

House Bill 1072

By: Representatives Cooper of the 45<sup>th</sup>, Newton of the 127<sup>th</sup>, Parrish of the 158<sup>th</sup>, Jackson of the 128<sup>th</sup>, Stephens of the 164<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 10 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated,  
2 relating to the drug repository program, so as to revise definitions; to provide for pharmacist  
3 to pharmacy technician ratios in the program; to require reverse drug distributors to make and  
4 document diligent efforts to donate drugs rather than destroy them; to provide for substitution  
5 of drugs in some instances; to provide for the intent of the General Assembly with respect  
6 to settlement funds received by the state relating to prescription drugs; to amend Code  
7 Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales  
8 and use taxes, so as to exempt sales to or by certain eligible recipients; to provide for related  
9 matters; to provide for legislative findings; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly finds:

13 (1) Access to affordable medications is a public health issue that disproportionately  
14 impacts vulnerable patients, and a state's drug repository program can serve as a solution  
15 to thousands of families for life-saving and life-preserving medications; and

H. B. 1072

16 (2) Participating recipient organizations can provide a valuable community benefit to  
17 families in need by making donated medications available and will be authorized to utilize  
18 additional pharmacy technicians to distribute donated medications under the drug  
19 repository program.

20 **SECTION 2.**

21 Article 10 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the  
22 drug repository program, is amended by revising Code Section 31-8-300, relating to  
23 definitions, as follows:

24 "31-8-300.

25 As used in this article, the term:

26 (1) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules  
27 I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of  
28 21 C.F.R. Part 1308 as of January 1, 2023.

29 (2) 'Disposition' means destroy, dispose of, return, quarantine, or otherwise prevent from  
30 further distribution.

31 (3) 'Eligible drug' means an over-the-counter or prescription drug, including drugs  
32 labeled specifically for investigational use and approved by the United States Food and  
33 Drug Administration as such, which may be donated to the program pursuant to Code  
34 Section 31-8-301.

35 ~~(2)~~(4) 'Eligible patient' means an individual who is indigent, uninsured, underinsured, or  
36 enrolled in a public assistance health benefits program, in accordance with criteria  
37 established by the Department of Public Health pursuant to Code Section 31-8-304.  
38 Other individuals may be considered eligible patients if the need for donated drugs for  
39 indigent, uninsured, underinsured, and public assistance health benefits program patients  
40 is less than the supply of donated drugs.

41 ~~(3)~~(5) 'Eligible recipient' means a pharmacy, hospital, federally qualified health center,  
42 nonprofit clinic, or other entity meeting the criteria established by the Department of  
43 Public Health pursuant to Code Section 31-8-304.

44 (6) 'Expiration date' means the original expiration date provided by the manufacturer or  
45 repackager or the expiration date provided on the medication's packaging or prescription  
46 drug label.

47 ~~(4)~~(7) 'Health care facility' means a:

- 48 (A) Nursing home licensed pursuant to Article 1 of Chapter 7 of this title;
- 49 (B) Personal care home licensed pursuant to Code Section 31-7-12;
- 50 (C) Assisted living community licensed pursuant to Code Section 31-7-12.2;
- 51 (D) Hospice licensed pursuant to Article 9 of Chapter 7 of this title; and
- 52 (E) Home health agency licensed pursuant to Article 7 of Chapter 7 of this title.

53 ~~(5)~~(8) 'Health care professional' means any of the following who provide medical, dental,  
54 or other health related ~~diagnosis~~ diagnoses, care, or treatment:

- 55 (A) Physicians licensed to practice medicine under Chapter 34 of Title 43;
- 56 (B) Registered nurses and licensed practical nurses licensed under Chapter 26 of Title  
57 43;
- 58 (C) Physician assistants licensed under Chapter 34 of Title 43;
- 59 (D) Dentists and dental hygienists licensed under Chapter 11 of Title 43;
- 60 (E) Optometrists licensed under Chapter 30 of Title 43; and
- 61 (F) Pharmacists licensed under Chapter 4 of Title 26.

62 ~~(6)~~(9) 'Hospital' means a facility licensed pursuant to Chapter 7 of this title.

63 ~~(7)~~(10) 'Program' means the drug repository program established pursuant to Code  
64 Section 31-8-301.

