

House Bill 132

By: Representatives Hawkins of the 27<sup>th</sup>, Rogers of the 29<sup>th</sup>, Watson of the 166<sup>th</sup>, Channell of the 120<sup>th</sup>, Lindsey of the 54<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 4 of Title 26 and Chapter 11 of Title 43 of the Official Code of Georgia  
2 Annotated, relating to pharmacists and pharmacies and dentists, dental hygienists, and dental  
3 assistants, respectively, so as to provide that the Georgia State Board of Pharmacy and the  
4 Georgia Board of Dentistry are transferred from being administratively attached from the  
5 Secretary of State to the Department of Community Health; to provide for the powers and  
6 duties of each board; to authorize each board to employ an executive director; to provide for  
7 the powers and duties of such executive directors; to provide for additional powers of the  
8 Georgia Drugs and Narcotics Agency; to provide for a census of dentists and dental  
9 hygienists; to revise provisions relating to qualifications of applicants to practice dentistry;  
10 to provide for notice of felonies by licensees; to revise provisions for purposes of conformity;  
11 to provide for related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

**SECTION 1-1.**

15 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and  
16 pharmacies, is amended in Code Section 26-4-5, relating to definitions, by revising paragraph  
17 (11.1) and by adding new paragraphs to read as follows:

18 "(3.1) 'Cognizant member' means that member of the Georgia State Board of Pharmacy  
19 who is charged with conducting investigative interviews relating to investigations  
20 involving licensees, registrants, and permit holders."

21 ~~"(11.1) 'Division director' means the division director of the professional licensing boards~~  
22 ~~division, as provided in Chapter 1 of Title 43."~~

23 "(15.1) 'Executive director' means the executive director appointed by the Georgia State  
24 Board of Pharmacy pursuant to Code Section 26-4-20."

25 **SECTION 1-2.**

26 Said chapter is further amended by revising Code Section 26-4-20, relating to the  
27 continuation of the State Board of Pharmacy and enforcement of provisions of chapter vested  
28 in board, as follows:

29 "26-4-20.

30 (a) The Georgia State Board of Pharmacy existing immediately preceding July 1, 1998  
31 2013, is continued in existence, and members serving on the board immediately preceding  
32 that date shall continue to serve out their terms of office and until their respective  
33 successors are appointed and qualified.

34 (b) The responsibility for enforcement of the provisions of this chapter shall be vested in  
35 the Georgia State Board of Pharmacy. The board shall have all of the duties, powers, and  
36 authority specifically granted by or necessary for the enforcement of this chapter, as well  
37 as such other duties, powers, and authority as it may be granted from time to time by  
38 applicable law.

39 (c) On and after July 1, 2013, the board shall not be under the jurisdiction of the Secretary  
40 of State but shall be an independent state agency attached to the Department of Community  
41 Health for administrative purposes only, as provided in Code Section 50-4-3, except that  
42 such department shall prepare and submit the budget for the board. The board shall have  
43 with respect to all matters within the jurisdiction of the board as provided under this  
44 chapter the powers, duties, and functions of professional licensing boards as provided in  
45 Chapter 1 of Title 43.

46 (d) The board shall appoint and fix the compensation of an executive director of such  
47 board who shall serve at the pleasure of the board.

48 (e) The venue of any action involving members of the board shall be the county in which  
49 is found the primary office of the board. The executive director of the board shall not be  
50 considered a member of the board in determining the venue of any such action, and no  
51 court shall have jurisdiction over any such action solely by virtue of the executive director  
52 residing or maintaining a residence within its jurisdiction."

53 **SECTION 1-3.**

54 Said chapter is further amended in Code Section 26-4-21, relating to eligibility requirements  
55 for board members, by revising subsection (c) as follows:

56 "(c) Appointees to the board shall immediately after their appointment take and subscribe  
57 to an oath or affirmation before a qualified officer that they will faithfully and impartially  
58 perform the duties of the office, ~~which~~ and the oath shall be filed with the ~~Secretary of~~  
59 ~~State~~ Office of the Governor, whereupon the ~~Secretary of State~~ Office of the Governor  
60 shall issue to each appointee a certificate of appointment."

61 **SECTION 1-4.**

62 Said chapter is further amended in Code Section 26-4-22, relating to the number and terms  
63 of members, appointment, and vacancies, by revising subsection (a) as follows:

64 "(a) The board shall consist of seven members possessing the qualification specified in  
65 subsection (a) of Code Section 26-4-21 and one additional member possessing the  
66 qualifications specified in subsection (b) of Code Section 26-4-21 who shall be appointed  
67 by the Governor and confirmed by the Senate for a term of five years or until their  
68 successors are appointed and qualified. Pharmacist members shall represent a diversity of  
69 practice settings and geographic dispersion of practitioners across ~~the~~ this state."

70 **SECTION 1-5.**

71 Said chapter is further amended by revising Code Section 26-4-23, relating to removal of  
72 board members, as follows:

73 "26-4-23.

74 Any member who has failed to attend three consecutive regular monthly meetings of the  
75 board for any reason other than illness of such member shall be subject to removal by the  
76 Governor upon request of the board. The president of the board shall notify the Governor  
77 in writing when any such member has failed to attend three consecutive regular monthly  
78 meetings. Any member of the board may be removed by the Governor in the same manner  
79 as provided in Code Section 43-1-17."

80 **SECTION 1-6.**

81 Said chapter is further amended by revising Code Section 26-4-24, relating to meetings and  
82 organization, appeals, and serving of notices and legal process, as follows:

83 "26-4-24.

84 The board shall meet at least annually to organize and elect a president and a ~~vice-president~~  
85 vice president from its members. ~~The division director shall be the secretary of the board~~  
86 ~~and shall have all the power, duties, and authority with reference to such board as shall be~~  
87 ~~prescribed by Chapter 1 of Title 43 and shall perform such other duties as may be~~  
88 ~~prescribed by the board.~~ The vice president shall serve as the cognizant member of the  
89 board. All appeals from the decision of the board, all documents or applications required  
90 by law to be filed with the board, and any notice or legal process to be served upon the  
91 board may be filed with or served upon the ~~division director~~ executive director at his or her  
92 office in the county of domicile of the ~~professional licensing boards division~~ board."

93 **SECTION 1-7.**

94 Said chapter is further amended by revising Code Section 26-4-25, relating to compensation  
95 of board members, as follows:

96 "26-4-25.

97 Each member of the board ~~shall be reimbursed as provided for in subsection (f) of Code~~  
98 ~~Section 43-1-2~~ may receive the expense allowance as provided by subsection (b) of Code  
99 Section 45-7-21 and the same mileage allowance for the use of a personal car as that  
100 received by other state officials and employees or a travel allowance of actual  
101 transportation costs if traveling by public carrier within this state. Each board member  
102 shall also be reimbursed for any conference or meeting registration fee incurred in the  
103 performance of his or her duties as a board member. For each day's service outside of this  
104 state as a board member, such member shall receive actual expenses as an expense  
105 allowance as well as the mileage allowance for the use of a personal car equal to that  
106 received by other state officials and employees or a travel allowance of actual  
107 transportation costs if traveling by public carrier or by rental motor vehicle. Expense  
108 vouchers submitted by board members shall be subject to approval of the president and  
109 executive director. Out-of-state travel by board members shall be approved by the board  
110 president and the executive director."

111 **SECTION 1-8.**

112 Said chapter is further amended by revising Code Section 26-4-26, relating to meetings,  
113 notice, quorum, and open meetings, as follows:

114 "26-4-26.

115 (a) ~~The~~ To transact its business, the board shall ~~meet on a regular basis to transact its~~  
116 ~~business~~ hold regular meetings at least once each month unless, in the discretion of the  
117 president, it is deemed unnecessary for a particular month. The board shall meet at such  
118 additional times as it may determine. Such additional meetings may be called by the  
119 president of the board or by at least two-thirds of the members of the board.

120 (b) Notice of all meetings of the board shall be given in the manner and pursuant to  
121 requirements prescribed by Chapter 14 of Title 50 relating to open meetings.

122 (c) A majority of the members of the board shall constitute a quorum for the conduct of  
123 a board meeting and, except where a greater number is required by this chapter or by any  
124 rule of the board, all actions of the board shall be by a majority of a quorum.

125 (d) Meetings and hearings of the board shall be held at the site of the office of the board  
126 or at such other site as may be specified by the president of the board.

127 ~~(d)~~(e) All board meetings and hearings shall be open to the public. The board may, in its  
 128 discretion and according to law, conduct any portion of its meeting in executive session  
 129 closed to the public.

130 (f) Proceedings before the board wherein a licensee's or permit holder's right to practice  
 131 pursuant to this chapter in this state is terminated, suspended, or limited or wherein a public  
 132 reprimand is administered shall require prior notice to the licensee and an opportunity for  
 133 hearing; and such proceedings shall be considered contested cases within the meaning of  
 134 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Neither refusal of a  
 135 license or permit nor a private reprimand nor a letter of concern shall be considered a  
 136 contested case within the meaning of Chapter 13 of Title 50, and notice and hearing within  
 137 the meaning of such chapter shall not be required; provided, however, that the applicant  
 138 shall be allowed to appear before the board, if the applicant so requests, prior to the board  
 139 making a final decision regarding the issuance of the license or permit. The power to  
 140 subpoena as set forth in Chapter 13 of Title 50 shall include the power to subpoena any  
 141 book, writing, paper, or document. If any licensee or permit holder fails to appear at any  
 142 hearing after reasonable notice, the board may proceed to hear the evidence against such  
 143 licensee or permit holder and take action as if such licensee or permit holder had been  
 144 present."

