The Senate Health and Human Services Committee offered the following substitute to SB 380:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacist and pharmacies, so as to provide for a change to the definition of security paper; to provide for certain revisions to the powers, duties, and authority of the state board of pharmacy; to authorize the Georgia Drugs and Narcotics Agency to accept certain funds; to provide for a definition of valid prescription orders; to remove certain requirements for vendors and seals of approval; to amend Code Section 16-13-59, relating to information to include for each Schedule II, III, IV, or V controlled substance prescription and compliance, so as to provide a definition relating to dispensers located outside this state that deliver dangerous drugs into this state; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, is amended by revising paragraph (38.5) of Code Section 26-4-5, relating to the definition of security paper, as follows:

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

(A) Contains ~~contains~~ the following characteristics:

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

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

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

Where security paper is in the form of a prescription pad, each pad shall bear an identifying lot number, and each piece of paper in the pad shall be numbered sequentially beginning with the number one.; or

(B) Meets the requirements of the United States Centers for Medicare and Medicaid Services (CMS) for a tamper-resistant prescription."

SECTION 2.

Said chapter is further amended by adding a new paragraph to subsection (a) of Code Section 26-4-28, relating to the power, duty, and authority of the Georgia State Board of Pharmacy over the licensure and regulation of pharmacies and pharmacy interns, to read as follows:

"(6.1)(A) The registration of any pharmacy or facility, other than one owned by or operated by an entity licensed or registered under Title 33, which is located outside this state which ships, mails, or delivers, in any manner, a dispensed dangerous drug or controlled substance, or medical device medicinal into this state by issuing a nonresident pharmacy or a nonresident device distributor permit. A firms registered with the board and which has been issued a nonresident pharmacy or nonresident device distributor permit shall provide pharmacy and medical device services to the residents of this state in a manner which does not endanger life and protects the health, safety, and welfare of these residents and shall disclose to the board the following specific information:

(i) That it maintains at all times and provides proof of a valid unexpired license, permit, or registration to operate a pharmacy and a device distributor in compliance with the laws and rules of the state in which the facility is located where it receives prescription drug orders or medical device orders and from which it dispenses dangerous drugs and controlled substances or medical devices.

(ii) The location, names, and titles of all principal corporate officers and the pharmacist who serves as the pharmacist in charge for dispensing all drugs or the person responsible for dispensing medical devices to residents of this state. This disclosure shall be made within ten days after any change of such corporate officer or pharmacist serving as the pharmacist in charge for dispensing all drugs or the person responsible for dispensing medical devices to residents of this state;

(iii) When it changes the location of its registered location, it must file a change of location application with the board and submit a copy of its new state and United States Drug Enforcement Admininstration registration for the new location;

(iv) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of all states in which it is licensed as well as with all

requests for information made by the board pursuant to this Code section. It shall respond directly within ten days to all communications from the board concerning emergency circumstances arising from errors in the dispensing of all drugs or medical devices to the residents of this state;

(v) That each pharmacy or medical device distributor location notifies the board in writing of the location at which it maintains its records for all prescription drug or medical device orders dispensed to patients in this state so that the records are readily retrievable from the other business records of the pharmacy; and

(vi) That during its regular hours of operation but not less than six days per week, for a minimum of 60 hours per week, a toll-free telephone service shall be provided to facilitate communication between patients in this state and a pharmacist at the pharmacy or person at the medical device distributor who has access to the patient's records. This toll-free number must be disclosed on the label affixed to each container of all dispensed drugs.

(B) Applications for a nonresident pharmacy or medical device distributor permit under this Code section shall be made on a written or electronic form made available by the board. The board may require such information as the board deems reasonably necessary to carry out a background investigation to ensure the purposes of this Code section will be met by the applicant.

(C) The registration fee and the biennial renewal fee for a permit shall be set by board rule.

(D) The board may deny, revoke, or suspend registration of, or fine or reprimand, a nonresident pharmacy or medical device distributor for failure to comply with rules of the board or with any requirement of this Code section in accordance with the provisions of this chapter.

(E) In addition to the prohibitions of subparagraph (D) of this Code section, the board may deny, revoke, sanction, or suspend the registration of, or fine or reprimand, a nonresident pharmacy or medical device distributor in accordance with the provisions of this chapter for conduct which causes serious bodily injury or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy medical device distributor is located and the regulatory or licensing agency fails to investigate the matter within 180 days of the referral.

(F) After the effective date set by the board for all nonresident pharmacies and medical device distributors to hold a registration in this state, it shall be unlawful for any nonresident pharmacy or medical device distributor which is not registered pursuant to this Code section to advertise its services in this state, or for any person who is a

resident of this state to advertise the services of a nonresident pharmacy or medical device distributor which has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy or medical device distributor to fill prescriptions.

(G) Notwithstanding the rules of the board, for purposes of this Code section, the nonresident pharmacy and the pharmacist designated as the pharmacist in charge of the nonresident pharmacy or the equivalent must be licensed in his or her state of location in order for a nonresident pharmacy to dispense into this state.

(H) Such registration shall only be enabled when legislation amends Code Section 26-4-60 enabling a person or pharmacy regulated by the board to regularly employ the mails or other common carriers to sell, distribute, or deliver a drug which requires a prescription drug order directly to a patient.

(I) Nothing in this paragraph shall be construed to limit or prohibit interstate commerce, including but not limited to the practice of pharmacy by mail.″

SECTION 3.

Said chapter is further amended by adding a new subsection to Code Section 26-4-29, relating to the Georgia Drugs and Narcotics Agency continuance, appointment, requirements, duties of director, power to make arrests, report of violations of drug laws, and dangerous drug list, to read as follows:

″(f) The Georgia Drugs and Narcotics Agency is authorized to accept donations, contributions, grants, or bequests of funds or property, including funds or property from the disposition of forfeited property.″

SECTION 4.

Said chapter is further amended by revising subsection (b) of Code Section 26-4-80, dispensing of valid prescription drug orders, as follows:

″(b) Prescription drugs shall be dispensed only pursuant to a valid prescription drug order. A pharmacist shall not dispense a prescription which the pharmacist knows or should know is not a valid prescription. As used in this subsection, the term 'valid prescription drug order' means a prescription drug order issued by a physician, dentist, podiatrist, veterinarian, or other person licensed, registered, or otherwise authorized under the laws of this state, or any other state or territory of the United States, to prescribe dangerous drugs and controlled substances.″

SECTION 5.

Said chapter is further amended by revising Code Section 26-4-80.1, relating to use of security paper for hard copy prescription drug orders, as follows:

"26-4-80.1.

(a) Effective October 1, 2011, every hard copy prescription drug order for any Schedule II controlled substance written in this state by a practitioner must be written on security paper.

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

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

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

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

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

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

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

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

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

SECTION 6.

Code Section 16-13-59 of the Official Code of Georgia Annotated, relating to information to include for each Schedule II, III, IV, or V controlled substance prescription and compliance, is amended by adding a new subsection to read as follows:

"(g) For purposes of this Code section, the term 'dispenser' shall also include any pharmacy or facility which is located outside this state and which ships, mails, or delivers, in any manner, a dispensed dangerous drug or controlled substance into this state."

SECTION 7.

This Act shall become effective on July 1, 2012.

SECTION 8.

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