

House Bill 390 (AS PASSED HOUSE AND SENATE)

By: Representatives Scott of the 153rd and Brown of the 69th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state
2 health planning and development, so as to create a State Commission on the Efficacy of the
3 Certificate of Need Program; to provide for legislative intent; to provide for composition of
4 the commission and the commission's powers and duties; to provide for compensation of the
5 members of the commission; to provide for officers of the commission; to provide for a
6 quorum for the transaction of business; to provide for a final report; to provide for related
7 matters; to provide an effective date; to provide for automatic repeal on a certain date; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health
12 planning and development, is amended by adding a new Article 5 to read as follows:

13 style="text-align:center">"ARTICLE 5

14 31-6-90.

15 The General Assembly finds and declares that it is important to periodically assess various
16 existing state programs to determine whether such programs continue to be viable and
17 effective or whether they have become obsolete and have failed to or ceased to accomplish
18 their original policy objectives. The General Assembly further finds that access to quality
19 health care and the rising cost of such care are vitally important to the citizens of Georgia.
20 Therefore, the General Assembly has determined that it is in the best interests of the state
21 and its citizenry to undertake an evaluation of the certificate of need program.

1 31-6-91.

2 There is created a State Commission on the Efficacy of the Certificate of Need Program
3 for the purpose of studying and collecting information and data relating to the effectiveness
4 of the certificate of need program in Georgia. The commission shall be responsible for
5 conducting a comprehensive review of the certificate of need program which shall include,
6 but not be limited to, the effectiveness of the program in accomplishing its original policy
7 objectives, the costs associated with the program, and the impact on health care and costs
8 of continuing or discontinuing the program. Further, the commission shall undertake to
9 determine if changes to the program are needed in order to achieve its policy objectives.
10 These changes include, but are not limited to, a determination as to whether services
11 currently not subject to regulation should be regulated; whether services currently subject
12 to regulation should no longer be regulated; and whether the current statutory appeals
13 procedure properly balances the competing goals of good decision making and timeliness,
14 as well as whether or not it is subject to abuse.

15 31-6-92.

16 (a) The State Commission on the Efficacy of the Certificate of Need Program shall be
17 composed of 11 members. The Governor shall appoint four members. The President Pro
18 Tempore of the Senate and the Speaker of the House of Representatives shall each appoint
19 two members, as each deems advisable. The chairpersons of the Board of Community
20 Health and the Health Strategies Council, and the Commissioner of the Department of
21 Community Health shall be ex officio members of the commission.

22 (b) The Governor shall designate the chairperson of the Board of Community Health or
23 the chairperson of the Health Strategies Council to serve as the chairperson of the
24 commission. The commission may elect other officers as deemed necessary. The
25 chairperson of the commission may designate and appoint committees from among the
26 membership of the commission as well as appoint other persons to perform such functions
27 as he or she may determine to be necessary as relevant to and consistent with this article.
28 The chairperson shall only vote to break a tie.

29 31-6-93.

30 (a) The commission shall hold meetings at the call of the chairperson.

31 (b) A quorum for transacting business shall be a majority of the members of the
32 commission.

33 (c) Any legislative members of the commission shall receive the allowances provided for
34 in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the
35 amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or

1 transportation allowance authorized for state employees. Any members of the commission
2 who are state officials, other than legislative members, and state employees shall receive
3 no compensation for their services on the commission, but they shall be reimbursed for
4 expenses incurred by them in the performance of their duties as members of the
5 commission in the same manner as they are reimbursed for expenses in their capacities as
6 state officials or employees. The funds necessary for the reimbursement of the expenses
7 of state officials, other than legislative members, and state employees shall come from
8 funds appropriated to or otherwise available to their respective departments. All other funds
9 necessary to carry out the provisions of this article shall come from funds appropriated to
10 the House of Representatives and the Senate.

11 31-6-94.

12 (a) The commission shall have the following duties:

13 (1) To study and evaluate the effectiveness and efficiency of Georgia's certificate of
14 need program and any other program or matter related to the cost and quality of health
15 care in Georgia, as determined by the commission;

16 (2) To undertake a comprehensive review of the certificate of need program which shall
17 include, but not be limited to, the effectiveness of the program in accomplishing its
18 original policy objectives, the costs associated with the program, the benefits of
19 continuing or discontinuing the program, the financial impact of continuing or
20 discontinuing the program, and the impact on the quality, availability, and cost of health
21 care if the program is continued or discontinued;

22 (3) To evaluate and consider the experiences and results in other states which utilize and
23 which have abolished certificate of need programs;

24 (4) To identify findings and conclusions, including but not limited to recommendations
25 as to whether the certificate of need program should be continued, discontinued, or
26 modified;

27 (5) To evaluate the impact of continuing or discontinuing the certificate of need on
28 providing patient care in trauma care hospitals, critical access hospitals, and public
29 hospitals;

30 (6) To evaluate the impact of continuing or discontinuing the certificate of need program
31 on providing service to Medicaid and indigent patients; and

32 (7) To make recommendations for proposed legislation.

33 (b) The commission shall have the following powers:

34 (1) To evaluate the certificate of need program in Georgia and any other program or
35 matter relative to the cost and quality of health care in Georgia;

36 (2) To conduct a state-wide audit of the certificate of need program in Georgia;

- 1 (3) To request and receive data from and review the records of appropriate agencies and
2 health care facilities to the greatest extent allowed by state and federal law;
- 3 (4) To accept public or private grants, devises, and bequests;
- 4 (5) To enter into all contracts or agreements necessary or incidental to the performance
5 of its duties; and
- 6 (6) To conduct studies, collect data, or take any other action the commission deems
7 necessary to fulfill its responsibilities.
- 8 (c) The commission shall be authorized to retain the services of auditors, attorneys,
9 financial consultants, health care experts, economists, and other individuals or firms as
10 determined appropriate by the commission.
- 11 (d) Staff support for the commission shall be provided by the Department of Community
12 Health. The Department of Community Health may use any funds specifically appropriated
13 to the department to support the work of the commission for such purpose.
- 14 (e) The commission shall issue a final report which shall include proposed legislation, if
15 any, to the Governor and the General Assembly on or before June 30, 2007.

16 31-6-95.

17 The commission shall stand abolished and this article shall be repealed on June 30, 2007."

18 **SECTION 2.**

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

21 **SECTION 3.**

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