

Senate Bill 425

By: Senators Balfour of the 9th, Henson of the 41st, Jones of the 10th, Hooks of the 14th, Hill of the 4th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 2 of Title 37 of the Official Code of Georgia Annotated,  
2 relating to general provisions relative to administration of mental health, developmental  
3 disabilities, addictive diseases, and other disability services, so as to revise the definition of  
4 "health services"; to further limit eligibility to be appointed to a community service board;  
5 to revise the minimum number of members for certain community service boards; to provide  
6 restrictions on conflicts of interest for board members; to revise provisions relating to  
7 nonprofit corporations created by a community service board; to authorize community  
8 service boards to provide health services; to provide an exception to open meetings and open  
9 records laws for commercially valuable plans, proposals, and strategies of a community  
10 service board; to provide for related matters; to repeal conflicting laws; and for other  
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Article 1 of Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to  
15 general provisions relative to administration of mental health, developmental disabilities,  
16 addictive diseases, and other disability services, is amended by revising paragraph (5) of  
17 Code Section 37-2-2, relating to definitions, as follows:

18 "(5) 'Health services' means any ~~education or service provided by the department, the~~  
19 ~~Department of Community Health, or the Department of Human Services, either directly~~  
20 ~~or by contract~~ diagnostic, treatment, and rehabilitation services, including outpatient  
21 medical services, dental or oral health care, or any other services incident to the  
22 furnishing of such services, rendered by physicians, dentists, nurses, or other persons who  
23 are licensed or otherwise authorized in this state to furnish such services and provided to  
24 any person for the purpose of maintaining good health and preventing, alleviating, curing,  
25 or healing human illness and injury."

26

**SECTION 2.**

27 Said article is further amended in Code Section 37-2-6, relating to the creation, membership,  
 28 participation of counties, transfer of powers and duties, alternate method of establishment,  
 29 bylaws, and prohibited reprisals regarding community mental health, developmental  
 30 disabilities, and addictive diseases service boards, by revising paragraph (4) of subsection  
 31 (b) and subsection (i) and by adding a new subsection to read as follows:

32 "(4)(A) A person shall not be eligible to be appointed to or serve on a community  
 33 service board if such person is:

34 (i) A member of the regional planning board which serves the region in which that  
 35 community service board is located;

36 (ii) An employee or board member of a public or private entity which contracts with  
 37 the department, the Department of Human Services, or the Department of Community  
 38 Health to provide mental health, developmental disabilities, and addictive diseases  
 39 services or health services within the region; ~~or~~

40 (iii) An employee of that community service board or employee or board member of  
 41 any private or public group, organization, or service provider which contracts with or  
 42 receives funds from that community service board; or

43 (iv) A former employee of that community service board whose most recent  
 44 employment was less than two years prior.

45 (B) A person shall not be eligible to be appointed to or serve on a community service  
 46 board if such person's spouse, parent, child, or sibling is a member of that community  
 47 service board or a member, employee, or board member specified in this paragraph.

48 With respect to appointments by the same county governing authority, no person who  
 49 has served a full term or more on a community service board ~~may~~ shall be appointed  
 50 to a regional planning board until a period of at least two years has passed since the  
 51 time such person served on the community service board, and no person who has served  
 52 a full term or more on a regional planning board may be appointed to a community  
 53 service board until a period of at least two years has passed since the time such person  
 54 has served on the regional planning board."

55 "(i) Each community service board which is composed of members who are appointed  
 56 thereto by the governing authority of only one county shall have a minimum of ~~six~~ seven  
 57 and no more than 13 members, not including any additional members appointed pursuant  
 58 to paragraph (2) of subsection (b) of this Code section, notwithstanding the provisions of  
 59 subsection (b) of this Code section, which members in all other respects shall be appointed  
 60 as provided in this Code section."

