

House Bill 343 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 41<sup>st</sup>, Huckaby of the 113<sup>th</sup>, Collins of the 27<sup>th</sup>, Carter of the 175<sup>th</sup>, Houston of the 170<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 1 of Title 37 of the Official Code of Georgia Annotated,  
2 relating to the powers and duties of the Department of Behavioral Health and Developmental  
3 Disabilities as it related to mental health, so as to provide for crisis stabilization units for the  
4 purpose of providing psychiatric stabilization or detoxification services; to provide for a  
5 definition; to provide for licensure; to provide for requirements; to provide for rules and  
6 regulations; to amend Chapter 3 of Title 37 of the Official Code of Georgia Annotated,  
7 relating to examination and treatment for mental illness, so as to provide for immunity for  
8 hospitals in certain circumstances; to provide for related matters; to repeal conflicting laws;  
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to the  
13 powers and duties of the Department of Behavioral Health and Developmental Disabilities  
14 as it related to mental health, is amended by adding a new Code section to read as follows:  
15 "37-1-29.

16 (a) As used in this Code section, the term 'crisis stabilization unit' means a short-term  
17 residential program operated for the purpose of providing psychiatric stabilization and  
18 detoxification services that complies with applicable department standards and that  
19 provides brief, intensive crisis services 24 hours a day, seven days a week.

20 (b) The department shall be authorized to license crisis stabilization units pursuant to this  
21 Code section for the purpose of providing psychiatric stabilization and detoxification  
22 services in a community based setting rather than inpatient hospitalization and other higher  
23 levels of care.

24 (c) The department shall establish minimum standards and requirements for the licensure  
25 of crisis stabilization units. Such standards and requirements shall include, but not be  
26 limited to, the following:

- 27 (1) The capacity to carry out emergency receiving and evaluating functions;  
 28 (2) Voluntary and involuntary admission criteria;  
 29 (3) The prohibition to hold itself out as a hospital or bill for hospital or inpatient services;  
 30 (4) The unit is operated by an accredited and licensed, if applicable, health care  
 31 authority;  
 32 (5) The unit has operating agreements with private and public inpatient hospitals and  
 33 treatment facilities;  
 34 (6) The unit operates within the guidelines of the federal Emergency Medical Treatment  
 35 and Active Labor Act with respect to stabilization and transfer of clients;  
 36 (7) Length of stay;  
 37 (8) Designation of transitional beds;  
 38 (9) Billing;  
 39 (10) Physician and registered professional nurse oversight;  
 40 (11) Staff to client ratios;  
 41 (12) Patient restraint or seclusion;  
 42 (13) Safety and emergency protocols;  
 43 (14) Pharmacy services;  
 44 (15) Medication administration; and  
 45 (16) Reporting requirements.
- 46 (d) A crisis stabilization unit shall be designated as an emergency receiving facility under  
 47 Code Sections 37-3-40 and 37-7-40 and an evaluation facility under Code Sections 37-3-60  
 48 and 37-7-60, but shall not be designated as a treatment facility under Code Section 37-3-80  
 49 or 37-7-80. Crisis stabilization units may admit individuals on a voluntary basis.  
 50 Individuals may be provided 24 hour observation, detoxification and stabilization services,  
 51 medication prescribed by a physician, and other appropriate treatment or services.
- 52 (e) No entity shall operate as a crisis stabilization unit without having a valid license  
 53 issued pursuant to this Code section.
- 54 (f) Application for a license to operate a crisis stabilization unit shall be submitted to the  
 55 department in the manner prescribed by the department's rules and regulations.
- 56 (g) The department shall issue a license to an applicant who meets all the rules and  
 57 regulations for the licensure of crisis stabilization units. The license shall be  
 58 nontransferable for a change of location or governing body.
- 59 (h) Each licensee shall permit authorized department representatives to enter upon and  
 60 inspect any and all premises for which a license has been granted or applied for so that  
 61 verification of compliance with all relevant laws or regulations can be made.
- 62 (i) The department may deny any license application which does not meet all the rules and  
 63 regulations for the licensure of crisis stabilization units and may suspend or revoke a

64 license which has been issued if an applicant or a licensee violates any such rules and  
 65 regulations; provided, however, that before any order is entered denying a license  
 66 application or suspending or revoking a license previously granted, the applicant or license  
 67 holder, as the case may be, shall be afforded an opportunity for a hearing as provided for  
 68 in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

69 (j) Any program licensed as a crisis stabilization unit pursuant to this Code section shall  
 70 be exempt from the requirements to obtain a certificate of need pursuant to Article 3 of  
 71 Chapter 6 of Title 31.

