

The House Special Committee on Access to Quality Health Care offers the following substitute to HB 198:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 revise and provide for definitions relative to health planning and development; to eliminate
3 the requirement that certain expenditures by a health care facility are required to obtain a
4 certificate of need; to eliminate the Health Strategies Council; to provide for the conversion
5 of destination cancer hospitals; to provide certain indigent and charity care requirements; to
6 provide for penalties; to require certain facilities to participate as Medicaid providers; to
7 provide limitations on opposing an application; to provide for additional exemptions from
8 certificate of need requirements; to provide for the submission of certain documents to the
9 Department of Community Health and the posting of certain documents on hospital websites;
10 to prohibit certain actions relating to medical use rights; to provide for the investment of
11 funds by hospital authorities; to amend Code Section 48-7-29.20 of the Official Code of
12 Georgia Annotated, relating to tax credits for contributions to rural hospital organizations,
13 so as to revise provisions relating to the rural hospital tax credit program; to revise Code
14 Section 50-18-70 of the Official Code of Georgia Annotated, relating to legislative intent and
15 definitions relative to open records laws, so as to revise definitions; to provide for related
16 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 PART I
19 SECTION 1-1.

20 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
21 paragraphs (8), (14), (17), (19), (21), (23), and (33) of and by adding a new paragraph to
22 Code Section 31-6-2, relating to definitions relative to state health planning and
23 development, as follows:

24 "(8) 'Clinical health services' means diagnostic, treatment, or rehabilitative services
25 provided in a health care facility, or parts of the physical plant where such services are

26 located in a health care facility, and includes, but is not limited to, the following:
 27 radiology and diagnostic imaging, such as magnetic resonance imaging and positron
 28 emission tomography (PET); radiation therapy; biliary lithotripsy; surgery; intensive care;
 29 coronary care; pediatrics; gynecology; obstetrics; general medical care; medical/surgical
 30 care; inpatient nursing care, whether intermediate, skilled, or extended care; cardiac
 31 catheterization; open-heart surgery; and inpatient rehabilitation; ~~and alcohol, drug abuse,~~
 32 ~~and mental health services."~~

33 "(14) 'Develop,' with reference to a project, means:

34 (A) Constructing, remodeling, installing, or proceeding with a project, or any part of
 35 a project, or a capital expenditure project, the cost estimate for which exceeds ~~\$2.5~~
 36 million \$10 million; or

37 (B) The expenditure or commitment of funds exceeding ~~\$1 million~~ \$4 million for
 38 orders, purchases, leases, or acquisitions through other comparable arrangements of
 39 major medical equipment; provided, however, that this shall not include build-out costs,
 40 as defined by the department, but shall include all functionally related equipment,
 41 software, and any warranty and services contract costs for the first five years.

42 Notwithstanding subparagraphs (A) and (B) of this paragraph, the expenditure or
 43 commitment or incurring an obligation for the expenditure of funds to develop certificate
 44 of need applications, studies, reports, schematics, preliminary plans and specifications,
 45 or working drawings or to acquire, develop, or prepare sites shall not be considered to be
 46 the developing of a project."

47 "(16.1) 'Freestanding emergency department' means a facility that provides emergency
 48 services, but that is structurally separate and distinct from a hospital and has no more than
 49 one inpatient bed and that:

50 (A) Is operated pursuant to a hospital's license and located within 35 miles of such
 51 hospital;

52 (B) Is subject to the federal 'Emergency Medical Treatment and Labor Act';

53 (C) Operates 24 hours per day, 365 days per year; and

54 (D) Is a Medicaid provider and treats Medicaid recipients.

55 (17) 'Health care facility' means hospitals; destination cancer hospitals; other special care
 56 units, including but not limited to podiatric facilities; skilled nursing facilities;
 57 intermediate care facilities; personal care homes; ambulatory surgical centers or
 58 obstetrical facilities; freestanding emergency departments; health maintenance
 59 organizations; home health agencies; and diagnostic, treatment, or rehabilitation centers,
 60 but only to the extent paragraph (3) or (7), or both paragraphs (3) and (7), of subsection
 61 (a) of Code Section 31-6-40 are applicable thereto."

62 ~~"(19) 'Health Strategies Council' or 'council' means the body created by this chapter to~~
 63 ~~advise the department. Reserved."~~

64 "(21) 'Hospital' means an institution which is primarily engaged in providing to
 65 inpatients, by or under the supervision of physicians, diagnostic services and therapeutic
 66 services for medical diagnosis, treatment, and care of injured, disabled, or sick persons
 67 or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such
 68 term includes public, private, ~~psychiatric~~, rehabilitative, geriatric, osteopathic,
 69 micro-hospitals, and other specialty hospitals."