#### 145 SECTION 1-9.

146 Said chapter is further amended in Code Section 26-4-28, relating to the powers, duties, and  
 147 authority of the State Board of Pharmacy, by revising paragraphs (20) and (21) of subsection  
 148 (a), by adding new paragraphs to subsection (a), and by revising subsection (b) as follows:

149 "(20) The requiring of background checks, including, but not limited to, criminal history  
 150 record checks, on any persons or firms applying for licensure or registration pursuant to  
 151 this chapter; ~~and~~

152 (21) Serving as the sole governmental or other authority which shall have the authority  
 153 to approve or recognize accreditation or certification programs for specialty pharmacy  
 154 practice or to determine the acceptability of entities which may accredit pharmacies or  
 155 certify pharmacists in a specialty of pharmacy practice, and the board may require such  
 156 accreditation or certification as a prerequisite for specialty or advanced pharmacy  
 157 practice. Such accreditation and certification standards for specialties shall be set forth  
 158 in rules promulgated by the board with such rules to contain the required qualifications  
 159 or limitations. Any accreditation or certification for specialty pharmacy practice  
 160 approved or recognized by the board shall be deemed sufficient to meet any and all  
 161 standards, licensure, or requirements, or any combination thereof, otherwise set forth by  
 162 any private entity or other government agency to satisfy its stated goals and standards for

163 such accreditation or certification. Nothing in this paragraph shall prohibit private  
164 entities, government agencies, professional organizations, or educational institutions from  
165 submitting accreditation or certification programs for the review and potential approval  
166 or recognition by the board. Accreditation and certification for specialty pharmacy  
167 practice under this paragraph shall be subject to the following conditions:

168 (A) Applications shall be submitted as set forth in rules promulgated or approved by  
169 the board for accreditation or certification;

170 (B) Only a pharmacist registered by this state and maintaining an active license in good  
171 standing is eligible for certification in a specialty pharmacy practice by the board;

172 (C) Only a pharmacy registered by this state and maintaining an active license in good  
173 standing is eligible for accreditation for specialty pharmacy practice by the board;

174 (D) Any board approved or recognized accreditation for a specialty pharmacy practice  
175 of a pharmacy is to be deemed sufficient and shall satisfy any standards or  
176 qualifications required for payment of services rendered as set forth by any insurance  
177 company, carrier, or similar third-party payor plan in any policy or contract issued,  
178 issued for delivery, delivered, or renewed on or after July 1, 1999;

179 (E) Any board approved or recognized specialty certification issued to a pharmacist is  
180 deemed sufficient and shall satisfy any standards or qualifications required for payment  
181 of services rendered as set forth by any insurance company, carrier, or similar  
182 third-party payor plan in any policy or contract issued, issued for delivery, delivered,  
183 or renewed on or after July 1, 1999; and

184 (F) The board may deny, revoke, limit, suspend, probate, or fail to renew the  
185 accreditation or specialty certification of a pharmacy, pharmacist, or both for cause as  
186 set forth in Code Section 26-4-60 or for a violation of Chapter 13 of Title 16 or if the  
187 board determines that a pharmacy, pharmacist, or both; no longer meet the accreditation  
188 or certification requirements of the board. Before such action, the board shall serve  
189 upon the pharmacist in charge of a pharmacy or pharmacist an order to show cause why  
190 accreditation or certification should not be denied, revoked, limited, suspended, or  
191 probated or why the renewal should not be refused. The order to show cause shall  
192 contain a statement for the basis therefor and shall call upon the pharmacist in charge  
193 of a pharmacy, the pharmacist, or both; to appear before the board at a time and place  
194 not more than 60 days after the date of the service of the order;:

195 (22) To adopt a seal by which the board shall authenticate the acts of the board;

196 (23) To keep a docket of public proceedings, actions, and filings;

197 (24) To set its office hours;

198 (25) To require licensees and permit holders to report a change of business address or  
199 personal address within ten days of the change in either address;

200 (26) To adopt necessary rules concerning proceedings, hearings, review hearings,  
201 actions, filings, depositions, and motions related to uncontested cases;

202 (27) To authorize the Georgia Drugs and Narcotics Agency to conduct inspections and  
203 initiate investigations on its behalf for the purpose of discovering violations of this  
204 chapter, Chapter 3 of this title, and Chapter 13 of Title 16. When conducting  
205 investigations and inspections on behalf of the board, the Georgia Drugs and Narcotics  
206 Agency shall have the same access to and may examine any writing, document, or other  
207 material relating to any licensee, registrant, permittee, or applicant as the board. The  
208 executive director may issue subpoenas to compel access to any writing, document, or  
209 other material upon a determination that reasonable grounds exist for the belief that a  
210 violation of this chapter, Chapter 3 of this title, Chapter 13 of Title 16, or any other law  
211 relating to the practice of pharmacy may have taken place. The results of all  
212 investigations and inspections initiated by the Georgia Drugs and Narcotics Agency  
213 which relate to an individual licensed or permitted by the board shall be reported by the  
214 Georgia Drugs and Narcotics Agency to the board, and the records of such investigations  
215 shall be kept for the board by the director of the Georgia Drugs and Narcotics Agency,  
216 and the board shall retain the right to have access to such records at any time. No  
217 information regarding a past or pending investigation or disciplinary sanction against an  
218 applicant for licensure by the board or a registrant of the board, notwithstanding the  
219 provisions of subsection (h) of Code Section 43-1-19 or any other law to the contrary  
220 regarding the confidentiality of that information, shall be released, except to the board,  
221 for any purpose other than a hearing before the board, nor shall such records be subject  
222 to subpoena; provided, however, that the executive director, or the Georgia Drugs and  
223 Narcotics Agency, on behalf of the board, shall be authorized to release such records to  
224 another enforcement agency or lawful licensing authority. Nothing in this chapter shall  
225 be construed to prohibit or limit the authority of the executive director or the director of  
226 the Georgia Drugs and Narcotics Agency to disclose to any person or entity information  
227 concerning the existence of any investigation for unlicensed practice being conducted  
228 against any person who is neither licensed nor an applicant for licensure by the board;

229 (28) To administer oaths, subpoena witnesses and documentary evidence, including  
230 medical records, and take testimony in all matters relating to its duties;

231 (29) To conduct hearings, reviews, and other proceedings according to Chapter 13 of  
232 Title 50;

233 (30) To have the cognizant member of the board conduct investigative interviews in  
234 conjunction with the Georgia Drugs and Narcotics Agency and thereafter to report his or  
235 her findings, with recommendations, to the board. In order to obtain a nonprejudicial  
236 decision, such report and recommendations shall not disclose the identity of the subject

237 of the investigation. The cognizant member shall not vote on matters which he or she has  
 238 presented to the board as the cognizant member;

239 (31) To issue cease and desist orders to stop the unlicensed practice of pharmacy or other  
 240 professions licensed, certified, or permitted under this chapter and impose penalties for  
 241 such violations;

242 (32) To request injunctive relief or refer cases for criminal prosecution to appropriate  
 243 enforcement authorities;

244 (33) To release investigative or applicant files to another enforcement agency or lawful  
 245 licensing authority in another state;

246 (34) To sue and be sued in a court of competent jurisdiction;

247 (35) To enter into contracts;

248 (36) To assess fines for violations of this chapter or board rules; and

249 (37) To set all reasonable fees by adoption of a schedule of fees approved by the board.

250 The board shall set such fees sufficient to cover costs of operation.

251 (b) Proceedings by the board in the exercise of its authority to cancel, suspend, or revoke  
 252 any license issued under the terms of this chapter shall be conducted in accordance with  
 253 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In all such proceedings,  
 254 the board shall have authority to compel the attendance of witnesses and the production of  
 255 any book, writing, or document upon the issuance of a subpoena therefor signed by the  
 256 secretary of the board. In any hearing in which the fitness of a licensee or applicant to  
 257 practice pharmacy or another business or profession licensed by the board under this  
 258 chapter is in question, the board may exclude all persons from its deliberation of the  
 259 appropriate action to be taken and may, when it deems it necessary, speak to a licensee or  
 260 applicant and his or her legal counsel in private."

261 **SECTION 1-10.**

262 Said chapter is further amended by adding new Code sections to read as follows:

263 "26-4-28.1.

264 (a) The executive director:

265 (1) Shall be a full-time employee of the board and shall serve as the chief executive  
 266 officer and secretary of the board. Any person, in order to qualify for appointment as the  
 267 executive director, shall be of good moral character and shall possess such qualifications  
 268 as the board may require. The executive director shall have, with respect to the board,  
 269 the same powers, duties, and functions granted to the division director with respect to  
 270 professional licensing boards under Chapter 1 of Title 43 but shall not be subject to any  
 271 approval or other powers exercised by the Secretary of State;



272 (2) With the approval of the board, may employ or contract with and fix the  
 273 compensation of administrative assistants, secretaries, and any other such staff as deemed  
 274 necessary to assist in the duties of the board. The director of the Georgia Drugs and  
 275 Narcotics Agency shall serve as the assistant executive director, who shall act on behalf  
 276 of the executive director in his or her absence. The executive director and other board  
 277 staff shall be allowed reimbursement for travel and other expenses necessarily incurred  
 278 in the performance of their duties in the same manner as other state officers and  
 279 employees, and shall receive payment of the same in the manner provided for the board;

280 (3) Shall take an oath to discharge faithfully the duties of the office; and

281 (4) Shall be charged with the duties and powers as prescribed by the board.