65 (11) 'Short-dated' means within five months of a drug's expiration date."

66 **SECTION 3.**

67 Said article is further amended by revising Code Section 31-8-301, relating to the  
68 establishment of a drug repository program and criteria and requirements for unused  
69 over-the-counter and prescription drugs, as follows:

70 "31-8-301.

71 (a) The Department of Public Health shall establish a drug repository program to accept  
72 and dispense over-the-counter and prescription drugs donated for the purpose of being  
73 dispensed to eligible patients.

74 (b) Drugs shall only be dispensed pursuant to the program if:

75 (1) For prescription drugs, ~~they do~~ with an expiration date that does not expire before the  
76 completion of the medication by the eligible patient based on the prescribing health care  
77 professional's directions for use and, for over-the-counter drugs, ~~they do~~ with an  
78 expiration date that does not expire before use by the eligible patient based on the  
79 directions for use on the manufacturer's label; and

80 (2) The drugs were donated in unopened tamper-evident packaging as defined by United  
81 States Pharmacopeia General Chapter 659, Packaging and Storage Requirements,  
82 including but not limited to unopened unit-dose and multiple-dose packaging.

83 (c) The following drugs shall not be donated to the program:

84 (1) Controlled substances;

85 (2) Drugs subject to a federal Food and Drug Administration managed risk evaluation  
86 and mitigation strategy pursuant to Section 355-1 of Title 21 of the United States Code  
87 if inventory transfer is prohibited by such strategy; or

88 (3) Drugs that there is reason to believe are adulterated pursuant to Code Section 26-3-7."

**SECTION 4.**

89

90 Said article is further amended in Code Section 31-8-302, relating to procedures for donation  
91 and dispensing of unused over-the-counter and prescription drugs, by adding new subsections  
92 to read as follows:

93 "(f) In addition to the maximum number of pharmacy technicians that are authorized to be  
94 under the direct supervision of a pharmacist pursuant to subsection (d) of Code Section  
95 26-4-82, a participating pharmacy may utilize up to two additional pharmacy technicians  
96 under the direct supervision of such pharmacist for duties related to the program; provided,  
97 however, that the two such additional pharmacy technicians shall not be authorized to assist  
98 the supervising pharmacist in connection with any activities related to completing a  
99 prescription drug order or preparation of a prescription drug for a patient, but shall only be  
100 authorized to perform non-dispensing related duties, such as, but not limited to, receiving  
101 and stocking inventory.

102 (g) A reverse drug distributor permitted or licensed by the State Board of Pharmacy shall:

103 (1) Make and document diligent efforts to donate eligible drugs within 30 days of taking  
104 possession to the program in accordance with Code Section 31-8-301 rather than destroy  
105 such drugs;

106 (2) Not directly or indirectly by transferring to another entity or by other means, cause  
107 eligible drugs to be dispositioned, become short-dated, expire, or otherwise become  
108 ineligible for donation; and

109 (3) Make and document diligent efforts to ensure that any policy, contract, or other  
110 business arrangement between the reverse drug distributor and its clients or other parties  
111 does not prohibit the donation of eligible drugs received from any such client or other  
112 party to the program in accordance with Code Section 31-8-301; provides for the same  
113 rate of compensation for the client or other party for donation of eligible drugs and other  
114 disposition of such drugs; and does not require an eligible drug to be dispositioned,  
115 become short-dated, expire, or otherwise become ineligible for donation.

- 116 (h) Any person or entity eligible to donate drugs under the program shall be allowed to  
117 donate eligible drugs in the same manner, at the same rate of compensation, and paid for  
118 by the same parties as applies to the disposition of drugs regardless of any policy, contract,  
119 or other business arrangement that would have otherwise directly or indirectly by  
120 transferring to another entity or by other means required an eligible drug to be  
121 disposed, become short-dated, expire, or otherwise become ineligible for donation.  
122 (i) The donation, brokering, or other facilitation of a donation of a drug pursuant to this  
123 program shall not be considered wholesale distribution as defined in Code Section  
124 26-4-201 and shall not be subject to or require licensure as a wholesale distributor pursuant  
125 to Chapter 4 of Title 26.  
126 (j) Eligible recipients that provide pharmacy related services only for the purpose of  
127 dispensing donated or purchased drugs pursuant to the program shall not be subject to  
128 comprehensive formulary or minimum supply of drugs requirements contained in  
129 Chapter 4 of Title 26."