70 "(23) 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical
 71 center that is jointly owned by a hospital in the same county as the center or a hospital in
 72 a contiguous county if there is no hospital in the same county as the center and a single
 73 group of physicians practicing in the center and that provides surgery or where
 74 cardiologists perform procedures in a single specialty as defined by the department;
 75 provided, however, that general surgery, a group practice which includes one or more
 76 physiatrists who perform services that are reasonably related to the surgical procedures
 77 performed in the center, and a group practice in orthopedics which includes plastic hand
 78 surgeons with a certificate of added qualifications in Surgery of the Hand from the
 79 American Board of Plastic and Reconstructive Surgery shall be considered a single
 80 specialty. The ownership interest of the hospital shall be no less than 30 percent and the
 81 collective ownership of the physicians or group of physicians shall be no less than 30
 82 percent."

83 "(33) 'Single specialty ambulatory surgical center' means an ambulatory surgical center
 84 where surgery is performed or where cardiologists perform procedures in the offices of
 85 an individual private physician or single group practice of private physicians if such
 86 surgery or cardiology procedures are is performed in a facility that is owned, operated,
 87 and utilized by such physicians who also are of a single specialty; provided, however, that
 88 general surgery, a group practice which includes one or more physiatrists who perform
 89 services that are reasonably related to the surgical procedures performed in the center,
 90 and a group practice in orthopedics which includes plastic hand surgeons with a
 91 certificate of added qualifications in Surgery of the Hand from the American Board of
 92 Plastic and Reconstructive Surgery shall be considered a single specialty."

93 **SECTION 1-2.**

94 Said title is further amended by revising paragraphs (3) and (8) of subsection (b) of Code
 95 31-6-21, relating to the Department of Community Health generally, as follows:

96 ~~"(3) To seek advice, at its discretion, from the Health Strategies Council in the~~
 97 ~~performance by the department of its functions pursuant to this chapter; Reserved."~~

98 "(8) To establish, by rule, need methodologies for new institutional health services and
 99 health facilities. In developing such need methodologies, the department shall, at a
 100 minimum, consider the demographic characteristics of the population, the health status
 101 of the population, service use patterns, standards and trends, financial and geographic
 102 accessibility, and market economics. The department shall establish service-specific need
 103 methodologies and criteria for at least the following clinical health services: short stay
 104 hospital beds, adult therapeutic cardiac catheterization, adult open heart surgery, pediatric
 105 cardiac catheterization and open heart surgery, Level II and III perinatal services,
 106 freestanding birthing centers, ~~psychiatric and substance abuse inpatient programs~~, skilled
 107 nursing and intermediate care facilities, home health agencies, and continuing care
 108 retirement community sheltered facilities;"

109

SECTION 1-3.

110 Said title is further amended by revising subsection (a) of and by adding a new subsection
 111 to Code Section 31-6-40, relating to the requirement of a certificate of need for new
 112 institutional health services and exemption, as follows:

113 "(a) On and after July 1, 2008, any new institutional health service shall be required to
 114 obtain a certificate of need pursuant to this chapter. New institutional health services
 115 include:

116 (1) The construction, development, or other establishment of a new health care facility;
 117 (2) Any expenditure by or on behalf of a health care facility in excess of ~~\$2.5 million~~
 118 \$4 million which, under generally accepted accounting principles consistently applied,
 119 is a capital expenditure, except expenditures for acquisition of an existing health care
 120 facility not owned or operated by or on behalf of a political subdivision of this state, or
 121 any combination of such political subdivisions, or by or on behalf of a hospital authority,
 122 as defined in Article 4 of Chapter 7 of this title, or certificate of need owned by such
 123 facility in connection with its acquisition. The dollar amounts specified in this paragraph
 124 and in subparagraph (A) of paragraph (14) of Code Section 31-6-2 shall be adjusted
 125 annually by an amount calculated by multiplying such dollar amounts (as adjusted for the
 126 preceding year) by the annual percentage of change in the composite index of
 127 construction material prices, or its successor or appropriate replacement index, if any,
 128 published by the United States Department of Commerce for the preceding calendar year,
 129 commencing on July 1, 2009, and on each anniversary thereafter of publication of the
 130 index. The department shall immediately institute rule-making procedures to adopt such
 131 adjusted dollar amounts. In calculating the dollar amounts of a proposed project for
 132 purposes of this paragraph and subparagraph (A) of paragraph (14) of Code Section
 133 31-6-2, the costs of all items subject to review by this chapter and items not subject to

