

**NOTICE OF INTENT TO ADOPT RULE IN THE GEORGIA STATE BOARD OF
PHARMACY RULES,
RULE 480-6-.02 NONRESIDENT PHARMACY PERMIT, AND NOTICE OF PUBLIC
HEARING**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Board of Pharmacy (hereinafter “Board”) proposes adoption of new Georgia Board of Pharmacy Rules, Rule 480-6-.02 NONRESIDENT PHARMACY PERMIT (hereinafter “proposed amendments”).

This notice, together with an exact copy of the proposed amendments and a synopsis of the proposed amendments, is being forwarded to all persons who have requested, in writing, that they be placed on an interested parties list. A copy of this notice, an exact copy of the rule including the proposed amendments, and a synopsis of the rule including the proposed amendments may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Department of Community Health at 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334. These documents will also be available for review on the Georgia State Board of Pharmacy’s web page at www.gbp.georgia.gov.

A public hearing is scheduled to begin at 9:00 AM on December 13, 2023 at Department of Community Health, 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, Georgia 30334 to provide the public an opportunity to comment upon and provide input into the proposed amendments. At the public hearing, anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to 5 minutes per person. Additional comments should be presented in writing. Written comments are welcome. To ensure their consideration, written comments must be received prior to December 6, 2023. Written comments should be addressed to the Executive Director of the Georgia State Board of Pharmacy at 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334. You may email your comments to elacefield@dch.ga.gov.

The proposed amendments will be considered for adoption by the Georgia State Board of Pharmacy at its meeting scheduled to begin at 9:00 AM on December 13, 2023 at Department of Community Health, 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, Georgia 30334. According to the Department of Law, State of Georgia, the Georgia State Board of Pharmacy has the authority to adopt the proposed amendments pursuant to authority contained in O.C.G.A. §§ 26-4-27, 26-4-28, and 26-4-110.

At its meeting on August 16, 2023, the Board voted that the formulation and adoption of these rule amendments do not impose excessive regulatory cost on any licensee and any cost to comply with the proposed amendments cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A §§ 26-4-27, 26-4-28, 16-13-22.

Also, at its meeting on August 16, 2023, the Board voted that it is not legal or feasible to meet the objectives of O.C.G.A §§ 26-4-27, 26-4-28, 16-13-22 to adopt or implement differing actions for businesses as listed at O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of this chapter will impact every licensee in the same manner, and each licensee is independently licensed, owned and operated and dominant in the field of pharmacy.

For further information, contact the Board office at 404-651-8000.

This notice is given in compliance with O.C.G.A. §50-13-4.

This 13 day of November, 2023.



Eric R. Lacefield
Executive Director
Georgia Board of Pharmacy

Posted: November 13, 2023.

**SYNOPSIS OF PROPOSED GEORGIA STATE BOARD OF PHARMACY RULE
RULE 480-6-.02 NONRESIDENT PHARMACY PERMIT**

- Purpose:** To amend the rule language to eliminate automatic nullification and voiding of a license in the event of a change of ownership of the licensee pharmacy. To provide a process by which a licensee may request to retain a license number in the event of a change of ownership of the licensee pharmacy. To identify events which constitute a change of ownership. To clarify that change of ownership events must be reported to the Board.
- Main Features:** Elimination of automatic nullification and voiding of a license in the event of a change of ownership. Provision of a process by which a license number may be retained, at the Board's discretion, upon request of the licensee. Identification of events which constitute a change of ownership. Clarification of a licensee's obligation to report changes of ownership to the Board.

**TEXT OF PROPOSED GEORGIA STATE BOARD OF PHARMACY RULE
RULE 480-6-.02 NONRESIDENT PHARMACY PERMIT**

NOTE: Struck through text is proposed to be deleted. Underlined text is proposed to be added.

Text of the proposed rule is attached hereto.