282 (b) The executive director shall prepare and maintain a public roster containing the names  
 283 and business addresses of all current licensees, registration holders, and permit holders for  
 284 each of the various registrants regulated by the board. A copy of the roster shall be  
 285 available to any person upon request at a fee prescribed by the board sufficient to cover the  
 286 cost of printing and distribution. The following shall be treated as confidential, not subject  
 287 to Article 4 of Chapter 18 of Title 50, relating to open records, and shall not be disclosed  
 288 without the approval of the board:

289 (1) Applications and other personal information submitted by applicants, except to the  
 290 applicant, the staff, and the board;

291 (2) Information, favorable or unfavorable, submitted by a reference source concerning  
 292 an applicant, except to the staff and the board;

293 (3) Examination questions and other examination materials, except to the staff and the  
 294 board; and

295 (4) The deliberations of the board with respect to an application, an examination, a  
 296 complaint, an investigation, or a disciplinary proceeding, except as may be contained in  
 297 official board minutes; provided, however, that such deliberations may be released only  
 298 to another state or federal enforcement agency or lawful licensing authority. Releasing  
 299 the documents pursuant to this paragraph shall not subject any otherwise privileged  
 300 documents to the provisions of Code Section 50-18-70.

301 26-4-28.2.

302 Any licensee, registration holder, or permit holder who is convicted under the laws of this  
 303 state, the United States, or any other state, territory, or country of a felony shall be required  
 304 to notify the board of the conviction within ten days of the conviction. The failure to notify  
 305 the board of a conviction shall be considered grounds for revocation of his or her license,  
 306 registration, permit, or other authorization to engage in the practice of pharmacy or another  
 307 profession regulated under this chapter."

308 **SECTION 1-11.**

309 Said chapter is further amended by revising Code Section 26-4-29, relating to the Georgia  
 310 Drugs and Narcotics Agency, continuance, appointment, requirements, and duties of director,  
 311 power to make arrests, report of violations of drug laws, and dangerous drug list, as follows:  
 312 "26-4-29.

313 (a) The agency created in 1908 as the Office of the Chief Drug Inspector and known as the  
 314 Georgia Drugs and Narcotics Agency since 1976 is continued in existence as the Georgia  
 315 Drugs and Narcotics Agency. This agency shall be a budget unit as defined under Code  
 316 Section 45-12-71; provided, however, that the agency shall be assigned for administrative  
 317 purposes only, as defined in Code Section 50-4-3, to the ~~office of the Secretary of State~~  
 318 Department of Community Health, except that such department shall prepare and submit  
 319 the budget for the Georgia Drugs and Narcotics Agency. The Georgia Drugs and Narcotics  
 320 Agency is authorized by this Code section to enforce the drug laws of this state. The board  
 321 shall appoint a director who shall be charged with supervision and control of such agency.  
 322 The Georgia Drugs and Narcotics Agency agency shall employ the number of personnel  
 323 deemed necessary to properly protect the health, safety, and welfare of the citizens of this  
 324 state. Such personnel shall be pharmacists registered in this state when employed as either  
 325 special agents or the deputy director.

326 (b) The director shall hold office at the pleasure of the board, and should any vacancy  
 327 occur in ~~said~~ such office for any cause whatsoever, ~~said~~ the board shall appoint a successor  
 328 at a regular or called meeting. The director shall be a pharmacist registered in this state.  
 329 The director shall serve as the assistant executive director for the board and act on behalf  
 330 of the executive director during his or her absence. The salary of the director shall be fixed  
 331 by the board. The whole time of the director shall be at the disposal of the board. The  
 332 director, or Georgia Drugs and Narcotics Agency agency personnel acting on behalf of the  
 333 director, shall have the duty and the power to:

- 334 (1) Visit and inspect factories, warehouses, wholesaling establishments, retailing  
 335 establishments, chemical laboratories, and such other establishments in which any drugs,  
 336 devices, cosmetics, and such articles known as family remedies, grocer's drugs, and toilet  
 337 articles are manufactured, processed, packaged, sold at wholesale, sold at retail, or  
 338 otherwise held for introduction into commerce;
- 339 (2) Enter and inspect any vehicle used to transport or hold any drugs, devices, cosmetics,  
 340 or any of the articles listed in paragraph (1) of this subsection;
- 341 (3) Investigate alleged violations of laws and regulations regarding drugs, devices,  
 342 cosmetics, or any of the articles listed in paragraph (1) of this subsection;

343 (4) Take up samples of the articles listed in paragraph (1) of this subsection from any of  
 344 ~~the said~~ such establishments for examination and analysis by the state chemist, or under  
 345 such person's direction and supervision, as provided by Code Section 26-4-131;

346 (5) Seize and take possession of all articles which are declared to be contraband under  
 347 Chapter 13 of Title 16 and Chapter 3 of this title and this chapter and deliver such articles  
 348 to the agency;

349 (6) Compel the attendance of witnesses and the production of evidence on behalf of the  
 350 board via a subpoena issued by the director, when there is reason to believe any violations  
 351 of laws or regulations concerning drugs, devices, cosmetics, or any of the articles listed  
 352 in paragraph (1) of this subsection have occurred; and

353 (7) Perform such other duties as may be directed by the board.

354 (c)(1) The director, deputy director, and special agents of the Georgia Drugs and  
 355 Narcotics Agency shall have the authority and power that sheriffs possess to make arrests  
 356 of any persons violating or charged with violating Chapter 13 of Title 16 and Chapter 3  
 357 of this title and this chapter. The deputy director and special agents shall be required to  
 358 be P.O.S.T. certified peace officers under Chapter 8 of Title 35, the 'Georgia Peace  
 359 Officer Standards and Training Act.'

360 (2) In case of such arrest, the director, deputy director, or any of the special agents shall  
 361 immediately deliver the person so arrested to the custody of the sheriff of the county  
 362 wherein the offense is alleged to have been committed. The duty of the sheriff in regard  
 363 to the person delivered to the sheriff by any such person arrested under power of this  
 364 Code section shall be the same as if the sheriff had made the original arrest.

365 ~~(c)(1)(d)~~ (d) When the deputy director or a special agent employed by the Georgia Drugs and  
 366 Narcotics Agency leaves the agency under honorable conditions after accumulating 25  
 367 years of service in the agency, as a result of a disability arising in the line of duty, or  
 368 pursuant to approval by the State Board of Pharmacy, such director or agent shall be  
 369 entitled to retain his or her weapon and badge pursuant to approval by the State Board of  
 370 Pharmacy, and, upon leaving the agency, the director of the Georgia Drugs and Narcotics  
 371 Agency shall retain his or her weapon and badge pursuant to approval by the State Board  
 372 of Pharmacy.

373 (e) The Georgia Drugs and Narcotics Agency may employ personnel who are not special  
 374 agents to conduct and assist with inspections.

375 ~~(d)~~(f) Except as otherwise provided in this chapter, upon receiving a summary report from  
 376 agency personnel, the director shall report to the board what have been determined to be  
 377 violations of the drug laws and rules over which the board has authority. After such reports  
 378 have been made to the board, the board ~~can~~ may instruct the director to:

379 (1) Cite any such person or establishment to appear before the cognizant member of the  
380 board for an investigative interview;

381 (2) Forward such reports to the Attorney General's office for action decided on by the  
382 board; or

383 (3) Take whatever other action the board deems necessary.

384 (g) The Georgia Drugs and Narcotics Agency may contract with and submit invoices for  
385 payment of services rendered to other professional licensing boards for the purposes of  
386 conducting investigations on their behalf and under the authority of such other professional  
387 licensing boards. Such investigations and subsequent reports and summaries shall be  
388 subject to the same confidentiality restrictions and disclosure as required for investigations  
389 and reports for the requesting professional licensing board.

390 ~~(e)~~(h) The Georgia Drugs and Narcotics Agency shall compile and submit to the General  
391 Assembly during each annual legislative session a list of known dangerous drugs as defined  
392 in subsection (a) of Code Section 16-13-71 and any other drugs or devices which the board  
393 has determined may be dangerous or detrimental to the public health and safety and should  
394 require a prescription, and the Georgia Drugs and Narcotics Agency shall assist the State  
395 Board of Pharmacy during each annual legislative session by compiling and submitting a  
396 list of substances to add to or reschedule substances enumerated in the schedules in Code  
397 Sections 16-13-25 through 16-13-29 by using the guidelines set forth in Code Section  
398 16-13-22.

399 ~~(f)~~(i) The State Board of Pharmacy is authorized and directed to publish in print or  
400 electronically and distribute the 'Dangerous Drug List' as prepared by the Georgia Drugs  
401 and Narcotics Agency and the 'Georgia Controlled Substances Act' as enacted by law.

402 ~~(2)~~(j) The Georgia State Board of Pharmacy shall provide for a fee as deemed reasonable,  
403 or at no cost, such number of copies of the 'Dangerous Drug List' and 'Georgia Controlled  
404 Substances Act' to law enforcement officials, school officials, parents, and other interested  
405 citizens as are required."

406 **SECTION 1-12.**

407 Said chapter is further amended by revising Code Section 26-4-43, relating to temporary  
408 licenses, as follows:

409 "26-4-43.

410 A temporary license may be issued by the ~~division director~~ executive director upon the  
411 approval of the president of the board if an applicant produces satisfactory evidence of  
412 fulfilling the requirements for licensure under this article, except the examination  
413 requirement, and evidence of an emergency situation justifying such temporary license.

414 All temporary licenses shall expire at the end of the month during which the first board

415 meeting is conducted following the issuance of such license and may not be reissued or  
 416 renewed."

