

House Resolution 619

By: Representative Wilkinson of the 41st

A RESOLUTION

1 Expressing the intent of certain legislation passed by the General Assembly that has been
2 misinterpreted by the Department of Community Health and urging a correction of the
3 regulations adopted by the Department of Community Health's Division of Health Planning
4 that are in conflict with the intent of such legislation; and for other purposes.

5 WHEREAS, Code Section 31-6-2(14)(G)(iii) of the Official Code of Georgia Annotated,
6 enacted in 1991, provides that certain physician owned single-specialty ambulatory surgical
7 centers are exempt from the certificate of need (CON) requirement pursuant to Code Section
8 31-6-1, et seq.; and

9 WHEREAS, the Department of Community Health has adopted Rule 272-2-.09(1)(b)(10),
10 which provides that the practice of general surgery is not a single specialty for purposes of
11 the CON law; and

12 WHEREAS, the Georgia Court of Appeals issued a ruling in *Albany Surgical, P.C. v.*
13 *Department of Community Health* on September 27, 2002, which held that the General
14 Assembly had acquiesced in the Department of Community Health's rule that general surgery
15 is not a single specialty for purposes of the CON law; and

16 WHEREAS, "single specialty" is a term of art used to describe a specialty in the medical
17 field which has special significance attached to it by the medical community; and

18 WHEREAS, the intent of the General Assembly in enacting Code Section 31-6-2(14)(G)(iii)
19 was to provide, subject to certain capital requirements, an exemption from the CON law for
20 all single-specialty ambulatory surgical centers, including those operated by general
21 surgeons; and

22 WHEREAS, any comments or lack thereof pursuant to Code Section 31-6-21.1 by the Senate
23 Health and Human Services Committee regarding Rule 272-2-.09(1)(b)(10) during its

1 adoption by the Department of Community Health should not be construed to mean
2 acquiescence or approval of such rule; and

3 WHEREAS, it has been brought to the attention of the House of Representatives that the
4 interpretation afforded Code Section 31-6-2(14)(G)(iii) by the Department of Community
5 Health in its rules is incorrect.

6 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES that
7 the members of this body express that it was the intent of this body in enacting Code Section
8 31-6-2(14)(G)(iii) that all medical specialties, including general surgery, would be
9 recognized as single specialties for purposes of a CON exemption and urge the Department
10 of Community Health's Division of Health Planning to correct the erroneous interpretation
11 given to such Code section in the department's rules and regulations.

12 BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized
13 and directed to transmit an appropriate copy of this resolution to Gary Redding, the
14 commissioner of community health.