Rule 480-6-.02. Nonresident Pharmacy Permit

- (1) Effective April 1, 2015, it shall be unlawful for any person, pharmacy, or facility located outside this state to ship, mail, or deliver prescription drugs orders into this state or to advertise its services, personally or through an in-state third party, unless such person, pharmacy or facility holds a pharmacy license pursuant to O.C.G.A. Section 26-4-110.1, or holds a nonresident pharmacy permit pursuant to O.C.G.A. Section 26-4-114.1, or is otherwise exempt from Georgia registration as a matter of Georgia law.
- (2) Application for a non-resident pharmacy permit:
 - (a) Applications must be filed with the Georgia State Board of Pharmacy located at 2 Martin Luther King, Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334~~2 Peachtree Street, NW, 6th Floor, Atlanta, Georgia 30303~~, along with the required fee.
 - (b) The Board requires information from each applicant for a nonresident pharmacy permit on its application, including but not limited to, the following:
 1. The name, full business address, and telephone number of the applicant;
 2. All trade or business names used by the applicant;
 3. Address, telephone numbers, and the names of contact persons for each facility used by the applicant for the records, storage, handling, and distribution of prescription drugs into this state;
 4. Address, telephone number and name of agent of service for the applicant;
 5. The type of ownership or operations (i.e., partnership, corporation, or sole proprietorship);
 6. The name(s) of the owner and/or operator of the pharmacy, including:
 - (i) If a person, the name of the person;
 - (ii) If a partnership, the name of each partner and the name of the partnership;
 - (iii) If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the incorporation, and the name of the parent company, if any; or
 - (iv) If a sole proprietorship, the full name of the sole proprietorship and the name of the business entity.
 7. Where operations are conducted at more than one location by a single pharmacy, each such location shall be permitted by the Board;
 8. Proof of a valid, unexpired license, permit, or registration to operate a pharmacy in the compliance with the laws and rules of each state in which the applicant receives and dispenses prescription drug orders;
 9. The names and license numbers of the pharmacist-in-charge of each facility involved in dispensing drugs to residents of this state and evidence that the pharmacist(s) are licensed and in good standing in the state where they are located;
 10. Information necessary to demonstrate compliance with O.C.G.A. T. 50, Ch. 36;
 11. Evidence satisfactory to the Board that the applicant ~~is~~ is in compliance with all laws and investigations from each regulatory or licensing agency in which the applicant holds a license; and
 12. If dispensing sterile or nonsterile compounding for practitioners to use in patient care in the practitioner's office, a copy of the most recent inspection report that is no older

than two (2) years before the date of application was submitted and which is from an inspection conducted by the regulatory or licensing agencies of the jurisdiction in which the applicant is located that indicates compliance with the Board's rules and regulations and compliance with USP-NF standards for pharmacies performing sterile and nonsterile compounding, or another inspection approved by or conducted by the Board.

- (3) Registration of a nonresident pharmacy permit will be considered on the basis of the application filed with the Board, fee paid, and a report from the Director of the GDNA certifying the applicant possesses the necessary qualifications for a permit.
- (4) Application fees and renewal fees shall be set by the Board in a fee schedule and shall not be refundable.
- (5) Permits may be denied for failure to comply with rules of the Board, for failure to meet the minimum qualifications for a permit, for the conviction by an owner or pharmacist of a felony involving the practice of pharmacy or the distribution of drugs, for false representations on an application, and for any other good cause related to evidence of misfeasance or malfeasance by the applicant.
- (6) No license issued under this Rule shall be transferred or assigned by a licensee. However, the Board may reassign a license to a licensee or successor entity by request upon application to the Board. Permits become null and void upon the sale, transfer or change of mode of operation or location of the business. Prior to the sale, transfer or change in mode of operation or the location of the business, the nonresident pharmacy may apply for such change by submitting a Board-approved application to the Board, and paying a fee. The permits of nonresident pharmacies will not become void if proper application is made and approved prior to the change.
- (7) Prior to any change in name, ownership, mode of operation or location of a pharmacy, licensees shall apply for approval of such change by submitting a Board-approved application to the Board and paying a fee. To comply with the requirements of this Rule, applications must be made and approved prior to the change.
 - (a) A change of ownership is deemed to have occurred upon the closure of any transaction which results in a change to any of the ownership information submitted to the Board as part of the licensee's initial application for licensure or renewal of licensure.
- (6)(8) Licensees shall notify the Board in writing of the occurrence of any change to any of the information submitted to the Board as part of the licensee's initial application for licensure or application for renewal of licensure. This shall not apply to any event the occurrence of which these rules require immediate notification to the Board, in which event such immediate notification shall be made.
- (7)(9) Permits are issued for two years and expire on June 30th of each odd-numbered year, and may be renewed for two years upon the payment of the required fee for each place of business and the filing of a completed application for renewal. Applicants for renewal must submit such evidence as requested by the Board including, but not limited to evidence of certain inspection reports on compounding and the status of the licenses of the pharmacy and pharmacists in the state of location. If the application for renewal is not made and the fee not paid before September 1st of the odd-numbered year, the permit shall lapse and shall not be

renewed, and an application for reinstatement shall be required. Reinstatement is at the sole discretion of the Board.

~~(8)~~(10) The denial of a nonresident pharmacy permit and the denial of the renewal of a nonresident pharmacy permit shall not be considered a contested case under the provisions of O.C.G.A. T. 50, Ch. 13, but the applicant shall be entitled to an appearance before the Board.

