

House Bill 470 (AS PASSED HOUSE AND SENATE)

By: Representatives Channell of the 111th, Parrish of the 144th, Porter of the 143rd, Coleman of the 142nd, Childers of the 13th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5A of Title 31 of the Official Code of Georgia Annotated, relating to the
2 Department of Community Health, so as to permit the department to appoint a health care
3 work force policy advisory committee and to receive gifts and donations; to provide for rules;
4 to amend Article 6 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated,
5 relating to the Indigent Care Trust Fund, so as to provide for transfers to and appropriations
6 from the fund and return to and nonlapse of moneys in the fund; to amend Code Section
7 43-34-24.1 of the Official Code of Georgia Annotated, relating to investigators for the
8 Composite State Board of Medical Examiners, so as to provide for staffing; to amend Article
9 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the state
10 employees' health insurance plan, so as to provide for the inclusion in such plan of employees
11 and dependents of critical access hospitals and the conditions relating thereto; to amend
12 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
13 medical assistance, so as to require insurers to take certain actions and provide penalties; to
14 authorize the department to establish certain health care pilot projects; to permit the
15 department to receive interest payments; to provide an effective date; to repeal conflicting
16 laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**
19 Chapter 5A of Title 31 of the Official Code of Georgia Annotated, relating to the Department
20 of Community Health, is amended by striking "; and" from the end of paragraph (4) of
21 subsection (f) of Code Section 31-5A-4, relating to powers of that department; by striking
22 the period at the end of paragraph (5) thereof and inserting a semicolon; and by adding
23 immediately thereafter the following:
24 "(6) Is authorized to appoint a health care work force policy advisory committee to
25 oversee and coordinate work force planning activities; and

1 (7) Is authorized to solicit and accept donations, contributions, and gifts and receive,
 2 hold, and use grants, devises, and bequests of real, personal, and mixed property on
 3 behalf of the state to enable the department to carry out its functions and purposes."

4 SECTION 2.

5 Said chapter is further amended by striking subsection (d) of Code Section 31-5A-5, relating
 6 to transfer of personnel to that department, and inserting in its place the following:

7 "(d) The department shall succeed to all rules, regulations, policies, procedures, and
 8 administrative orders of the predecessor agencies which were in effect on June 30, 1999,
 9 or scheduled to go into effect on or after July 1, 1999, and which relate to the functions
 10 transferred to the department by this chapter. Such rules, regulations, policies, procedures,
 11 and administrative orders shall remain in effect until amended, repealed, superseded, or
 12 nullified by proper authority or as otherwise provided by law. Rules of the department
 13 shall be adopted, promulgated, and implemented as provided in Chapter 13 of Title 50, the
 14 'Georgia Administrative Procedure Act,' except that only the Division of Health Planning
 15 shall be subject to the provisions of Code Section 31-6-21.1."

16 SECTION 3.

17 Article 6 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the
 18 Indigent Care Trust Fund, is amended by striking Code Section 31-8-153.1, relating to
 19 transfers of money to that fund, and inserting in its place the following:

20 "31-8-153.1.

21 After June 30, 1993, any hospital authority, county, municipality, or other state or local
 22 public or governmental entity is authorized to transfer moneys to the trust fund. Transfer
 23 of funds under the control of a hospital authority, county, municipality, or other state or
 24 local public or governmental entity shall be a valid public purpose for which those funds
 25 may be expended. The department is authorized to transfer to the trust fund moneys paid
 26 to the state by a health care facility as a monetary penalty for the violation of an agreement
 27 to provide a specified amount of clinical health services to indigent patients pursuant to a
 28 certificate of need held by such facility. Such transfers shall be irrevocable and shall be
 29 used only for the purposes contained in Code Section 31-8-154."

30 SECTION 4.

31 Said article is further amended by striking subsection (c) of Code Section 31-8-156, relating
 32 to appropriations from the fund, and inserting in its place the following:

1 "(c) Funds appropriated to the department pursuant to this Code section shall be used to
 2 match federal funds or any other funds from a public source or charitable organization
 3 which are available for the purposes for which those trust funds have been appropriated."

4 SECTION 5.

5 Said article is further amended by striking Code Section 31-8-157, relating to refunding
 6 contributions, and inserting in its place the following:

7 "31-8-157.

8 All contributions to the trust fund and interest earned thereon which have been appropriated
 9 but which:

10 (1) Were void because of having been appropriated in violation of Code Section
 11 31-8-156;

12 (2) Remain unexpended and not contractually obligated at the end of the fiscal year for
 13 which they were appropriated; or

14 (3) Are determined by the department to be ineligible for anticipated federal matching
 15 funds or other matching funds from a public source or charitable organization

16 shall be returned to the trust fund and shall not lapse but shall be refunded pro rata to the
 17 contributors thereof, except that penalties so transferred to the fund shall not be refunded.

18 The Office of Planning and Budget shall determine the amount required to be refunded and
 19 the pro rata distribution thereof within 60 days following the end of each fiscal year or,
 20 when the department has made a determination pursuant to paragraph (3) of this Code
 21 section, within 60 days after that determination. The amount so determined shall be
 22 refunded by the director of the Office of Treasury and Fiscal Services within 60 days
 23 following that determination."