134 review by this chapter associated with and simultaneously developed or proposed with
135 the project shall be counted, except for the expenditure or commitment of or incurring an
136 obligation for the expenditure of funds to develop certificate of need applications, studies,
137 reports, schematics, preliminary plans and specifications or working drawings, or to
138 acquire sites;

139 (3) The purchase or lease by or on behalf of a health care facility or a diagnostic,
140 treatment, or rehabilitation center of diagnostic or therapeutic equipment with a value in
141 excess of ~~\$1 million~~ \$4 million; provided, however, that diagnostic or other imaging
142 services that are not offered in a hospital or in the offices of an individual private
143 physician or single group practice of physicians exclusively for use on patients of that
144 physician or group practice shall be deemed to be a new institutional health service
145 regardless of the cost of equipment; and provided, further, that this shall not include build
146 out costs, as defined by the department, but shall include all functionally related
147 equipment, software, and any warranty and services contract costs for the first five years.
148 The acquisition of one or more items of functionally related diagnostic or therapeutic
149 equipment shall be considered as one project. The dollar amount specified in this
150 paragraph, in subparagraph (B) of paragraph (14) of Code Section 31-6-2, and in
151 paragraph (10) of subsection (a) of Code Section 31-6-47 shall be adjusted annually by
152 an amount calculated by multiplying such dollar amounts (as adjusted for the preceding
153 year) by the annual percentage of change in the consumer price index, or its successor or
154 appropriate replacement index, if any, published by the United States Department of
155 Labor for the preceding calendar year, commencing on July 1, 2010;

156 (4) Any increase in the bed capacity of a health care facility except as provided in Code
157 Section 31-6-47;

158 (5) Clinical health services which are offered in or through a health care facility, which
159 were not offered on a regular basis in or through such health care facility within the 12
160 month period prior to the time such services would be offered;

161 (6) Any conversion or upgrading of any general acute care hospital to a specialty hospital
162 or of a facility such that it is converted from a type of facility not covered by this chapter
163 to any of the types of health care facilities which are covered by this chapter; and

164 (7) Clinical health services which are offered in or through a diagnostic, treatment, or
165 rehabilitation center which were not offered on a regular basis in or through that center
166 within the 12 month period prior to the time such services would be offered, but only if
167 the clinical health services are any of the following:

168 (A) Radiation therapy;

169 (B) Biliary lithotripsy;

170 (C) Surgery in an operating room environment, including but not limited to ambulatory
171 surgery; and

172 (D) Cardiac catheterization."

173 "(d.1) A destination cancer hospital that was granted a certificate of need prior to July 1,
174 2019, may convert to a hospital without obtaining any additional certificate of need by
175 notifying the department in writing as to the date of conversion. Upon such conversion,
176 such hospital may continue to provide all institutional health services and other services
177 it provided as of the date of such conversion, including but not limited to inpatient beds,
178 outpatient services, surgery, radiation therapy, imaging, and positron emission tomography
179 (PET) scanning without any further approval from the department. On and after such
180 conversion the hospital shall not be subject to paragraph (13) of Code Section 31-6-2,
181 subsection (d) of this Code section, subsection (c.1) of Code Section 31-6-40.1, the
182 provisions specifically applicable to provisions or regulations applicable to destination
183 cancer hospitals contained in subsection (c) of Code Section 31-6-40.1, paragraph (7) of
184 subsection (a) of Code Section 31-6-45, or any other destination cancer hospitals; provided,
185 however, that upon such conversion, the hospital shall be required to provide
186 uncompensated indigent or charity care in accordance with subsection (c) of Code Section
187 31-6-40.1, and shall be classified as a hospital under this chapter and shall be subject to all
188 requirements and conditions for any new institutional health services, exemptions, and all
189 other purposes."

190 **SECTION 1-4.**

191 Said title is further amended by revising subsection (c) of Code Section 31-6-40.1, relating
192 to acquisition of health care facilities, penalty for failure to notify the department, limitation
193 on applications, agreement to care for indigent patients, requirements for destination cancer
194 hospitals, and notice and hearing provisions for penalties authorized under this Code section,
195 as follows:

196 "(c) Except as otherwise provided by Code Section 31-6-40.3, the ~~The~~ department may
197 require that any applicant for a certificate of need agree to provide a specified amount of
198 clinical health services to indigent patients as a condition for the grant of a certificate of
199 need; provided, however, that each facility granted a certificate of need by the department
200 as a destination cancer hospital shall be required to provide uncompensated indigent or
201 charity care for residents of Georgia which meets or exceeds 3 percent of such destination
202 cancer hospital's adjusted gross revenues and provide care to Medicaid beneficiaries. A
203 grantee or successor in interest of a certificate of need or an authorization to operate under
204 this chapter which violates such an agreement or violates any conditions imposed by the
205 department relating to such services, whether made before or after July 1, 2008, shall be