~~(9)~~(11) Nonresident pharmacy permit holders shall comply with all the recordkeeping requirements of the state in which they are located and licensed for all prescriptions shipped, mailed or delivered to patients or practitioners in the State of Georgia, but shall be maintained a minimum of two (2) years. Nonresident pharmacy permit holders shall notify the Board of each location where the required records are being maintained, and such records must be readily retrievable and produced to the Board within fifteen (15) business days, upon written request.

~~(10)~~(12) _____ In addition to labeling requirements required by the state where the nonresident pharmacy is located, the permit holders shall label the drugs dispensed with the following minimum information:

- (a) The name and address of the dispenser;
- (b) The serial number and date of the prescription or of its filling;
- (c) The name of the prescriber;
- (d) The name of the patient;
- (e) The name of the drug dispensed;
- (f) The direction for use and cautionary statements; and
- (g) Identification of the pharmacist filling the prescription.

~~(11)~~(13) _____ Nonresident pharmacy permit holders shall comply with the Board's rules and regulations on delivery of prescriptions by mail in Board Chapter 480-48.

~~(12)~~(14) _____ Nonresident pharmacy permit holders shall comply with the laws and rules and regulations of the state where such pharmacies are located.

~~(13)~~(15) _____ Nonresident pharmacy permit holders who compound drugs must comply with the federal compounding laws as required in Board Chapter 480-11.

~~(14)~~(16) _____ Nonresident pharmacy permit holders shall maintain a toll-free telephone number operational during the permit holder's regular hours of operation, but not less than six days per week for a minimum of 60 hours per week, in order to provide patient counseling. Such toll-free number shall be capable of receiving inbound call from patients to the permit holder, and such number shall be on file with Board and shall be included on the label affixed to each container of all dispensed and distributed drugs sent into the State of Georgia.

~~(15)~~(17) _____ Nonresident pharmacy permit holders must notify the Board within five (5) business days of the receipt of any final order or decision by any other licensing board or federal agency of the imposition of disciplinary action or restriction by such other licensing board or federal agency. A final order or decision includes a consent order or agreement and is any decision, regardless whether there still exists an appellate right to the state or federal courts. Any revocation or suspension of a state or federal license or permit will result in the immediate suspension of the nonresident pharmacy permit pending a final decision by the Board.

~~(16)~~(18) _____ Within 72 hours, nonresident permit holders must update the Board of any change in pharmacist-in-charge of shipping into Georgia by completing forms provided by the Board and including such pharmacist licensure information and criminal history. Where a criminal background check cannot be completed within the seventy-two (72 hours) contemplated by this section, nonresident pharmacy permit holders must still update the Board of any change in pharmacist-in-charge of shipping into Georgia by completing forms provided by the Board and including such pharmacist licensure information, but shall have up to fifteen (15) business days to provide criminal history information.

~~(17)~~(19) _____ Nonresident pharmacy permit holders shall cooperate with the Board in any investigation involving prescription drugs distributed by such permit holder into this state or related to the permit holder's compounding practices. The permit holder shall respond within ten (10) business days to all communications from the Board or its designee. Failure to respond or cooperate with the Board shall be grounds for the immediate suspension of the nonresident pharmacy permit, pending a hearing on further disciplinary action by the Board. Failure to cooperate with the Board is grounds for disciplinary action by the Board.

~~(18)~~(20) _____ Notices to nonresident pharmacy permit holders shall be made on the agent of record with the Board. If notices are returned as undeliverable or unclaimed, service shall be made on the Executive Director, and any disciplinary proceedings shall proceed, or if a final decision, the decision shall become effective.

~~(19)~~(21) _____ If, in the course of investigation of a nonresident pharmacy permit holder or applicant, an onsite inspection by the Board or its designee is required, the permit holder or applicant shall be responsible for the cost of such onsite inspection.

~~(20)~~(22) _____ A nonresident pharmacy permit may be revoked or suspended or otherwise disciplined for any reason that a permit may be denied, for failure to comply with this rule, for disciplinary action by other states and federal agencies, for conduct causing bodily or psychological injuries to a resident of this state, and for failure to comply with Board laws and other applicable rules as provided herein.

~~(21)~~(23) _____ If a nonresident pharmacy holder has an affiliate as defined by O.C.G.A. § 26-4-119, it shall annually file a disclosure statement identifying all such affiliates no later than June 30 every year.

Authority: O.C.G.A. §§ 26-3-8, 26-4-5, 26-4-27, 26-4-28, 26-4-60, 26-4-80, 26-4-82, 26-4-83, 26-4-85, 26-4-110, 26-4-110.1, 26-4-114.1, 26-4-119, 43-1-19.