

Senate Bill 391

By: Senators Kirkpatrick of the 32nd, Watson of the 1st, Albers of the 56th, Burke of the 11th and Hufstetler of the 52nd

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding insurance, so as to require health insurers to provide
3 coverage for early refills of a 30 day supply of certain prescription medications under certain
4 emergency situations; to provide for a definition; to provide the Commissioner with authority
5 to waive time restrictions on such refills; to amend Code Section 26-4-80 of the Official
6 Code of Georgia Annotated, relating to license required for practice of pharmacy, dispensing
7 of prescription drugs, prescription drug orders, electronically transmitted drug orders, refills,
8 and schedule II controlled substance prescriptions, so as to allow pharmacists to dispense
9 certain refill prescription medications under certain circumstances; to provide for related
10 matters; to provide for a short title; to provide for legislative findings; to repeal conflicting
11 laws; and for other purposes.

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

13 **SECTION 1.**

14 This Act shall be known and may be cited as the "Early Prescription Refills During
15 Emergencies Act."

16 **SECTION 2.**

17 The General Assembly finds that:

- 18 (1) Prescription drug medications may be essential to the maintenance of life or the
19 continuation of therapy for a Georgian with a chronic health condition;
20 (2) During times of natural disaster, many Georgians experience significant delays
21 obtaining necessary prescription medication refills; and
22 (3) Delays in obtaining such medication may result in serious, undesirable health
23 consequences.

24 **SECTION 3.**

25 Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
 26 general provisions regarding insurance, is amended by adding a new Code section to read as
 27 follows:

28 "33-24-59.27.

29 (a) As used in this Code section, the term 'health care insurer' means an insurer, a fraternal
 30 benefit society, a health care plan, or a health maintenance organization authorized under
 31 this title to sell accident and sickness insurance policies, subscriber certificates, or other
 32 contracts of insurance by whatever name called.

33 (b) Every health care insurer licensed in this state that provides prescription medication
 34 coverage as part of a policy or contract shall waive time restrictions on prescription
 35 medication refills, which includes the suspension of electronic 'refill too soon' limitations,
 36 to enable insureds or subscribers to refill prescriptions in advance and shall authorize
 37 payment to pharmacies for a 30 day supply of any prescription medication, regardless of
 38 the date upon which the prescription had most recently been filled by a pharmacist, when
 39 the following conditions occur:

40 (1) The person seeking the prescription medication refill resides in a county or other area
 41 of this state that:

42 (A) Is declared to be under a state of emergency by executive order of the Governor;

43 or

44 (B) Is under a hurricane warning issued by the National Weather Service; and

45 (2) The prescription medication has refills remaining and a refill is requested within 30
 46 days after the origination date of the conditions described in paragraph (1) of this
 47 subsection or until such conditions are terminated by the issuing authority or no longer
 48 exist.

49 (c) The Commissioner may by directive as authorized in Code Section 33-2-10 extend the
 50 time restriction waiver on prescription medication refills described in subsection (b) of this
 51 Code section for 15 or 30 day increments and until such time as he or she determines such
 52 extensions are no longer necessary.

53 (d) Nothing in this Code section shall exempt any insured or subscriber from compliance
 54 with all other terms of the policy or contract providing prescription medication coverage."

55 **SECTION 4.**

56 Code Section 26-4-80 of the Official Code of Georgia Annotated, relating to license required
 57 for practice of pharmacy, dispensing of prescription drugs, prescription drug orders,
 58 electronically transmitted drug orders, refills, and schedule II controlled substance
 59 prescriptions, is amended by revising subsection (f) as follows:

60 "(f)(1) When filling a prescription or refilling a prescription which may be refilled, the
 61 pharmacist shall exercise professional judgment in the matter. No prescription shall be
 62 filled or refilled with greater frequency than the approximate interval of time that the
 63 dosage regimen ordered by the practitioner would indicate, unless extenuating
 64 circumstances are documented which would justify a shorter interval of time before the
 65 filling or refilling of the prescription. Such circumstances may include but are not limited
 66 to instances in which, with regard to a particular county or area of this state, the Governor
 67 has issued an executive order or proclamation declaring a state of emergency or the
 68 National Weather Service has issued a hurricane warning, the pharmacist may dispense
 69 up to a 30 day supply in the counties or areas affected by such order, proclamation, or
 70 warning, provided that:

71 (A) The prescription is not for a Schedule II controlled substance as set out in Code
 72 Section 16-13-26;

73 (B) In the pharmacist's professional judgment, the prescription is essential to the
 74 maintenance of life or to the continuation of therapy for a chronic condition;

75 (C) In the pharmacist's professional judgment, the interruption of such therapy might
 76 reasonably produce undesirable health consequences or cause physical or mental
 77 discomfort;

78 (D) The dispensing pharmacist creates and signs a written order containing all of the
 79 prescription information required by this article and by Chapter 13 of Title 16; and

80 (E) The dispensing pharmacist notifies the prescriber of the emergency dispensing
 81 within 48 hours after such dispensing and each such dispensing thereafter.

82 (2) Notwithstanding paragraph (1) of this subsection, in order to prevent unintended
 83 interruptions in drug therapy for topical ophthalmic products:

84 (A) A pharmacist shall be authorized, without obtaining subsequent authorization from
 85 the practitioner or obtaining a new prescription from the practitioner, to permit refills
 86 at 70 percent of the predicted days of use; and

87 (B) At the patient's request, a practitioner shall be permitted to authorize refills earlier
 88 than 70 percent of the predicted days of use.

89 This paragraph shall apply to refills purchased through retail pharmacies and mail order
 90 sources."

91 **SECTION 5.**

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