

The Senate Insurance and Labor Committee offered the following substitute to HB 1359:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 create the Georgia Assignment Pool Underwriting Authority; to provide alternative
3 mechanism coverage for the availability of individual health insurance; to provide
4 definitions; to provide for an assignment pool underwriting board; to provide for powers,
5 duties, and authority of the board; to provide for the selection of an administrator or
6 administrators; to provide for the duties of the Commissioner of Insurance with respect to the
7 board and assignment pool; to provide for the establishment of rates; to provide for eligibility
8 for and termination of coverage; to provide for minimum assignment pool benefits; to
9 provide for certain exclusions for preexisting conditions; to provide for funding; to provide
10 for assessments under certain circumstances; to provide for complaint procedures; to provide
11 for audits; to provide for certain reports; to provide for applicability; to provide for related
12 matters; to repeal the Georgia High Risk Health Insurance Plan; to provide effective dates;
13 to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
16 striking Code Section 33-8-4, relating to amount and method of computing tax on insurance
17 premiums generally, and inserting in lieu thereof a new Code Section 33-8-4 to read as
18 follows:
19

20 "33-8-4.

21 (a) All foreign, alien, and domestic insurance companies doing business in this state shall
22 pay a tax of 2 1/4 percent upon the gross direct premiums received by them on and after
23 July 1, 1955. The tax shall be levied upon persons, property, or risks in Georgia, from
24 January 1 to December 31, both inclusive, of each year without regard to business ceded
25 to or assumed from other companies. The tax shall be imposed upon gross premiums
26 received from direct writings without any deductions allowed for premium abatements of

1 any kind or character or for reinsurance or for cash surrender values paid, or for losses or
 2 expenses of any kind; provided, however, deductions shall be allowed for premiums
 3 returned on change of rate or canceled policies; provided, further, that deductions may be
 4 permitted for return premiums or assessments, including all policy dividends, refunds, or
 5 other similar returns paid or credited to policyholders and not reapplied as premium for
 6 additional or extended life insurance. The term 'gross direct premiums' shall not include
 7 annuity considerations.

8 (b) For purposes of this chapter, annuity considerations received by nonprofit corporations
 9 licensed to do business in this state issuing annuities to fund retirement benefits for
 10 teachers and staff personnel of private secondary schools and colleges and universities shall
 11 not be considered gross direct premium.

12 (c) It is the intent of the General Assembly that, subject to appropriation, an amount not
 13 to exceed the amount of such proceeds received from such tax in any fiscal year shall be
 14 made available during the following fiscal year to the Georgia Assignment Pool
 15 Underwriting Authority for the purposes set forth in Chapter 29A of this title."

16 SECTION 2.

17 Said title is further amended by striking Code Section 33-24-21.1, relating to group accident
 18 and sickness contracts, and inserting in lieu thereof a new Code Section 33-24-21.1 to read
 19 as follows:

20 "33-24-21.1.

21 (a) As used in this Code section, the term:

22 (1) 'Creditable coverage' under another health benefit plan means medical expense
 23 coverage with no greater than a 90 day gap in coverage under any of the following:

24 (A) Medicare or Medicaid;

25 (B) An employer based accident and sickness insurance or health benefit arrangement;

26 (C) An individual accident and sickness insurance policy, including coverage issued
 27 by a health maintenance organization, nonprofit hospital or nonprofit medical service
 28 corporation, health care corporation, or fraternal benefit society;

29 (D) A spouse's benefits or coverage under medicare or Medicaid or an employer based
 30 health insurance or health benefit arrangement;

31 (E) A conversion policy;

32 (F) A franchise policy issued on an individual basis to a member of a true association
 33 as defined in subsection (b) of Code Section 33-30-1;

34 (G) A health plan formed pursuant to 10 U.S.C. Chapter 55;

35 (H) A health plan provided through the Indian Health Service or a tribal organization
 36 program or both;

- 1 (I) A state health benefits risk pool;
- 2 (J) A health plan formed pursuant to 5 U.S.C. Chapter 89;
- 3 (K) A public health plan; or
- 4 (L) A Peace Corps Act health benefit plan.
- 5 (2) 'Eligible dependent' means a person who is entitled to medical benefits coverage
- 6 under a group contract or group plan by reason of such person's dependency on or
- 7 relationship to a group member.
- 8 (3) 'Group contract or group plan' is synonymous with the term 'contract or plan' and
- 9 means:
- 10 (A) A group contract of the type issued by a nonprofit medical service corporation
- 11 established under Chapter 18 of this title;
- 12 (B) A group contract of the type issued by a nonprofit hospital service corporation
- 13 established under Chapter 19 of this title;
- 14 (C) A group contract of the type issued by a health care plan established under
- 15 Chapter 20 of this title;
- 16 (D) A group contract of the type issued by a health maintenance organization
- 17 established under Chapter 21 of this title; or
- 18 (E) A group accident and sickness insurance policy or contract, as defined in
- 19 Chapter 30 of this title.
- 20 (4) 'Group member' means a person who has been a member of the group for at least six
- 21 months and who is entitled to medical benefits coverage under a group contract or group
- 22 plan and who is an insured, certificate holder, or subscriber under the contract or plan.
- 23 (5) 'Insurer' means an insurance company, health care corporation, nonprofit hospital
- 24 service corporation, medical service nonprofit corporation, health care plan, or health
- 25 maintenance organization.
- 26 (6) 'Qualifying eligible individual' means:
- 27 (A) A Georgia domiciliary, for whom, as of the date on which the individual seeks
- 28 coverage under this Code section, the aggregate of the periods of creditable coverage
- 29 is 18 months or more; and
- 30 (B) Who is not eligible for coverage under any of the following:
- 31 (i) A group health plan, including continuation rights under this Code section or the
- 32 federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA);
- 33 (ii) Part A or Part B of Title XVIII of the federal Social Security Act; or
- 34 (iii) The state plan under Title XIX of the federal Social Security Act or any
- 35 successor program.
- 36 (b) Each group contract or group plan delivered or issued for delivery in this state, other
- 37 than a group accident and sickness insurance policy, contract, or plan issued in connection

1 with an extension of credit, which provides hospital, surgical, or major medical coverage,
2 or any combination of these coverages, on an expense incurred or service basis, excluding
3 contracts and plans which provide benefits for specific diseases or accidental injuries only,
4 shall provide that members and qualifying eligible individuals whose insurance under the
5 group contract or plan would otherwise terminate shall be entitled to continue their
6 hospital, surgical, and major medical insurance coverage under that group contract or plan
7 for themselves and their eligible dependents.

