

**Section 23. Effective Date.** This Act shall become effective on July 1, 1975.

**Section 24. Repealer.** All laws and parts of laws in conflict with this Act are hereby repealed.

Approved March 18, 1974.

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GEORGIA CONTROLLED SUBSTANCES ACT.

Code Chapter 79A Amended.

No. 823 (Senate Bill No. 495).

An Act to completely supersede and repeal Chapter 79A-8, known as the Uniform Narcotic Drug Act and Chapter 79A-9, known as the Drug Abuse Control Act of Code Title 79A, relating to pharmacists, pharmacy, drugs and narcotics; to provide that Chapter 79A-9 is reserved; to provide a title; to provide for definitions; to provide that the State Board of Pharmacy shall administer this Chapter; to provide that the Board of Pharmacy may identify for purposes of adding or rescheduling all substances enumerated in the schedules in this Chapter pursuant to the procedures of the Georgia Administrative Procedure Act; to provide the establishment of five schedules of controlled substances consisting of those substances listed in this Chapter; to provide that the five schedules shall be updated and republished by the Board of Pharmacy on an annual basis; to provide that the Board of Pharmacy must make certain findings in identifying new substances for the schedules in this Chapter; to provide for the substances listed in Schedule I; to provide for the substances listed in Schedule II; to provide for the substances listed in Schedule III and that the Board of Pharmacy may except by rule certain substances from the application of all or any part of this Chapter; to provide for the substances listed in Schedule IV and that the Board of Pharmacy may except by rule certain substances from the application of any or all of this Chapter; to

provide for the substances listed in Schedule V; to provide for prohibited acts with respect to controlled substances and penalties thereto; to provide for the possession or sale of marijuana and penalties thereto; to provide for prohibited acts with respect to counterfeit substances and penalties thereto; to provide that the Board of Pharmacy may promulgate rules and charge reasonable fees relating to this Chapter; to provide for registration requirements; to provide for registration; to provide for revocation and suspension of registration; to provide for an order to show cause; to provide for records of registrants; to provide that compliance with the provisions of Federal law respecting order forms shall be deemed compliance with this Chapter; to provide for prescriptions; to provide for prohibited acts with respect to registration and the penalties thereto; to provide for penalties under other laws; to provide for powers of enforcement personnel; to provide that certain officers may carry firearms in the performance of their duties; to provide that certain officers may execute and serve search warrants; to provide that certain officers may make arrests without warrants for certain offenses; to provide that certain officers may make seizures of property; to provide for administrative inspections and warrants; to provide for the issuance and execution of inspection warrants; to provide that certain Judicial officers upon proper oath assuming probable cause may issue warrants; to provide that a warrant shall issue only upon an affidavit of an officer or employee of the Board of Pharmacy having knowledge of the facts alleged; to provide that a warrant must be returned within ten (10) days of its date; to provide that the Board of Pharmacy, Chief Drug Inspector or Drug Inspector may make inspections of controlled premises in accordance with certain provisions; to provide that when authorized by a warrant, an officer or employee designated by the Board of Pharmacy or Chief Drug Inspector may inspect certain documents; to provide for injunctions; to provide for cooperative arrangements and confidentiality with Federal and other State agencies; to provide forfeitures; to provide that which is subject to forfeitures; to provide for seizure of property subject to forfeiture; to provide for

the disposition of property subject to forfeiture; to provide that it is not necessary for the State to negate an exemption or exception in this Chapter; to provide for Judicial review; to provide for information and research; to provide for pending proceedings; to provide for continuation of rules; to provide for uniformity of interpretation; to provide for the amendment of section 79A-302 of Code Title 79A to change that section's reference to this Chapter; to provide for the amendment of section 79A-9917 of Code Title 79A to change its reference to this Chapter; to provide for the severability of provisions; to provide for the specific repeal of sections 79A-911, 79A-9915 and 79A-9916 of Code Title 79A; to provide for an effective date; to provide for a general repealer; and for other purposes.

Be it enacted by the General Assembly of Georgia:

**Section 1.** Code Title 79A, relating to pharmacists, pharmacy, drugs and narcotics, as amended, is hereby amended by striking Chapter 79A-8 and Chapter 79A-9 in their entirety and substituting in lieu thereof the following:

**CHAPTER 79A-9. Reserved.**

**CHAPTER 79A-8**

**Georgia Controlled Substances Act**

**Section 79A-801.** This Chapter shall be known and may be cited as the Georgia Controlled Substances Act.

**Section 79A-802. Definitions.** As used in this Chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or by any other means, to the body of a patient or research subject by:

(1) A practitioner (or, in his presence, by his authorized agent), or

(2) The patient, or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of/or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Bureau" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(d) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of section 79A-806 through 79A-810 of this Chapter.

(e) "Conveyance" means any object, including aircraft, vehicle or vessel, but not including a person, which may be used to carry or transport a substance or object.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance, or a controlled substance in a container which does not bear a label which accurately or truthfully identifies the controlled substance contained therein, or any substance in a container which bears a label falsely identifying the contents as a controlled substance.