417 **SECTION 1-13.**

418 Said chapter is further amended in Code Section 26-4-44, relating to renewal of licenses, by  
 419 revising subsection (a) as follows:

420 "(a) Each pharmacist shall apply for renewal of his or her license biennially pursuant to the  
 421 rules and regulations promulgated by the board. A pharmacist who desires to continue in  
 422 the practice of pharmacy in this state shall file with the board an application in such form  
 423 and containing such data as the board may require for renewal of the license. Notice of any  
 424 change of employment or change of business address shall be filed with the ~~division~~  
 425 ~~director~~ executive director within ten days after such change. If the board finds that the  
 426 applicant has been licensed and that such license has not been revoked or placed under  
 427 suspension and that the applicant has paid the renewal fee, has continued his or her  
 428 pharmacy education in accordance with Code Section 26-4-45 and the rules and regulations  
 429 of the board, and is entitled to continue in the practice of pharmacy, then the board shall  
 430 issue a license to the applicant."

431 **SECTION 1-14.**

432 Said chapter is further amended by revising Code Section 26-4-45, relating to continuing  
 433 professional pharmaceutical education requirements, as follows:

434 "26-4-45.

435 The board shall establish a program of continuing professional pharmaceutical education  
 436 for the renewal of pharmacist licenses. Notwithstanding any other provision of this  
 437 chapter, no pharmacist license shall be renewed by the board or the ~~division~~ ~~director~~  
 438 executive director until the pharmacist submits to the board satisfactory proof of his or her  
 439 participation, during the biennium preceding his or her application for renewal, in a  
 440 minimum of 30 hours of approved programs of continuing professional pharmacy  
 441 education as defined in this Code section. Continuing professional pharmacy education  
 442 shall consist of educational programs providing training pertinent to the practice of  
 443 pharmacy and approved by the board under this Code section. The board shall approve  
 444 educational programs for persons practicing pharmacy in this state on a reasonable  
 445 nondiscriminatory fee basis and may contract with institutions of higher learning,  
 446 professional organizations, or qualified individuals for the providing of approved programs.  
 447 In addition to such programs, the board shall allow the continuing professional pharmacy  
 448 education requirement to be fulfilled by the completion of approved correspondence  
 449 courses which provide the required hours of approved programs of continuing professional

450 pharmaceutical education or to be fulfilled by a combination of approved correspondence  
 451 courses and other approved educational programs. The board may, consistent with the  
 452 requirements of this Code section, promulgate rules and regulations to implement and  
 453 administer this Code section, including the establishment of a committee to prescribe  
 454 standards, approve and contract for educational programs, and set the required minimum  
 455 number of hours per year."

456 **SECTION 1-15.**

457 Said chapter is further amended in Code Section 26-4-49, relating to drug researcher permits,  
 458 application for registration, fees, suspension or revocation, and penalty for violations, by  
 459 revising subsection (b) as follows:

460 "(b) The board may require that the application for registration as a drug researcher be  
 461 accompanied by a fee in an amount established under rules promulgated by the board, and  
 462 the board may establish conditions for exemptions from such fees. Such registration shall  
 463 not be transferable and shall expire on the expiration date established by the ~~division~~  
 464 ~~director~~ executive director and may be renewed pursuant to rules and regulations  
 465 promulgated by the board. If not renewed, the registration shall lapse and become null and  
 466 void."

467 **SECTION 1-16.**

468 Said chapter is further amended by revising Code Section 26-4-60, relating to grounds for  
 469 suspension, revocation, or refusal to grant licenses, as follows:

470 "26-4-60.

471 (a) The board of pharmacy may refuse to issue or renew, or may suspend, revoke, or  
 472 restrict the licenses of, or fine any person pursuant to the procedures set forth in this Code  
 473 section, upon one or more of the following grounds:

474 (1) ~~Unprofessional conduct as that term is defined by the rules of the board~~ Engaging in  
 475 any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice  
 476 harmful to the public, which conduct or practice materially affects the fitness of the  
 477 licensee or applicant to practice pharmacy or another business or profession licensed  
 478 under this chapter, or of a nature likely to jeopardize the interest of the public, which  
 479 conduct or practice need not have resulted in actual injury to any person or be directly  
 480 related to the practice of pharmacy or another licensed business or profession but shows  
 481 that the licensee or applicant has committed any act or omission which is indicative of  
 482 bad moral character or untrustworthiness; unprofessional conduct shall also include any  
 483 departure from, or the failure to conform to, the minimal reasonable standards of

- 484 acceptable and prevailing practices of the business or profession licensed under this  
 485 chapter;
- 486 (2) Incapacity that prevents a licensee from engaging in the practice of pharmacy or  
 487 another business or profession licensed under this chapter with reasonable skill,  
 488 competence, and safety to the public;
- 489 (3) ~~Being guilty of one or more of the following:~~
- 490 (A) ~~A~~ Convicted of a felony;
- 491 (B) ~~Any act~~ Convicted of any crime involving moral turpitude in this state or any other  
 492 state, territory, or country or in the courts of the United States; or
- 493 (C) ~~Violations~~ Convicted or guilty of violations of the pharmacy or drug laws of this  
 494 state, or rules and regulations pertaining thereto, or of laws, rules, and regulations of  
 495 any other state, or of the federal government;
- 496 (4) ~~Misrepresentation of a material fact by a licensee in securing the issuance or renewal~~  
 497 ~~of a license~~ Knowingly making misleading, deceptive, untrue, or fraudulent  
 498 representations in the practice of a business or profession licensed under this chapter or  
 499 on any document connected therewith; practicing fraud or deceit or intentionally making  
 500 any false statement in obtaining a license to practice the licensed business or profession;  
 501 or making a false statement or deceptive registration with the board;
- 502 (5) Engaging or aiding and abetting an individual to engage in the practice of pharmacy  
 503 without a license falsely using the title of 'pharmacist' or 'pharmacy intern,' or falsely  
 504 using the term 'pharmacy' in any manner;
- 505 (6) Failing to pay the costs assessed in a disciplinary hearing pursuant to subsection (c)  
 506 of Code Section 26-4-28;
- 507 (7)(A) Becoming unfit or incompetent to practice pharmacy by reason of:
- 508 (i) Intemperance in the use of alcoholic beverages, narcotics, or habit-forming drugs  
 509 or stimulants; or
- 510 (ii) Any abnormal physical or mental condition which threatens the safety of persons  
 511 to whom such person may compound or dispense prescriptions, drugs, or devices or  
 512 for whom he or she might manufacture, prepare, or package or supervise the  
 513 manufacturing, preparation, or packaging of prescriptions, drugs, or devices.
- 514 (B) In enforcing this paragraph, the board may, upon reasonable grounds, require a  
 515 licensee or applicant to submit to a mental or physical examination by licensed health  
 516 care providers designated by the board. The results of such examination shall be  
 517 admissible in any hearing before the board, notwithstanding any claim of privilege  
 518 under a contrary rule of law or statute, including, but not limited to, Code Section  
 519 ~~24-9-21~~ 24-5-501. Every person who ~~shall accept~~ accepts the privilege of practicing  
 520 pharmacy in this state or who ~~shall file~~ files an application for a license to practice

521 pharmacy in this state shall be deemed to have given his or her consent to submit to  
 522 such mental or physical examination and to have waived all objections to the  
 523 admissibility of the results in any hearing before the board, upon the grounds that the  
 524 same constitutes a privileged communication. If a licensee or applicant fails to submit  
 525 to such an examination when properly directed to do so by the board, unless such  
 526 failure was due to circumstances beyond his or her control, the board may enter a final  
 527 order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant  
 528 who is prohibited from practicing pharmacy under this paragraph shall at reasonable  
 529 intervals be afforded an opportunity to demonstrate to the board that he or she can  
 530 resume or begin the practice of pharmacy with reasonable skill and safety to patients.

531 (C) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain  
 532 any and all records relating to the mental or physical condition of a licensee or  
 533 applicant, including psychiatric records; and such records shall be admissible in any  
 534 hearing before the board, notwithstanding any claim of privilege under a contrary rule  
 535 of law or statute, including, but not limited to, Code Section ~~24-9-21~~ 24-5-501. Every  
 536 person who ~~shall accept~~ accepts the privilege of practicing pharmacy in this state or  
 537 who ~~shall file~~ files an application for a license to practice pharmacy in this state shall  
 538 be deemed to have given his or her consent to the board's obtaining any such records  
 539 and to have waived all objections to the admissibility of such records in any hearing  
 540 before the board, upon the grounds that the same constitutes a privileged  
 541 communication.

542 (D) If any licensee or applicant could, in the absence of this paragraph, invoke a  
 543 privilege to prevent the disclosure of the results of the examination provided for in  
 544 subparagraph (B) of this paragraph or the records relating to the mental or physical  
 545 condition of such licensee or applicant obtained pursuant to subparagraph (C) of this  
 546 paragraph, all such information shall be received by the board in camera and shall not  
 547 be disclosed to the public, nor shall any part of the record containing such information  
 548 be used against any licensee or applicant in any other type of proceeding;

549 (8) Being ~~adjudicated to be mentally ill or insane~~ adjudged mentally incompetent by a  
 550 court of competent jurisdiction within or outside this state; any such adjudication shall  
 551 automatically suspend the license of any such person and shall prevent the reissuance or  
 552 renewal of any license so suspended for as long as the adjudication of incompetence is  
 553 in effect;

554 (9) Violating any rules and regulations promulgated by the board;

555 (10) Promoting to the public in any manner a drug which may be dispensed only  
 556 pursuant to prescription;



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

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

563 (i) Such prescription drugs are prescribed for complex chronic, terminal, or rare  
564 conditions;

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

568 (iii) Due to the prescription drug's high monetary cost, short shelf life, special  
569 manufacturer specified packaging and shipping requirements or instructions which  
570 require temperature sensitive storage and handling, limited availability or distribution,  
571 or other factors, the drugs are not carried in the regular inventories of retail  
572 pharmacies such that the drugs could be immediately dispensed to multiple retail  
573 walk-in patients;