8 (c) Any group member or qualifying eligible individual whose coverage has been
9 terminated and who has been continuously covered under the group contract or group plan,
10 and under any contract or plan providing similar benefits which it replaces, for at least six
11 months immediately prior to such termination, shall be entitled to have his or her coverage
12 and the coverage of his or her eligible dependents continued under the contract or plan.
13 Such coverage must continue for the fractional policy month remaining, if any, at
14 termination plus three additional policy months upon payment of the premium by cash,
15 certified check, or money order, at the option of the employer, to the policyholder or
16 employer, at the same rate for active group members set forth in the contract or plan, on
17 a monthly basis in advance as such premium becomes due during this coverage period.
18 Such premium payment must include any portion of the premium paid by a former
19 employer or other person if such employer or other person no longer contributes premium
20 payments for this coverage. At the end of such period, the group member shall have the
21 same conversion rights that were available on the date of termination of coverage in
22 accordance with the conversion privileges contained in the group contract or group plan.

23 (d)(1) A group member shall not be entitled to have coverage continued if: (A)
24 termination of coverage occurred because the employment of the group member was
25 terminated for cause; (B) termination of coverage occurred because the group member
26 failed to pay any required contribution; ~~or~~ (C) any discontinued group coverage is
27 immediately replaced by similar group coverage including coverage under a health
28 benefits plan as defined in the federal Employee Retirement Income Security Act of
29 1974, 29 U.S.C. Section 1001, et seq.; or (D) ~~Further, a group member shall not be~~
30 ~~entitled to have coverage continued~~ if the group contract or group plan was terminated
31 in its entirety or was terminated with respect to a class to which the group member
32 belonged. This subsection shall not affect conversion rights available to a qualifying
33 eligible individual under any contract or plan.

34 (2) A qualifying eligible individual shall not be entitled to have coverage continued if
35 the most recent creditable coverage within the coverage period was terminated based on
36 one of the following factors: (A) failure of the qualifying eligible individual to pay
37 premiums or contributions in accordance with the terms of the health insurance coverage

1 or failure of the issuer to receive timely premium payments; (B) the qualifying eligible
 2 individual has performed an act or practice that constitutes fraud or made an intentional
 3 misrepresentation of material fact under the terms of coverage; or (C) any discontinued
 4 group coverage is immediately replaced by similar group coverage including coverage
 5 under a health benefits plan as defined in the federal Employee Retirement Income
 6 Security Act of 1974, 29 U.S.C. Section 1001, et seq. This subsection shall not affect
 7 conversion rights available to a group member under any contract or plan.

8 (e) If the group contract or group plan terminates while any group member or qualifying
 9 eligible individual is covered or whose coverage is being continued, the group
 10 administrator, as prescribed by the insurer, must notify each such group member or
 11 qualifying eligible individual that he or she must exercise his or her conversion rights and
 12 rights to alternative mechanism coverage for the availability of individual health insurance
 13 coverage, as contemplated by Section 2741 of the federal Public Health Service Act,
 14 42 U.S.C. Section 300gg-41, within:

15 (1) Thirty days of such notice for group members who are not qualifying eligible
 16 individuals; or

17 (2) Sixty-three days of such notice for qualifying eligible individuals.

18 (f) Every group contract or group plan, other than a group accident and sickness insurance
 19 policy, contract, or plan issued in connection with an extension of credit, which provides
 20 hospital, surgical, or major medical expense insurance, or any combination of these
 21 coverages, on an expense incurred or service basis, excluding policies which provide
 22 benefits for specific diseases or for accidental injuries only, shall contain a conversion
 23 privilege provision.

24 (g) Eligibility for the converted policies or contracts shall be as follows:

25 ~~(1) Any qualifying eligible individual whose insurance and its corresponding eligibility~~
 26 ~~under the group policy, including any continuation available, elected, and exhausted~~
 27 ~~under this Code section or the federal Consolidated Omnibus Budget Reconciliation Act~~
 28 ~~of 1986 (COBRA), has been terminated for any reason, including failure of the employer~~
 29 ~~to pay premiums to the insurer, other than fraud or failure of the qualifying eligible~~
 30 ~~individual to pay a required premium contribution to the employer or, if so required, to~~
 31 ~~the insurer directly and who has at least 18 months of creditable coverage immediately~~
 32 ~~prior to termination shall be entitled, without evidence of insurability, to convert to~~
 33 ~~individual or group based coverage covering such qualifying eligible individual and any~~
 34 ~~eligible dependents who were covered under the qualifying eligible individual's coverage~~
 35 ~~under the group contract or group plan. Such conversion coverage must be, at the option~~
 36 ~~of the individual, retroactive to the date of termination of the group coverage or the date~~
 37 ~~on which continuation or COBRA coverage ended, whichever is later. The insurer must~~