(g) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Dependent", "dependency", "physical dependency", "psychological dependency" or "psychic dependency" shall mean and include the state of dependence by an individual towards or upon a substance, arising from the use of that

substance, being characterized by behavioral and other responses which includes the loss of self-control with respect to that substance, or a strong compulsion to use that substance on a continuous basis in order to experience some psychic effect resulting from the use of that substance by that individual, or to avoid any discomfort occurring when the individual does not use that substance.

(i) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery, or the delivery of a controlled substance by a practitioner, acting in the normal course of his professional practice and in accordance with the provisions of this Chapter, to a relative or representative of the person for whom the controlled substance is prescribed.

(j) "Dispenser" means a practitioner who dispenses.

(k) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(l) "Distributor" means a person who distributes.

(m) "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by rule identifies as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the

preparation, compounding, packaging, or labeling of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(o) "Marijuana" means all parts of the plant *Cannabis Sativa L.*, whether growing or not, the seeds thereof; the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(p) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium Poppy, poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation or coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically

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equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(q) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 79A-803 of this Chapter, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(r) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(s) "Person" means individual, corporation, government or governmental subdivision of agency, business trust, estate, trust, partnership or association, or any other legal entity.

(t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(u) "Potential for abuse" shall mean and include a substantial potential for the occurrence of a substance to be used by an individual to the extent of creating hazards to the health of the user or the safety of the public, or the substantial potential of a substance to cause an individual using that substance to become dependent upon that substance.

(v) "Practitioner" means:

(1) A physician, dentist, pharmacist, veterinarian, scientific investigator, or other person licensed, registered or otherwise authorized under the laws of this State to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise authorized by law to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.

(w) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(x) "Registered" or "register" means registration as required by this Chapter.

(y) "Registrant" means a person who is registered under this Chapter.

(z) "State", when applied to a part of the United States, includes any State, district, commonwealth, territory, insular possession thereof, any area subject to the legal authority of the United States of America.

(aa) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household or an agent or representative of the person.

**Section 79A-803. Authority to Control. Standards and Schedules.**

(a) The Board of Pharmacy shall administer this Chapter and shall add substances to or re-schedule all substances enumerated in the schedules in sections 79A-806, 79A-807, 79A-808, 79A-809, 79A-810 pursuant to the procedures of Georgia Administrative Procedure Act. In making a determination or identification regarding a substance, the Board of Pharmacy shall consider the following factors:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;



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(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of abuse;

(5) the scope, duration, and significance of abuse;

(6) the risk to the public health;

(7) the potential of the substance to produce psychic or physiological dependence liability;

(8) whether the substance is an immediate precursor of a substance already controlled under this Chapter; and

(9) the designation, deletion or re-scheduling of a substance under Federal law controlling controlled substances.

(b) After considering the factors enumerated in subsection (a), the Board of Pharmacy shall make findings with respect thereto and cause the publication of such findings as a rule, in accordance with the provisions of the Georgia Administrative Procedure Act, controlling the substance if it finds the substance has a potential for abuse.

(c) If the Board of Pharmacy identifies a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) Authority to control under this Section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 58, Georgia Code Annotated.

**Section 79A-804. Nomenclature.** The controlled substances listed or be listed in the schedules in sections 79A-806, 79A-807, 79A-808, 79A-809 and 79A-810 are included by whatever official, common, usual, chemical, or trade name designated.

**Section 79A-805.** (a) There are established five schedules

of controlled substances, to be known as Schedules I, II, III, IV and V. Such schedules shall initially consist of the substances listed in sections 79A-806, 79A-807, 79A-808, 79A-809, and 79A-810. The schedules so established shall be updated and republished by the Board of Pharmacy on an annual basis beginning one year after the date of enactment of this Chapter.

(b) Except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings for each of the schedules are as follows:

(1) Schedule I.

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) Schedule II.

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substance may lead to severe psychological or physical dependence.

(3) Schedule III.

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in Schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) Schedule IV.

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

(5) Schedule V.

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV.

**Section 79A-806. Schedule I.** (a) The controlled substances listed in this section are included in Schedule I, unless and until amended pursuant to section 79A-803.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, pursuant to this Chapter, when-

ever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Dextrophan;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimetheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxadine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;

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- (27) Levomoramide;
  - (28) Levophenacymorphan;
  - (29) Morpheridine;
  - (30) Noracymethadol;
  - (31) Norlevorphanol;
  - (32) Normethadone;
  - (33) Norpipanone;
  - (34) Phenadoxone;
  - (35) Phenampromide;
  - (36) Phenomorphan;
  - (37) Phenoperidine;
  - (38) Piritramide;
  - (39) Proheptazine;
  - (40) Properidine;
  - (41) Propiram;
  - (42) Racemoramide;
  - (43) Trimeperidine;

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;

- (9) Etorphine;
- (10) Heroin;
- (11) Hyromorphinol;
- (12) Methyldesorphine;
- (13) Methyldihydromorphine;
- (14) Morphine methylbromide;
- (15) Morphine methylsulfonate;
- (16) Morphine-N-Oxide;
- (17) Myorphine;
- (18) Nicocodeine;
- (19) Nicomorphine;
- (20) Normorphine;
- (21) Pholcodine;
- (22) Thebacon;

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, (whether optical, position or geometric), and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers if possible within the specific chemical designation:

- (1) 3, 4-methylenedioxy amphetamine;
- (2) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (3) 3, 4, 5-trimethoxy amphetamine;
- (4) Bufotenine;
- (5) Diethyltryptamine;
- (6) Dimethyltryptamine;
- (7) 4-methyl-2, 5-dimethoxyamphetamine;
- (8) Ibogaine;
- (9) Lysergic acid diethylamide;

- (10) Mescaline;
- (11) Peyote;
- (12) N-ethyl-3-piperidyl benzilate;
- (13) N-methyl-3-piperidyl benzilate;
- (14) Psilocybin;
- (15) Psilocyn;
- (16) Tetrahydrocannabinols;
- (17) 2, 5 Dimethoxyamphetamine;
- (18) 4-Bromo-2, 5, Dimethoxyamphetamine;
- (19) 4-Methoxyamphetamine.

**Section 79A-807. Schedule II.**

(a) The controlled substances listed in this section are included in Schedule II, unless and until amended pursuant to section 79A-803.

(b) Any of the following substances, or salt thereof, except those narcotic drugs specifically exempted or listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination or extraction and chemical synthesis;

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone hydrochloride, but including the following:

- (i) Raw Opium
- (ii) Opium extracts
- (iii) Opium fluid extracts
- (iv) Powdered opium
- (v) Granulated opium
- (vi) Tincture of opium
- (vii) Apomorphine

- (viii) Codeine
- (ix) Ethylmorphine
- (x) Hydrocodone
- (xi) Hydromorphone
- (xii) Metopon
- (xiii) Morphine
- (xiv) Oxycodone
- (xv) Oxymorphone
- (xvi) Thebaine

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (1) of this paragraph, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves, any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Dihydrocodeine;
- (5) Diphenoxylate;



- (6) Fentanyl;
- (7) Isomethadone;
- (8) Levomethorphan;
- (9) Levorphanol;
- (10) Methazocine;
- (11) Methadone;
- (12) Methadone - Intermediate,  
4-cyano-2-dimethylamino-4,  
4-diphenyl butane;
- (13) Moramide - Intermediate,  
2-methyl-3-morpholino-1,  
1-diphenyl-propane-carboxylic acid;
- (14) Pethidine;
- (15) Pethidine - Intermediate - A,  
4-cyano-1-methyl-4-phenylpiperidine;
- (16) Pethidine - Intermediate - B,  
ethyl-4-phenylpiperidine-4-  
carboxylate;
- (17) Pethidine - Intermediate - C,  
1-methyl-4-phenylpiperidine-  
4-carboxylic acid;
- (18) Phenazocine;
- (19) Piminodine;
- (20) Racemethorphan;
- (21) Racemorphan.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a stimulant effect on the central nervous system:

Stimulants.

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate.

**Depressants.**

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any of the following substances, included as having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Methaqualone

(2) Amobarbital

(3) Secobarbital

(4) Pentobarbital

**Section 79A-808. Schedule III.** (a) The controlled substances listed in this Section are included in Schedule III, unless and until amended pursuant to section 79A-803.

**Stimulants.**

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, included as having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures or preparations in dosage unit forms containing any stimulant substances which are listed as excepted compounds by the Board of Pharmacy pursuant to this Chapter, and any other drug of quantitative composition so excepted, or which is the same except that it contains a lesser quantity of controlled substances.

- (2) Benzphetamine
- (3) Chlorphentermine
- (4) Clortermine
- (5) Mazindol
- (6) Phendimetrazine

(c) Depressants. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances included as having a depressant effect on the central nervous system:

Depressants.

(1) Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salts thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Board of Pharmacy for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

- (4) Chlorhexadol
- (5) Glutethimide
- (6) Lysergic acid
- (7) Lysergic acid amide
- (8) Methyprylon
- (9) Phencyclidine
- (10) Sulfondiethylmethane
- (11) Sulfonethylmethane
- (12) Sulfonmethane

(d) Nalorphine

Narcotic drugs. (c) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing limited quantities of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or

more active, non-narcotic ingredients in recognized therapeutic amounts.

(f) The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this Chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

**Section 79A-809. Schedule IV.** (a) The controlled substances listed in this section are included in Schedule IV, unless and until amended pursuant to section 79A-803.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specified chemical designation, included as having a stimulant or depressant effect on the central nervous system or a hallucinogenic effect:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Ethchlorvynol;
- (5) Ethinamate;
- (6) Methohexital;
- (7) Meprobamate;
- (8) Methylphenobarbital;
- (9) Paraldehyde;
- (10) Petrichloral;

- (11) Phenobarbital;
- (12) Fenfluramine;
- (13) Diethylpropion;
- (14) Phentermine;

(c) The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any depressant, stimulant, or hallucinogenic substance listed in subsection (b) from the application of all or any part of this Chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant or stimulant effect on the central nervous system.

**Section 79A-810. Schedule V.** (a) The controlled substances listed in this section are included in Schedule V, unless and until amended pursuant to section 79A-803.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or salts thereof, which also contains one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atrophine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

**Section 79A-811. Prohibited Acts.** (a) Except as authorized by this Chapter, it is unlawful for any person to possess or have under his control any controlled substance.

