

Senate Bill 132

By: Senators Carter of the 1st, Millar of the 40th, Hufstetler of the 52nd and Orrock of the 36th

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 revise the definition of "security paper"; to revise
3 requirements for license transfers for pharmacists licensed in another jurisdiction; to revise
4 requirements for dispensing prescription drugs; to revise requirements for the use of security
5 paper for hard copy prescription drug orders; to enable nonresident pharmacy and
6 nonresident device distributor permits; to amend Part 2 of Article 2 of Chapter 13 of Title 16
7 of the Official Code of Georgia Annotated, relating to electronic data base of prescription
8 information, so as to revise the definition of "dispenser" relative to information to include
9 for each Schedule II, III, IV, or V controlled substance prescription; to provide for related
10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and
14 pharmacies, is amended by revising paragraph (38.5) of Code Section 26-4-5, relating to
15 definitions, as follows:

16 "(38.5) 'Security paper' means:

17 ~~(A)~~ A a prescription pad or paper that has been approved by the board for use and
18 contains the following characteristics:

19 ~~(A)~~(i) One or more industry recognized features designed to prevent unauthorized
20 copying of a completed or blank prescription form;

21 ~~(B)~~(ii) One or more industry recognized features designed to prevent the erasure or
22 modification of information written on the prescription form by the practitioner; and

23 ~~(C)~~(iii) One or more industry recognized features designed to prevent the use of
24 counterfeit prescription forms; or

25 ~~Where security paper is in the form of a prescription pad, each pad shall bear an~~
 26 ~~identifying lot number, and each piece of paper in the pad shall be numbered~~
 27 ~~sequentially beginning with the number one.~~

28 (B) A prescription pad or paper that is an approved prescription pad or paper of the
 29 Centers for Medicare and Medicaid Services on January 1, 2013."

30 **SECTION 2.**

31 Said chapter is further amended by revising paragraph (7) of subsection (a) of Code Section
 32 26-4-42, relating to license transfers for pharmacists licensed in another jurisdiction, as
 33 follows:

34 "(7) Have successfully passed ~~an examination~~ examinations as determined by the board,
 35 one of which shall include an examination on Georgia pharmacy law and board
 36 regulations; and"

37 **SECTION 3.**

38 Said chapter is further amended by revising subsection (b) of Code Section 26-4-80, relating
 39 to dispensing prescription drugs, as follows:

40 "(b) Prescription drugs shall be dispensed only pursuant to a valid prescription drug
 41 order. A pharmacist shall not dispense a prescription which the pharmacist knows or
 42 should know is not a valid prescription. A pharmacist shall have the same corresponding
 43 liability for prescriptions as an issuing practitioner as set forth in 21 C.F.R. Part 1304 as
 44 such regulation exists on January 1, 2013. Valid prescription drug orders shall include
 45 those issued by a physician, dentist, podiatrist, veterinarian, or other person licensed,
 46 registered, or otherwise authorized under the laws of this state, or of any state or territory
 47 of the United States, to prescribe dangerous drugs or controlled substances or both."

48 **SECTION 4.**

49 Said chapter is further amended by revising Code Section 26-4-80.1, relating to use of
 50 security paper for hard copy prescription drug orders, as follows:

51 "26-4-80.1.

52 (a) Effective October 1, 2011, every hard copy prescription drug order for any Schedule
 53 II controlled substance written in this state by a practitioner ~~must~~ shall be written on
 54 security paper.

55 (b) A pharmacist shall not fill a hard copy prescription drug order for any Schedule II
 56 controlled substance from a practitioner unless it is written on security paper, except that
 57 a pharmacist may provide emergency supplies in accordance with the board and other
 58 insurance contract requirements.

59 (c) If a hard copy of an electronic data prescription drug order for any Schedule II
 60 controlled substance is given directly to the patient, the manually signed hard copy
 61 prescription drug order must be on ~~approved~~ security paper approved by the board that
 62 meets the requirements of subparagraph (A) of paragraph (38.5) of Code Section 26-4-5
 63 or security paper that meets the requirements of subparagraph (B) of paragraph (38.5) of
 64 Code Section 26-4-5.

65 (d) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized
 66 use of security paper and shall promptly report to appropriate authorities any theft or
 67 unauthorized use.

68 ~~(e) All vendors shall have their security paper approved by the board prior to marketing~~
 69 ~~or sale in this state.~~

70 ~~(f)~~(e) The board shall create a seal of approval that confirms that security paper contains
 71 all three industry recognized characteristics required by paragraph (38.5) of Code Section
 72 26-4-5. The seal shall be affixed to all security paper used in this state; provided, however,
 73 that security paper which meets the requirements of subparagraph (B) of paragraph (38.5)
 74 of Code Section 26-4-5 shall not be required to have such affixed seal.

75 ~~(g)~~(f) The board may adopt rules necessary for the administration of this Code section.

76 ~~(h)~~(g) The security paper requirements in this Code section shall not apply to:

- 77 (1) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or
 78 electronic means; or
 79 (2) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents
 80 of a nursing home, inpatients or residents of a mental health facility, or individuals
 81 incarcerated in a local, state, or federal correctional facility when the health care
 82 practitioner authorized to write prescriptions writes the order into the patient's medical
 83 or clinical record, the order is given directly to the pharmacy, and the patient never has
 84 the opportunity to handle the written order."