574 (iv) Such prescription drug has an annual retail value to the patient of more than  
575 \$10,000.00;

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

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

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

587 (B) An institution or to sell, distribute, or deliver prescription drugs, upon his or her  
588 request, to an enrollee in a health benefits plan of a group model health maintenance  
589 organization or its affiliates by a pharmacy which is operated by that same group model  
590 health maintenance organization and licensed under Code Section 26-4-110 or to a  
591 patient on behalf of a pharmacy. Any pharmacy using the mails or other common  
592 carriers to dispense prescriptions pursuant to this paragraph shall comply with the  
593 following conditions:

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

604 (ii) In accordance with clinical and professional standards, the State Board of  
 605 Pharmacy shall promulgate a list of medications which may not be delivered by the  
 606 mails or other common carriers. However, until such list is promulgated, the group  
 607 model health maintenance organization shall not deliver by use of the mails or other  
 608 common carriers Class II controlled substance medications, medications which  
 609 require refrigeration, chemotherapy medications deemed by the federal  
 610 Environmental Protection Agency as dangerous, medications in suppository form, and  
 611 other medications which, in the professional opinion of the dispensing pharmacist,  
 612 may be clinically compromised by distribution through the mail or other common  
 613 carriers;

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

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

622 For purposes of this subparagraph ~~(B) of this paragraph~~, the term 'group model health  
 623 maintenance organization' means a health maintenance organization that has an  
 624 exclusive contract with a medical group practice to provide or arrange for the provision  
 625 of substantially all physician services to enrollees in health benefits plans of the health  
 626 maintenance organization; or

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

631 (12) Unless otherwise authorized by law, dispensing or causing to be dispensed a  
 632 different drug or brand of drug in place of the drug or brand of drug ordered or prescribed  
 633 without the prior authorization of the practitioner ordering or prescribing the same;

634 (13) Violating or attempting to violate a statute, law, or any lawfully promulgated rule  
 635 or regulation of this state, any other state, the board, the United States, or any other lawful  
 636 authority without regard to whether the violation is criminally punishable, ~~which~~ when  
 637 such statute, law, rule, or regulation relates to or in part regulates the practice of  
 638 pharmacy or another business or profession licensed under this chapter, when the licensee  
 639 or applicant knows or should know that such action ~~is violative of~~ violates such statute,  
 640 law, or rule; or violating either a public or confidential lawful order of the board  
 641 previously entered by the board in a disciplinary hearing, consent decree, or license  
 642 reinstatement; ~~or~~

643 (14) Having his or her license to practice pharmacy or another business or profession  
 644 licensed under this chapter revoked, suspended, or annulled by any lawful licensing  
 645 authority of this or any other state, having disciplinary action taken against him or her by  
 646 any lawful licensing authority of this or any other state, or being denied a license or  
 647 renewal by any lawful licensing authority of this or any other state;:

648 (15) Failure to demonstrate the qualifications or standards for a license contained in this  
 649 Code section or under the laws, rules, or regulations under which licensure is sought or  
 650 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the  
 651 board that he or she meets all the requirements for the issuance of a license, and if the  
 652 board is not satisfied as to the applicant's qualifications, it may deny a license without a  
 653 prior hearing; provided, however, that the applicant shall be allowed to appear before the  
 654 board if he or she so desires; or

655 (16) Knowingly performing any act which in any way aids, assists, procures, advises, or  
 656 encourages any unlicensed person or any licensee whose license has been suspended or  
 657 revoked by the board to practice pharmacy or another business or profession licensed  
 658 under this chapter or to practice outside the scope of any disciplinary limitation placed  
 659 upon the licensee by the board.

660 (b) The board shall have the power to suspend or revoke the license of the pharmacist in  
 661 charge when a complete and accurate record of all controlled substances on hand, received,  
 662 manufactured, sold, dispensed, or otherwise disposed of has not been kept by the pharmacy  
 663 in conformance with the record-keeping and inventory requirements of federal law and the  
 664 rules of the board.

665 (c) Any person whose license to practice pharmacy in this state has been suspended,  
 666 revoked, or restricted pursuant to this chapter, whether voluntarily or by action of the  
 667 board, shall have the right, at reasonable intervals, to petition the board for reinstatement

668 of such license pursuant to rules and regulations promulgated by the board. Such petition  
669 shall be made in writing and in the form prescribed by the board. The board may, in its  
670 discretion, grant or deny such petition, or it may modify its original finding to reflect any  
671 circumstances which have changed sufficiently to warrant such modifications.

672 (d) Nothing in this Code section shall be construed as barring criminal prosecutions for  
673 violations of this chapter.

674 (e) All final decisions by the board shall be subject to judicial review pursuant to Chapter  
675 13 of Title 50, the 'Georgia Administrative Procedure Act.'

676 (f) Any individual or entity whose license to practice pharmacy is revoked, suspended, or  
677 not renewed shall return his or her license to the offices of the board within ten days after  
678 receipt of notice of such action.

679 (g) For purposes of this Code section, a conviction shall include a finding or verdict of  
680 guilty; or a plea of guilty, or a plea of nolo contendere, or no contest in a criminal  
681 proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not  
682 entered thereon.

683 (h) Nothing in this Code section shall be construed as barring or prohibiting pharmacists  
684 from providing or distributing health or drug product information or materials to patients  
685 which are intended to improve the health care of patients.

686 (i) The board shall have the power to suspend any license issued under Article 3 of this  
687 chapter when such holder is not in compliance with a court order for child support as  
688 provided in Code Section 19-6-28.1 or 19-11-9.3. The board shall also have the power to  
689 deny the application for issuance or renewal of a license under Article 3 of this chapter  
690 when such applicant is not in compliance with a court order for child support as provided  
691 in either of such Code sections. The hearings and appeals procedures provided for in such  
692 Code sections shall be the only such procedures required to suspend or deny any license  
693 issued under Article 3 of this chapter.

694 (j) Nothing in this chapter shall prohibit any person from assisting any duly licensed  
695 pharmacist or practitioner in the measuring of quantities of medication and the typing of  
696 labels therefor, but excluding the dispensing, compounding, or mixing of drugs, provided  
697 that such duly licensed pharmacist or practitioner shall be physically present in the  
698 dispensing area and actually observing the actions of such person in doing such measuring  
699 and typing, and provided, further, that no prescription shall be given to the person  
700 requesting the same unless the contents and the label thereof shall have been verified by  
701 a licensed pharmacist or practitioner.

702 (k) The board shall have the power to suspend any license issued under Article 3 of this  
703 chapter when such holder is a borrower in default who is not in satisfactory repayment  
704 status as provided in Code Section 20-3-295. The board shall also have the power to deny

705 the application for issuance or renewal of a license under Article 3 of this chapter when  
706 such applicant is a borrower in default who is not in satisfactory repayment status as  
707 provided in Code Section 20-3-295. The hearings and appeals procedures provided for in  
708 Code Section 20-3-295 shall be the only such procedures required to suspend or deny any  
709 license issued under Article 3 of this chapter.

710 (l)(1) The executive director is vested with the power and authority to make or cause to  
711 be made through employees or agents of the board or the Georgia Drugs and Narcotics  
712 Agency such investigations as he or she or the board may deem necessary or proper for  
713 the enforcement of the provisions of this Code section and the laws relating to the  
714 practice of pharmacy and other businesses and professions licensed by the board. Any  
715 person properly conducting an investigation on behalf of the board shall have access to  
716 and may examine any writing, document, or other material relating to the fitness of any  
717 licensee or applicant. The executive director or his or her appointed representative may  
718 issue subpoenas to compel access to any writing, document, or other material upon a  
719 determination that reasonable grounds exist for the belief that a violation of this Code  
720 section or any other law relating to the practice of pharmacy or other business or  
721 profession subject to regulation or licensing by the board may have taken place.

722 (2) If a licensee is the subject of a board inquiry, all records relating to any person who  
723 receives services rendered by that licensee in his or her capacity as licensee shall be  
724 admissible at any hearing held to determine whether a violation of this chapter has taken  
725 place, regardless of any statutory privilege; provided, however, that any documentary  
726 evidence relating to a person who received those services shall be reviewed in camera and  
727 shall not be disclosed to the public.

728 (m) A person, firm, corporation, association, authority, or other entity shall be immune  
729 from civil and criminal liability for reporting or investigating the acts or omissions of a  
730 licensee or applicant which violate the provisions of subsection (a) of this Code section or  
731 any other provision of law relating to a licensee's or applicant's fitness to practice a  
732 business or profession licensed under this chapter, or for initiating or conducting  
733 proceedings against such licensee or applicant, if such report is made or action is taken in  
734 good faith, without fraud or malice. Any person who testifies or who makes a  
735 recommendation to the board in the nature of peer review, in good faith, without fraud or  
736 malice, before the board in any proceeding involving the provisions of subsection (a) of  
737 this Code section or any other law relating to a licensee's or applicant's fitness to practice  
738 the business or profession licensed by the board shall be immune from civil and criminal  
739 liability for so testifying.

740 (n) Neither the issuance of a private reprimand nor the denial of a license by reciprocity  
741 nor the denial of a request for reinstatement of a revoked license nor the refusal to issue a

742 previously denied license shall be considered to be a contested case within the meaning of  
 743 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; notice and hearing  
 744 within the meaning of such chapter shall not be required, but the applicant or licensee shall  
 745 be allowed to appear before the board if he or she so requests. The board may resolve a  
 746 pending action by the issuance of a letter of concern. Such letter shall not be considered  
 747 a disciplinary action or a contested case under Chapter 13 of Title 50 and shall not be  
 748 disclosed to any person except the licensee or applicant.