(b) Except as authorized by this Chapter, it is unlawful for any person to manufacture, deliver, distribute, dispense, administer, sell or possess with intent to distribute any controlled substance.

(c) Any person who violates section 79A-811(a) with respect to a controlled substance in Schedule I or narcotic drugs in Schedule II shall be guilty of a felony and shall be punished by imprisonment for not less than two (2) years nor more than fifteen (15) years. Upon conviction of a second or subsequent offense he shall be imprisoned for not less than five (5) years nor more than thirty (30) years.

(d) Any person who violates section 79A-811(b) with respect to a controlled substance in Schedule I or narcotic drugs in Schedule II shall be guilty of a felony and shall be punished by imprisonment for not less than five (5) years nor more than thirty (30) years. Upon conviction of a second or subsequent offense he shall be imprisoned for life.

(e) Any person who violates section 79A-811(a) with respect to a controlled substance in Schedule II, other than a narcotic drug, shall be guilty of a felony and shall be punished by imprisonment for not less than two (2) years nor more than fifteen (15) years. Upon conviction of a second or subsequent offense he shall be guilty of a felony and shall be punished by imprisonment for not less than five (5) years nor more than thirty (30) years.

(f) Any person who violates section 79A-811(b) with respect to a controlled substance in Schedule II, other than a narcotic drug, shall be guilty of a felony and shall be punished by imprisonment for not less than five (5) years nor more than thirty (30) years.

(g) Any person who violates section 79A-811(a) with respect to a controlled substance in Schedule III, IV or Schedule V shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) years nor more than five (5) years. Upon conviction of a second or subsequent offense he shall be imprisoned for not less than one (1) year nor more than ten (10) years.

(h) Any person who violates section 79A-811(b) with respect to a controlled substance in Schedule III, IV or Schedule V shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) year nor more than ten (10) years.

(i) Except as authorized by this Chapter, it is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, sell or possess with intent to distribute a counterfeit substance. Any person who violates this subsection shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) year nor more than ten (10) years.

(j) Possession or sale of marijuana. It is unlawful for any person to possess, have under his control, manufacture, deliver, distribute, dispense, administer, sell, or possess with intent to distribute marijuana. Except as provided in section 79A-9917, any person who violates this subsection shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) year nor more than ten (10) years.

**Section 79A-812. Attempt and Conspiracy.** Any person who attempts or conspires to commit any offense defined in this Chapter shall be punished by imprisonment not exceeding the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

**Section 79A-813. Rules.** The Board of Pharmacy may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this State.



**Section 79A-814. Registration Requirements.** (a) Every person who manufactures, distributes, or dispenses any controlled substances within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this State, must obtain annually a registration issued by the Board of Pharmacy in accordance with its rules.

(b) Persons registered by the Board of Pharmacy under this Chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Chapter.

(c) The following persons need not register and may lawfully possess controlled substances under this Chapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser or any controlled substance if he is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman, or any employee thereof, whose possession of any controlled substance is in the usual course of his business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a "practitioner" or in lawful possession of a Schedule V substance;

(4) Officers and employees of this State, or of a political subdivision of this State or of the United States while acting in the course of their official duties.

(d) The Board of Pharmacy may waive by rule the requirements for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration is required at each principal

place of business of professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The Board of Pharmacy, Drug Inspectors or other Agents designated by the Board of Pharmacy for this purpose, may inspect the establishment of a registrant or applicant for registration in accordance with the Board of Pharmacy rules and the provisions of this Chapter.

(g) The following persons are registered under this Chapter and are exempt from the registration fee and registration application requirements of this Chapter:

(1) persons licensed by the Board of Pharmacy as a pharmacist or a pharmacy under the provisions of this Code Title 79A;

(2) persons licensed as a physician, dentist or veterinarian under the laws of the State to use, mix, prepare, dispense, prescribe and administer drugs in connection with medical treatment to the extent provided by the laws of this State;

(3) an employee, agent or representative of any person described in paragraph (1) or (2) of this subsection acting in the usual course of his employment or occupation and not on his own account, provided that suspension or revocation of licensure as set forth in paragraph (1) and (2) of this subsection shall nullify exemption as set forth in this subsection.

**Section 79A-815. Registration.** (a) The Board of Pharmacy shall register an applicant to manufacture or distribute controlled substances included in sections 79A-806, 79A-807, 79A-808, 79A-809, and 79A-810 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board of Pharmacy shall consider the following factors:

(1) maintenance of effective controls against diversion

of controlled substances into other than legitimate medical, scientific, or industrial channels;

- (2) compliance with applicable State and local law;
- (3) any convictions of the applicant under any Federal or State laws relating to any controlled substance;
- (4) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
- (5) furnishing by the applicant of false or fraudulent material in any application filed under this Chapter;
- (6) suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled substances as authorized by Federal Law; and
- (7) any other factors relevant to and consistent with the public health and safety;
- (8) suspension or revocation of the applicant's registration or license to manufacture, distribute or dispense controlled substances, drugs or narcotics in this State or any other state of the United States.

(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered under Georgia Law to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this State. The Board of Pharmacy need not require separate registration under this Section for practitioners engaging in research with non-narcotic controlled substances in Schedules II through V where the registrant is already registered under this Chapter in another capacity. Practitioners registered under Federal law to conduct re-

search with Schedule I substances may conduct research with Schedule I substance within this State upon furnishing the Board of Pharmacy satisfactory evidence of that Federal Registration.