24 SECTION 6.

25 Code Section 43-34-24.1 of the Official Code of Georgia Annotated, relating to investigators
 26 for the Composite State Board of Medical Examiners, is amended by striking subsection (e)
 27 thereof and inserting in its place the following:

28 "(e) The board, through the executive director, may hire investigators for the purpose of
 29 conducting investigations for the board and those persons shall be designated as
 30 investigators and have the powers, duties, and status of investigators for professional
 31 licensing boards under Code Section 43-1-5. Notwithstanding the provisions of Code
 32 Section 50-4-3 and with the concurrence of the board, the Department of Community
 33 Health shall be authorized to employ and provide for the compensation of staff as is

1 necessary to assist in carrying out the functions of the board. Staff so hired shall be subject
 2 to the rules and confidentiality requirements of the board and to the supervision of the
 3 executive director of the board."

4 **SECTION 6.1.**

5 Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the
 6 state employees' health insurance plan, is amended by adding after Code Section 45-18-7.6
 7 a new Code section to read as follows:

8 "45-18-7.7.

9 The board is authorized to contract with any public or nonprofit critical access hospital that
 10 meets such requirements as the department may establish for the inclusion of the
 11 employees and dependents of such critical access hospitals in any health plan established
 12 under this article. It shall be the duty of such critical access hospital to deduct from the
 13 salary or other remuneration or otherwise collect such payment from its qualified
 14 employees as may be required under the board's regulations. In addition, it shall be the
 15 duty of such critical access hospital to make the employer contributions required for the
 16 operation of such plan."

17 **SECTION 7.**

18 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
 19 medical assistance, is amended by striking subsection (b) of Code Section 49-4-147.2,
 20 relating to the ineligibility of the Department of Community Health to obtain certain interest,
 21 and inserting in its place the following:

22 "(b) Notwithstanding the provisions of Code Section 7-4-12, 7-4-15, 7-4-16, or 13-6-13,
 23 or any other statute or judicial construction thereof authorizing interest, the department
 24 shall not be eligible to obtain nor be liable for interest on orders, judgments, liquidated
 25 amounts, or unliquidated amounts unless such interest is:

26 (1) Required by federal law or regulations; ~~or~~

27 (2) Interest on penalties as required by Code Section 49-4-146.1;

28 (3) Interest as required by Code Section 49-4-148; or

29 (4) Incurred by a failure to pay the penalty which may be transferred to the Indigent Care
 30 Trust Fund under Code Section 31-8-153.1 within 30 days after the penalty is imposed,
 31 in which event interest shall be paid from the thirty-first day following such imposition
 32 at the same rate as interest on penalties under Code Section 49-4-146.1."

SECTION 8.

Said article is further amended by striking Code Section 49-4-148, relating to recovery of assistance from third parties, and inserting in its place the following:

"49-4-148.

(a) Should medical assistance be paid in behalf of a recipient of medical assistance on account of any sickness, injury, disease, or disability for which another person is legally liable, the Department of Community Health may seek reimbursement for such medical assistance from such other person. The department shall be subrogated, but only to the extent of the reasonable value of the medical assistance paid and attributable to such sickness, injury, disease, or disability, to the rights of the recipient of medical assistance against the person so legally liable; the commissioner of community health may compromise, settle, and execute a release of any such claim or waive, expressly, any such claim, in whole or in part, for the convenience of the Department of Community Health. This Code section is cumulative of the remedies of the Department of Community Health which specifically include, but are not limited to, the use of hospital liens as provided in Code Sections 44-14-470 through ~~44-14-475~~ and 44-14-477; and further, the payment of medical assistance to a hospital provider shall in no way be construed to discharge the obligation of a third party to satisfy a hospital lien.

(b) All insurers, as defined in Code Section 33-24-57.1, including but not limited to group health plans as defined in Section 607(1) of the federal Employee Retirement Security Act of 1974 and managed care entities as defined in Code Section 33-20A-3, which offer health benefit plans, as defined in Code Section 33-24-59.5, shall comply with this subsection.

Those insurers shall:

(1) Cooperate with the department in determining whether a person who is a recipient of medical assistance may be covered under that insurer's health benefit plan and eligible to receive benefits thereunder for the medical services for which that medical assistance was provided;

(2) Accept the department's authorization for the provision of medical services on behalf of a recipient of medical assistance as the insurer's authorization for the provision of those services; and

(3) Comply with the requirements of Code Section 33-24-59.5, regarding the timely payment of claims submitted by the department for medical services provided to a recipient of medical assistance and covered by the health benefit plan, subject to the payment to the department of interest as provided in that Code section for failure to comply.

1 The requirements of paragraphs (2) and (3) of this subsection shall only apply to a health
 2 benefit plan which is issued, issued for delivery, delivered, or renewed on or after this
 3 subsection first becomes effective in 2001."

4 **SECTION 9.**

5 Said article is further amended by striking Code Section 49-4-152, relating to research and
 6 demonstration projects, and inserting in its place the following:

7 "49-4-152.

8 ~~The~~ Subject to the availability of funds, the Department of Community Health is authorized
 9 to enter into agreements with and submit applications to departments and agencies of the
 10 government of the United States for purposes of accepting grants, receiving matching
 11 funds, and administering such grants and funds for research and demonstration projects
 12 pursuant to ~~Title XI, Section 1115, Titles XI, XVIII, XIX, or XXI~~ of the federal Social
 13 Security Act of 1935, as amended, or any other provision of federal law, without regard to
 14 the factor of state wideness and such other factors as may be required to be waived by the
 15 terms of the federal grant. Notwithstanding any other provision of law and subject to the
 16 availability of funds, the department is authorized to establish pilot projects to provide
 17 health care coverage and access to essential health care services or benefits to the uninsured
 18 and underinsured, including but not limited to pharmacy assistance programs."

19 **SECTION 10.**

20 This Act shall become effective upon its approval by the Governor or upon its becoming law
 21 without such approval.

22 **SECTION 11.**

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