

House Bill 943 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27th, Smith of the 134th, Ramsey of the 72nd, Cooper of the 43rd, Broadrick of the 4th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to health, so as to enact the "Georgia Health Care Freedom Act";
3 to provide a short title; to provide that neither the state nor any department, agency, bureau,
4 authority, office, or other unit of the state nor any political subdivision of the state shall
5 expend or use moneys, human resources, or assets of the State of Georgia to advocate or
6 intended to influence the citizens of this state in support of the voluntary expansion by the
7 state of eligibility for medical assistance in furtherance of the federal Patient Protection and
8 Affordable Care Act; to provide for enforcement; to provide for applicability; to amend
9 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general
10 provisions regarding insurance, so as to provide that no department, agency, instrumentality,
11 or political subdivision of this state shall establish any program; promulgate any rule, policy,
12 guideline, or plan; or change any program, rule, policy, or guideline to implement, establish,
13 create, administer, or otherwise operate an exchange, or apply for, accept, or expend federal
14 moneys related to the creation, implementation, or operation of an exchange; to provide for
15 an exception; to prohibit the state and its departments, agencies, bureaus, authorities, offices,
16 or other units of the state and its political subdivisions from providing navigator programs;
17 to provide for applicability; to amend Article 1 of Chapter 24 of Title 33 of the Official Code
18 of Georgia Annotated, relating to general provisions regarding insurance generally, so as to
19 require that a health benefit policy that provides coverage for intravenously administered or
20 injected chemotherapy for the treatment of cancer shall provide coverage no less favorable
21 for orally administered chemotherapy; to provide a short title; to provide for definitions; to
22 prohibit certain actions; to provide for related matters; to provide for effective dates; to repeal
23 conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25

PART I

26

SECTION 1-1.

27 This Act shall be known and may be cited as the "Georgia Health Care Freedom Act."

28

SECTION 1-2.

29 Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to general
30 provisions relative to health, is amended by adding a new article to read as follows:

31

"ARTICLE 332 **31-1-40.**

33 (a) Neither the state nor any department, agency, bureau, authority, office, or other unit of
34 the state nor any political subdivision of the state shall expend or use moneys, human
35 resources, or assets to advocate or intended to influence the citizens of this state in support
36 of the voluntary expansion by the State of Georgia of eligibility for medical assistance in
37 furtherance of the federal 'Patient Protection and Affordable Care Act,' Public Law
38 111-148, beyond the eligibility criteria in effect on the effective date of this Code section
39 under the provisions of 42 U.S.C. Section 1396a(a)(10)(A)(i)(VIII) of the federal Social
40 Security Act, as amended.

41 (b) The Attorney General shall enforce the provisions of this Code section in accordance
42 with Article V, Section III, Paragraph IV of the Constitution of the State of Georgia.

43 (c) Nothing in this Code section shall be construed to prevent an officer or employee of
44 the State of Georgia or of any department, agency, bureau, authority, office, unit, or
45 political subdivision thereof from advocating or attempting to influence public policy:

46 (1) As part of such person's official duties;

47 (2) When acting on personal time without using state resources; or

48 (3) When providing bona fide educational instruction about the federal Patient Protection
49 and Affordable Care Act of 2010 in institutions of higher learning or otherwise.

50 (d) Nothing in this Code section shall be construed to preclude the state from participating
51 in any MEDICAID program."

52

SECTION 1-3.