1 offer qualifying eligible individuals at least two distinct conversion options from which
2 to choose. One such choice of coverage shall be comparable to comprehensive health
3 insurance coverage offered in the individual market in this state or comparable to a
4 standard option of coverage available under the group or individual health insurance laws
5 of this state. The other choice may be more limited in nature but must also qualify as
6 creditable coverage. Each coverage shall be filed, together with applicable rates, for
7 approval by the Commissioner. Such choices shall be known as the 'Enhanced
8 Conversion Options';

9 (2) Premiums for the enhanced conversion options for all qualifying eligible individuals
10 shall be determined in accordance with the following provisions:

11 (A) Solely for purposes of this subsection, the claims experience produced by all
12 groups covered under comprehensive major medical or hospitalization accident and
13 sickness insurance for each insurer shall be fully pooled to determine the group pool
14 rate. Except to the extent that the claims experience of an individual group affects the
15 overall experience of the group pool, the claims experience produced by any individual
16 group of each insurer shall not be used in any manner for enhanced conversion policy
17 rating purposes;

18 (B) Each insurer's group pool shall consist of each insurer's total claims experience
19 produced by all groups in this state, regardless of the marketing mechanism or
20 distribution system utilized in the sale of the group insurance from which the qualifying
21 eligible individual is converting. The pool shall include the experience generated under
22 any medical expense insurance coverage offered under separate group contracts and
23 contracts issued to trusts, multiple employer trusts, or association groups or trusts,
24 including trusts or arrangements providing group or group-type coverage issued to a
25 trust or association or to any other group policyholder where such group or group-type
26 contract provides coverage, primarily or incidentally, through contracts issued or issued
27 for delivery in this state or provided by solicitation and sale to Georgia residents
28 through an out-of-state multiple employer trust or arrangement; and any other
29 group-type coverage which is determined to be a group shall also be included in the
30 pool for enhanced conversion policy rating purposes; and

31 (C) Any other factors deemed relevant by the Commissioner may be considered in
32 determination of each enhanced conversion policy pool rate so long as it does not have
33 the effect of lessening the risk-spreading characteristic of the pooling requirement.
34 Duration since issue and tier factors may not be considered in conversion policy rating.
35 Notwithstanding subparagraph (A) of this paragraph, the total premium calculated for
36 all enhanced conversion policies may deviate from the group pool rate by not more than
37 plus or minus 50 percent based upon the experience generated under the pool of

~~enhanced conversion policies so long as rates do not deviate for similarly situated individuals covered through the pool of enhanced conversion policies;~~

(3) Any group member who is not a qualifying eligible individual and whose insurance under the group policy has been terminated for any reason, including failure of the employer to pay premiums to the insurer, other than eligibility for medicare (reaching a limiting age for coverage under the group policy) or failure of the group member to pay a required premium contribution, and who has been continuously covered under the group contract or group plan, and under any contract or plan providing similar benefits which it replaces, for at least six months immediately prior to termination shall be entitled, without evidence of insurability, to convert to individual or group coverage covering such group member and any eligible dependents who were covered under the group member's coverage under the group contract or group plan. Such conversion coverage must be, at the option of the individual, retroactive to the date of termination of the group coverage or the date on which continuation or COBRA coverage ended, whichever is later. The premium of the basic converted policy shall be determined in accordance with the insurer's table of premium rates applicable to the age and classification of risks of each person to be covered under that policy and to the type and amount of coverage provided. This form of conversion coverage shall be known as the 'Basic Conversion Option'; and

~~(4)~~(2) Nothing in this Code section shall be construed to prevent an insurer from offering additional options to qualifying eligible individuals or group members.

(h) Each group certificate issued to each group member or qualifying eligible individual, in addition to setting forth any conversion rights, shall set forth the continuation right in a separate provision bearing its own caption. The provisions shall clearly set forth a full description of the continuation and conversion rights available, including all requirements, limitations, and exceptions, the premium required, and the time of payment of all premiums due during the period of continuation or conversion.

(i) This Code section shall not apply to limited benefit insurance policies. For the purposes of this Code section, the term 'limited benefit insurance' means accident and sickness insurance designed, advertised, and marketed to supplement major medical insurance. The term limited benefit insurance includes accident only, CHAMPUS supplement, dental, disability income, fixed indemnity, long-term care, medicare supplement, specified disease, vision, and any other accident and sickness insurance other than basic hospital expense, basic medical-surgical expense, and comprehensive major medical insurance coverage.

(j) The Commissioner shall adopt such rules and regulations as he or she deems necessary for the administration of this Code section. Such rules and regulations may prescribe

1 various conversion plans, including minimum conversion standards and minimum benefits,
 2 but not requiring benefits in excess of those provided under the group contract or group
 3 plan from which conversion is made, scope of coverage, preexisting limitations, optional
 4 coverages, reductions, notices to covered persons, and such other requirements as the
 5 Commissioner deems necessary for the protection of the citizens of this state.

6 (k) This Code section shall apply to all group plans and group contracts delivered or issued
 7 for delivery in this state on or after July 1, 1998, and to group plans and group contracts
 8 then in effect on the first anniversary date occurring on or after July 1, 1998."

9 SECTION 3.

10 Said title is further amended by striking Chapter 29A, relating to individual health insurance
 11 coverage availability and assignment systems, and inserting a new Chapter 29A to read as
 12 follows:

13 "CHAPTER 29A

14 33-29A-1.

15 (a) It is the intention of this chapter to provide an acceptable alternative mechanism for the
 16 availability of individual health insurance coverage, as contemplated by Section 2741 of
 17 the federal Public Health Service Act, 42 U.S.C. Section 300gg-41. This chapter shall be
 18 construed and administered so as to accomplish such intention.

19 (b) Any reference in this chapter to any federal statute shall refer to that federal statute as
 20 it existed on January 1, 1997, including its amendment by the federal Health Insurance
 21 Portability and Accountability Act of 1996, P.L. 104-191.

22 33-29A-2.