61 "(o) A member of the governing board of a community service board shall have a fiduciary  
 62 responsibility to avoid any conflict of interest. When such governing board is to decide an

63 issue about which a member has an unavoidable conflict of interest, said member shall  
 64 absent herself or himself without comment from not only the vote, but also from any  
 65 deliberation on said issue. Board members shall not use their positions to obtain  
 66 employment with the community service board, its funding sources, or its suppliers of  
 67 goods and services for themselves, family members, or close associates. Should a board  
 68 member desire such employment, such member shall first resign. A board member or a  
 69 member of the board member's family may obtain disability or health services from the  
 70 community service board in the ordinary course of the community service board's provision  
 71 of such disability or health services on the same terms and under the same conditions  
 72 applicable to any member of the public. An individual board member shall not exercise  
 73 individual authority over the community service board's operations, affairs, property, or  
 74 personnel, except when such member's action is explicitly permitted by action of the  
 75 governing board of the community service board by policy or by resolution."

76

### SECTION 3.

77 Said article is further amended in Code Section 37-2-6.1, relating to the program director,  
 78 staff, budget, facilities, powers and duties, and exemption from state and local taxes  
 79 regarding community service boards, by revising subsection (j) as follows:

80 "(j) A community service board may create, form, or become a member of a nonprofit  
 81 corporation, limited liability company, or other nonprofit entity, the voting membership of  
 82 which shall be limited to community service boards, governmental entities, nonprofit  
 83 corporations, or a combination thereof, if such entity is created for purposes that are within  
 84 the powers of the community service board, for the cooperative functioning of its members,  
 85 or a combination thereof; provided, however, that no funds provided pursuant to a contract  
 86 between the department and the community service board ~~may~~ shall be used in the  
 87 formation or operation of the nonprofit corporation, limited liability company, or other  
 88 nonprofit entity. Any nonprofit corporation created pursuant to this subsection shall be  
 89 created pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and  
 90 the Secretary of State shall be authorized to accept such filings. The members of the  
 91 governing board of the community service board shall appoint the members of the board  
 92 of directors of a nonprofit corporation created in accordance with this subsection: provided,  
 93 however, that the members of the governing board of the community service board may  
 94 constitute all or a portion of the membership of the board of directors of such nonprofit  
 95 corporation, and service as a director of such nonprofit corporation in and of itself shall not  
 96 constitute a conflict of interest by a member of the governing board of a community service  
 97 board. Upon dissolution of any nonprofit corporation of the community service board, any  
 98 assets shall revert to the community service board or to any successor of the community

99 service board or, failing such succession, to the State of Georgia. The community service  
 100 board shall not be liable for the debts or obligations of any nonprofit corporation or for the  
 101 actions or omissions to act of any nonprofit corporation incorporated by that community  
 102 service board unless that community service board expressly so consents. No community  
 103 service board, whether or not it exercises the power authorized by this subsection, shall be  
 104 relieved of compliance with Chapter 14 of Title 50, relating to open and public meetings,  
 105 and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless  
 106 otherwise provided by law."

#### 107 SECTION 4.

108 Said article is further amended by adding a new Code section to read as follows:

109 "37-2-6.6.

110 (a) The General Assembly finds that serious physical health conditions among persons  
 111 with a disability impact their quality of life and contribute to disproportionate premature  
 112 death. The General Assembly further finds that many such conditions among persons with  
 113 a disability are preventable through routine health promotion activities, primary care  
 114 screening, treatment monitoring, and care management and coordination, and that many  
 115 such conditions are often exacerbated by inadequate physical activity, poor nutrition,  
 116 smoking, substance abuse, and the side effects of psychotropic medications. Insofar as  
 117 persons with a disability seek and obtain services from community service boards and other  
 118 community based disability services providers under contract with the department, it is the  
 119 purpose of this Code section to improve the physical health status of persons with a  
 120 disability by fostering partnerships to integrate disability and health services and by  
 121 supporting the integration of health services into the services, programs, and facilities of  
 122 community service boards and other community based disability providers.

123 (b) As used in this Code section, the term:

124 (1) 'Health benefit plan' means the health insurance policy or subscriber agreement  
 125 between a covered person or policyholder and a health care insurer which defines the  
 126 covered services and benefit levels available.