749 (o) If any licensee or applicant after reasonable notice fails to appear at any hearing of the  
 750 board for that licensee or applicant, the board may proceed to hear the evidence against  
 751 such licensee or applicant and take action as if such licensee or applicant had been present.  
 752 A notice of hearing, initial or recommended decision, or final decision of the board in a  
 753 disciplinary proceeding shall be served personally upon the licensee or applicant or served  
 754 by certified mail or statutory overnight delivery, return receipt requested, to the last known  
 755 address of record with the board. If such material is served by certified mail or statutory  
 756 overnight delivery and is returned marked 'unclaimed' or 'refused' or is otherwise  
 757 undeliverable and if the licensee or applicant cannot, after diligent effort, be located, the  
 758 executive director, or his or her designee, shall be deemed to be the agent for service for  
 759 such licensee or applicant for purposes of this Code section, and service upon the executive  
 760 director, or his or her designee, shall be deemed to be service upon the licensee or  
 761 applicant.

762 (p) The voluntary surrender of a license or the failure to renew a license by the end of an  
 763 established penalty period shall have the same effect as a revocation of such license,  
 764 subject to reinstatement in the discretion of the board. The board may restore and reissue  
 765 a license to practice under this chapter and, as a condition thereof, may impose any  
 766 disciplinary sanction provided by this Code section or the provisions of this chapter.

767 (q) This Code section shall apply equally to all licensees or applicants whether individuals,  
 768 partners, or members of any other incorporated or unincorporated associations,  
 769 corporations, limited liability companies, or other associations of any kind whatsoever."

770 **SECTION 1-17.**

771 Said chapter is further amended by revising subsection (a) of Code Section 26-4-115, relating  
 772 to wholesale drug distributors, registration, fees, reports of excessive purchases, and penalty  
 773 for violations, as follows:

774 "(a) All persons, firms, or corporations, whether located in this state or in any other state,  
 775 engaged in the business of selling or distributing drugs at wholesale in this state, in the  
 776 business of supplying drugs to manufacturers, compounders, and processors in this state,  
 777 or in the business of a reverse drug distributor shall biennially register with the board as a

778 drug wholesaler, distributor, reverse drug distributor, or supplier. The application for  
 779 registration shall be made on a form to be prescribed and furnished by ~~said the~~ board and  
 780 shall show each place of business of the applicant for registration, together with such other  
 781 information as may be required by the board. The application shall be accompanied by a  
 782 fee in an amount established by the board for each place of business registered by the  
 783 applicant. Such registration shall not be transferable and shall expire on the expiration date  
 784 established by the ~~division director~~ executive director. Registration shall be renewed  
 785 pursuant to the rules and regulations of the board, and a renewal fee prescribed by the  
 786 board shall be required. If not renewed, the registration shall lapse and become null and  
 787 void. Registrants shall be subject to such rules and regulations with respect to sanitation  
 788 or equipment as the board may, from time to time, adopt for the protection of the public  
 789 health and safety. Such registration may be suspended or revoked or the registrant may be  
 790 reprimanded, fined, or placed on probation by the board if the registrant fails to comply  
 791 with any law of this state, the United States, or any other state having to do with the control  
 792 of pharmacists, pharmacies, wholesale distribution, or reverse drug distribution of  
 793 controlled substances or dangerous drugs as defined in Chapter 13 of Title 16; if the  
 794 registrant fails to comply with any rule or regulation promulgated by the board; or if any  
 795 registration or license issued to the registrant under the federal act is suspended or  
 796 revoked."

## 797 PART II

### 798 SECTION 2-1.

799 Chapter 11 of Title 43 of the Official Code of Georgia Annotated, relating to dentists, dental  
 800 hygienists, and dental assistants, is amended in Code Section 43-11-1, relating to definitions,  
 801 so as to add a new paragraph to read as follows:

802 "(6.1) 'Executive director' means the executive director appointed by the board pursuant  
 803 to Code Section 43-11-2.1."

### 804 SECTION 2-2.

805 Said chapter is further amended by adding a new Code section to read as follows:

806 "43-11-2.1

807 (a) On and after July 1, 2013, the board shall not be under the jurisdiction of the Secretary  
 808 of State but shall be an independent state agency attached to the Department of Community  
 809 Health for administrative purposes only, as provided in Code Section 50-4-3, except that  
 810 such department shall prepare and submit the budget for the board. The board shall have  
 811 with respect to all matters within the jurisdiction of the board as provided under this  
 812 chapter the powers, duties, and functions of professional licensing boards as provided in

813 Chapter 1 of this title.

814 (b) The board shall appoint and fix the compensation of an executive director of such  
815 board who shall serve at the pleasure of the board. Any reference in this chapter to the  
816 executive director shall mean the executive director appointed pursuant to this subsection.  
817 The executive director shall have those duties and powers prescribed by the board and any  
818 power, duty, and functions granted to the division director with respect to professional  
819 licensing boards under Chapter 1 of Title 43 but shall not be subject to any approval or  
820 other powers exercised by the Secretary of State.

821 (c) Meetings and hearings of the board shall be held at the site of the office of the board  
822 or at such other site as may be specified by the president of the board. A majority of the  
823 members of the board shall constitute a quorum for the transaction of business of the board.

824 (d) The board, through the executive director, may hire investigators for the purpose of  
825 conducting investigations. Any person so employed shall be considered to be a peace  
826 officer and shall have all powers, duties, and status of a peace officer of this state;  
827 provided, however, that such investigators shall only be authorized, upon written approval  
828 of the executive director, notwithstanding Code Sections 16-11-126 and 16-11-129, to  
829 carry firearms in the performance of their duties and exercise the powers of arrest in the  
830 performance of their duties.

831 (e) The venue of any action involving members of the board shall be the county in which  
832 is found the primary office of the governmental entity of which the defendant is an officer.  
833 The executive director of the board shall not be considered a member of the board in  
834 determining the venue of any such action and no court shall have jurisdiction of any such  
835 action solely by virtue of the executive director residing or maintaining a residence within  
836 its jurisdiction.

837 (f) The board shall give point credit to veterans in the same manner as required under Code  
838 Sections 43-1-9 through 43-1-13.

839 (g) Initial judicial review of a final decision of the board shall be held solely in the  
840 superior court of the county of domicile of the board.

841 (h) The executive director shall make a report no later than December 31 of each year  
842 covering the activities of the board for that calendar year, which shall be made available  
843 to any member of the General Assembly upon request.

844 (i) The executive director shall prepare and maintain a roster containing the names and  
845 addresses of all current dental and dental hygiene licensees. A copy of this roster shall be  
846 available to any person upon request at a fee prescribed by the executive director sufficient  
847 to cover the cost of printing and distribution.



848 (j) The executive director, with the approval of the board, notwithstanding any other  
 849 provisions of law to the contrary, shall enter into such contracts as are deemed necessary  
 850 to carry out this chapter to provide for all services required of the board.

851 (k) It shall be the duty of the executive director to keep minutes and a record of all acts of  
 852 the board and such other books and records as may be necessary to show the acts of the  
 853 board."

854 **SECTION 2-3.**

855 Said chapter is further amended in Code Section 43-11-5, relating to the duty of members to  
 856 notify the division director of address, as follows:

857 "43-11-5.

858 Each member of the board, upon the receipt of his or her commission, shall file with the  
 859 ~~division director~~ executive director his or her post office address and thereafter a notice of  
 860 any change ~~therein~~ thereof. Any notice mailed to such address by the ~~division director~~  
 861 executive director shall be deemed to comply with the requirements of this chapter as  
 862 notice to him or her."

863 **SECTION 2-4.**

864 Said chapter is further amended in Code Section 43-11-6, relating to reimbursement of  
 865 members, as follows:

866 "43-11-6.

867 Each member of the board shall ~~be reimbursed as provided for in subsection (f) of Code~~  
 868 ~~Section 43-1-2~~ receive the expense allowance as provided by subsection (b) of Code  
 869 Section 45-7-21 and the same mileage allowance for the use of a personal car as that  
 870 received by other state officials and employees or a travel allowance of actual  
 871 transportation cost if traveling by public carrier within this state. Each board member shall  
 872 also be reimbursed for any conference or meeting registration fee incurred in the  
 873 performance of his or her duties as a board member. For each day's service outside of the  
 874 state as a board member, such member shall receive actual expenses as an expense  
 875 allowance as well as the mileage allowance for the use of a personal car equal to that  
 876 received by other state officials and employees or a travel allowance of actual  
 877 transportation cost if traveling by public carrier or by rental motor vehicle. Expense  
 878 vouchers submitted by board members are subject to approval of the president and  
 879 executive director. Out-of-state travel by board members must be approved by the board  
 880 president and the executive director."

881 **SECTION 2-5.**

882 Said chapter is further amended in Code Section 43-11-7, relating to powers and duties of  
883 the board, as follows:

884 "43-11-7.