206 liable to the department for a monetary penalty in the amount of the difference between the
 207 amount of services so agreed to be provided and the amount actually provided and may be
 208 subject to revocation of its certificate of need, in whole or in part, by the department
 209 pursuant to Code Section 31-6-45. Any penalty so recovered shall be paid into the state
 210 treasury. On and after June 30, 2019, each certificate of need holder and each exemption
 211 holder subject to indigent and charity care requirements shall report to the department
 212 uncompensated indigent and charity care based on the Medicare base allowable rate for the
 213 unpaid service provided multiplied by a factor of 1.5, and not based on the hospital's charge
 214 for such services; provided, however, that such calculation shall not count against any such
 215 certificate of need holder and each exemption holder subject to indigent and charity care
 216 requirements prior to June 30, 2021."

217 SECTION 1-5.

218 Said title is further amended by adding new Code sections to read as follows:

219 "31-6-40.3.

220 (a) On and after July 1, 2021, the department shall require that an applicant and any
 221 licensee that makes a modification to its certificate of need agrees:

222 (1) To provide uncompensated indigent or charity care in an amount which meets or
 223 exceeds the percentage of such applicant's adjusted gross revenues equivalent to:

224 (A) The state-wide average of net uncompensated indigent and charity care provided
 225 based on the previous two most recent years if a nonprofit entity; provided, however,
 226 that in no event shall this be less than 2 percent; or

227 (B) The state-wide average of net uncompensated indigent and charity care provided
 228 based on the previous two most recent years less 3 percent if a for profit entity;
 229 provided, however, that in no event shall this be less than 1 percent; and

230 (2) To participate as a provider of medical assistance for Medicaid purposes, and, if the
 231 facility provides medical care and treatment to children, to participate as a provider for
 232 PeachCare for Kids beneficiaries.

233 (a.1) For purposes of calculating uncompensated indigent or charity care pursuant to this
 234 Code section, uncompensated indigent or charity care provided by a physician, who has an
 235 ownership interest in an ambulatory surgical center, to a patient in a hospital or other
 236 setting outside such ambulatory surgical center shall be counted toward the uncompensated
 237 indigent or charity care required for the ambulatory surgical center in which the physician
 238 has an ownership interest in an amount equal to the cost of such care provided multiplied
 239 by the percentage ownership of the physician and shall not be counted toward the
 240 uncompensated indigent or charity care required for a hospital or other setting.

241 (b) A grantee or successor in interest for a certificate of need or an exemption under this
242 chapter that violates such an agreement or violates any conditions imposed by the
243 department relating to such services shall be liable to the department for a monetary
244 penalty in the amount of 1.0 percent of its net revenue for every 0.5 percent of
245 uncompensated indigent and charity care not provided and may be subject to revocation
246 of its certificate of need or exemption, in whole or in part, by the department pursuant to
247 Code Section 31-6-45. Any penalty so recovered shall be dedicated and deposited by the
248 department into the Indigent Care Trust Fund created pursuant to Code Section 31-8-152
249 for the purposes set out in Code Section 31-8-154, including expanding Medicaid eligibility
250 and services; programs to support rural and other health care providers, primarily hospitals,
251 who serve the medically indigent; and for primary health care programs for medically
252 indigent citizens and children of this state.

253 (c) Penalties authorized under this Code section shall be subject to the same notices and
254 hearing for the levy of fines under Code Section 31-6-45.

255 (d)(1) This Code section shall not apply to a hospital or any health care facilities owned
256 by a hospital or health care system that:

257 (A) Has a payer mix of greater than 40 percent Medicaid recipients and uncompensated
258 indigent and charity care of at least 2 percent; provided, however, that a hospital's cost
259 gap between its Medicaid reimbursement rate and the Medicare reimbursement shall
260 count toward such uncompensated indigent and charity care amount; or

261 (B) Has an inpatient population of catastrophic injury patients that exceeds 60 percent
262 of total inpatients treated annually.

263 (2) As used in this subsection, the term:

264 (A) 'Catastrophic injury' means an injury to the spinal cord, an acquired brain injury,
265 and other paralyzing neuromuscular conditions.

266 (B) 'Payer mix' means the proportionate share of itemized charges attributable to
267 patients assignable to a specific payer classification to total itemized charges for all
268 patients.