(d) Compliance by manufacturers and distributors with the provisions of the Federal law respecting registration (excluding fees) entitles them to be registered under this Chapter.

**Section 79A-816. Revocation and Suspension of Registration.** (a) A registration under section 79A-815 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Board of Pharmacy upon a finding that the registrant:

(1) has furnished false or fraudulent material information in any application filed under this Chapter;

(2) has been convicted of a felony under any State or Federal law relating to any controlled substance; or

(3) has had his Federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;

(4) has violated any provision of this Chapter or the rules and regulations promulgated thereunder;

(5) has failed to maintain sufficient controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels.

(b) The Board of Pharmacy may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the Board of Pharmacy suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order shall be placed under seal. No dis-

position may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances shall be forfeited to the State.

(d) The Board of Pharmacy shall promptly notify the Bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

**Section 79A-817. Order to Show Cause.** (a) Before denying, suspending, revoking or limiting registration, or refusing a renewal of registration, the Board of Pharmacy shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, limited or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefore and shall call upon the applicant or registrant to appear before the Board of Pharmacy at a time and place not less than 30 days after the date of service of the order, but in the case of a denial of renewal of registration the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with the Georgia Administrative Procedure Act without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal or registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The Board of Pharmacy shall suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 79A-816, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Board of Pharmacy or dissolved by a court of competent jurisdiction.

**Section 79A-818. Records of Registrants.** Persons registered to manufacture, distribute, or dispense controlled substances under this Chapter shall keep a complete and accurate record of all controlled substances on hand, received, manufactured, sold, dispensed or otherwise disposed of, and shall maintain such records and inventories in conformance with the record-keeping and inventory requirements of Federal law and with any rules issued by the Board of Pharmacy.

**Section 79A-819. Order Forms.** Controlled substances in Schedule I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of Federal law respecting order forms shall be deemed compliance with this Section.

**Section 79A-820. Prescriptions.** (a) Except when dispensed directly by a registered practitioner, other than a pharmacy or pharmacist, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a registered practitioner.

(b) When a registered practitioner writes a prescription to cause the dispensing of Schedule II substance he shall include the name and address of the person for whom it is prescribed, the kind and quantity of such Schedule II Controlled Substance, the directions for taking, the signature, name, address and Federal Registration number of the prescribing practitioner, and such prescriptions shall be signed and dated by the prescribing practitioner on the date when issued.

(c) In emergency situations, as defined by rule of the Board of Pharmacy, Schedule II drugs may be dispensed upon oral prescription of a registered practitioner, reduced promptly to writing and filed by the Pharmacy. Prescriptions shall be retained in conformity with the requirements of section 79A-818. No prescription for a Schedule II substance may be refilled.

(d) Except when dispensed directly by a practitioner, other than a pharmacy or pharmacist, to an ultimate user,

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a controlled substance included in Schedule III or IV, which is a prescription drug as determined under any law of this State, or the Federal Food, Drug and Cosmetic Act (52 Stat. 1040 (1938), 21 USC 301) shall not be dispensed without a written or oral prescription of a registered practitioner. The prescription shall not be filled or refilled more than 6 months after the date on which such prescription was issued, or be refilled more than 5 times.

(e) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a legitimate medical purpose.

(f) No person shall prescribe or order the dispensing of a controlled substance except a registered practitioner who is:

(1) licensed or otherwise authorized by the State of Georgia to prescribe controlled substances; and

(2) acting in the usual course of his professional practice; and

(3) prescribing or ordering such controlled substances for a legitimate medical purpose.

(g) No person shall fill or dispense a prescription for a controlled substance except a person who is licensed by the State of Georgia as a pharmacist, or a pharmacy intern acting under the immediate and direct personal supervision of a licensed pharmacist, in a pharmacy licensed by the Board of Pharmacy, provided that such shall not prohibit a registered physician, dentist, veterinarian or other registered practitioner authorized by the State of Georgia to dispense controlled substances as provided in this Chapter.

**Section 79A-821. Prohibited Acts.** (a) It is unlawful for any person:

(1) who is subject to the requirements of section 79A-814 to distribute or dispense a controlled substance in violation of section 79A-820;

(2) who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this Chapter;

(4) to refuse an entry into any premises for any inspection authorized by this Chapter; or

(5) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this Chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this Chapter.

(b) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than five (5) years, fined not more than \$25,000, or both.

**Section 79A-822. Prohibited Acts.** (a) It is unlawful for any person:

(1) who is a registrant, to distribute a controlled substance classified in Schedules I or II, except pursuant to an order form as required by section 79A-819 of this Chapter;

(2) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

(4) to furnish false or fraudulent material information in, or omit any material information from, any application,



report, or other document required to be kept or filed under this Chapter, or any record required to be kept by this Chapter; or

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this Section is guilty of a crime and upon conviction may be imprisoned for not more than eight (8) years, or fined not more than \$50,000, or both.

