

House Bill 279

By: Representatives Rogers of the 10th, Ehrhart of the 36th, Setzler of the 35th, Willard of the 51st, Stephens of the 164th, 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 define and provide for exemptions for physician
3 owned ambulatory surgical centers; to repeal definition of single specialty ambulatory
4 surgical center; to amend other provisions for purposes of conformity; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health
9 planning and development, is amended by revising paragraph (23) of Code Section 31-6-2,
10 relating to definitions, as follows:

11 "(23) 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical
12 center that is jointly owned by a hospital in the same county as the center or a hospital in
13 a contiguous county if there is no hospital in the same county as the center and a single
14 group of physicians practicing in the center and that provides surgery in a ~~single specialty~~
15 ~~as defined by the department; provided, however, that general surgery, a group practice~~
16 ~~which includes one or more physiatrists who perform services that are reasonably related~~
17 ~~to the surgical procedures performed in the center, and a group practice in orthopedics~~
18 ~~which includes plastic hand surgeons with a certificate of added qualifications in Surgery~~
19 ~~of the Hand from the American Board of Plastic and Reconstructive Surgery shall be~~
20 ~~considered a single specialty~~ physician owned ambulatory surgical center. The
21 ownership interest of the hospital shall be no less than 30 percent and the collective
22 ownership of the physicians or group of physicians shall be no less than 30 percent."

23 **SECTION 2.**

24 Said chapter is further amended by adding a new paragraph to Code Section 31-6-2, relating
25 to definitions, to read as follows:

26 "(30.1) 'Physician owned ambulatory surgical center' means an ambulatory surgical
 27 center where surgery is performed in the offices of an individual private physician or
 28 single group practice of private physicians if such surgery is performed in a facility that
 29 is owned, operated, and utilized by such physicians."

30 **SECTION 3.**

31 Said chapter is further amended by revising paragraph (33) of Code Section 31-6-2, relating
 32 to definitions, as follows:

33 ~~"(33) 'Single specialty ambulatory surgical center' means an ambulatory surgical center~~
 34 ~~where surgery is performed in the offices of an individual private physician or single~~
 35 ~~group practice of private physicians if such surgery is performed in a facility that is~~
 36 ~~owned, operated, and utilized by such physicians who also are of a single specialty;~~
 37 ~~provided, however, that general surgery, a group practice which includes one or more~~
 38 ~~physiatrists who perform services that are reasonably related to the surgical procedures~~
 39 ~~performed in the center, and a group practice in orthopedics which includes plastic hand~~
 40 ~~surgeons with a certificate of added qualifications in Surgery of the Hand from the~~
 41 ~~American Board of Plastic and Reconstructive Surgery shall be considered a single~~
 42 ~~specialty. Reserved."~~

43 **SECTION 4.**

44 Said chapter is further amended by revising paragraph (18) of subsection (a) of Code
 45 Section 31-6-47, relating to exemptions from the state health planning and development
 46 requirements, as follows:

47 ~~"(18) Any single specialty physician owned ambulatory surgical center that:~~
 48 ~~(A)(i) Has capital expenditures associated with the construction, development, or~~
 49 ~~other establishment of the clinical health service which do not exceed \$2.5 million;~~
 50 ~~or~~
 51 ~~(ii) Is the only single specialty physician owned ambulatory surgical center in the~~
 52 ~~county owned by the group practice and has two or fewer operating rooms; provided,~~
 53 ~~however, that a center exempt pursuant to this division shall be required to obtain a~~
 54 ~~certificate of need in order to add any additional operating rooms;~~
 55 ~~(B) Has a hospital affiliation agreement with a hospital within a reasonable distance~~
 56 ~~from the facility or the medical staff at the center has admitting privileges or other~~
 57 ~~acceptable documented arrangements with such hospital to ensure the necessary backup~~
 58 ~~for the center for medical complications. The center shall have the capability to transfer~~
 59 ~~a patient immediately to a hospital within a reasonable distance from the facility with~~

60 adequate emergency room services. Hospitals shall not unreasonably deny a transfer
61 agreement or affiliation agreement to the center;

62 (C)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical
63 care and treatment to children, to PeachCare for Kids beneficiaries and provides
64 uncompensated indigent and charity care in an amount equal to or greater than 2
65 percent of its adjusted gross revenue; or

66 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,
67 provides uncompensated care to Medicaid beneficiaries and, if the facility provides
68 medical care and treatment to children, to PeachCare for Kids beneficiaries,
69 uncompensated indigent and charity care, or both in an amount equal to or greater
70 than 4 percent of its adjusted gross revenue;

71 provided, however, ~~single specialty~~ that physician owned ambulatory surgical centers
72 owned by physicians in the practice of ophthalmology shall not be required to comply
73 with this subparagraph; and

74 (D) Provides annual reports in the same manner and in accordance with Code
75 Section 31-6-70.

76 Noncompliance with any condition of this paragraph shall result in a monetary penalty
77 in the amount of the difference between the services which the center is required to
78 provide and the amount actually provided and may be subject to revocation of its
79 exemption status by the department for repeated failure to pay any fines or moneys due
80 to the department or for repeated failure to produce data as required by Code
81 Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to
82 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount
83 specified in this paragraph shall be adjusted annually by an amount calculated by
84 multiplying such dollar amount (as adjusted for the preceding year) by the annual
85 percentage of change in the composite index of construction material prices, or its
86 successor or appropriate replacement index, if any, published by the United States
87 Department of Commerce for the preceding calendar year, commencing on July 1, 2009,
88 and on each anniversary thereafter of publication of the index. The department shall
89 immediately institute rule-making procedures to adopt such adjusted dollar amounts. In
90 calculating the dollar amounts of a proposed project for purposes of this paragraph, the
91 costs of all items subject to review by this chapter and items not subject to review by this
92 chapter associated with and simultaneously developed or proposed with the project shall
93 be counted, except for the expenditure or commitment of or incurring an obligation for
94 the expenditure of funds to develop certificate of need applications, studies, reports,
95 schematics, preliminary plans and specifications or working drawings, or to acquire
96 sites;"

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SECTION 5.

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