pursuant to this paragraph shall comply  
47 with the following conditions:

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

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

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

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

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

76 For purposes of subparagraph (B) of this paragraph, the term 'group model health  
77 maintenance organization' means a health maintenance organization that has an  
78 exclusive contract with a medical group practice to provide or arrange for the provision  
79 of substantially all physician services to enrollees in health benefits plans of the health  
80 maintenance organization; or

81 (C) A pharmacist or pharmacy to dispense a prescription and deliver it to another  
82 pharmacist or pharmacy to make available for a patient to receive the prescription and  
83 patient counseling according to Code Section 26-4-85. The State Board of Pharmacy  
84 shall adopt any rules and regulations necessary to implement this subparagraph."

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## SECTION 2.

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