

Senate Bill 433

By: Senators Williams of the 19th, Rogers of the 21st, Johnson of the 1st, Mullis of the 53rd,
Moody of the 56th and others

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 provide that certain destination cancer hospitals
3 are subject to certificate of need requirements; to add a definition and revise a definition; to
4 provide certain conditions relating to certificates of need for new institutional health services;
5 to provide considerations for qualification for issuance of certificates of need relating to
6 destination cancer hospitals; to provide for penalties for destination cancer hospitals which
7 fail to comply with minimum requirements; to provide for related matters; to repeal
8 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 in Code Section 31-6-2, relating to definitions, by
13 adding a new paragraph and by revising paragraph (8) to read as follows:

14 "(6.2) 'Destination cancer hospital' means an institution with a licensed bed capacity of
15 50 or less which is primarily engaged in providing to cancer inpatients and outpatients,
16 by or under the supervision of physicians, diagnostic, therapeutic, treatment, and
17 rehabilitative care services; and whose proposed annual patient base is composed of a
18 minimum of 65 percent of patients who reside outside of the State of Georgia."

19 "(8) 'Health care facility' means hospitals; destination cancer hospitals; other special care
20 units, including but not limited to podiatric facilities; skilled nursing facilities;
21 intermediate care facilities; personal care homes; ambulatory surgical or obstetrical
22 facilities; health maintenance organizations; home health agencies; diagnostic, treatment,
23 or rehabilitation centers, but only to the extent that subparagraph (G) or (H), or both
24 subparagraphs (G) and (H), of paragraph (14) of this Code section are applicable thereto;
25 and facilities which are devoted to the provision of treatment and rehabilitative care for

1 periods continuing for 24 hours or longer for persons who have traumatic brain injury,
2 as defined in Code Section 37-3-1."

3 **SECTION 2.**

4 Said chapter is further amended in Code Section 31-6-40, relating to certificate of need
5 required for offering health care, by adding a new subsection to read as follows:

6 "(e) A certificate of need issued to a destination cancer hospital shall authorize the beds
7 and all new institutional health services of such destination cancer hospital. As used in this
8 subsection, the term 'new institutional health service' shall have the same meaning provided
9 for in paragraph (14) of Code Section 31-6-2. Such destination cancer hospital shall not
10 be required to apply for or obtain additional certificates of need for new institutional health
11 services, and such new institutional health services offered by the destination cancer
12 hospital shall not be reviewed under any service specific need methodology or rules except
13 for those promulgated by the department for destination cancer hospitals. After
14 commencing operations, in order to add an additional new institutional health service, a
15 destination cancer hospital shall apply for and obtain an additional certificate of need under
16 the applicable statutory provisions and any rules promulgated by the department for
17 destination cancer hospitals, and such applications shall only be granted if the patient base
18 of such destination cancer hospital is composed of at least 65 percent of out-of-state
19 patients for two consecutive years. If such destination cancer hospital cannot show a
20 patient base of a minimum of 65 percent from outside of this state, then its application for
21 any new institutional health service shall be evaluated under the specific statutes and rules
22 applicable to that particular service. If such destination cancer hospital applies for a
23 certificate of need to add an additional new institutional health service before commencing
24 operations or completing two consecutive years of operation, such applicant may rely on
25 historical data from its affiliated entities, as set forth in paragraph (2) of subsection (b.1)
26 of Code Section 31-6-42. Because destination cancer hospitals provide services primarily
27 to out-of-state residents, the number of beds, services, and equipment destination cancer
28 hospitals use shall not be counted as part of the department's inventory when determining
29 the need for those items by other providers. Nothing in this Code section shall in any way
30 require a destination cancer hospital to obtain a certificate of need for any purpose that is
31 otherwise exempt from the certificate of need requirement."

32 **SECTION 3.**

33 Said chapter is further amended in Code Section 31-6-40.1, relating to acquisition of health
34 care facilities, penalty for failure to notify the department, limitation on applications,
35 agreement to care for indigent patients, and penalties, as follows:

1 "31-6-40.1.