85 **SECTION 5.**

86 Said chapter is further amended by revising paragraph (3) of Code Section 26-4-112, relating
 87 to occurrences which require immediate notification to board, as follows:

88 "(3) Change of the pharmacist in charge of a licensed pharmacy. If upon the board being
 89 notified of such change a replacement pharmacist in charge is not named in said
 90 notification, the license of that pharmacy shall stand suspended pending further findings
 91 by the board;"

92 **SECTION 6.**

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

94 "26-4-114.1.
95 (a) Any person, pharmacy, or facility located outside this state may apply to the board for
96 a nonresident pharmacy permit which shall entitle the holder thereof to ship, mail, or
97 deliver dispensed drugs, including but not limited to dangerous drugs and controlled
98 substances, into this state or a nonresident device distributor permit which shall entitle the
99 holder thereof to ship, mail, or deliver devices into this state. The board shall establish an
100 application and require such information as the board deems reasonably necessary to carry
101 out a background investigation of applicants and to ensure that the purposes of this Code
102 section are met. Such application shall include:
103 (1) Proof of a valid, unexpired license, permit, or registration to operate a pharmacy or
104 to dispense devices, or both, in compliance with the laws and rules of each state in which
105 the applicant receives and dispenses prescription drug orders, including but not limited
106 to orders for prescription drugs, dangerous drugs, controlled substances, and devices;
107 (2) Addresses, names, and titles of all principal corporate officers and the pharmacist in
108 charge of dispensing drugs and devices to residents of this state; and
109 (3) A statement of whether the applicant is in compliance with all lawful directions and
110 requests for information from the regulatory or licensing agencies of each state in which
111 the applicant is licensed as well as all requests for information made by the board
112 pursuant to this Code section.
113 (b) The board shall establish by rule an application fee and the biennial renewal fee for a
114 permit under this Code section.
115 (c) The board may only deny an application for a nonresident pharmacy permit or a
116 nonresident device distributor permit for failure to comply with rules of the board or any
117 requirements of this Code section or for good cause related to substantial evidence of
118 misceasance or malfeasance by the applicant. Applicants granted a permit under this Code
119 section shall provide pharmacy care in a manner which does not endanger life and protects
120 the health, safety, and welfare of the residents of this state. A pharmacy or facility licensed
121 under Title 33 shall not be required to hold a nonresident pharmacy permit or nonresident
122 device distributor permit.
123 (d) After an effective date established by rule of the board for the enforcement of the
124 nonresident pharmacy and nonresident device distributor permits, it shall be unlawful for
125 any person, pharmacy, or facility that is located outside this state and that does not possess
126 a nonresident pharmacy permit or nonresident device distributor permit to ship, mail, or
127 deliver prescription drug orders or to advertise its services in this state, or for any person
128 who is a resident of this state to advertise the services of such person, pharmacy, or facility
129 with the knowledge that the advertisement will or is likely to induce residents of this state
130 to use such person, pharmacy, or facility for pharmacy care. Nothing in this subsection

131 shall be construed to limit or prohibit interstate commerce, including but not limited to the
132 practice of pharmacy by mail.

133 (e) The board shall have the authority to promulgate rules and regulations governing the
134 holder of a nonresident pharmacy permit and nonresident device distributor permit under
135 this Code section. Such rules and regulations shall minimally include the following
136 requirements for nonresident pharmacy and nonresident device distributor permit holders:

137 (1) A permit holder's pharmacist in charge of dispensing drugs and devices to residents
138 of this state shall be licensed in his or her state of location;

139 (2) A permit holder shall provide written notification to the board within ten days of any
140 change of a permit holder's principal corporate officers or pharmacist in charge of
141 dispensing drugs and devices to residents of this state;

142 (3) A permit holder shall file a change of location application upon any change to the
143 permit holder's state of registration in addition to proof of the license, permit, or
144 registration from the permit holder's new state of registration and the United States Drug
145 Enforcement Administration registration for such new location;

146 (4) A permit holder shall respond within ten calendar days to all communications from
147 the board concerning emergency circumstances arising from errors in the dispensing of
148 any drugs or devices to residents of this state;

149 (5) A permit holder shall provide written notification to the board of each location at
150 which the permit holder maintains its records for all prescription drug orders dispensed
151 to patients in this state so that the records are readily retrievable from the business records
152 of the permit holder; and

153 (6) A permit holder shall maintain a toll-free telephone number operational during the
154 permit holder's regular hours of operation but not less than six days per week for a
155 minimum of 60 hours per week that shall be used to provide and facilitate patient
156 counseling. Such toll-free number shall be capable of receiving inbound calls from
157 patients to the permit holder and shall be disclosed on the label affixed to each container
158 of all dispensed and distributed drugs and devices.

159 (f) The board may revoke, suspend, or refuse to renew a permit of a permit holder for
160 failure to comply with rules of the board or with any requirement of this Code section or
161 for conduct which causes serious bodily or psychological injury to a resident of this state,
162 provided that the board has referred the matter involving the conduct to the regulatory or
163 licensing agency in the state in which the permit holder is located and the regulatory or
164 licensing agency fails to initiate an investigation into the matter within 180 days of such
165 referral or fails, in the board's judgment, to render sufficient resolution."

166

SECTION 7.

167 Part 2 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,
168 relating to electronic data base of prescription information, is amended by revising Code
169 Section 16-13-59, relating to information to include for each Schedule II, III, IV, or V
170 controlled substance prescription, by adding a new subsection to read as follows:

171 "(g) For purposes of this Code section, the term 'dispenser' shall include any pharmacy or
172 facility physically located in another state or foreign country that in any manner ships,
173 mails, or delivers a dispensed controlled substance into this state."

174

SECTION 8.

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