23 (a) As used in this chapter, the term:

24 (1) 'Administrator' as used in this chapter shall have the same meaning as the term
 25 'administrator' as defined in Code Section 33-23-100.

26 (2) 'Assignment pool' means the assignment pool administered by the Georgia
 27 Assignment Pool Underwriting Authority.

28 (3) 'Assignment pool coverage' means coverage offered by plan administrators on behalf
 29 of the assignment pool to eligible persons.

30 (4) 'Board' means the board of directors of the Georgia Assignment Pool Underwriting
 31 Authority created under this chapter.

32 (5) 'Commissioner' means the Commissioner of Insurance.

1 (6) 'Covered person' means any individual resident of this state, excluding dependents,
2 who is enrolled to receive health benefits from any insurer.

3 (7) 'Creditable coverage' and 'eligible individual' have the same meaning as specified in
4 Sections 2701 and 2741 of the federal Public Health Service Act, 42 U.S.C. Sections
5 300gg and 300gg-41.

6 (8) 'Department' means the Georgia Department of Insurance.

7 (9) 'Dependent' shall have the same meaning as provided in subparagraph (3) of
8 subsection (a) of Code Section 33-29-2 or paragraph (4) of Code Section 33-30-4.

9 (10) 'Family member' means a parent, grandparent, brother, or sister, whether such
10 relationship is established by birth or by law.

11 (11) 'Health insurance' means any hospital or medical expense incurred policy, nonprofit
12 health care services plan contract, health maintenance organization, subscriber contract,
13 or any other health care plan or insurance arrangement that pays for or furnishes medical
14 or health care services, whether by insurance or otherwise, when sold to an individual or
15 as a group policy. This term does not include limited benefit insurance policies. For the
16 purposes of this Code section, the term 'limited benefit insurance' means accident and
17 sickness insurance designed, advertised, and marketed to supplement major medical
18 insurance. The term 'limited benefit insurance' includes accident only, CHAMPUS
19 supplement, dental, disability income, fixed indemnity, long-term care, medicare
20 supplement, specified disease, vision, limited benefit, or credit insurance; coverage issued
21 as a supplement to liability insurance; insurance arising out of a workers' compensation
22 or similar law; automobile medical-payment insurance; or insurance under which benefits
23 are payable with or without regard to fault and which is statutorily required to be
24 contained in any liability insurance policy or equivalent self-insurance, and includes any
25 other accident and sickness insurance other than basic hospital expense, basic
26 medical-surgical expense, and comprehensive major medical insurance coverage.

27 (12) 'Health insurance issuer' and 'health maintenance organization' have the same
28 meaning as specified in Section 2791 of the federal Public Health Service Act, 42 U.S.C.
29 Section 300gg-92.

30 (13) 'Health insurer' means any health insurance issuer which is not a managed care
31 organization.

32 (14) 'Insurance arrangement' or 'self-insurance arrangement' means a plan, program,
33 contract, or other arrangement through which health care services are provided by an
34 employer to its officers, employees, or other personnel, but does not include health care
35 services covered through an insurer.

1 (15) 'Insured' means a person who is a legal resident of this state and who is eligible to
2 receive benefits from the assignment pool. The term 'insured' may include dependents
3 and family members.

4 (16) 'Managed care organization' means a health maintenance organization or a nonprofit
5 health care corporation.

6 (17) 'Market share' means the percentage of the total number of covered persons living
7 in Georgia included in health insurance and health plans insured, reinsured, and
8 administered by a payor.

9 (18) 'Medicare' means coverage provided by Part A and Part B of Title XVIII of the
10 federal Social Security Act, 42 U.S.C. Section 1395c, et seq.

11 (19) 'Payor' means any entity that is authorized in this state to write health insurance or
12 that provides health insurance in this state. For the purposes of this chapter, the term
13 'payor' includes an insurance company; nonprofit health care services plan; health care
14 corporation or surviving health care corporation as defined in Code Section 33-20-3;
15 fraternal benefits society; health maintenance organization; any other entity providing a
16 plan of health insurance or health benefits subject to state insurance regulation;
17 association plans; and any administrator paying or processing health benefit claims in
18 Georgia.

19 (20) 'Physician' means a person licensed to practice medicine in Georgia.

20 (21) 'Plan administrator' means a payor selected by the Georgia Assignment Pool
21 Underwriting Authority to provide administrative services or accept assignments of
22 insureds as defined in paragraph (15) of this subsection.

23 (22) 'Plan of operation' means the plan of operation of the assignment pool and includes
24 the articles, bylaws, and operating rules of the assignment pool that are adopted by the
25 board.

26 (23) 'Resident' means an individual who has been legally domiciled in Georgia for a
27 minimum of 24 months; provided, however, that, for a federally defined eligible
28 individual, there shall be no such time period requirement to establish residency.

29 (b) Any other term which is used in this chapter and which is also defined in Section 2791
30 of the federal Public Health Service Act, 42 U.S.C. Section 300gg-92, and not otherwise
31 defined in this chapter shall have the same meaning specified in said Section 2791.

1 33-29A-3.

2 (a) There is created a body corporate to be known as the 'Georgia Assignment Pool
3 Underwriting Authority' which shall be deemed to be a public corporation. The Georgia
4 Assignment Pool Underwriting Authority shall have perpetual existence, and any change
5 in the name or composition of the assignment pool or Georgia Assignment Pool
6 Underwriting Authority shall in no way impair the obligations of any contracts existing
7 under this chapter.

8 (b) The Commissioner, the Speaker of the House of Representatives, and the Senate
9 Committee on Assignments shall each appoint two members of the authority for staggered
10 four-year terms as provided by this Code section. One of the authority members appointed
11 by each of the above persons or officers shall have a two-year initial term and one shall
12 have a four-year initial term as designated by the person or officer making such
13 appointment at the time of such appointment. Thereafter, successors to such members shall
14 be appointed to and serve four-year terms.