127 (2) 'Health care insurer' means an insurer, a fraternal benefit society, a health care plan,  
 128 a nonprofit medical service corporation, a nonprofit hospital service corporation, a health  
 129 care corporation, a health maintenance organization, or any other entity authorized to sell  
 130 accident and sickness insurance policies, subscriber certificates, or other contracts of  
 131 health insurance by any other name under Title 33, relating to insurance.

132 (c) With the approval of its governing board, a community service board may provide  
 133 health services.

134 (d) A community service board may provide health services directly or may contract with  
135 one or more physicians, dentists, nurses, or other persons who are licensed or otherwise  
136 authorized in this state to furnish health services; group practices; health clinics or centers;  
137 county boards of health; health districts established pursuant to Code Section 31-3-15;  
138 public or private hospitals; hospital authorities; medical schools; training and educational  
139 institutions; associations; departments and agencies of the state; county and municipal  
140 government; the United States government; or any other legal entity, including a federally  
141 qualified health center as described in Section 1395x (aa)(4) of Title 42 of the United States  
142 Code Annotated or a rural health clinic as described in Section 1395x (aa)(2) of Title 42  
143 of the United States Code Annotated, to partner with or assist the community service board  
144 in providing health services.

145 (e) As a provider of health services, a community service board:

146 (1) Shall enroll as a provider in medicare, Medicaid, and the PeachCare for Kids  
147 programs;

148 (2) May limit the provision of health services to persons with a disability or to persons  
149 receiving disability services from the community service board or other providers of  
150 disability services;

151 (3) May contract with the department, the Department of Community Health, or the  
152 Department of Human Services to provide any education or health service provided by  
153 the department, the Department of Community Health, or the Department of Human  
154 Services;

155 (4) Shall have the opportunity to become a participating provider of health services in  
156 a health benefit plan. Provisions within a health benefit plan applicable to providers in  
157 such health benefit plan shall be applied by the health care insurer in a uniform and  
158 consistent manner to similarly situated providers. In the event a community service board  
159 requests the opportunity to become a participating provider in any health benefit plan, the  
160 health care insurer shall conduct reasonable and good faith negotiations with such  
161 community service board to determine whether it meets the applicable qualifications and  
162 standards established by the health benefit plan in accordance with all applicable laws,  
163 rules, and regulations as promulgated by the Commissioner of Insurance; and

164 (5) May exercise its power authorized by subsection (j) of Code Section 37-2-6.1 to  
165 create, form, or become a member of a nonprofit corporation by creating, forming,  
166 collaborating with, or becoming a member of a federally qualified health center as  
167 described in Section 1395x (aa)(4) of Title 42 of the United States Code Annotated or a  
168 rural health clinic as described in Section 1395x (aa)(2) of Title 42 of the United States  
169 Code Annotated and, if necessary, appointing a governing board thereof that meets  
170 membership requirements set forth in said sections of the United States Code Annotated."

171 **SECTION 5.**

172 Said article is further amended in Code Section 37-2-9.1, relating to compliance by regional  
173 planning boards and community service boards with laws as to open meetings and inspection  
174 of records and advisory boards, by revising subsection (a) as follows:

175 "(a)(1) Each regional planning board and community service board shall comply with the  
176 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4  
177 of Chapter 18 of Title 50, relating to inspection of public records, except as provided in  
178 paragraph (2) of this subsection or where records or proceedings are expressly made  
179 confidential pursuant to other provisions of law.

180 (2) The provisions of paragraph (1) of this subsection or any other provision of law to  
181 the contrary notwithstanding, no community service board shall be required pursuant to  
182 Chapter 14 of Title 50 or Article 4 of Chapter 18 of Title 50 to disclose or make public  
183 any potentially commercially valuable plan, proposal, or strategy that may be of  
184 competitive advantage in the operation of the community service board and which has  
185 not been made public by the community service board. This exemption shall terminate  
186 at such time as such plan, proposal, or strategy has either been approved or rejected by  
187 the governing board of the community service board."

188 **SECTION 6.**

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