**Section 79A-823. Penalties Under Other Laws.** Any penalty imposed for violation of this Chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

**Section 79A-824. Powers of Enforcement Personnel.** (a) Any officer or employee of the Board of Pharmacy designated by the Chief Drug Inspector may:

(1) carry firearms in the performance of his official duties;

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this State;

(3) make arrests without warrant for any offense under this Chapter committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this Chapter which may constitute a felony;

(4) make seizures of property pursuant to this Chapter;  
or

(5) perform other law enforcement duties as the Board of Pharmacy or Chief Drug Inspector designates.

**Section 79A-825. Administrative Inspections and Warrants.** (a) Issuance and execution of inspection warrants shall be as follows:

(1) A judge of the Superior, City or County Court, or Justice of the Peace, or any municipal officer clothed by law with the powers of a Justice of the Peace upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting inspections authorized by this Chapter or rules hereunder, and seizures of property appropriate to the inspections. For purpose of the issuance of inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this Chapter or rules hereunder, sufficient to justify inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of a designated officer, drug inspector or employee of the Board of Pharmacy having knowledge of the facts alleged, sworn to before the Judicial officer and establishing the grounds for issuing the warrant. If the Judicial officer is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, registrant or conveyance to be inspected, the purpose of the inspection, and if appropriate, the type of property to be inspected, if any, the warrant shall:

(i) state the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(ii) be directed to persons authorized by section 79A-824 to execute it;

(iii) command the persons to whom it is directed to inspect the area, premises, building, registrant or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(iv) identify the item or types of property to be seized, if any;

(v) designate the Judicial officer to whom it shall be returned;

(3) A warrant issued pursuant to this Section must be executed and returned within 10 days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be provided upon request to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. A copy of the inventory shall be delivered upon request to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The Judicial officer who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the Superior Court for the County in which the inspection was made.

(b) The Board of Pharmacy, Chief Drug Inspector or Drug Inspector may make inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(i) places where persons registered or exempted from registration requirements under this Chapter are required to keep records; and

(ii) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this Chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an inspection warrant issued pursuant to subsection (a) an officer or employee designated by the Board of Pharmacy or Chief Drug Inspector, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an inspection.

(3) When authorized by an inspection warrant, an officer or employee designated by the Board of Pharmacy or Chief Drug Inspector may:

(i) inspect and copy records required by this Chapter to be kept;

(ii) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and except as provided in subsection (b) (5), all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this Chapter; and

(iii) inventory any stock of any controlled substance therein and obtain samples thereof;

(4) This Section does not prevent the inspection without a warrant of books and records pursuant to an administrative inspection in accordance with subsection (c) of this section, nor does it prevent entries and inspections, including seizures of property, without a warrant:

(i) if the owner, operator, or agent in charge of the controlled premises consents;

(ii) in situations presenting imminent danger to health or safety;

(iii) in situations involving inspection of conveyance if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(iv) in any other exceptional or emergency circumstance

where time or opportunity to apply for a warrant is lacking;  
or

(v) in all other situations in which a warrant is not constitutionally required;

(5) An inspection authorized by this Section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

(c) The Georgia State Board of Pharmacy, its members or duly authorized agents or drug inspectors, shall have the power to inspect, without a warrant, in a lawful manner at all reasonable hours, any pharmacy or other place licensed by the Board of Pharmacy pursuant to the provisions of Chapter 79A-5, Georgia Code Annotated, for the purpose:

(1) of determining if any of the provisions of this title, or any rule or regulation promulgated under its authority, is being violated and,

(2) to secure samples or specimens of any drug or medical supplies, after first paying, or offering to pay for such samples or specimens;

(3) to secure other such evidence as may be needed for an administrative proceedings action, as provided by this title.

**Section 79A-826. Injunctions.** (a) The superior courts of this State may exercise jurisdiction to restrain or enjoin violations of this Chapter.

(b) The defendant may demand trial by jury for an alleged violation of injunction or restraining order under this Section.

**Section 79A-827. Cooperative Arrangements and Confidentiality.** (a) The Board of Pharmacy shall cooperate with Federal and other State agencies in discharging its responsibilities concerning traffic in controlled substances and in

suppressing the abuse of controlled substances. To this end, it may:

(1) arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(2) coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(3) cooperate with the Bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records, other than medical treatment records, of drug dependent persons and other controlled substance law offenders within the State, and make the information available for Federal, State and local law enforcement purposes; and

(4) conduct or promote programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Results, information, and evidence received from the Bureau relating to the regulatory functions of this Chapter, including results of inspections conducted by it may be relied and acted upon by the Board of Pharmacy or Drug Inspectors in the exercise of its regulatory functions under this Chapter.

**Section 79A-828. Forfeitures.** (a) The following are subject to forfeitures:

(1) all controlled substances which have been manufactured, distributed, dispensed, held, or acquired in violation of this Chapter; and

(2) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this Chapter; and

(3) all property which is used, or intended for use, as a container for property described in paragraphs (1) and (2); and

(4) all conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, hold, conceal, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2), but:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this Section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this Chapter;

(ii) no conveyance is subject to forfeiture under this Section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of, nor consented to the act or omission.