269 (e) The department may withhold all or any portion of disproportionate share of hospital
270 funds to any hospital that is subject to the requirements contained in paragraph (1) of
271 subsection (a) of this Code section that fails to meet the minimum indigent and charity care
272 requirements for two consecutive years.

273 (f) For purposes of this Code section, uncompensated indigent and charity care shall be
274 based on the Medicare base allowable rate for the unpaid service provided multiplied by
275 a factor of 1.5, and shall not be based on the hospital's charge for such services.

276 (g) A certificate of need holder or exemption holder may include up to 15 percent of its
 277 Medicaid payments toward the uncompensated indigent and charity care amounts required
 278 of it pursuant to this Code section.

279 (h) A rural hospital organization that is ranked by the department in the top 25 eligible
 280 rural hospital organizations in financial need pursuant to paragraph (1) of subsection (b)
 281 of Code Section 31-8-9.1 shall be exempt from this Code section so long as it continues to
 282 be ranked as such.

283 31-6-40.4.

284 (a) On and after January 1, 2020, a destination cancer hospital may convert to a hospital
 285 by notifying the department in writing as to the date of conversion. Upon such conversion,
 286 the hospital may continue to provide all institutional health services and other services it
 287 provided as of the date of such conversion, including but not limited to inpatient beds,
 288 outpatient services, surgery, radiation therapy, imaging, and positron emission tomography
 289 (PET) scanning, without any further approval from the department; provided, that it
 290 provides uncompensated indigent or charity care in accordance with subsection (c) of Code
 291 Section 31-6-40.1 and Code Section 31-6-40.3. On and after the date of conversion, the
 292 hospital shall be classified as a hospital under this chapter and shall be subject to all
 293 requirements and conditions applicable to hospitals under this article.

294 (b) Upon conversion to a hospital, the facility's inpatient beds, operating rooms, radiation
 295 therapy equipment, and imaging equipment shall not be counted in the inventory by the
 296 department for purposes of determining need for additional providers except that any
 297 inpatient beds, operating rooms, radiation therapy equipment, and imaging equipment
 298 added after the date of conversion shall be counted.

299 (c) In the event that a destination cancer hospital does not convert to a hospital, it shall
 300 remain subject to all requirements and conditions applicable to destination cancer hospitals
 301 under this article."

302 **SECTION 1-6.**

303 Said title is further amended in Code Section 31-6-43, relating to acceptance or rejection of
 304 application for certificate, by revising subsections (d) and (h) as follows:

305 "(d)(1) There shall be a time limit of 120 days for review of a project, beginning on the
 306 day the department declares the application complete for review or in the case of
 307 applications joined for comparative review, beginning on the day the department declares
 308 the final application complete. The department may adopt rules for determining when
 309 it is not practicable to complete a review in 120 days and may extend the review period
 310 upon written notice to the applicant but only for an extended period of not longer than an

311 additional 30 days. The department shall adopt rules governing the submission of
 312 additional information by the applicant and for opposing an application.

313 (2) No party may oppose an application for a certificate of need for a proposed project
 314 unless such party is an existing health care facility that is the same type of facility
 315 proposed or which offers substantially similar services proposed that is located within a
 316 35 mile radius of the proposed project."

317 "(h) The department shall provide the applicant an opportunity to meet with the department
 318 to discuss the application and to provide an opportunity to submit additional information.
 319 Such additional information shall be submitted within the time limits adopted by the
 320 department. The department shall also provide an opportunity for any party that is ~~opposed~~
 321 ~~to~~ permitted to oppose an application pursuant to paragraph (2) of subsection (d) of this
 322 Code section to meet with the department and to provide additional information to the
 323 department. In order for ~~an~~ any such opposing party to have standing to appeal an adverse
 324 decision pursuant to Code Section 31-6-44, such party must attend and participate in an
 325 opposition meeting."

326 SECTION 1-7.

327 Said title is further amended in Code Section 31-6-44, relating to the Certificate of Need
 328 Appeal Panel, by revising subsections (a) and (d) as follows:

329 "(a) Effective July 1, 2008, there is created the Certificate of Need Appeal Panel, which
 330 shall be an agency separate and apart from the department and shall consist of a panel of
 331 independent hearing officers. The purpose of the appeal panel shall be to serve as a panel
 332 of independent hearing officers to review the department's initial decision to grant or deny
 333 a certificate of need application. The Health Planning Review Board which existed on June
 334 30, 2008, shall cease to exist after that date and the Certificate of Need Appeal Panel shall
 335 be constituted effective July 1, 2008, pursuant to this Code section. ~~The terms of all~~
 336 ~~members of the Health Planning Review Board serving as such on June 30, 2008, shall~~
 337 ~~automatically terminate on such date."~~

