The House Committee on Health offers the following substitute to HB 382:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 16-13-25 of the Official Code of Georgia Annotated, relating to Schedule I controlled substances, so as to revise a provision relating to certain substances; to amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to modify the supervisory responsibilities of pharmacists; to allow pharmacy technicians to perform certain technical functions from a remote location; to provide for certain supervisory ratios; to provide for pharmacy interns and externs; to provide for definitions; to provide for the removal of the requirement that the State Board of Pharmacy may only require wholesale drug distributors to accept the return of drugs essential to healthcare treatment if such drugs have an expiration date that is less than one year from the date such drug is manufactured; to provide for a short title; to provide for construction; to provide for effectiveness contingencies; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Prescription Drug Security, Supervision, and Return Act."

SECTION 2.

Code Section 16-13-25 of the Official Code of Georgia Annotated, relating to Schedule I controlled substances, is amended by revising subparagraph (I) of paragraph (3) as follows:

"(I) Lysergic acid diethylamide. Such term does not include a drug containing lysergide tartrate that is approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act, scheduled in accordance with its scheduling by the United States Drug Enforcement Administration, and listed in the federal Controlled Substances Act, 21 U.S.C. Section 812;"

SECTION 3.

Said Code section is further amended by revising subparagraph (N) of paragraph (3) as follows:

"(N) Psilocybin. Such term does not include a drug containing crystalline polymorph psilocybin that is approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act, scheduled in accordance with its scheduling by the United States Drug Enforcement Administration, and listed in the federal Controlled Substances Act, 21 U.S.C. Section 812; or"

SECTION 4.

Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, is amended in Article 1, relating to general provisions, by revising paragraph (32) of subsection (a) of Code Section 26-4-5, relating to definitions, as follows:

"(32) 'Pharmacy technician' means those support persons utilized ~~in pharmacies~~ in the practice of pharmacy whose responsibilities are to provide nonjudgmental technical services concerned with the preparation for dispensing of drugs under the direct supervision and responsibility of a pharmacist."

SECTION 5.

Said chapter is further amended in Article 5, relating to prescription drugs, by revising Code Section 26-4-82, relating to duties requiring professional judgment and responsibilities of licensed pharmacist, as follows:

"26-4-82.

(a) In dispensing drugs, no individual other than a licensed pharmacist shall perform or conduct those duties or functions which require professional judgment. It shall be the responsibility of the supervising pharmacist to ensure that no other employee of the pharmacy, including pharmacy technicians, performs or conducts those duties or functions which require professional judgment.

(b) For all prescriptions, it shall be the responsibility of the pharmacist on duty at a facility to ensure that only a pharmacist or a pharmacy intern under the direct supervision of a pharmacist provides professional consultation and counseling with patients or other licensed health care professionals, and that only a pharmacist or a pharmacy intern under the direct supervision of a pharmacist accepts initial telephoned prescription drug orders or provides information in any manner relative to prescriptions or prescription drugs.

(c) In the dispensing of all prescription drug orders:

(1) The pharmacist shall be responsible for all activities of the pharmacy technician in the preparation of the drug for delivery to the patient;

(2) The pharmacist shall be physically present and personally supervising the activities of ~~the~~ any pharmacy technician in the licensed area of a pharmacy at all times;

(3) When electronic systems are employed ~~within the~~ by a pharmacy, pharmacy technicians may enter information into the system and prepare labels; provided, however, that it shall be the responsibility of the pharmacist to verify the accuracy of the information entered and the label produced in conjunction with the prescription drug order;

(4) When a prescription drug order is presented for refilling, it shall be the responsibility of the pharmacist to review all appropriate information and make the determination as to whether to refill the prescription drug order; and

(5) Pharmacy technicians in the ~~dispensing area~~ licensed area of a pharmacy shall be easily identifiable.

(d)(1) As used in this subsection, the term 'closed-door pharmacy' means a pharmacy that provides specialized services and is not open to the general public.

(2) The board of pharmacy shall promulgate rules and regulations regarding the activities and utilization of pharmacy technicians ~~in~~ by pharmacies, including the establishment of a registry as required in paragraph (7) of subsection (a) of Code Section 26-4-28; provided, however, that the pharmacist to pharmacy technician ratio shall not exceed one pharmacist providing direct supervision of four pharmacy technicians located in the licensed area of the pharmacy. Any pharmacy technician performing pharmacy technician functions from a remote location outside a pharmacy shall not be counted toward the pharmacist to pharmacy technician supervisory ratio. The board may consider and approve an application to increase the ratio in a pharmacy located in a licensed hospital or in a closed-door pharmacy. Such application ~~must~~ shall be made in writing and ~~must~~ shall be submitted to the board by the pharmacist in charge of a specific hospital pharmacy in this state or a specific closed-door pharmacy. ~~At any time during which the pharmacist directly supervises four or more pharmacy technicians, two of such technicians must be certified. At any time during which the pharmacist directly supervises three pharmacy technicians, one of such technicians must be certified. No certification is required for pharmacy technicians in pharmacies at any time during which the pharmacist directly supervises one or two pharmacy technicians.~~

(e) In order to be certified, pharmacy technicians ~~must~~ shall:

(1) Have successfully passed a certification program approved by the board of pharmacy;

(2) Have successfully passed an employer's training and assessment program which has been approved by the board of pharmacy; or

(3) Have been certified by either the Pharmacy Technician Certification Board or any other nationally recognized certifying body approved by the board of pharmacy.

~~As used in this subsection, the term 'closed-door pharmacy' means a pharmacy that provides specialized services and is not open to the general public.~~

~~(e)~~(f) In addition to the utilization of pharmacy technicians, a pharmacist may be assisted by and directly supervise ~~one pharmacy intern and one pharmacy extern~~ pharmacy interns and pharmacy externs; provided, however, that the total number of such persons under the direct supervision of one pharmacist shall not exceed six persons, in any combination thereof.″

SECTION 6.

Said chapter is further amended in Article 6, relating to pharmacies, by revising subsection (c) of Code Section 26-4-115, relating to wholesale drug distributers, registration, fees, reports of excessive purchases, penalty for violations, and transfers of drugs, as follows:

″(c) The board shall be authorized to promulgate rules and regulations to facilitate compliance with this Code section. Such rules and regulations shall include a requirement that all wholesale drug distributors required to register pursuant to this Code section shall make adequate provision for the return of outdated drugs, both full and partial containers, for up to six months after the labeled expiration date for prompt full credit or replacement; provided, however, that such rules and regulations may also include a list of drugs exempted from the requirements of such provision that have been determined by the board as essential to ~~health care~~ healthcare treatment ~~and having an expiration date of less than one year from the date such drug is manufactured~~.″

SECTION 7.

Nothing in this Act shall be construed so as to affect or limit any authority of the State Board of Pharmacy provided by law, including any emergency power. Nothing in this Act shall be construed to affect the scheduling of any drug which is, by rule of the State Board of Pharmacy or by law, already listed as a controlled substance in Schedule II, III, IV, or V of Chapter 13 of Title 16 of the Official Code of Georgia Annotated.

SECTION 8.

(a) Section 2 of this Act shall become effective only if a drug containing lysergide tartrate is approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act, scheduled in accordance with its scheduling by the United States Drug Enforcement Administration, and listed in the federal Controlled Substances Act, 21 U.S.C. Section 812.

(b) Section 3 of this Act shall become effective only if a drug containing crystalline polymorph psilocybin is approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act, scheduled in accordance with its scheduling by the United States Drug Enforcement Administration, and listed in the federal Controlled Substances Act, 21 U.S.C. Section 812.

SECTION 9.

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