72 (k) It is the intent of the General Assembly that this Code section provide a public benefit  
 73 and comply with all safety net obligations in this title and that patients without private  
 74 health care coverage receive priority consideration for crisis stabilization unit placement.

75 (l) The department shall promulgate rules and regulations in accordance with the General  
 76 Assembly's intent as set out in subsection (k) of this Code section to implement the  
 77 provisions of this Code section."

78 **SECTION 2.**

79 Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to examination and  
 80 treatment for mental illness, is amended by revising Code Section 37-3-4, relating to  
 81 immunity of physicians, peace officers, or other private or public hospital employees, as  
 82 follows:

83 "37-3-4.

84 Any hospital or any physician, psychologist, peace officer, attorney, or health official, or  
 85 any hospital official, agent, or other person employed by a private hospital or at a facility  
 86 operated by the state, by a political subdivision of the state, or by a hospital authority  
 87 created pursuant to Article 4 of Chapter 7 of Title 31, who acts in good faith in compliance  
 88 with the admission and discharge provisions of this chapter shall be immune from civil or  
 89 criminal liability for his or her actions in connection with the admission of a patient to a  
 90 facility or the discharge of a patient from a facility; provided, however, that nothing in this  
 91 Code section shall be construed to relieve any hospital or any physician, psychologist,  
 92 peace officer, attorney, or health official, or any hospital official, agent, or other person  
 93 employed by a private hospital or at a facility operated by the state, by a political  
 94 subdivision of the state, or by a hospital authority created pursuant to Article 4 of Chapter  
 95 7 of Title 31, from liability for failing to meet the applicable standard of care in the  
 96 provision of treatment to a patient."

97

**SECTION 3.**

98 Said chapter is further amended by revising subsection (e) of Code Section 37-3-163, relating  
 99 to recognition of patient's physical integrity, as follows:

100 "(e) In cases of grave emergency where the medical staff of the facility in which a mentally  
 101 ill individual has been accepted for treatment determines that immediate surgical or other  
 102 intervention is necessary to prevent serious physical consequences or death and where  
 103 delay in obtaining consent would create a grave danger to the physical health of such  
 104 person, as determined by at least two physicians, then essential surgery or other  
 105 intervention may be administered without the consent of the person, the spouse, next of kin,  
 106 attorney, guardian, or any other person. In such cases, a record of the determination of the  
 107 physicians shall be entered into the medical records of the patient and this will be proper  
 108 consent for such surgery or other intervention. Such consent will be valid notwithstanding  
 109 the type of admission of the patient and it shall also be valid whether or not the patient has  
 110 been adjudged incompetent. This Code section is intended to apply to those individuals  
 111 who, as a result of their advanced age, impaired thinking, or other disability, cannot  
 112 reasonably understand the consequences of withholding consent to surgery or other  
 113 intervention as contemplated by this Code section. Any hospital or any physician, agent,  
 114 employee, or official who obtains consent or relies on such consent, as authorized by this  
 115 Code section, and who acts in good faith and within the provisions of this chapter shall be  
 116 immune from civil or criminal liability for his or her actions in connection with the  
 117 obtaining of or the relying upon such consent; provided, however, that nothing in this Code  
 118 section shall be construed to relieve any hospital or any physician, agent, employee, or  
 119 official from liability for failing to meet the applicable standard of care in the provision of  
 120 treatment to a patient. Actual notice of any action taken pursuant to this Code section shall  
 121 be given to the patient and the spouse, next of kin, attorney, guardian, or representative of  
 122 the patient as soon as practicably possible."

123

**SECTION 4.**

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