

House Bill 886

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;

43 (B) An institution or to sell, distribute, or deliver prescription drugs, upon his or her
44 request, to an enrollee in a health benefits plan of a group model health maintenance
45 organization or its affiliates by a pharmacy which is operated by that same group model
46 health maintenance organization and licensed under Code Section 26-4-110 or to a
47 patient on behalf of a pharmacy. Any pharmacy using the mails or other common
48 carriers to dispense prescriptions pursuant to this paragraph shall comply with the
49 following conditions:

50 (i) The pharmacy shall provide an electronic, telephonic, or written communications
51 mechanism which reasonably determines whether the medications distributed by the
52 mails or other common carriers have been received by the enrollee and through which
53 a pharmacist employed by the group model health maintenance organization or a
54 pharmacy intern under his or her direct supervision is enabled to offer counseling to
55 the enrollee as authorized by and in accordance with his or her obligations under Code
56 Section 26-4-85, unless the enrollee refuses such consultation or counseling pursuant
57 to subsection (e) of such Code section. In addition, the enrollee shall receive
58 information indicating what he or she should do if the integrity of the packaging or
59 medication has been compromised during shipment;

60 ~~(ii) In accordance with clinical and professional standards, the State Board of~~
61 ~~Pharmacy shall promulgate a list of medications which may not be delivered by the~~
62 ~~mails or other common carriers. However, until such list is promulgated, the group~~

63 ~~model health maintenance organization shall not deliver by use of the mails or other~~
 64 ~~common carriers Class II controlled substance medications, medications which~~
 65 ~~require refrigeration, chemotherapy medications deemed by the federal~~
 66 ~~Environmental Protection Agency as dangerous, medications in suppository form, and~~
 67 ~~other medications which, in the professional opinion of the dispensing pharmacist,~~
 68 ~~may be clinically compromised by distribution through the mail or other common~~
 69 ~~carriers;~~

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

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

80 For purposes of this subparagraph, the term 'group model health maintenance
 81 organization' means a health maintenance organization that has an exclusive contract
 82 with a medical group practice to provide or arrange for the provision of substantially
 83 all physician services to enrollees in health benefits plans of the health maintenance
 84 organization; or

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

89 **SECTION 2.**

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