15 (c) Such appointees shall be persons affiliated with payors admitted and authorized to
16 write health insurance in this state or who are otherwise familiar with health insurance
17 matters.

18 (d) The Governor shall appoint three members for staggered four-year terms as provided
19 by this subsection. One appointee shall be a person representing the medical provider
20 community, such as a physician licensed to practice medicine in this state, who shall serve
21 a four-year initial term and the other two appointees shall be persons representing
22 consumers. One of the authority members representing consumers appointed by the
23 Governor shall have a two-year initial term, and one shall have a four-year initial term as
24 designated by the Governor at the time of such appointment. Thereafter, successors to such
25 members shall be appointed to and serve four-year terms.

26 (e) The appointed members of the authority shall elect one of their own members to serve
27 as chairperson.

28 (f) If a vacancy occurs on the authority, the person or officer who made the appointment
29 shall fill the vacancy for the unexpired term with a person who has the appropriate
30 qualifications to fill that position on the authority.

31 (g) A member of the authority shall not be liable for an action or omission performed in
32 good faith in the performance of the powers and duties under this chapter and a cause of
33 action shall not arise against a member for such action or omission.

1 33-29A-4.

2 (a) The initial members of the Georgia Assignment Pool Underwriting Authority shall
3 submit to the Commissioner a plan of operation for the assignment pool that will assure the
4 fair, reasonable, and equitable administration of the assignment pool.

5 (b) In addition to the other requirements of this chapter, the plan of operation must include
6 procedures for:

7 (1) Operation of the assignment pool;

8 (2) Selecting a plan administrator or multiple plan administrators;

9 (3) Creating a fund, under management of the authority, for administrative expenses;

10 (4) Handling, accounting, and auditing of money and other assets of the assignment pool;

11 (5) Developing and implementing a program to publicize the existence of the assignment
12 pool, the eligibility requirements for coverage under the assignment pool, and the
13 enrollment procedures, and to foster public awareness of the plan;

14 (6) Creation of a grievance committee to review complaints presented by applicants for
15 coverage from the assignment pool and insureds who receive coverage from the
16 assignment pool;

17 (7) Development of disease state management protocols that are required to be
18 implemented by plan administrators, which include both positive and negative
19 reinforcement and incentives; and

20 (8) Other matters as may be necessary and proper for the execution of the board's
21 powers, duties, and obligations under this chapter.

22 (c) After notice and hearing, the Commissioner shall approve the plan of operation if it
23 is determined that the plan is suitable to assure the fair, reasonable, and equitable
24 administration of the assignment pool.

25 (d) The plan of operation shall become effective on the date it is approved by the
26 Commissioner.

27 (e) If the initial members of the authority fail to submit a suitable plan of operation within
28 180 days following the appointment of the initial members, the Commissioner, after notice
29 and hearing, may adopt all necessary and reasonable rules to provide a plan for the
30 assignment pool. The rules adopted under this subsection shall continue in effect until the
31 initial members submit, and the Commissioner approves, a plan of operation as provided
32 under this Code section.

33 (f) The authority shall amend the plan of operation as necessary to carry out the provisions
34 of this chapter. All amendments to the plan of operation shall be submitted to the
35 Commissioner for approval before becoming part of the plan.

1 33-29A-5.

2 (a) The Georgia Assignment Pool Underwriting Authority is authorized to exercise any
3 of the authority that a corporation in this state may exercise under the laws of this state.

4 (b) As part of its authority, the Georgia Assignment Pool Underwriting Authority shall
5 have the authority to:

6 (1) Develop a means in this chapter referred to as the assignment pool, through the
7 assignment of risks to provide health benefits coverage to persons who are eligible for
8 that coverage under this chapter;

9 (2) Enter into contracts that are necessary to carry out its powers and duties under this
10 chapter including, with the approval of the Commissioner, entering into contracts with
11 similar pools in other states for the joint performance of common administrative functions
12 or with other organizations for the performance of administrative functions;

13 (3) Sue and be sued, including taking any legal action necessary or proper to carry out
14 its duties and powers under this chapter;

15 (4) Institute any legal action necessary to recover any amounts erroneously or improperly
16 paid by the assignment pool, to recover any amounts paid by the assignment pool as a
17 mistake of fact or law, and to recover other amounts due the assignment pool;

18 (5) Establish appropriate rates, rate schedules, rate adjustments, expense allowance, and
19 agents' referral fees, and perform any actuarial function appropriate to the operation of
20 the assignment pool;

21 (6) Adopt policy forms, endorsements, and riders and applications for coverage;

22 (7) Develop a means for plan administrators to issue insurance policies subject to this
23 chapter and the plan of operation;

24 (8) Appoint appropriate legal, actuarial, and other committees that are necessary to
25 provide technical assistance in operating the assignment pool and performing any of the
26 functions of the assignment pool;

27 (9) Employ and set the compensation of any persons necessary to assist the assignment
28 pool in carrying out its responsibilities and functions;

29 (10) Borrow money as necessary to implement the purposes of the assignment pool; and

30 (11) Require plan administrators to employ cost containment measures and requirements,
31 including, but not limited to, preadmission screening, second surgical opinion, concurrent
32 utilization case management, disease state management, and other risk reduction practices
33 for the purpose of maximizing effectiveness and cost savings to the assignment pool, its
34 insureds, and payers. Plan administrators shall report at least annually on these programs
35 and document savings and improved health outcomes for eligible individuals.

36 (c) Not later than June 30 of each year, the board shall make an annual report to the
37 Governor, the Senate Insurance and Labor Committee, the House Committee on Insurance,

1 and the Commissioner. The report shall summarize the activities of the assignment pool
 2 in the preceding calendar year, including information regarding net written and earned
 3 premiums, plan enrollment, administration expenses, and paid and incurred losses of plan
 4 administrators on behalf of persons eligible for coverage under the assignment pool.