130 **SECTION 5.**

131 Said article is further amended by adding new Code sections to read as follows:

132 "31-8-305.

133 (a) Notwithstanding Article 5 of Chapter 4 of Title 26, an eligible recipient may substitute:

134 (1) A prescribed drug with a therapeutically equivalent drug; or

135 (2) A biological product with an interchangeable biological product.

136 (b) Substitutions made pursuant to subsection (a) of this Code section may include, but are  
137 not limited to:

138 (1) Splitting a combination drug into two or more drugs;

139 (2) Combining two or more drugs into a combination drug; and

140 (3) Substituting a different form of a prescribed drug, including, but not limited to, an  
141 oral tablet or capsule.

142 (c) If an eligible recipient dispenses or administers a substitute drug pursuant to this Code  
143 section, such substitution shall be communicated to the patient and the prescribing health  
144 care professional, unless the program's substitution policy is readily available on the  
145 eligible recipient's website.

146 (d) Whenever a substitution is made, the eligible recipient shall record on the original  
147 prescription or the patient's prescription drug label that there has been a substitution and  
148 the identity of the dispensed drug product or interchangeable biological product.

149 31-8-306.

150 (a) It is the intent of the General Assembly that a portion of the proceeds of settlements  
151 received by the state relating to prescription drugs that are not controlled substances be  
152 appropriated for purposes of the program and distributed to eligible recipients in proportion  
153 to each such recipient's participation rate in the program.

154 (b) It is further the intent of the General Assembly that if funds are appropriated for  
155 purposes of this article, the department shall be required to distribute such appropriations  
156 to eligible recipients in proportion to each such recipient's level of participation in the  
157 program.

158 31-8-307.

159 (a) Hospitals and pharmacies licensed in this state and state programs that provide health  
160 care coverage or health care services to patients, recipients, or other individuals in this  
161 state, including, but not limited to, Medicaid, PeachCare for Kids Program, alcohol and  
162 drug awareness programs, and the Department of Corrections shall provide such patients,  
163 recipients, or other individuals with referral information to the program for eligible drugs  
164 available through the program for:

165 (1) Drugs not currently covered under a state program;

- 166 (2) Patients who do not meet the eligibility coverage for a state program or become  
 167 unenrolled or leave a state program;
- 168 (3) Drugs that are covered under a state program but are otherwise inaccessible to a  
 169 patient due to, but not limited to a gap in coverage or out-of-pocket costs that are too high  
 170 for a specific patient, recipient, or other individual; a prior authorization requirement; step  
 171 therapy requirements; or high co-payments; or
- 172 (4) A patient, recipient, or other individual for a drug that is covered under a state  
 173 program but that the claim for coverage is denied with respect to the specific patient,  
 174 recipient, or other individual.
- 175 (b) Recipients of the federal Title X Family Planning Program shall make and document  
 176 diligent efforts to subcontract with interested eligible recipients participating in the  
 177 program to offer family planning services to rural and low-income populations.
- 178 (c) If an eligible recipient offers value-added services and referrals, in addition to just  
 179 providing medicine, such eligible recipient may also be eligible for discounted medication  
 180 pricing to help widen such eligible recipient's formularies of medication and increase  
 181 financial sustainability of its participation in the program."

182 **SECTION 6.**

183 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from  
 184 sales and use taxes, is amended by striking "or" at the end of paragraph (103), by striking the  
 185 period and substituting in lieu thereof "; or" at the end of paragraph (104), and by adding a  
 186 new paragraph to read as follows:

187 "(105) Sales to or by an eligible recipient, as defined in Code Section 31-8-300, which  
 188 provides pharmacy related services only for the purpose of dispensing donated or  
 189 purchased drugs pursuant to the drug repository program established under Article 10 of  
 190 Chapter 8 of Title 31, if such organization qualifies as a tax-exempt organization under  
 191 Section 501(c)(3) of the Internal Revenue Code or is an organization that is treated for



192 federal income tax purposes as a disregarded entity of a tax-exempt organization under  
193 Section 501(c)(3) of the Internal Revenue Code."

194 **SECTION 7.**

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