53 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general
54 provisions regarding insurance, is amended by adding a new Code section to read as follows:

55 **"33-1-23.**

- 56 (a) As used in this Code section, the term 'exchange' shall have the same meaning provided
 57 for in paragraph (1) of Code Section 33-23-201.
- 58 (b) No department, agency, instrumentality, or political subdivision of this state shall:
 59 (1) Establish any program; promulgate any rule, policy, guideline, or plan; or change any
 60 program, rule, policy, or guideline to implement, establish, create, administer, or
 61 otherwise operate an exchange; or
 62 (2) Apply for, accept, or expend federal moneys related to the creation, implementation,
 63 or operation of an exchange.
- 64 (c) Nothing in this Code section shall apply to the Commissioner of Insurance in the
 65 implementation or enforcement of the provisions of Article 3 of Chapter 23 of this title.
- 66 (d) Neither the state nor any department, agency, bureau, authority, office, or other unit
 67 of the state, including the University System of Georgia and its member institutions, nor
 68 any political subdivision of the state shall establish, create, implement, or operate a
 69 navigator program or its equivalent as defined in Code Section 33-23-201; provided,
 70 however, that any grant regarding a navigator program in effect on the effective date of this
 71 Code section shall be permitted to continue for the term of such grant but shall then
 72 terminate upon the expiration of the term of such grant and shall not be renewed,
 73 notwithstanding any provision contained within such grant allowing for automatic renewal
 74 under certain circumstances.
- 75 (e) Nothing in this Code section shall be construed to preclude the state from participating
 76 in any MEDICAID program."

77 **PART II**

78 **SECTION 2-1.**

79 This Act shall be known and may be cited as the "Cancer Treatment Fairness Act."

80 **SECTION 2-2.**

81 Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
 82 general provisions regarding insurance generally, is amended by adding a new Code section
 83 to read as follows:

84 "33-24-56.5.

85 (a) As used in this Code section, the term:

- 86 (1) 'Cost sharing requirements' includes co-payments, coinsurance, deductibles, and any
 87 other amounts paid by the covered person for a prescription dispensed by a licensed retail
 88 pharmacy.

89 (2) 'Health benefit policy' means any individual or group plan, policy, or contract for
90 health care services issued, delivered, issued for delivery, executed, or renewed by an
91 insurer in this state on or after January 1, 2015. The term 'health benefit policy' does not
92 include the following limited benefit insurance policies: accident only, CHAMPUS
93 supplement, dental, disability income, fixed indemnity, long-term care, Medicaid,
94 medicare supplement, specified disease, vision, self-insured plans, and nonrenewable
95 individual policies written for a period of less than six months.

96 (3) 'Insurer' means any person, corporation, or other entity authorized to provide health
97 benefit policies under this title.

98 (b) A health benefit policy that provides coverage for intravenously administered or
99 injected chemotherapy for the treatment of cancer shall provide coverage for orally
100 administered chemotherapy for the treatment of cancer on a basis no less favorable than the
101 intravenously administered or injected chemotherapy regardless of the formulation or
102 benefit category determination by the insurer.

103 (c) An insurer providing a health benefit policy and any participating entity through which
104 the insurer offers health services shall not:

105 (1) Vary the terms of any health benefit policy in effect on December 30, 2014, to avoid
106 compliance with this Code section;

107 (2) Provide any incentive, including, but not limited to, a monetary incentive, or impose
108 treatment limitations to encourage a covered person to accept less than the minimum
109 protections available under this Code section;

110 (3) Penalize a health care practitioner or reduce or limit the compensation of a health
111 care practitioner for recommending or providing services or care to a covered person as
112 required under this Code section;

113 (4) Provide any incentive, including, but not limited to, a monetary incentive, to induce
114 a health care practitioner to provide care or services that do not comply with this Code
115 section; or

116 (5) Change the classification of any intravenously administered or injected chemotherapy
117 treatment or increase the amount of cost sharing applicable to any intravenously
118 administered or injected chemotherapy in effect on January 1, 2015, in order to achieve
119 compliance with this Code section.

120 (d) An insurer that limits the total amount paid by a covered person through all cost
121 sharing requirements to no more than \$200.00 per filled prescription for any orally
122 administered chemotherapy shall be deemed to be in compliance with this Code section."

123

PART III

124

SECTION 3-1.

125 (a) Part I and Part III of this Act shall become effective upon its approval by the Governor

126 or upon its becoming law without such approval.

127 (b) Part II of this Act shall become effective on January 1, 2015.

128

SECTION 3-2.

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