5 (d) The board shall establish a methodology to assure that the widest practicable and
 6 equitable distribution of risk among payors is achieved and that a variety of plan design
 7 offerings are available through plan administrators.

8 (e) The board shall establish in its plan of operation means by which to compensate plan
 9 administrators for accepting assignments from the assignment pool.

10 33-29A-6.

11 (a) After completing a competitive bidding process as provided by the plan of operation,
 12 the board may select one or more payors or plan administrators certified by the board to
 13 administer the assignment pool and offer assignment pool coverage.

14 (b) The board shall establish criteria for evaluating the bids submitted. The criteria shall
 15 include:

16 (1) A payor's or plan administrator's proven ability to handle accident and sickness
 17 insurance;

18 (2) The efficiency of a payor's or plan administrator's claims paying procedures;

19 (3) An estimate of total charges for administering the assignment pool;

20 (4) A payor's or plan administrator's ability to administer the assignment pool in a
 21 cost-efficient manner; and

22 (5) The financial condition and stability of the payor or plan administrator.

23 (c) The plan administrator shall perform such functions relating to the assignment pool as
 24 may be assigned to it, including:

25 (1) Providing health benefits coverage according to specifications adopted by the board
 26 to persons who are eligible for that coverage under this chapter;

27 (2) Performing eligibility and administrative claims payment functions for the
 28 assignment pool;

29 (3) Establishing a billing procedure for collection of premiums from persons insured by
 30 the assignment pool;

31 (4) Performing functions necessary to assuring timely payment of benefits to persons
 32 covered under the assignment pool, including:

33 (A) Providing information relating to the proper manner of submitting a claim for
 34 benefits to the assignment pool and distributing claim forms; and

35 (B) Evaluating the eligibility of each claim for payment by the assignment pool;

1 (5) Submitting regular reports to the board relating to the operation of the assignment
2 pool; and

3 (6) Determining after the close of each calendar year the net written and earned
4 premiums, expenses of administration, and paid and incurred losses of the assignment
5 pool for that calendar year and reporting such information to the board and the
6 Commissioner on forms prescribed by the Commissioner.

7 33-29A-7.

8 The Commissioner may by rule and regulation establish additional powers and duties of
9 the board and may adopt other rules and regulations as are necessary and proper to
10 implement this chapter. The Commissioner by rule and regulation shall provide the
11 procedures, criteria, and forms necessary to implement, collect, and deposit moneys
12 collected or paid by the pool and its plan administrators for the purpose of carrying out this
13 chapter.

14 33-29A-8.

15 (a) Rates and rate schedules may be adjusted for appropriate risk factors, including age and
16 variation in claim costs, and the board may consider appropriate risk factors in accordance
17 with established actuarial and underwriting practices.

18 (b) The Georgia Assignment Pool Underwriting Authority shall determine the standard
19 risk rate by considering the premium rates charged by insurers offering health insurance
20 coverage to individuals. The standard risk rate shall be established using reasonable
21 actuarial techniques and shall reflect anticipated experience and expenses for such
22 coverage. The initial assignment pool rate may not be less than 125 percent and may not
23 exceed 150 percent of rates established as applicable for individual standard rates.
24 Subsequent rates shall be established to provide fully for the expected costs of claims,
25 including recovery of prior losses, expenses of operation, investment income of claim
26 reserves, and any other cost factors subject to the limitations described in this subsection;
27 however, in no event shall assignment pool rates exceed 150 percent of rates applicable to
28 individual standard risks.

29 (c) All rates and rate schedules shall be submitted to the Commissioner for approval, and
30 the Commissioner must approve the rates and rate schedules of the plans offered by the
31 plan administrators on behalf of the assignment pool before assignment of risks to such
32 plan's use by the assignment pool. The Commissioner in evaluating the rates and rate
33 schedule of the assignment pool shall consider the factors provided for in this Code section.

1 33-29A-9.

2 (a) Any individual person who is and continues to be a legal resident of Georgia as defined
3 in paragraph (22) of subsection (a) of Code Section 33-29A-2 shall be eligible for coverage
4 from the assignment pool if evidence is provided of:

5 (1) A notice of rejection or refusal to issue substantially similar insurance for health
6 reasons by two insurers. A rejection or refusal by an insurer offering only stop-loss,
7 excess loss, or reinsurance coverage with respect to the applicant shall not be sufficient
8 evidence under this subsection;

9 (2) Issuance of coverage only with waivers or eliminations of multiple medical
10 conditions;

11 (3) In the case of an individual who is eligible for coverage under the federal Health
12 Insurance Portability and Accountability Act of 1996, P. L. 104-191, the individual's
13 maintenance of health insurance coverage for the previous 18 months with no gap in
14 coverage greater than 90 days of which the most recent coverage was through an
15 employer sponsored plan;

16 (4) In the case of an individual who is eligible for coverage under the federal Health
17 Insurance Portability and Accountability Act of 1996, P. L. 104-191, the individual's
18 maintenance of health insurance coverage through this state's 'Enhanced Conversion
19 Options,' 'Georgia Health Insurance Assignment System,' or 'Georgia Health Benefits
20 Assignment System' at a rate exceeding the assignment pool rate with no gap in coverage
21 since such coverage lapsed of more than 90 days; or

22 (5) Legal domicile in Georgia and eligibility for the credit for health insurance costs
23 under Section 35 of the federal Internal Revenue Code of 1986.

24 (b) Each dependent of a person who is eligible for coverage from the assignment pool shall
25 also be eligible for coverage from the assignment pool unless that person is enrolled in or
26 is eligible to enroll in any form of health insurance or insurance arrangement, whether
27 public or private. In the case of a child who is the primary insured, resident family
28 members shall also be eligible for coverage if they are the siblings, parents, or guardians
29 of the child.

