

House Bill 886 (COMMITTEE SUBSTITUTE)

By: Representatives Cooper of the 43rd, Martin of the 49th, Smith of the 134th, and Rogers of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 26-4-60 of the Official Code of Georgia Annotated, relating to
2 grounds for suspension, revocation, or refusal to grant pharmacy licenses, so as to revise a
3 provision relating to employing the mails or common carriers to sell, distribute, and deliver
4 prescription drugs; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

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

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

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

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

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

- 26 pharmacies such that the drugs could be immediately dispensed to multiple retail
 27 walk-in patients;
- 28 (iv) Such prescription drug has an annual retail value to the patient of more than
 29 \$10,000.00;
- 30 (v) The patient receiving the prescription drug consents to the delivery of the
 31 prescription drug via expedited overnight common carrier and designates the specialty
 32 pharmacy to receive the prescription drug on his or her behalf;
- 33 (vi) The specialty pharmacy utilizes a shipping method, as appropriate and in
 34 accordance with standards of the manufacturer, United States Pharmacopeia, and
 35 Federal Drug Administration and other ~~standards adopted by the State Board of~~
 36 Pharmacy, recognized standards. The shipping method may include the use of
 37 temperature tags, time temperature strips, insulated packaging, or a combination of
 38 these; and
- 39 (vii) The specialty pharmacy establishes and notifies the enrollee of its policies and
 40 procedures to address instances in which medications do not arrive in a timely manner
 41 or in which they have been compromised during shipment and to assure that the
 42 pharmacy replaces or makes provisions to replace such drugs; and
- 43 (viii) Except as otherwise provided in division (vi) of this subparagraph, the specialty
 44 pharmacy complies with the rules and regulations of the State Board of Pharmacy
 45 regarding delivery by mail;
- 46 (B) An institution or to sell, distribute, or deliver prescription drugs, upon his or her
 47 request, to an enrollee in a health benefits plan of a group model health maintenance
 48 organization or its affiliates by a pharmacy which is operated by that same group model
 49 health maintenance organization and licensed under Code Section 26-4-110 or to a
 50 patient on behalf of a pharmacy. Any pharmacy using the mails or other common
 51 carriers to dispense prescriptions pursuant to this paragraph shall comply with the
 52 following conditions:
- 53 (i) The pharmacy shall provide an electronic, telephonic, or written communications
 54 mechanism which reasonably determines whether the medications distributed by the
 55 mails or other common carriers have been received by the enrollee and through which
 56 a pharmacist employed by the group model health maintenance organization or a
 57 pharmacy intern under his or her direct supervision is enabled to offer counseling to
 58 the enrollee as authorized by and in accordance with his or her obligations under Code
 59 Section 26-4-85, unless the enrollee refuses such consultation or counseling pursuant
 60 to subsection (e) of such Code section. In addition, the enrollee shall receive
 61 information indicating what he or she should do if the integrity of the packaging or
 62 medication has been compromised during shipment;

63 ~~(ii) In accordance with clinical and professional standards, Except as otherwise~~
 64 ~~provided in division (iii) of this subparagraph, the pharmacy complies with the rules~~
 65 ~~and regulations of the State Board of Pharmacy regarding delivery by mail, including~~
 66 ~~special conditions on the mailing of certain drugs and if necessary, restriction from~~
 67 ~~delivery of certain substances by mail; provided, however, that the State Board of~~
 68 Pharmacy shall not promulgate a list of medications which may not be delivered by
 69 the mails or other common carriers. If, however, the State Board of Pharmacy bans
 70 a medication from being sold in this state, either over the counter or otherwise, then
 71 such medication shall not be delivered by mail. ~~However, until such list is~~
 72 ~~promulgated, the group model health maintenance organization shall not deliver by~~
 73 ~~use of the mails or other common carriers Class II controlled substance medications,~~
 74 ~~medications which require refrigeration, chemotherapy medications deemed by the~~
 75 ~~federal Environmental Protection Agency as dangerous, medications in suppository~~
 76 ~~form, and other~~ Nothing herein shall require a dispensing pharmacy to deliver by
 77 mail those medications which, in the professional opinion of the dispensing
 78 pharmacist, may be clinically compromised by distribution through the mail or other
 79 common carriers;

80 (iii) The pharmacy shall utilize a shipping method, as appropriate and in accordance
 81 with standards of the manufacturer, United States Pharmacopeia, and Federal Drug
 82 Administration and other ~~standards adopted by the State Board of Pharmacy,~~
 83 recognized standards. The shipping method may include the use of temperature tags,
 84 time temperature strips, insulated packaging, or a combination of these; and

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

89 For purposes of this subparagraph, the term 'group model health maintenance
 90 organization' means a health maintenance organization that has an exclusive contract
 91 with a medical group practice to provide or arrange for the provision of substantially
 92 all physician services to enrollees in health benefits plans of the health maintenance
 93 organization; or

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

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SECTION 2.

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