2 (a) Any person who acquires a health care facility by stock or asset purchase, merger,
3 consolidation, or other lawful means shall notify the department of such acquisition, the
4 date thereof, and the name and address of the acquiring person. Such notification shall be
5 made in writing to the department within 45 days following the acquisition, and the
6 acquiring person may be fined by the department in the amount of \$500.00 for each day
7 that such notification is late. Such fine shall be paid into the state treasury.

8 (b) The department may limit the time periods during which it will accept applications for
9 the following health care facilities:

- 10 (1) Skilled nursing facilities;
- 11 (2) Intermediate care facilities; and
- 12 (3) Home health agencies,

13 to only such times after the department has determined there is an unmet need for such
14 facilities. The department shall make a determination as to whether or not there is an
15 unmet need for each type of facility at least every six months and shall notify those
16 requesting such notification of that determination.

17 (c) The department may require that any applicant for a certificate of need agree to provide
18 a specified amount of clinical health services to indigent patients as a condition for the
19 grant of a certificate of need; provided, however, that each facility granted a certificate of
20 need by the department as a destination cancer hospital shall be required to provide
21 uncompensated indigent or charity care for residents of Georgia which meets or exceeds
22 3 percent of such destination cancer hospital's annual adjusted gross revenues. As used in
23 this subsection, the term 'uncompensated indigent or charity care' shall have the same
24 meaning as in paragraph (6) of subsection (a) of Code Section 31-6-40.2. A grantee or
25 successor in interest of a certificate of need or an authorization to operate under this chapter
26 which violates such an agreement, whether made before or after July 1, 1991, shall be
27 liable to the department for a monetary penalty in the amount of the difference between the
28 amount of services so agreed to be provided and the amount actually provided. Any
29 penalty so recovered shall be paid into the state treasury.

30 (c.1) A destination cancer hospital may be fined up to \$1,000,000.00 if less than 65
31 percent of patients to whom such facility provides service in a calendar year reside outside
32 this state. All revenues collected from any such fine shall be dedicated and deposited by
33 the department into the Indigent Care Trust Fund created pursuant to Code Section
34 31-8-152.

35 (d) Penalties authorized under this Code section shall be subject to the same notices and
36 hearing for the levy of fines under Code Section 31-6-45."

SECTION 4.

Said chapter is further amended in Code Section 31-6-42, relating to qualification for issue of certificate of need, by adding a new subsection to read as follows:

"(b.1) In the case of applications for the construction, development, or establishment of a destination cancer hospital, the applicable considerations as to the need for such service shall not include paragraphs (1), (2), (3), (7), (8), (10), (11), and (14) of subsection (a) of this Code section but shall include:

(1) Paragraphs (4), (5), (6), (9), (12), and (13) of subsection (a) of this Code section;

(2) That the proposed new destination cancer hospital can demonstrate, based on historical data from the applicant or its affiliated entities, that its annual patient base shall be composed of a minimum of 65 percent of patients who reside outside of the State of Georgia;

(3) That the proposed new destination cancer hospital states its intent to provide uncompensated indigent or charity care which shall meet or exceed 3 percent of its annual adjusted gross revenues. As used in this paragraph, 'uncompensated indigent or charity care' shall have the same meaning as in paragraph (6) of subsection (a) of Code Section 31-6-40.2;

(4) That the proposed new destination cancer hospital shall conduct biomedical or behavioral research projects or service development which is designed to meet a national or regional need;

(5) That the proposed new destination cancer hospital shall be reasonably financially and physically accessible;

(6) That the proposed new destination cancer hospital shall have a positive relationship to the existing health care delivery system on a regional basis;

(7) That an applicant for a new destination cancer hospital shall document in its application that the new facility is not predicted to be detrimental to existing hospitals within the planning area. Such demonstration shall be made by providing an analysis in such application that compares current and projected changes in market share and payer mix for such applicant and such existing hospitals within the planning area. Impact on an existing hospital shall be determined to be adverse if, based on the utilization projected by the applicant, such existing hospital would have a total decrease of 10 percent or more in its average annual utilization, as measured by patient days for the two most recent and available preceding calendar years of data; and

(8) That the destination cancer hospital shall express its intent to participate in medical staffing workforce development activities."

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SECTION 5.

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