30 (c) A person may maintain assignment pool coverage for the period of time the person is
31 satisfying a preexisting waiting period under another health insurance policy or insurance
32 arrangement intended to replace the assignment pool policy.

33 (d) A person is not eligible for coverage from the assignment pool if the person;

34 (1) Has in effect on the date assignment pool coverage takes effect, or is eligible to enroll
35 in, health insurance coverage from an insurer or insurance arrangement;

36 (2) Is eligible for other health care benefits at the time application is made to the
37 assignment pool, including COBRA continuation, except:

1 (A) Coverage, including COBRA continuation, other continuation, or conversion
2 coverage, maintained for the period of time the person is satisfying any preexisting
3 condition waiting period under an assignment pool policy; or

4 (B) Individual coverage conditioned by the limitation described by paragraphs (1)
5 through (3) of subsection (a) of this Code section;

6 (3) Has terminated coverage in the assignment pool within 12 months of the date that
7 application is made to the assignment pool, unless the person demonstrates a good faith
8 reason for the termination;

9 (4) Is confined in a county jail or imprisoned in a state or federal prison;

10 (5) Has premiums that are paid for or reimbursed under any government sponsored
11 program or by any government agency or health care provider, except as an otherwise
12 qualifying full-time employee, or dependent thereof, of a government agency or health
13 care provider, except as provided in paragraph (6) of subsection (a) of this Code section;

14 (6) Has premiums that are paid for or reimbursed by a nongovernmental third-party
15 organization with interest in placing individuals in high risk pools or similar pools;

16 (7) Has had prior coverage with the assignment pool terminated for nonpayment of
17 premiums or fraud; or

18 (8) Has voluntarily terminated coverage outside the assignment pool within six months
19 of the date that application is made to the assignment pool unless the person demonstrates
20 a good faith reason for the termination. If a person otherwise eligible for assignment pool
21 coverage has declined or terminated COBRA continuation or other continuation or
22 conversion coverage, except for basic conversion coverage as provided in subsection (g)
23 of Code Section 33-24-21.1, such person is still eligible to apply for assignment pool
24 coverage, but a preexisting condition exclusion shall apply and last for a period of 18
25 months.

26 (e) Assignment pool coverage shall cease:

27 (1) On the date a person is no longer a resident of this state, except for a child who is a
28 dependent according to provisions of paragraph (3) of subsection (a) of Code Section
29 33-29-2 or paragraph (4) of Code Section 33-30-4 and who is financially dependent upon
30 the parent, a child for whom a person may be obligated to pay child support, or a child
31 of any age who is disabled and dependent upon the parent;

32 (2) On the date a person requests coverage to end;

33 (3) Upon the death of the insured;

34 (4) On the date state law requires cancellation of the policy;

35 (5) At the option of the assignment pool, 30 days after the assignment pool sends to the
36 person any inquiry concerning the person's eligibility, including an inquiry concerning
37 the person's residence, to which the person does not reply;

1 (6) On the thirty-first day after the day on which a premium payment for assignment pool
2 coverage becomes due if the payment is not made before that date; or

3 (7) At such time as the person ceases to meet the eligibility requirements of this Code
4 section.

5 (f) A person who ceases to meet the eligibility requirements of this Code section may have
6 his or her coverage terminated by the payor or plan administrator at the end of the policy
7 period.

8 33-29A-10.

9 (a) The assignment pool shall offer assignment pool coverage consistent with major
10 medical expense coverage to each eligible person who is not eligible for medicare. The
11 board, with the approval of the Commissioner, shall establish:

12 (1) The coverages to be provided by the assignment pool;

13 (2) At least two health benefit products to be offered by the assignment pool;

14 (3) The applicable schedules of benefits; and

15 (4) Any exclusions to coverage and other limitations.

16 (b) The benefits provisions of the assignment pool's health benefits coverages shall
17 include the following:

18 (1) All required or applicable definitions;

19 (2) A list of any exclusions or limitations to coverage;

20 (3) A description of covered services required under the assignment pool; and

21 (4) The deductibles, coinsurance options, and copayment options that are required or
22 permitted under the assignment pool.

23 (c) The board may adjust deductibles and the time periods governing preexisting
24 conditions to preserve the financial integrity of the assignment pool. Plan administrators
25 may petition the board in a manner provided for in rules adopted by the board and
26 approved by the Commissioner to address solvency concerns and matters affecting the
27 financial integrity of coverage provided by plan administrators. If the board makes such
28 an adjustment, it shall report in writing that adjustment together with its reasons for the
29 adjustment to the Commissioner. The report shall be submitted not later than the thirtieth
30 day after the date the adjustment is made.

31 (d) Benefits otherwise payable under assignment pool coverage shall be reduced by
32 amounts paid or payable through any other health insurance or insurance arrangement and
33 by all hospital and medical expense benefits paid or payable under any workers'
34 compensation coverage, automobile insurance whether provided on the basis of fault or
35 no-fault, and by any hospital or medical benefits paid or payable under or provided
36 pursuant to any state or federal law or program.

1 (e) The assignment pool and the plan administrators shall have a cause of action against
2 an eligible person for the recovery of the amount of benefits paid that are not for covered
3 expenses. Benefits due from the assignment pool and plan administrators may be reduced
4 or refused as an offset against any amount recoverable under this subsection.

5 (f) Notwithstanding other provisions of this Code section and as long as the minimum
6 standards set forth in this Code section are met, the board and plan administrators may
7 offer additional major medical plans of coverage to eligible individuals that reflect those
8 otherwise available to the private health insurance market, including, but not limited to,
9 high deductible health plans (HDHP), health savings account eligible health plans (HSA),
10 and other such plans as may be designed in the future to meet the need for affordable
11 coverage for eligible individuals.