885 The board shall perform such duties and possess and exercise such powers, relative to the  
886 protection of the public health and the control and regulation of the practice of dentistry as  
887 this chapter prescribes and confers upon it. The board shall also have ~~the power and~~  
888 ~~authority to promulgate~~ the following powers and duties:

889 (1) To adopt, amend, and repeal rules and regulations to carry out the performance of its  
890 duties as set forth in this chapter;

891 (2) To examine all applicants for licenses to practice dentistry who are entitled under this  
892 chapter to be so examined and issue licenses to practice dentistry according to this  
893 chapter;

894 (3) To make all necessary bylaws and rules for the governance of the board and the  
895 performance of its duties;

896 (4) To have and use a common seal bearing the name 'Georgia Board of Dentistry' by  
897 which the board shall authenticate the acts of the board;

898 (5) To establish rules regarding licensure including, but not limited to, inactive status as  
899 the board deems appropriate;

900 (6) To issue, deny, or reinstate the licenses or permits of duly qualified applicants for  
901 licensure or permits under this chapter;

902 (7) To revoke, suspend, issue terms and conditions, place on probation, limit practice,  
903 fine, require additional dental training, require dental community service, or otherwise  
904 sanction licensees, permit holders or others over whom the board has jurisdiction under  
905 this chapter;

906 (8) To employ an executive director and such other staff as the board may deem  
907 necessary and appropriate to implement this chapter and provide support and who shall  
908 be subject to the same confidentiality requirements of the board;

909 (9) To keep a docket of public proceedings, actions, and filings;

910 (10) To set its office hours;

911 (11) To set all reasonable fees by adoption of a schedule of fees approved by the board.  
912 The board shall set such fees sufficient to cover costs of operation;

913 (12) To adopt necessary rules concerning proceedings, hearings, review hearings,  
914 actions, filings, depositions, and motions related to uncontested cases;

915 (13) To initiate investigations for purposes of discovering violations of this chapter;

916 (14) To administer oaths, subpoena witnesses and documentary evidence including  
917 dental records, and take testimony in all matters relating to its duties;

- 918 (15) To conduct hearings, reviews, and other proceedings according to Chapter 13 of  
 919 Title 50;  
 920 (16) To conduct investigative interviews;  
 921 (17) To issue cease and desist orders to stop the unlicensed practice of dentistry or other  
 922 professions licensed or permitted under this chapter and impose penalties for such  
 923 violations;  
 924 (18) To request injunctive relief or refer cases for criminal prosecution to appropriate  
 925 enforcement authorities;  
 926 (19) To release investigative or applicant files to another enforcement agency or lawful  
 927 licensing authority in another state;  
 928 (20) To sue and be sued in a court of competent jurisdiction;  
 929 (21) To enter into contracts; and  
 930 (22) To accept donations, contributions, grants, or bequests of funds or property."

931 **SECTION 2-6.**

932 Said chapter is further amended in Code Section 43-11-8, relating to the board examining  
 933 applicants, issuing licenses, and making bylaws and rules, as follows:

934 "43-11-8.

935 ~~(a) The board shall exercise the following powers and duties:~~

936 ~~(1) Examine all applicants for licenses to practice dentistry who are entitled under this~~  
 937 ~~chapter to be so examined and issue licenses to practice dentistry according to this~~  
 938 ~~chapter;~~

939 ~~(2) Make all necessary bylaws and rules for the governance of the board and the~~  
 940 ~~performance of its duties; and~~

941 ~~(3) Have and use a common seal bearing the name 'Georgia Board of Dentistry.'~~

942 ~~(b) It shall be the duty of the division director to keep minutes and a record of all the acts~~  
 943 ~~of the board and such other books and records as may be necessary to show the acts of the~~  
 944 ~~board. Reserved."~~

945 **SECTION 2-7.**

946 Said chapter is further amended in Code Section 43-11-11, relating to a census of practicing  
 947 dentists and dental hygienists and publication of names, as follows:

948 "43-11-11.

949 ~~The board may, from time to time, through its members or other suitable persons, take a~~  
 950 ~~census of all practicing dentists and dental hygienists of any locality, city, or county in the~~  
 951 ~~state when it may consider it necessary for the purpose of carrying out this chapter; the~~  
 952 ~~board may at any time cause the names of all licensed dentists and dental hygienists in any~~

953 ~~locality, city, or county to be posted or published; and the board is authorized to pay for~~  
 954 ~~taking such census and posting or publishing such names.~~

955 (a) The board shall gather census data on each dentist and dental hygienist in this state.  
 956 Such census data shall be obtained from each dentist and dental hygienist as part of the  
 957 license renewal process on a biennial basis. Renewal of a license shall be contingent on  
 958 completion and provision of a census questionnaire to the board. Failure by a licensee to  
 959 submit the census questionnaire shall authorize the board to refuse to grant a license  
 960 renewal, revoke a license, or discipline a licensee under Code Section 43-11-47.

961 (b) The board shall by regulation establish a standard form for the collection of census  
 962 data. Such form and the census data obtained shall be available for dissemination to any  
 963 member of the public.

964 (c) The standard form shall at a minimum request the following information from dentists  
 965 renewing their license:

966 (1) The dentist's age and gender;

967 (2) Each location identified by ZIP Code in which the dentist operates a private dental  
 968 practice or practices dentistry;

969 (3) Whether the dentist is a specialist and the specialty in which the dentist is engaged;  
 970 and

971 (4) Whether the dentist practices dentistry full time, which shall mean 30 or more hours  
 972 per week, or part time, which shall mean less than 30 hours per week.

973 (d) The standard form shall at a minimum request the following information from dental  
 974 hygienists renewing their license:

975 (1) The dental hygienist's age and gender;

976 (2) Each location identified by ZIP Code in which the dental hygienist provides  
 977 treatment services; and

978 (3) Whether the dental hygienist provides treatment full time, which shall mean 30 or  
 979 more hours per week, or part time, which shall mean less than 30 hours per week."

980 **SECTION 2-8.**

981 Said chapter is further amended in Code Section 43-11-12, relating to public inspection of  
 982 board records, as follows:

983 "43-11-12.

984 It shall be the duty of the ~~division director~~ executive director to keep at his or her office the  
 985 minutes of the board, together with all the books and records of the board, which ~~books and~~  
 986 ~~records shall, except as provided in subsection (k) of Code Section 43-1-2, be public~~  
 987 records open to inspection by the public except on Sundays and legal holidays. The  
 988 following shall be treated as confidential and need not be disclosed without prior approval

989 of the board:

990 (1) Applications and other personal information submitted by applicants, except to the  
 991 applicant, staff, and the board;

992 (2) Information, favorable or unfavorable, submitted by a reference source concerning  
 993 an applicant, except to the staff and board;

994 (3) Examination questions and other examination materials, except to the staff and the  
 995 board; and

996 (4) The deliberations of the board with respect to an application, an examination, a  
 997 complaint, an investigation, or a disciplinary proceeding, except as may be contained in  
 998 the official board minutes."

999 **SECTION 2-9.**

1000 Said chapter is further amended in Code Section 43-11-13, relating to service of orders and  
 1001 subpoenas of the board, as follows:

1002 "43-11-13.

1003 (a) It shall be the duty of the several sheriffs, their deputies, and the constables to serve  
 1004 any and all lawful orders and subpoenas of the board. The board may also appoint any  
 1005 other person to serve any decision, order, or subpoena of the board, ~~which~~ and it shall be  
 1006 that person's duty ~~it shall be~~ to execute the same.

1007 (b) All orders and processes of the board shall be signed and attested by the ~~division~~  
 1008 ~~director~~ executive director or the president of the board in the name of the board with its  
 1009 seal attached; and any notice or legal process necessary to be served upon the board may  
 1010 be served upon the ~~division director~~ executive director."

1011 **SECTION 2-10.**

1012 Said chapter is further amended in Code Section 43-11-40, relating to qualification of  
 1013 applicants for licenses to practice dentistry and criminal background check, as follows:

1014 "43-11-40.

1015 (a)(1) Applicants for a license to practice dentistry must have received a doctor of dental  
 1016 surgery (D.D.S.) degree or a doctor of dental medicine (D.M.D.) degree from a dental  
 1017 school approved by the board and accredited by the Commission on Dental Accreditation  
 1018 of the American Dental Association (ADA) or its successor agency, if any. Those  
 1019 applicants who have received a doctoral degree in dentistry from a dental school not so  
 1020 accredited must comply with the following requirements in order to submit an application  
 1021 for licensure:

1022 (A) Successful completion at an accredited dental school approved by the board of the  
 1023 last two years of a pre-doctoral program and receipt of the doctor of dental surgery

- 1024 (D.D.S.) or doctor of dental medicine (D.M.D.) degree; and
- 1025 (B) Certification by the dean of the accredited dental school where such supplementary
- 1026 program was taken that the candidate has achieved the same level of didactic and
- 1027 clinical competency as expected of a graduate of the school receiving a doctor of dental
- 1028 surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree.
- 1029 (2) The board may establish by rule or regulation the requirements for documentation of
- 1030 an applicant's educational and personal qualifications for licensure.
- 1031 (3) In order to be granted a license under this Code section, all applicants must pass a
- 1032 clinical examination approved by the board and a jurisprudence examination on the laws
- 1033 of this state and rules and regulations as they relate to the practice of dentistry as
- 1034 established or approved by the board, which shall be administered in the English
- 1035 language.
- 1036 (b) All applications to the board for a license shall be made through the ~~division director~~
- 1037 executive director, who shall then submit all such applications to the board.
- 1038 (c) Subject to the provisions of subsection (a) of Code Section 43-11-47, applicants who
- 1039 have met the requirements of this Code section shall be granted licenses to practice
- 1040 dentistry.
- 1041 (d) Application for a license under this Code section shall constitute consent for
- 1042 performance of a criminal background check. Each applicant who submits an application
- 1043 to the board for licensure agrees to provide the board with any and all information
- 1044 necessary to run a criminal background check, including but not limited to classifiable sets
- 1045 of fingerprints. The applicant shall be responsible for all fees associated with the
- 1046 performance of a background check."

## 1047 SECTION 2-11.

1048 Said chapter is further amended in Code Section 43-11-41, relating to applications for

1049 provisional licenses to practice dentistry by credentials, as follows:

1050 "43-11-41.

