

House Bill 900

By: Representatives Cooper of the 43rd, Weldon of the 3rd, Hawkins of the 27th, Parrish of the 158th, Harden of the 148th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia
2 Annotated, relating to electronic data base of prescription information, so as to authorize the
3 retention of data base information for two years; to provide for delegates of prescribers and
4 dispensers to access data base information under certain conditions; to revise language
5 relating to subpoenas and search warrants; to provide for accessing data base information for
6 purposes of investigation of potential abuse; to provide for the release of nonpatient specific
7 data to the agency for instructional, drug abuse prevention, and research purposes; to provide
8 for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Part 2 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,
12 relating to electronic data base of prescription information, is amended in Code Section
13 16-13-59, relating to information to include for each Schedule II, III, IV, or V controlled
14 substance prescription, by revising subsection (e) as follows:

15 "(e) The agency shall not access or allow others to access any identifying prescription
16 information from the electronic data base after one year from the date such information was
17 originally received by the agency. The agency may retain aggregated prescription
18 information for a period of ~~one year~~ two years from the date the information is received but
19 shall promulgate regulations and procedures that will ensure that any identifying
20 information the agency receives from any dispenser or reporting entity that is ~~one year~~ two
21 years old or older is deleted or destroyed on an ongoing basis in a timely and secure
22 manner."

23 SECTION 2.

24 Said part is further amended in Code Section 16-13-60, relating to privacy and
25 confidentiality, use of data, and security program, as follows:

26 "16-13-60.

27 (a) Except as otherwise provided in subsections (c) and (d) of this Code section,
 28 prescription information submitted pursuant to Code Section 16-13-59 shall be confidential
 29 and shall not be subject to open records requirements, as contained in Article 4 of Chapter
 30 18 of Title 50.

31 (b) The agency, in conjunction with the board, shall establish and maintain strict
 32 procedures to ensure that the privacy and confidentiality of patients, prescribers, and
 33 patient and prescriber information collected, recorded, transmitted, and maintained
 34 pursuant to this part are protected. Such information shall not be disclosed to any person
 35 or entity except as specifically provided in this part and only in a manner which in no way
 36 conflicts with the requirements of the federal Health Insurance Portability and
 37 Accountability Act (HIPAA) of 1996, P.L. 104-191. Nothing in this subsection shall be
 38 construed to prohibit the agency from accessing prescription information as a part of an
 39 investigation into suspected or reported abuses or regarding illegal access of the data. Such
 40 information may be used in the prosecution of an offender who has illegally obtained
 41 prescription information.

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

44 (1) To persons authorized to prescribe or dispense controlled substances for the sole
 45 purpose of providing medical or pharmaceutical care to a specific patient or to delegates
 46 of such persons authorized to prescribe or dispense controlled substances in accordance
 47 with the following:

48 (A) Such delegates are members of the prescriber or dispenser's staff and retrieve and
 49 review information and reports strictly for purposes of determining misuse, abuse, or
 50 underutilization of prescribed medication;

51 (B) Such delegates are licensed, registered, or certified by the state regulatory board
 52 governing the delegating prescriber or dispenser, and the delegating prescriber or
 53 dispenser shall be held responsible for the use of the information and data by their
 54 delegates; and

55 (C) All information and reports retrieved and reviewed by delegates shall be
 56 maintained in a secure and confidential manner in accordance with the requirements of
 57 subsection (f) of this Code section;

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

61 (3) To local; or state; or federal law enforcement or prosecutorial officials pursuant to
 62 the issuance of a search warrant from an appropriate court or official in the county in

63 which the office of such law enforcement or prosecutorial officials are located pursuant
64 to Article 2 of Chapter 5 of Title 17 or to federal law enforcement or prosecutorial
65 officials pursuant to the issuance of a search warrant pursuant to 21 U.S.C. or a grand
66 jury subpoena pursuant to 18 U.S.C.; and

67 (4) To the agency, ~~or the Georgia Composite Medical Board~~ or any other state regulatory
68 board governing prescribers or dispensers in this state, or the Department of Community
69 Health for purposes of the state Medicaid program upon the issuance of an administrative
70 subpoena issued by a Georgia state administrative law judge by such agency, board, or
71 department pursuant to their existing subpoena power or to the federal Centers for
72 Medicare and Medicaid Services upon the issuance of a subpoena by the federal
73 government pursuant to its existing subpoena powers.

74 (c.1) An individual authorized to access electronic data base prescription information
75 pursuant to this part who finds evidence of potential violations of this article may contact
76 appropriate law enforcement or regulatory authorities to report such potential violations.

77 (d) The board may provide data to government entities and other entities for statistical,
78 research, educational, or grant application purposes after removing information that could
79 be used to identify prescribers or individual patients or persons who received prescriptions
80 from dispensers; the board may provide nonpatient specific data to the agency for
81 instructional, drug abuse prevention, and research purposes.

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

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

94 (g) No provision in this part shall be construed to modify, limit, diminish, or impliedly
95 repeal any authority existing on June 30, 2011, of a licensing or regulatory board or any
96 other entity so authorized to obtain prescription information from sources other than the
97 data base maintained pursuant to this part; provided, however, that the agency shall be
98 authorized to release information from the data base only in accordance with the provisions
99 of this part."

100

SECTION 3.

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