12 33-29A-11.

13 (a) Except as otherwise provided by this Code section, assignment pool coverage shall
14 exclude charges or expenses incurred during the first 12 months following the effective
15 date of coverage with regard to any condition for which medical advice, care, or treatment
16 was recommended or received during the six-month period preceding the effective date of
17 coverage.

18 (b) The preexisting conditions limitation provided in this Code section shall be reduced
19 by aggregated creditable coverage that was in effect up to a date not more than 90 days
20 before application for coverage in the assignment pool.

21 (c) An eligible individual who is eligible for enrollment in the assignment pool as a result
22 of the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191,
23 and has 18 months of prior creditable coverage, the most recent of which is employer
24 sponsored coverage, shall be eligible for coverage without regard to the 12 month
25 preexisting conditions limitation.

26 (d) An eligible individual who is eligible for the credit for health insurance under
27 Section 35 of the federal Internal Revenue Code of 1986 shall be eligible for coverage
28 without regard to the 12 month preexisting conditions limitation only if he or she had three
29 months of prior creditable coverage as of the date on which the individual seeks to enroll
30 in assignment pool coverage, not counting any period prior to a 63 day break in coverage.

31 33-29A-12.

32 (a) Plan administrators shall participate in the assignment pool by accepting direct
33 assignments of eligible individuals for coverage.

34 (b) The board with review and approval of the Commissioner shall develop an accounting
35 method to estimate future and determine actual claims of payors accepting direct

1 assignment of risks from the assignment pool along with administrative costs of the
2 assignment pool and plan administrators.

3 (c) The General Assembly shall provide an initial appropriation in order to carry out the
4 administrative powers and duties of the pool.

5 (d) The board, after completing its duties under subsection (b) of this Code section, shall
6 report to the Governor, the House Committee on Insurance, the Senate Insurance and Labor
7 Committee, the House Committee on Appropriations, and the Senate Appropriations
8 Committee the anticipated operational costs for the assignment pool in its first two years
9 of making assignments of risks as provided in this chapter and shall request such
10 appropriations as may be necessary to carry out its duties.

11 (e) The board shall present recommendations to the Governor, the House Committee on
12 Insurance, the Senate Insurance and Labor Committee, the House Committee on
13 Appropriations, and the Senate Appropriations Committee for funding the future
14 operational expenses of the assignment pool.

15 (f) The funding mechanism outlined in this Code section shall be modified only by general
16 law.

17 (g) The board shall have the authority to evaluate and to apply for all grants and resources,
18 public and private, for which it may qualify for executing its powers and duties under this
19 chapter, including, but not limited to, start-up funds for state high risk pools under the
20 federal Deficit Reduction Act of 2005 or related legislation to extend such funding and
21 funds as they are available for expansion of coverage to persons eligible for federal health
22 coverage tax credits.

23 (h) If any source of funding for the assignment pool should cease, the board is authorized
24 to take actions including, but not limited to, implementing a moratorium on enrollment of
25 nonfederally eligible individuals, ceding assignment or conversion of coverage to federally
26 eligible individuals to currently operating federally approved programs, and taking ratings
27 and plan design actions not otherwise prohibited by law to preserve the financial integrity
28 of the assignment pool and its plan administrators.

29
30 33-29A-13.

31 An applicant or participant in coverage from the assignment pool is entitled to have
32 complaints against the assignment pool reviewed by a grievance committee appointed by
33 the board. The grievance committee shall report to the board after completion of the
34 review of each complaint. The board shall retain all written complaints regarding the
35 assignment pool at least until the third anniversary of the date the assignment pool received
36 the complaint.

1 33-29A-14.

2 (a) The state auditor shall conduct annually a special audit of the assignment pool. The
3 state auditor's report shall include a financial audit and an economy and efficiency audit.

4 (b) The state auditor shall report the cost of each audit conducted under this chapter to the
5 board. The board shall then promptly remit that amount to the state auditor for deposit to
6 the general fund.

7 33-29A-15.

8 Notwithstanding other changes in law contained in this chapter, persons eligible as a result
9 of the federal Health Insurance Portability and Accountability Act of 1996, P. L. 104-191,
10 shall continue to be issued health insurance coverage through this state's 'Georgia Health
11 Insurance Assignment System,' 'Georgia Health Benefits Assignment System,' or
12 'Enhanced Conversion Options,' under rules and procedures established under this chapter
13 or under Code Section 33-24-21.1 prior to July 1, 2006, until December 31, 2006, or such
14 time as the assignment pool is able to issue coverage to eligible individuals, whichever
15 occurs later.

16 33-29A-16.

17 Coverages available under the assignment pool must be made available not later than
18 January 1, 2007, except as provided in Code Section 33-29A-15."

19 **SECTION 4.**

20 Said title is further amended by striking paragraph (2) of subsection (b) of Code Section
21 33-30-15, relating to continuation of similar coverage, and inserting in lieu thereof a new
22 paragraph (2) to read as follows:

23 "(2) Once such creditable coverage terminates, including termination of such creditable
24 coverage after any period of continuation of coverage required under Code Section
25 33-24-21.1 or the provisions of Title X of the Omnibus Budget Reconciliation Act of
26 1986, the insurer must ~~offer a conversion policy~~ provide notice of eligibility for coverage
27 under the state's alternative mechanism of the availability of individual health insurance
28 coverage as provided under Chapter 29A of this title, as contemplated by Section 2741
29 of the federal Public Health Service Act, 42 U.S.C. Section 300gg-41, to the eligible
30 employee, member, subscriber, enrollee, or dependent."

31 **SECTION 5.**

32 Said title is further amended by repealing and reserving Chapter 44, relating to high risk
33 health insurance plans.

SECTION 6.

1

2

This Act shall become effective on July 1, 2006.

SECTION 7.

3

4

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