

Senate Bill 121

By: Senators Walker III of the 20th, Stone of the 23rd, Hufstetler of the 52nd, Burke of the 11th, Unterman of the 45th and others

AS PASSED SENATE

**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 the prescription drug monitoring program data base, so as to increase
3 the length of time that prescription information is retained in the data base from two years
4 to five years; to authorize the Attorney General's Medicaid Fraud Control Unit to access the
5 data base for enforcement purposes; to provide for related matters; to repeal conflicting laws;
6 and for other purposes.

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

8 **SECTION 1.**

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

13 "(e) The department shall not access or allow others to access any identifying prescription
14 information from the PDMP after ~~two~~ five years from the date such information was
15 originally received by the department. The department may retain prescription information
16 that has been processed to remove personal identifiers from the health information in
17 compliance with the standard and implementation rules of the federal Health Insurance
18 Portability and Accountability Act (HIPAA) of 1996, P.L. 104-191, for more than ~~two~~ five
19 years but shall promulgate regulations and procedures that will ensure that any identifying
20 information the department receives from any dispenser or reporting entity that is ~~two~~ five
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 by revising subsection (c) of Code Section 16-13-60, relating
 25 to privacy and confidentiality, use of data, and security program for the prescription drug
 26 monitoring program data base, as follows:

27 "(c) The department shall be authorized to provide requested prescription information
 28 collected pursuant to this part only as follows:

29 (1) To persons authorized to prescribe or dispense controlled substances for the sole
 30 purpose of providing medical or pharmaceutical care to a specific patient;

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

34 (3) To local or state law enforcement or prosecutorial officials pursuant to the issuance
 35 of a search warrant from an appropriate court or official in the county in which the office
 36 of such law enforcement or prosecutorial officials are located; ~~or~~ to federal law
 37 enforcement or prosecutorial officials as allowed by federal law by the issuance of a
 38 search warrant, a grand jury subpoena, an administrative subpoena, or a civil
 39 investigative demand; or to the Attorney General's Medicaid Fraud Control Unit by the
 40 issuance of an administrative subpoena;

41 (4) To the agency, the Georgia Composite Medical Board or any other state regulatory
 42 board governing prescribers or dispensers in this state, or the Department of Community
 43 Health for purposes of the state Medicaid program, for health oversight purposes, or upon
 44 the issuance of a subpoena by such agency, board, or Department of Community Health
 45 pursuant to their existing subpoena power or to the federal Centers for Medicare and
 46 Medicaid Services upon the issuance of a subpoena by the federal government pursuant
 47 to its existing subpoena power;

48 (5)(A) To not more than two individuals who are members per shift or rotation of the
 49 prescriber's or dispenser's staff;

50 (B) Such individuals may retrieve and review such information strictly for the purpose
 51 of:

52 (i) Providing medical or pharmaceutical care to a specific patient; or

53 (ii) Informing the prescriber or dispenser of a patient's potential use, misuse, abuse,
 54 or underutilization of prescribed medication;

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

58 (D) The delegating prescriber or dispenser may be held civilly liable and criminally
 59 responsible for the misuse of the prescription information obtained by such individuals;

60 (6) To not more than two individuals, per shift or rotation, who are employed or
61 contracted by the health care facility in which the prescriber is practicing so long as the
62 medical director of such health care facility has authorized the particular individuals for
63 such access;

64 (7) In any hospital which provides emergency services, each prescriber may designate
65 two individuals, per shift or rotation, who are employed or contracted by such hospital
66 so long as the medical director of such hospital has authorized the particular individuals
67 for such access; and

68 (8) To a prescription drug monitoring program operated by a government entity in
69 another state or an electronic medical records system operated by a prescriber or health
70 care facility, provided the program or system, as determined by the department, contains
71 legal, administrative, technical, and physical safeguards that meet or exceed the security
72 measures of the department for the operation of the PDMP pursuant to this part."

73

SECTION 3.

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