- 1051 (a)(1) Applicants for a provisional license to practice dentistry by credentials must have
- 1052 received a doctor of dental surgery (D.D.S.) degree or a doctor of dental medicine
- 1053 (D.M.D.) degree from a dental school approved by the board and accredited by the
- 1054 Commission on Dental Accreditation of the American Dental Association (ADA) or its
- 1055 successor agency, if any. Applicants must have been in full-time clinical practice, as
- 1056 defined by rules and regulations established by the board; full-time faculty, as defined by
- 1057 board rule and regulation; or a combination of both for the five years immediately
- 1058 preceding the date of the application and must hold an active dental license in good
- 1059 standing from another state. Those applicants who have received a doctoral degree in

1060 dentistry from a dental school not so accredited must comply with the following  
 1061 requirements in order to submit an application for provisional licensure by credentials:  
 1062 (A) Successful completion at an accredited dental school approved by the board of the  
 1063 last two years of a pre-doctoral program ~~leading to~~ and receipt of the doctor of dental  
 1064 surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree; and  
 1065 (B) Certification by the dean of the accredited dental school where such supplementary  
 1066 program was taken that the candidate has achieved the same level of didactic and  
 1067 clinical competency as expected of a graduate of the school.

1068 (2) The board may establish by rule or regulation the requirements for documentation of  
 1069 an applicant's educational and personal qualifications for provisional licensure.

1070 (3) In order to be granted a provisional license under this Code section, all applicants  
 1071 must have passed a clinical examination given by a state or regional testing agency  
 1072 approved by the board and a jurisprudence examination on the laws of this state and rules  
 1073 and regulations as they relate to the practice of dentistry as established or approved by  
 1074 the board, which shall be administered in the English language.

1075 (4) The board may establish additional licensure requirements by rule and regulation.

1076 (b) All applications to the board for a provisional license by credentials shall be made  
 1077 through the ~~division director~~ executive director, who shall then submit all such applications  
 1078 to the board. The fee for provisional licensure by credentials shall be paid to the ~~division~~  
 1079 ~~director~~ executive director and shall be in an amount established by the board.

1080 (c) Subject to the provisions of subsection (a) of Code Section 43-11-47, an applicant who  
 1081 has met the requirements of this Code section shall be granted a provisional license to  
 1082 practice dentistry, which shall be valid for two years from the date it is issued and may be  
 1083 renewed subject to the approval of the board.

1084 (d) Application for a provisional license under this Code section shall constitute consent  
 1085 for performance of a criminal background check. Each applicant who submits an  
 1086 application to the board for provisional licensure agrees to provide the board with any and  
 1087 all information necessary to run a criminal background check, including but not limited to  
 1088 classifiable sets of fingerprints. The applicant shall be responsible for all fees associated  
 1089 with the performance of a background check.

1090 (e) Upon receipt of license, the applicant by credentials must establish active practice, as  
 1091 defined by rules and regulations of the board, in this state within two years of receiving  
 1092 such license under this Code section or the license shall be automatically revoked."

1093 **SECTION 2-12.**

1094 Said chapter is further amended in Code Section 43-11-43, relating to fees, as follows:

1095 "43-11-43.

1096 Each person applying for examination for a license to practice dentistry shall, at the time  
 1097 of making his or her application, pay to the ~~division director~~ executive director a fee to be  
 1098 set by the board. Each person applying for the renewal of a license or authority to practice  
 1099 dentistry or for the establishment of a license or authority that has been lost shall, at the  
 1100 time of making his or her application, pay to the ~~division director~~ executive director a fee  
 1101 to be set by the board. Such fee shall cover the entire service for granting or issuing  
 1102 licenses to practice dentistry."

### 1103 SECTION 2-13.

1104 Said chapter is further amended in Code Section 43-11-46, relating to renewal of registration,  
 1105 by revising subsection (a) as follows:

1106 "(a) Every person licensed by the board to practice dentistry shall register biennially on the  
 1107 renewal date set by the ~~division director~~ board and shall pay to the ~~division director~~  
 1108 executive director a registration fee which shall be set by the board. The board shall  
 1109 provide for penalty fees for late registration."

### 1110 SECTION 2-14.

1111 Said chapter is further amended in Code Section 43-11-47, relating to the refusal to grant,  
 1112 or revocation of, licenses, by revising paragraph (3) of subsection (a) and subsections (h) and  
 1113 (k) as follows:

1114 "(3) Been convicted of any felony or of any crime involving moral turpitude in the courts  
 1115 of this state or any other state, territory, or country or in the courts of the United States;  
 1116 as used in this subsection, the term 'felony' shall include any offense which, if committed  
 1117 in this state, would be deemed a felony without regard to its designation elsewhere; and,  
 1118 as used in this subsection, the term 'conviction' shall include a finding or verdict of guilty  
 1119 or a plea of guilty, regardless of whether an appeal of the conviction has been sought.  
 1120 Any licensee who is convicted under the laws of this state, the United States, or any other  
 1121 state, territory, or country of a felony shall be required to notify the board of conviction  
 1122 within ten days of the conviction. The failure to notify the board of a conviction shall be  
 1123 considered grounds for revocation of his or her license;"

1124 "(h)(1) The ~~division director~~ executive director is vested with the power and authority to  
 1125 make, or cause to be made through employees or agents of the board, such investigations  
 1126 as he or she or the board or any district attorney may deem necessary or proper for the  
 1127 enforcement of the provisions of this chapter. Any person properly conducting an  
 1128 investigation on behalf of the board shall have access to and may examine any writing,  
 1129 document, or other material relating to the fitness of any licensee or applicant. The



1130 ~~division director~~ executive director, the president of the board, or his or her the appointed  
 1131 representative of either may issue subpoenas to compel such access upon a determination  
 1132 that reasonable grounds exist for the belief that a violation of this chapter or any other law  
 1133 relating to the practice of dentistry may have taken place. Upon approval of the board, any  
 1134 person properly conducting an investigation on behalf of the board shall have access to and  
 1135 shall have the right to examine the physical premises of a dental practice.

1136 (2) The results of all investigations initiated by the board shall be reported solely to the  
 1137 board, and the records of such investigations shall be kept for the board by the ~~division~~  
 1138 ~~director~~ executive director, with the board retaining the right to have access at any time  
 1139 to such records. No part of any such records shall be released, except to the board, for  
 1140 any purpose other than a hearing before the board, nor shall such records be subject to  
 1141 subpoena; provided, however, that the board shall be authorized to release such records  
 1142 to another enforcement agency or lawful licensing authority.

1143 (3) All records relating to any patient of a licensee who is the subject of a board inquiry  
 1144 shall be admissible at any hearing held to determine whether a violation of this chapter  
 1145 has taken place, regardless of any statutory privilege; provided, however, that any  
 1146 documentary evidence relating to a patient shall be reviewed in camera and shall not be  
 1147 disclosed to the public.

1148 (4) The board shall have the authority to exclude all persons during its deliberations on  
 1149 disciplinary proceedings and to discuss any disciplinary matter in private with a licensee  
 1150 or applicant and the legal counsel of that licensee or applicant."

1151 "(k) If any licensee or applicant fails to appear at any hearing after reasonable notice, the  
 1152 board may proceed to hear the evidence against such licensee or applicant and take action  
 1153 as if such licensee or applicant had been present. A notice of hearing, initial or  
 1154 recommended decision, or final decision of the board in a disciplinary proceeding shall be  
 1155 served upon the licensee or applicant by certified mail or statutory overnight delivery,  
 1156 return receipt requested, to the last known address of record with the board. If such  
 1157 material is returned marked 'unclaimed' or 'refused' or is otherwise undeliverable and if the  
 1158 licensee or applicant cannot, after diligent effort, be located, the ~~division director~~ executive  
 1159 director shall be deemed to be the agent for service for such licensee or applicant for  
 1160 purposes of this Code section, and service upon the ~~division director~~ executive director  
 1161 shall be deemed to be service upon the licensee or applicant."

1162 **SECTION 2-15.**

1163 Said chapter is further amended in Code Section 43-11-48, relating to the initiation of  
 1164 proceedings for violation of chapter, by revising subsection (b) as follows:

1165 "(b) A record of all hearings, decisions, and orders shall be kept for the board by the

1166 ~~division director~~ executive director."

1167 **SECTION 2-16.**

1168 Said chapter is further amended in Code Section 43-11-70, relating to an examination  
1169 requirement, as follows:

1170 "43-11-70.

1171 No person shall practice as a dental hygienist in this state until such person has passed a  
1172 written and a clinical examination conducted or approved by the board. The fee for such  
1173 examination shall be paid to the ~~division director~~ executive director and shall be in an  
1174 amount established by the board. The board shall issue licenses and license certificates as  
1175 dental hygienists to those persons who have passed the examination in a manner  
1176 satisfactory to the board, ~~which~~ and the license certificate shall be posted and displayed in  
1177 the place in which the hygienist is employed."

1178 **SECTION 2-17.**

1179 Said chapter is further amended in Code Section 43-11-71.1, relating to applications for  
1180 licenses to practice dental hygiene by credentials, by revising subsection (b) as follows:

1181 "(b) All applications to the board for a license by credentials shall be made through the  
1182 ~~division director~~ executive director, who shall then submit all such applications to the  
1183 board. The fee for licensure by credentials shall be paid to the ~~division director~~ executive  
1184 director and shall be in an amount established by the board."

1185 **SECTION 2-18.**

1186 Said chapter is further amended in Code Section 43-11-73, relating to renewals, by revising  
1187 subsection (a) as follows:

1188 "(a) Every person licensed by the board to practice dental hygiene shall register biennially  
1189 on the renewal date set by the ~~division director~~ executive director and shall pay to the  
1190 ~~division director~~ executive director a registration fee which shall be set by the board. The  
1191 board shall provide for penalty fees for late registration."

1192 **PART III**

1193 **SECTION 3-1.**

1194 All laws and parts of laws in conflict with this Act are repealed.