

Senate Bill 459

By: Senators Brass of the 28th, Albers of the 56th and Watson of the 1st

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 convert a destination cancer hospital to a hospital  
3 facility for certificate of need requirements upon certain conditions; to revise a definition;  
4 to provide for payments to go the Indigent Care Trust Fund; to repeal certain destination  
5 cancer hospital provisions relating to certificate of need; to provide for funds from the  
6 Indigent Care Trust Fund to be used for the rural stabilization program; to provide for a short  
7 title; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Rural Hospital Infusion Plan (RHIP) Act."

11 **SECTION 2.**

12 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health  
13 planning and development, is amended by revising paragraphs (13) and (17) of Code  
14 Section 31-6-2, relating to definitions, as follows:

15 ~~"(13) 'Destination cancer hospital' means an institution with a licensed bed capacity of~~  
16 ~~50 or less which provides diagnostic, therapeutic, treatment, and rehabilitative care~~  
17 ~~services to cancer inpatients and outpatients, by or under the supervision of physicians,~~  
18 ~~and whose proposed annual patient base is composed of a minimum of 65 percent of~~  
19 ~~patients who reside outside of the State of Georgia. Reserved."~~

20 ~~"(17) 'Health care facility' means hospitals; any facility granted a certificate of need~~  
21 ~~before June 30, 2018, as a destination cancer hospitals hospital; other special care units,~~  
22 including but not limited to podiatric facilities; skilled nursing facilities; intermediate care  
23 facilities; personal care homes; ambulatory surgical centers or obstetrical facilities; health  
24 maintenance organizations; home health agencies; and diagnostic, treatment, or

25 rehabilitation centers, but only to the extent paragraph (3) or (7), or both paragraphs (3)  
 26 and (7), of subsection (a) of Code Section 31-6-40 are applicable thereto."

27 **SECTION 3.**

28 Said chapter is further amended by revising subsection (d) of Code Section 31-6-40, relating  
 29 to the requirement of a certificate of need for new institutional health services, as follows:

30 "(d) A certificate of need issued to a destination cancer hospital prior to June 30, 2018,  
 31 shall authorize the beds and all new institutional health services of such destination cancer  
 32 hospital as such services were provided on June 30, 2018, including but not limited to  
 33 inpatient beds, outpatient services, operating rooms, radiation therapy, imaging, and  
 34 positron emission tomograph (PET) scanning, without any further action by the department  
 35 or the destination cancer hospital; and thereafter such destination cancer hospital shall be  
 36 deemed a hospital without any limitations of a destination cancer hospital as previously  
 37 defined, including but not limited to the 50 inpatient beds and the 65 percent out-of-state  
 38 patient base, and such hospital will be subject to the provisions under this chapter  
 39 applicable to hospitals. As used in this subsection, the term 'new institutional health  
 40 service' shall have the same meaning provided for in subsection (a) of this Code section.  
 41 ~~A certificate of need shall only be issued to a destination cancer hospital that locates itself~~  
 42 ~~and all affiliated facilities within 25 miles of a commercial airport in this state with five~~  
 43 ~~or more runways. Such destination cancer hospital shall not be required to apply for or~~  
 44 ~~obtain additional certificates of need for new institutional health services related to the~~  
 45 ~~treatment of cancer patients, and such new institutional health services related to the~~  
 46 ~~treatment of cancer patients offered by the destination cancer hospital shall not be reviewed~~  
 47 ~~under any service-specific need methodology or rules except for those promulgated by the~~  
 48 ~~department for destination cancer hospitals. After commencing operations, in order to add~~  
 49 ~~an additional new institutional health service, a destination cancer hospital shall apply for~~  
 50 ~~and obtain an additional certificate of need under the applicable statutory provisions and~~  
 51 ~~any rules promulgated by the department for destination cancer hospitals, and such~~  
 52 ~~applications shall only be granted if the patient base of such destination cancer hospital is~~  
 53 ~~composed of at least 65 percent of out-of-state patients for two consecutive years. The~~  
 54 ~~department may apply rules for a destination cancer hospital only for those services that~~  
 55 ~~the department determines are to be used by the destination cancer hospital in connection~~  
 56 ~~with the treatment of cancer. In no case shall destination cancer hospital specific rules be~~  
 57 ~~used in the case of an application for open heart surgery, perinatal services, cardiac~~  
 58 ~~catheterization, and other services deemed by the department to be not reasonably related~~  
 59 ~~to the diagnosis and treatment of cancer; provided, however, that the department shall~~  
 60 ~~apply the destination cancer hospital specific rules if a destination cancer hospital applies~~