338 ~~"(d) Any applicant for a project, any competing applicant in the same batching cycle, any~~
 339 ~~competing health care facility party that is permitted to oppose an application pursuant to~~
 340 paragraph (2) of subsection (d) of Code Section 31-6-43 that has notified the department
 341 prior to its decision that such facility party is opposed to the application before the
 342 department, ~~or any county or municipal government in whose boundaries the proposed~~
 343 ~~project will be located who is aggrieved by a decision of the department~~ shall have the right
 344 to an initial administrative appeal hearing before an appeal panel hearing officer or to
 345 intervene in such hearing. Such request for hearing or intervention shall be filed with the
 346 chairperson of the appeal panel within 30 days of the date of the decision made pursuant

347 to Code Section 31-6-43. In the event an appeal is filed by a ~~competing applicant, or any~~
 348 ~~competing health care facility, or any county or municipal government party that is~~
 349 permitted to oppose an application pursuant to paragraph (2) of subsection (d) of Code
 350 Section 31-6-43, the appeal shall be accompanied by payment of such fee as is established
 351 by the appeal panel. In the event an appeal is requested, the chairperson of the appeal panel
 352 shall appoint a hearing officer for each such hearing within 30 days after the date the
 353 appeal is received. Within 14 days after the appointment of the hearing officer, such
 354 hearing officer shall confer with the parties and set the date or dates for the hearing,
 355 provided that no hearing shall be scheduled less than 60 days nor more than 120 days after
 356 the filing of the request for a hearing, unless the applicant consents ~~or, in the case of~~
 357 ~~competing applicants, all applicants consent~~ to an extension of this time period to a
 358 specified date. Unless the applicant consents ~~or, in the case of competing applicants, all~~
 359 ~~applicants consent to an extension of said 120 day period~~, any hearing officer who
 360 regularly fails to commence a hearing within the required time period shall not be eligible
 361 for continued service as a hearing officer for the purposes of this Code section. The
 362 hearing officer shall have the authority to dispose of all motions made by any party before
 363 the issuance of the hearing officer's decision and shall make such rulings as may be
 364 required for the conduct of the hearing."

365 **SECTION 1-8.**

366 Said title is further amended by adding a new Code section to read as follows:

367 "31-6-45.3.

368 No freestanding emergency facility shall be permitted in this state unless it meets the
 369 criteria contained in paragraph (16.1) of Code Section 31-6-2."

370 **SECTION 1-9.**

371 Said title is further amended by revising Code Section 31-6-47, relating to exemptions from
 372 certificate of need program requirements, as follows:

373 "31-6-47.

374 (a) Notwithstanding the other provisions of this chapter, this chapter shall not apply to:

375 (1) Infirmaries operated by educational institutions for the sole and exclusive benefit of
 376 students, faculty members, officers, or employees thereof;

377 (2) Infirmaries or facilities operated by businesses for the sole and exclusive benefit of
 378 officers or employees thereof, provided that such infirmaries or facilities make no
 379 provision for overnight stay by persons receiving their services;

380 (3) Institutions operated exclusively by the federal government or by any of its agencies;

- 381 (4) Offices of private physicians or dentists whether for individual or group practice,
382 except as otherwise provided in paragraph (3) or (7) of subsection (a) of Code Section
383 31-6-40;
- 384 (5) Religious, nonmedical health care institutions as defined in 42 U.S.C. §
385 Section 1395x(ss)(1), listed and certified by a national accrediting organization;
- 386 (6) Site acquisitions for health care facilities or preparation or development costs for
387 such sites prior to the decision to file a certificate of need application;
- 388 (7) Expenditures related to adequate preparation and development of an application for
389 a certificate of need;
- 390 (8) The commitment of funds conditioned upon the obtaining of a certificate of need;
- 391 (9) Expenditures for the acquisition of existing health care facilities by stock or asset
392 purchase, merger, consolidation, or other lawful means unless the facilities are owned or
393 operated by or on behalf of a:
- 394 (A) Political subdivision of this state;
- 395 (B) Combination of such political subdivisions; or
- 396 (C) Hospital authority, as defined in Article 4 of Chapter 7 of this title;
- 397 (9.1) Expenditures for the restructuring of or for the acquisition by stock or asset
398 purchase, merger, consolidation, or other lawful means of an existing health care facility
399 which is owned or operated by or on behalf of any entity described in subparagraph (A),
400 (B), or (C) of paragraph (9) of this subsection only if such restructuring or acquisition is
401 made by any entity described in subparagraph (A), (B), or (C) of paragraph (9) of this
402 subsection;
- 403 (9.2) The purchase of a closing hospital or of a hospital that has been closed for no more
404 than 12 months by a hospital in a contiguous county to repurpose the facility as a
405 micro-hospital;
- 406 (10) Expenditures of less than \$870,000.00 for any minor or major repair or replacement
407 of equipment by a health care facility that is not owned by a group practice of physicians
408 or a hospital and that provides diagnostic imaging services if such facility received a
409 letter of nonreviewability from the department prior to July 1, 2008. This paragraph shall
410 not apply to such facilities in rural counties;
- 411 (10.1) Except as provided in paragraph (10) of this subsection, expenditures for the
412 minor or major repair of a health care facility or a facility that is exempt from the
413 requirements of this chapter, parts thereof or services provided or equipment used therein;
414 or the replacement of equipment, including but not limited to CT scanners previously
415 approved for a certificate of need;
- 416 (11) Capital expenditures otherwise covered by this chapter required solely to eliminate
417 or prevent safety hazards as defined by federal, state, or local fire, building,