(5) All books, records and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended to be used, in violation of this Chapter; and

(b) Property subject to forfeiture under this Chapter may be seized by the Chief Drug Inspector or duly authorized agents or drug inspectors of the Board of Pharmacy, or by any law enforcement officer of this State, or any political subdivision thereof, who has the power to make arrests and whose duty is to enforce the provisions of this Chapter, upon process issued by any court having jurisdiction over the property. Seizure without process or warrant may be made if:

(1) the seizure is incident to an arrest or a search under

a search warrant or an inspection under an inspection warrant;

(2) the property subject to seizure has been the subject or a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this Chapter; or

(3) the Chief Drug Inspector or duly authorized agents or drug inspectors of the Board of Pharmacy has probable cause to believe that the property is directly dangerous to health or safety; or

(4) the Chief Drug Inspector, Agents, Drug Inspectors or police officers as set forth in subsection (b) of this Section has probable cause to believe that the property was used or is intended to be used in violation of this Chapter.

(c) In the event of seizure pursuant to subsection (b) of this Section, proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this Section shall not be subject to replevin, but is deemed to be in the custody of the Board of Pharmacy, subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this Chapter, the Chief Drug Inspector or duly authorized agents, drug inspectors or law enforcement officers seizing such property shall:

(1) place the property under seal;

(2) remove the property to a place designated by the Chief Drug Inspector or duly authorized agents or drug inspectors of the Board of Pharmacy; or

(3) deliver such property to the Sheriff or Police Chief of the county in which the seizure occurred and such Sheriff or Police Chief shall take custody of the property and remove it to an appropriate location for disposition in accordance with law.



(e) When an article, equipment, controlled substance, conveyance or other thing is seized under this Chapter the sheriff, drug inspector or law enforcement officer seizing the same shall report the fact of seizure, within ten (10) days thereof, to the District Attorney of the Judicial Circuit having jurisdiction in the county where the seizure was made. Within thirty (30) days from the date he receives notice of such seizure, such District Attorney of said Judicial Circuit or the Chief Drug Inspector on his behalf, shall cause to be filed in the Superior Court of the county in which the conveyance is seized or detained a libel for condemnation of such merchandise as herein provided. The proceedings shall be brought in the name of the State by the District Attorney of the Circuit in which the merchandise was seized, and the libel shall be verified by a duly authorized agent of the State in a manner required by the law of this State. The libel shall describe the merchandise, state its location, state its present custodian, state the name of the owner, if known, to the duly authorized agent of the State, allege the essential elements of the violation which is claimed to exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such a libel, the court shall promptly cause process to issue to the present custodian in possession of the merchandise described in the libel, commanding him to seize the merchandise described in the libel and to hold that merchandise for further order of the court. Service of process of said libel and order shall be made promptly upon the owner of said merchandise. Such service may be made personally, by mail, or by publication according to the rules governing the service of civil process in this State. At the expiration of twenty (20) days after such filing, if no claimant has appeared to defend said libel, the court shall order the disposition of said seized merchandise as provided herein.

(f) When property is forfeited under this Chapter the Chief Drug Inspector may:

(1) retain it for official use by any agency of this State or any political subdivision thereof; or

(2) sell that which is not required to be destroyed by law

and which is not harmful to the public. The proceedings shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including the expenses of seizure, maintenance of custody, advertising and court costs; or

(3) require the Sheriff or Police Chief of the county in which the seizure occurred to take custody of the property and remove it for disposition in accordance with law.

(g) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this Chapter are contraband and shall be seized and summarily forfeited to the State. Controlled substances listed in Schedule I, which are seized or come into the possession of the State, the owners of which are unknown, are contraband and shall be summarily forfeited to the State.

(h) Species of plants from which controlled substances in Schedules I and II may derive, which have been planted or cultivated in violation of this Chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.

(i) The failure, upon demand by the Chief Drug Inspector, Agents, Drug Inspectors, or law enforcement officers as set forth in subsection (b) of this Section, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

**Section 79A-829. Burden of Proof.** (a) It is not necessary for the State to negate any exemption or exception in this Chapter in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this Chapter. The burden of proof, of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this Chapter, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption.

(c) No liability is imposed by this Chapter upon any authorized state, county or municipal officer, engaged in the lawful performance of his duties.

**Section 79A-830. Judicial Review.** All final determinations, findings and conclusions of the Board of Pharmacy under this Chapter are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in Fulton County Superior Court. Findings of fact by the Board of Pharmacy, if supported by substantial evidence, are conclusive.

**Section 79A-831. Information and Research.** (a) The Board of Pharmacy and Chief Drug Inspector's office shall carry out programs designed to prevent and deter misuse and abuse of controlled substances.

(b) The Board of Pharmacy and Chief Drug Inspector's office shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this Chapter, it may:

(1) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this Chapter;

(ii) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(iii) improve methods for preventing, predicting, under-

standing and dealing with the misuse and abuse of controlled substances; and,

(3) enter into agreements with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(c) The Board of Pharmacy, in the public interest, may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(d) The Board of Pharmacy may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from State prosecution for possession and distribution of controlled substances to the extent of the authorization.

**Section 79A-832. Pending Proceedings.** (a) Prosecution for any violation of law occurring prior to the effective date of this Chapter is not affected or abated by this Chapter. If the offense being prosecuted is similar to one set out in this Chapter, then the penalties under this Chapter apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this Chapter are not affected by this Chapter.

