

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

**AS PASSED SENATE**

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 exempt prisons and other secure correctional  
8 institutions of the Department of Corrections and the Department of Juvenile Justice from  
9 certificate of need requirements; to provide for related matters; to repeal conflicting laws;  
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health  
14 planning and development, is amended in Code Section 31-6-2, relating to definitions, by  
15 adding a new paragraph and by revising paragraph (8) to read as follows:

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

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

1 and facilities which are devoted to the provision of treatment and rehabilitative care for  
2 periods continuing for 24 hours or longer for persons who have traumatic brain injury,  
3 as defined in Code Section 37-3-1."

#### 4 **SECTION 2.**

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

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



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

3 **SECTION 4.**

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

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

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

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

15 (3) That the proposed new destination cancer hospital states its intent to provide  
16 uncompensated indigent or charity care which shall meet or exceed 3 percent of its annual  
17 adjusted gross revenues. As used in this paragraph, 'uncompensated indigent or charity  
18 care' shall have the same meaning as in paragraph (6) of subsection (a) of Code Section  
19 31-6-40.2;

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

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

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

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

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

3 **SECTION 5.**

4 Said chapter is further amended in subsection (a) of Code Section 31-6-47, relating to  
5 exemptions from the certificate of need program, by striking the "and" at the end of  
6 paragraph (15), by striking the period at the end of paragraph (16) and replacing it with  
7 "; and", and by adding a new paragraph to read as follows:

8 "(17) Infirmaries or facilities operated by, on behalf of, or under contract with the  
9 Department of Corrections or the Department of Juvenile Justice for the sole and  
10 exclusive purpose of providing health care services in a secure environment to prisoners  
11 within a penal institution, penitentiary, prison, detention center, or other secure  
12 correctional institution. This shall include correctional institutions operated by private  
13 entities in this state which house inmates under the Department of Corrections or the  
14 Department of Juvenile Justice."

15 **SECTION 6.**

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