418 environmental, occupational health, or life safety codes or regulations, to comply with
 419 licensing requirements of the department, or to comply with accreditation standards of
 420 a nationally recognized health care accreditation body;

421 (12) Cost overruns whose percentage of the cost of a project is equal to or less than the
 422 cumulative annual rate of increase in the composite construction index, published by the
 423 Bureau of the Census of the Department of Commerce, of the United States government,
 424 calculated from the date of approval of the project;

425 (13) Transfers from one health care facility to another such facility of major medical
 426 equipment previously approved under or exempted from certificate of need review,
 427 except where such transfer results in the institution of a new clinical health service for
 428 which a certificate of need is required in the facility acquiring said equipment, provided
 429 that such transfers are recorded at net book value of the medical equipment as recorded
 430 on the books of the transferring facility;

431 (14) New institutional health services provided by or on behalf of health maintenance
 432 organizations or related health care facilities in circumstances defined by the department
 433 pursuant to federal law;

434 (15) Increases in the bed capacity of a hospital up to ten beds or ~~10~~ 20 percent of
 435 capacity, whichever is greater, in any consecutive two-year period, in a hospital that has
 436 maintained an overall occupancy rate greater than ~~75~~ 60 percent for the previous 12
 437 month period;

438 (16) Expenditures for nonclinical projects, including parking lots, parking decks, and
 439 other parking facilities; computer systems, software, and other information technology;
 440 and medical office buildings; ~~and state mental health facilities;~~

441 (17) Continuing care retirement communities, provided that the skilled nursing
 442 component of the facility is for the ~~exclusive~~ primary use of residents of the continuing
 443 care retirement community and that a written exemption is obtained from the department;
 444 provided, however, that ~~new~~ sheltered nursing home beds may be used on a limited basis
 445 by persons who are not residents of the continuing care retirement community ~~for a~~
 446 ~~period up to five years after the date of issuance of the initial nursing home license, but~~
 447 ~~such beds shall not be eligible for Medicaid reimbursement. For the first year, the~~
 448 ~~continuing care retirement community sheltered nursing facility may utilize not more~~
 449 ~~than 50 percent of its licensed beds for patients who are not residents of the continuing~~
 450 ~~care retirement community. In the second year of operation, the continuing care~~
 451 ~~retirement community shall allow not more than 40 percent of its licensed beds for new~~
 452 ~~patients who are not residents of the continuing care retirement community. In the third~~
 453 ~~year of operation, the continuing care retirement community shall allow not more than~~
 454 ~~30 percent of its licensed beds for new patients who are not residents of the continuing~~

455 ~~care retirement community. In the fourth year of operation, the continuing care~~
 456 ~~retirement community shall allow not more than 20 percent of its licensed beds for new~~
 457 ~~patients who are not residents of the continuing care retirement community. In the fifth~~
 458 ~~year of operation, the continuing care retirement community shall allow not more than~~
 459 ~~10 percent of its licensed beds for new patients who are not residents of the continuing~~
 460 ~~care retirement community. At no time during the first five years shall the continuing~~
 461 ~~care retirement community sheltered nursing facility occupy more than 50 percent of its~~
 462 ~~licensed beds with patients who are not residents under contract with the continuing care~~
 463 ~~retirement community. At the end of the five-year period, the continuing care retirement~~
 464 ~~community sheltered nursing facility shall be utilized exclusively by residents of the~~
 465 ~~continuing care retirement community, and at At no time shall a resident of a continuing~~
 466 ~~care retirement community be denied access to the sheltered nursing facility. At no time~~
 467 ~~shall any existing patient be forced to leave the continuing care retirement community to~~
 468 ~~comply with this paragraph. The department is authorized to promulgate rules and~~
 469 ~~regulations regarding the use and definition of 'sheltered nursing facility' in a manner~~
 470 ~~consistent with this Code section. Agreements to provide continuing care include~~
 471 ~~agreements to provide care for any duration, including agreements that are terminable by~~
 472 ~~either party;~~

