

House Bill 886 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 43<sup>rd</sup>, Martin of the 49<sup>th</sup>, Smith of the 134<sup>th</sup>, and Rogers of the 29<sup>th</sup>

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; and
- 43 (viii) Except as otherwise provided in division (vi) of this subparagraph, the specialty  
44 pharmacy complies with the rules and regulations of the State Board of Pharmacy  
45 regarding delivery by mail;
- 46 (B) An institution or to sell, distribute, or deliver prescription drugs, upon his or her  
47 request, to an enrollee in a health benefits plan of a group model health maintenance  
48 organization or its affiliates by a pharmacy which is operated by that same group model  
49 health maintenance organization and licensed under Code Section 26-4-110 or to a  
50 patient on behalf of a pharmacy. Any pharmacy using the mails or other common  
51 carriers to dispense prescriptions pursuant to this paragraph shall comply with the  
52 following conditions:
- 53 (i) The pharmacy shall provide an electronic, telephonic, or written communications  
54 mechanism which reasonably determines whether the medications distributed by the  
55 mails or other common carriers have been received by the enrollee and through which  
56 a pharmacist employed by the group model health maintenance organization or a  
57 pharmacy intern under his or her direct supervision is enabled to offer counseling to  
58 the enrollee as authorized by and in accordance with his or her obligations under Code  
59 Section 26-4-85, unless the enrollee refuses such consultation or counseling pursuant  
60 to subsection (e) of such Code section. In addition, the enrollee shall receive  
61 information indicating what he or she should do if the integrity of the packaging or  
62 medication has been compromised during shipment;

63 (ii) ~~In accordance with clinical and professional standards, Except as otherwise~~  
 64 ~~provided in division (iii) of this subparagraph, the pharmacy complies with the rules~~  
 65 ~~and regulations of the State Board of Pharmacy regarding delivery by mail, including~~  
 66 ~~special conditions on the mailing of certain drugs and if necessary, restriction from~~  
 67 ~~delivery of certain substances by mail; provided, however, that the State Board of~~  
 68 Pharmacy shall not promulgate a list of medications which may not be delivered by  
 69 the mails or other common carriers. If, however, the State Board of Pharmacy bans  
 70 a medication from being sold in this state, either over the counter or otherwise, then  
 71 such medication shall not be delivered by mail. ~~However, until such list is~~  
 72 ~~promulgated, the group model health maintenance organization shall not deliver by~~  
 73 ~~use of the mails or other common carriers Class II controlled substance medications,~~  
 74 ~~medications which require refrigeration, chemotherapy medications deemed by the~~  
 75 ~~federal Environmental Protection Agency as dangerous, medications in suppository~~  
 76 ~~form, and other~~ Nothing herein shall require a dispensing pharmacy to deliver by  
 77 mail those medications which, in the professional opinion of the dispensing  
 78 pharmacist, may be clinically compromised by distribution through the mail or other  
 79 common carriers;

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

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

89 For purposes of this subparagraph, the term 'group model health maintenance  
 90 organization' means a health maintenance organization that has an exclusive contract  
 91 with a medical group practice to provide or arrange for the provision of substantially  
 92 all physician services to enrollees in health benefits plans of the health maintenance  
 93 organization; or

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

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**SECTION 2.**

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