(c) All administrative proceedings pending under prior laws which are superseded by this Chapter shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of the Chapter. Any substance controlled under prior law which

is not listed within Schedules I through V, is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) The Board of Pharmacy shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to the effective date of this Chapter and who are registered or licensed by the State.

(e) This Chapter applies to violation of law, seizures, and forfeitures, injunctive proceedings, administrative proceedings, and investigations which occur following its effective date.

**Section 79A-833. Continuation of Rules.** Any orders and rules promulgated under any law affected by this Chapter and in effect on the effective date of this Chapter and not in conflict with it continue in effect until modified, superseded or repealed.

**Section 79A-834. Uniformity of Interpretation.** This Chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Chapter among those states which enact it.

**Section 2.** Code Title 79A, relating to pharmacists, pharmacy, drugs and narcotics, as amended, is hereby amended by striking section 79A-302 in its entirety and substituting in lieu thereof the following:

“Section 79A-302. Authority to arrest for violations and to seize contraband.

The chief drug inspector and the assistant drug inspectors shall have the authority and power that sheriffs possess to make arrests of any persons violating or charged with violating the provisions of Chapter 79A-7 of this Title, known as the ‘Dangerous Drug Act’, as amended; or Chapter 79A-8 of this Title, known as the ‘Georgia Controlled Substances Act’, as amended. In case of such arrest the chief

Code § 79A-302  
Amended.

drug inspector or any of the assistants shall immediately deliver the person so arrested to the custody of the sheriff of the county wherein the offense is alleged to have been committed. The duty of the sheriff in regard to the person delivered to him by any person arresting under the provisions of this Section shall be the same as if the sheriff had made the original arrest. Such inspectors are authorized and directed to seize and take possession of all articles which are declared to be contraband under the provisions of said Chapters and shall deliver such articles to such sheriff.

Nothing contained herein shall be construed to entitle the chief drug inspector and the assistant drug inspectors to membership in the Peace Officers Annuity and Benefit Fund."

**Section 3.** Code Title 79A, relating to pharmacists, pharmacy, drugs and narcotics, as amended, is hereby amended by striking section 79A-9917 in its entirety and substituting in lieu thereof the following:

**"Section 79A-9917. Conditional discharge for possession as first offense.** Whenever any person who has not previously been convicted of any offense under Chapters 79A-7, known as the Dangerous Drug Act, or 79A-8, known as the Georgia Controlled Substances Act, or of any Statute of the United States or of any State relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a narcotic drug, marijuana, or stimulant, depressant or hallucinogenic drug, the court may, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as the court may require, terms, preferably, which require the person to undergo a comprehensive rehabilitation program (including, if necessary, medical treatment), not to exceed three years, designed to acquaint him with the ill effects of drug abuse and to provide him with knowledge of the gains and benefits which can be achieved by being a good member of society. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed accordingly. Upon fulfill-

ment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this Section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Section may occur only once with respect to any person.

Notwithstanding any law to the contrary, any person who is charged with possession of marijuana, which possession is of one ounce or less, and such person would have qualified for the conditional discharge provided for herein but for the fact that the judge chose not to avail himself of the authority granted by this Section or that the person violated the conditions imposed by the court, shall be guilty of a misdemeanor and punished by imprisonment for a period not to exceed twelve (12) months or a fine not to exceed \$1,000, or both. Subsequent offenses of possession of one ounce or less of marijuana shall be punished as a misdemeanor."

**Section 4. Severability of Provisions.** In the event any Section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, paragraphs, subparagraphs, sentences, clauses or phrases of this Act, which shall be and remain in full force and effect, as if the Section, subsection, paragraph, subparagraph, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

**Section 5. Specific Repealer.** Sections 79A-9911, 79A-9915 and 79A-9916 of Code Title 79A are hereby repealed in their entirety.

**Section 6.** Nothing in this Act shall be construed to

amend, modify, supersede or repeal Code Chapter 79A-11, relating to exemptions from Code Title 79A.

**Section 7. Effective Date.** This Act shall become effective on July 1, 1974.

**Section 8. General Repeals.** All laws and parts of laws in conflict with this Act are hereby repealed, provided that the laws of the State of Georgia relative to intent required for the commission of a crime are not repealed.

Approved March 18, 1974.

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EDUCATION—PROVISION MADE FOR MARRIED  
STUDENTS, ETC.

No. 824 (Senate Bill No. 504).

An Act to amend an Act known as the "Minimum Foundation Program of Education Act", approved January 24, 1964 (Ga. L. 1964, p. 3), as amended, so as to provide for instruction of pupils who are married, a parent, or pregnant, whether married or unmarried; to provide for other matters relevant thereto; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

**Section 1.** An Act known as the "Minimum Foundation Program of Education Act", approved January 24, 1964 (Ga. L. 1964, p. 3), as amended, is hereby amended by adding a new section after section 28A, to be designated section 28B, to read as follows:

**Section 28B. Married pupils; pupils who are parents; pregnant pupils.** (a) Every local unit of administration shall provide for the assignment of pupils who are married, a parent, or pregnant, whether married or unmarried, to programs of instruction within its regular day-time educational program; provided, that a local unit of administration may