61 ~~for services and equipment required for it to meet federal or state laws applicable to a~~  
 62 ~~hospital. If such destination cancer hospital cannot show a patient base of a minimum of~~  
 63 ~~65 percent from outside of this state, then its application for any new institutional health~~  
 64 ~~service shall be evaluated under the specific statutes and rules applicable to that particular~~  
 65 ~~service. If such destination cancer hospital applies for a certificate of need to add an~~  
 66 ~~additional new institutional health service before commencing operations or completing~~  
 67 ~~two consecutive years of operation, such applicant may rely on historical data from its~~  
 68 ~~affiliated entities, as set forth in paragraph (2) of subsection (b.1) of Code Section 31-6-42.~~  
 69 ~~Because destination cancer hospitals provide services primarily to out-of-state residents,~~  
 70 ~~the number of beds, services, and equipment destination cancer hospitals use shall not be~~  
 71 ~~counted as part of the department's inventory when determining the need for those items~~  
 72 ~~by other providers. No person shall be issued more than one certificate of need for a~~  
 73 ~~destination cancer hospital. Nothing in this Code section shall in any way require a~~  
 74 ~~destination cancer hospital to obtain a certificate of need for any purpose that is otherwise~~  
 75 ~~exempt from the certificate of need requirement. Beginning January 1, 2010, the~~  
 76 ~~department shall not accept any application for a certificate of need for a new destination~~  
 77 ~~cancer hospital; provided, however, all other provisions regarding the upgrading, replacing,~~  
 78 ~~or purchasing of diagnostic or therapeutic equipment shall be applicable to an existing~~  
 79 ~~destination cancer hospital."~~

80

#### SECTION 4.

81 Said chapter is further amended by revising subsections (c) and (c.1) of Code  
 82 Section 31-6-40.1, relating to acquisition of health care facilities, penalty for failure to notify  
 83 the department, limitation on applications, agreement to care for indigent patients,  
 84 requirements for destination cancer hospitals, and notice and hearing provisions for penalties,  
 85 as follows:

86 "(c) The department may require that any applicant for a certificate of need agree to  
 87 provide a specified amount of clinical health services to indigent patients as a condition for  
 88 the grant of a certificate of need; provided, however, that each facility granted a certificate  
 89 of need by the department as a destination cancer hospital prior to June 30, 2018, that  
 90 converts to a hospital shall be required to:

91 (1) Provide provide uncompensated indigent or charity care for residents of Georgia  
 92 which meets or exceeds 3 percent of such destination cancer hospital's adjusted gross  
 93 revenues and provide care to Medicaid beneficiaries which meets or exceeds 3 percent  
 94 of its adjusted gross revenue;

95 (2) Provide services to Medicaid patients; and

96 (3) Pay for five consecutive years 1 percent of its adjusted gross revenue or \$1 million,  
 97 whichever is lower, per fiscal year to the department to be used for purposes of the  
 98 Indigent Care Trust Fund pursuant to paragraph (4) of Code Section 31-8-154. As used  
 99 in this paragraph, the term 'adjusted gross revenue' is calculated by subtracting solely  
 100 Medicaid and medicare contractual adjustments and bad debt from the hospital's gross  
 101 revenues. The adjusted gross revenue is used as the basis for determining a hospital's  
 102 level of uncompensated indigent and charity care services, and such figures generally  
 103 represent a percentage of the hospital's adjusted gross revenue. A grantee or successor  
 104 in interest of a certificate of need or an authorization to operate under this chapter which  
 105 violates such an agreement or violates any conditions imposed by the department relating  
 106 to such services, whether made before or after July 1, 2008, shall be liable to the  
 107 department for a monetary penalty in the amount of the difference between the amount  
 108 of services so agreed to be provided and the amount actually provided and may be subject  
 109 to revocation of its certificate of need, in whole or in part, by the department pursuant to  
 110 Code Section 31-6-45. Any penalty so recovered shall be paid into the state treasury.

