

SENATE SUBSTITUTE TO HB 1299

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
2 relating to county and municipal hospital authorities, so as to enact the "Public Hospital
3 Integrity Act"; to provide for a short title; to provide definitions; to prohibit certain conflicts
4 of interest; to prohibit a public hospital from entering into or enforcing confidential
5 settlement agreements with a federally or state protected whistleblower; to provide for
6 legislative findings; to provide that any such agreements are void and unenforceable; to
7 provide for applicability of open meetings and open records laws; to provide for limitations
8 on the provision of abortions by public hospitals; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 This Act shall be known and may be referred to as the "Public Hospital Integrity Act."

13 **SECTION 2.**

14 Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
15 county and municipal hospital authorities, is amended by adding new Code sections to read
16 as follows:

17 "31-7-75.3.

18 (a) As used in this Code section, Code Section 31-7-75.4, and Code Section 31-7-75.5, the
19 term:

20 (1) 'Competitor' means any hospital licensed as a general hospital by the department,
21 including a critical access hospital, which is operating within five miles of a public
22 hospital.

23 (2) 'Governing capacity' means service as a member of a hospital authority or a director
24 of a nonprofit hospital management corporation.

25 (3) 'Immediate family member' means spouse, parent, sibling, or child.

1 (4) 'Major vendor of the public hospital' means any person or entity which receives more
2 than \$10,000.00 per year in payments from the public hospital other than for public
3 utilities; provided, however, that this term shall not include the chief executive officer of
4 the public hospital who receives payments limited to compensation and benefits.

5 (5) 'Nonprofit hospital management corporation' means a nonprofit corporation qualified
6 as exempt or which has submitted an application for exemption from federal income
7 taxation under Section 501(c)(3) of the Internal Revenue Code created to manage a public
8 hospital under contract with a hospital authority pursuant to Code Section 31-7-74.3 or
9 other applicable laws.

10 (6) 'Public hospital' means a hospital organized under this article by a resolution or
11 ordinance of the governing bodies of two or more counties.

12 (b) No individual shall be eligible to serve in a governing capacity of a public hospital if
13 that individual or any immediate family member of such individual is an employee or
14 independent contractor of the public hospital; provided, however, that the chief executive
15 officer of the public hospital may serve in a governing capacity of the public hospital so
16 long as said individual recuses himself or herself from all formal participation, including
17 voting or discussion, in any matter before the hospital authority or nonprofit hospital
18 management corporation related to the hiring, retention, discipline, compensation, or other
19 employment matter related to the chief executive officer of the public hospital and does not
20 communicate in any manner with any member of the hospital authority or the nonprofit
21 hospital management corporation regarding any such matter.

22 (c) No individual shall be eligible to serve in a governing capacity of a public hospital if
23 that individual is an employee or director of a major vendor of the public hospital or has
24 a financial interest in a major vendor of the public hospital.

25 (d) No individual shall be eligible to serve in a governing capacity of a public hospital if
26 that individual is an employee or director of a competitor of the public hospital or has a
27 financial interest in a competitor of the public hospital; provided, however, that an
28 individual with such a financial interest serving in such a governing capacity as of July 1,
29 2008, may continue to serve so long as said individual recuses himself or herself from all
30 formal participation, including voting or discussion, in any matter before the hospital
31 authority or nonprofit hospital management corporation related to the competitor of the
32 public hospital and does not communicate in any manner with any member of the hospital
33 authority or the nonprofit hospital management corporation regarding any such matter.

34 (e) This Code section shall be cumulative to:

35 (1) Any conflict of interest provisions applicable to members of hospital authorities
36 contained in this article;

- 1 (2) Any conflict of interest provisions applicable to directors of nonprofit corporations
 2 contained in Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code'; and
 3 (3) Any other conflict of interest provisions adopted by the hospital authority or
 4 nonprofit hospital management corporation.

5 31-7-75.4.

6 (a) The General Assembly finds that:

- 7 (1) It has long been the practice and policy of the Attorney General to not litigate or
 8 settle any matter involving the State of Georgia or any state agency under seal;
 9 (2) Confidential or secret settlements involving government agencies violate public
 10 policy and undermine the principles of open government; and
 11 (3) The use of confidential or secret settlement agreements to obtain or enforce the
 12 silence of federally or state protected whistleblowers is an especially egregious violation
 13 of public policy.

14 (b) No public hospital may enter into a secret or confidential settlement agreement with
 15 any individual who is protected under the federal Whistleblower Protection Act of 1989
 16 or Code Section 45-1-4 or participate in any effort to enforce such an agreement.

17 (c) No public hospital may enter into an agreement with any individual who is protected
 18 under the federal Whistleblower Protection Act of 1989 or Code Section 45-1-4 under
 19 which payment is made to said individual in consideration of any promise of secrecy,
 20 confidentiality, nondisclosure, nonpublication, or nondisparagement. No public hospital
 21 may participate in any effort to enforce such an agreement.

22 (d) Any agreement entered into in contravention of this Code section shall be void and
 23 unenforceable.

24 31-7-75.5.

25 A nonprofit hospital management corporation, as defined in Code Section 31-7-75.3, shall
 26 be subject to Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of
 27 Chapter 18 of Title 50, relating to inspection of public records.

28 31-7-75.6.

29 No public hospital as defined by Code Section 31-7-75.3 (a) (6) shall authorize or permit
 30 the performance of an abortion procedure in violation of federal or state law or that is not
 31 covered for reimbursement by Medicaid."

32 SECTION 3.

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