

Senate Bill 41

By: Senator Unterman of the 45th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to
2 pharmacists and pharmacies, so as to provide for the licensure of durable medical equipment
3 suppliers; to provide for a definition; to provide for requirements for licensure; to provide for
4 discipline and revocation; to provide for inspections; to provide for exemptions; to provide
5 for rules and regulations; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and
10 pharmacies, is amended in Code Section 26-4-5, relating to definitions, by adding a new
11 paragraph to read as follows:

12 "(14.05) 'Durable medical equipment' means equipment for which a prescription is
13 required, including repair and replacement parts for such equipment, and which:

14 (A) Can withstand repeated use;

15 (B) Has an expected life of at least three years;

16 (C) Is primarily and customarily used to serve a medical purpose;

17 (D) Generally is not useful to a person in the absence of illness or injury; and

18 (E) Is appropriate for use in the home."

19 **SECTION 2.**

20 Said chapter is further amended in Code Section 26-4-28, relating to the powers, duties, and
21 authority of the Georgia State Board of Pharmacy, by adding a new paragraph to subsection
22 (a) to read as follows:

23 "(14.1) The issuance, suspension, denial, and renewal of licenses for suppliers of durable
24 medical equipment pursuant to Code Section 26-4-51;"

SECTION 3.

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

"26-4-51.

(a) Any person who supplies durable medical equipment to a consumer and submits a claim for reimbursement by a third party, either directly or through a contractual arrangement, shall possess a durable medical equipment supplier license issued by the board pursuant to this Code section.

(b) The board shall be authorized to issue a license to an applicant for licensure as a durable medical equipment supplier if the applicant:

(1) Submits an application in the form prescribed by the board;

(2) Maintains an office or place of business within this state;

(3) Pays the license fee established by the board pursuant to paragraph (37) of subsection (a) of Code Section 26-4-28; and

(4) Meets all safety standards and requirements established by the board, including but not limited to the establishment of written procedures for:

(A) Ensuring that all personnel engaged in delivery, maintenance, and repair of durable medical equipment receives annual continuing education;

(B) Instructing the patient or patient's caregiver on how to use the durable medical equipment provided;

(C) Receiving and responding to complaints from patients;

(D) Maintaining records of all patients receiving durable medical equipment; and

(E) Management, maintenance, and servicing of durable medical equipment.

(c) Licenses issued pursuant to this Code section shall be effective for 36 months from the date of issuance and shall not be transferable or assignable.

(d) The board may refuse to issue or renew, or may suspend, revoke, or restrict the licenses of, or fine any person pursuant to the procedures set forth in Code Section 26-4-60 for any of the grounds set forth in subsection (a) of such Code section or upon a finding that the applicant or licensee:

(1) Has violated any state or federal law or regulation related to the provision of durable medical equipment; or

(2) Fails to meet the safety standards established by the board.

(e) The board reserves the right to initially and periodically inspect the applicant's or licensee's office or place of business within this state. Such applicant or licensee shall be required to pay a reasonable and adequate fee established by the board pursuant to paragraph (37) of subsection (a) of Code Section 26-4-28 to cover the cost of such inspections.

61 (f) The following persons and entities shall be exempt from the requirements of this Code
 62 section unless any such person or entity has a separate company, corporation, or division
 63 that is in the business of supplying durable medical equipment to consumers and submits
 64 a claim for reimbursement by a third party:

65 (1) Pharmacies and pharmacists;

66 (2) Hospitals;

67 (3) Ambulatory surgical centers;

68 (4) Health care facilities owned or operated by the state or federal government;

69 (5) Skilled nursing facilities;

70 (6) Assisted living facilities;

71 (7) Health care practitioners who:

72 (A) Provide durable medical equipment within the scope of practice of the health care
 73 practitioner's profession; and

74 (B) Are licensed in this state to practice the health care practitioner's profession;

75 (8) Suppliers of insulin infusion pumps and related supplies or services;

76 (9) Manufacturers or wholesale distributors that do not sell or rent durable medical
 77 equipment directly to consumers; and

78 (10) Renal dialysis providers licensed under Code Section 31-44-4.

79 (g) The board shall promulgate rules and regulations necessary to implement the
 80 provisions of this Code section. Such rules and regulations shall be established with the
 81 intent of ensuring patient safety and quality of durable medical equipment. The board may
 82 provide by rules and regulations that any person accredited by organizations recognized by
 83 the federal Centers for Medicare and Medicaid Services is deemed to meet all or some of
 84 the requirements of this Code section. Further, the board shall be authorized to require the
 85 completion of background checks, including, but not limited to, criminal history record
 86 checks, on any applicants or licensees, on any persons who will have direct contact with
 87 patients, and on any other licensee personnel deemed necessary for purposes of patient
 88 safety.

89 (h) Nothing in this Code section shall be construed to restrict or prohibit the ability of a
 90 person or business to engage in a private transaction between two parties."

91 **SECTION 4.**

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