111 ~~(c.1)(1) A destination cancer hospital that does not meet an annual patient base~~  
 112 ~~composed of a minimum of 65 percent of patients who reside outside this state in a~~  
 113 ~~calendar year shall be fined \$2 million for the first year of noncompliance, \$4 million for~~  
 114 ~~the second consecutive year of noncompliance, and \$6 million for the third consecutive~~  
 115 ~~year of noncompliance. Such fine amount shall reset to \$2 million after any year of~~  
 116 ~~compliance. In the event that a destination cancer hospital does not meet an annual~~  
 117 ~~patient base composed of a minimum of 65 percent of patients who reside outside this~~  
 118 ~~state for three calendar years in any five-year period, such hospital shall be fined an~~  
 119 ~~additional amount of \$8 million. It is the intent of the General Assembly that all revenues~~  
 120 ~~collected from any such fines shall be dedicated and deposited by the department into the~~  
 121 ~~Indigent Care Trust Fund created pursuant to Code Section 31-8-152.~~

122 ~~(2) In the event a certificate of need for a destination cancer hospital is revoked pursuant~~  
 123 ~~to this subsection, such hospital shall be subject to fines pursuant to subsection (c) of~~  
 124 ~~Code Section 31-6-45 for operating without a certificate of need.~~

125 ~~(3) In addition to the annual report required pursuant to Code Section 31-6-70, a~~  
 126 ~~destination cancer hospital shall submit an annual statement, in accordance with~~  
 127 ~~timeframes and a format specified by the department, affirming that the hospital has met~~  
 128 ~~an annual patient base composed of a minimum of 65 percent of patients who reside~~  
 129 ~~outside this state. The chief executive officer of the destination cancer hospital shall~~  
 130 ~~certify under penalties of perjury that the statement as prepared accurately reflects the~~  
 131 ~~composition of the annual patient base. The department shall have the authority to~~  
 132 ~~inspect any books, records, papers, or other information pursuant to subsection (e) of~~

133 ~~Code Section 31-6-45 of the destination cancer hospital to confirm the information~~  
 134 ~~provided on such statement or any other information required of the destination cancer~~  
 135 ~~hospital. Nothing in this paragraph shall be construed to require the release of any~~  
 136 ~~information which would violate the Health Insurance Portability and Accountability Act~~  
 137 ~~of 1996, P.L. 104-191."~~

138 **SECTION 5.**

139 Said chapter is further amended by repealing subsection (b.1) of Code Section 31-6-42,  
 140 relating to qualifications for issuance of certificate.

141 **SECTION 6.**

142 Said chapter is further amended by revising paragraphs (5), (6), and (7) of subsection (a) of  
 143 Code Section 31-6-45, relating to revocation of certificate of need, enforcement of chapter,  
 144 and regulatory investigations and examinations, as follows:

145 "(5) Failure to participate as a provider of medical assistance for Medicaid purposes  
 146 pursuant to Code Section 31-6-45.2 or any other applicable Code section; or  
 147 (6) The failure to submit a timely or complete report within 180 days following the date  
 148 the report is due pursuant to Code Section 31-6-70.5; or  
 149 ~~(7) Failure of a destination cancer hospital to meet an annual patient base composed of~~  
 150 ~~a minimum of 65 percent of patients who reside outside this state for three calendar years~~  
 151 ~~in any five-year period."~~

152 **SECTION 7.**

153 Said title is further amended by revising paragraphs (3) and (4) of Code Section 31-8-154,  
 154 relating to authorized expenditure of contributed funds, and adding a new paragraph to read  
 155 as follows:

156 "(3) For primary health care programs for medically indigent citizens and children of this  
 157 state; or  
 158 (4) For support of those hospitals participating in the rural hospital stabilization program  
 159 conducted by the State Office of Rural Health under the Department of Community  
 160 Health; or  
 161 ~~(4)(5)~~ Any combination of purposes specified in paragraphs (1) through ~~(3)~~ (4) of this  
 162 Code section."

163 **SECTION 8.**

164 Said title is further amended by revising subsection (b) of Code Section 31-8-156, relating  
 165 to appropriation of state funds by General Assembly, as follows:

166 "(b) An appropriation pursuant to subsection (a) of this Code section shall specify each  
167 purpose, if any, as specified in paragraphs (1) through ~~(4)~~ (5) of Code Section 31-8-154,  
168 for which the trust funds are appropriated thereby."

169

**SECTION 9.**

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