473 (18) Any single specialty ambulatory surgical center that:

474 (A)(i) Has capital expenditures associated with the construction, development, or
 475 other establishment of the clinical health service which do not exceed \$2.5 million;
 476 or

477 (ii) Is the only single specialty ambulatory surgical center in the county owned by the
 478 group practice and has two or fewer operating rooms; provided, however, that a center
 479 exempt pursuant to this division shall be required to obtain a certificate of need in
 480 order to add any additional operating rooms;

481 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance
 482 from the facility or the medical staff at the center has admitting privileges or other
 483 acceptable documented arrangements with such hospital to ensure the necessary backup
 484 for the center for medical complications. The center shall have the capability to transfer
 485 a patient immediately to a hospital within a reasonable distance from the facility with
 486 adequate emergency room services. Hospitals shall not unreasonably deny a transfer
 487 agreement or affiliation agreement to the center;

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

492 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,
 493 provides uncompensated care to Medicaid beneficiaries and, if the facility provides
 494 medical care and treatment to children, to PeachCare for Kids beneficiaries,
 495 uncompensated indigent and charity care, or both in an amount equal to or greater
 496 than 4 percent of its adjusted gross revenue; provided, however, ~~that single~~ specialty
 497 ambulatory surgical centers owned by physicians in the practice of ophthalmology
 498 shall not be required to comply with this subparagraph; and

499 (D) Provides annual reports in the same manner and in accordance with Code Section
 500 31-6-70.

501 Noncompliance with any condition of this paragraph shall result in a monetary penalty
 502 in the amount of the difference between the services which the center is required to
 503 provide and the amount actually provided and may be subject to revocation of its
 504 exemption status by the department for repeated failure to pay any fines or moneys due
 505 to the department or for repeated failure to produce data as required by Code Section
 506 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of
 507 Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this
 508 paragraph shall be adjusted annually by an amount calculated by multiplying such dollar
 509 amount (as adjusted for the preceding year) by the annual percentage of change in the
 510 composite index of construction material prices, or its successor or appropriate
 511 replacement index, if any, published by the United States Department of Commerce for
 512 the preceding calendar year, commencing on July 1, 2009, and on each anniversary
 513 thereafter of publication of the index. The department shall immediately institute
 514 rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar
 515 amounts of a proposed project for purposes of this paragraph, the costs of all items
 516 subject to review by this chapter and items not subject to review by this chapter
 517 associated with and simultaneously developed or proposed with the project shall be
 518 counted, except for the expenditure or commitment of or incurring an obligation for the
 519 expenditure of funds to develop certificate of need applications, studies, reports,
 520 schematics, preliminary plans and specifications or working drawings, or to acquire sites;

521 (19) Any joint venture ambulatory surgical center that:

522 (A) Has capital expenditures associated with the construction, development, or other
 523 establishment of the clinical health service which do not exceed \$5 million;

524 (B)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical
 525 care and treatment to children, to PeachCare for Kids beneficiaries and provides
 526 uncompensated indigent and charity care in an amount equal to or greater than 2
 527 percent of its adjusted gross revenue; or

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

533 (C) Provides annual reports in the same manner and in accordance with Code Section
 534 31-6-70.

535 Noncompliance with any condition of this paragraph shall result in a monetary penalty
 536 in the amount of the difference between the services which the center is required to
 537 provide and the amount actually provided and may be subject to revocation of its
 538 exemption status by the department for repeated failure to pay any fines or moneys due
 539 to the department or for repeated failure to produce data as required by Code Section
 540 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of
 541 Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this
 542 paragraph shall be adjusted annually by an amount calculated by multiplying such dollar
 543 amount (as adjusted for the preceding year) by the annual percentage of change in the
 544 composite index of construction material prices, or its successor or appropriate
 545 replacement index, if any, published by the United States Department of Commerce for
 546 the preceding calendar year, commencing on July 1, 2009, and on each anniversary
 547 thereafter of publication of the index. The department shall immediately institute
 548 rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar
 549 amounts of a proposed project for purposes of this paragraph, the costs of all items
 550 subject to review by this chapter and items not subject to review by this chapter
 551 associated with and simultaneously developed or proposed with the project shall be
 552 counted, except for the expenditure or commitment of or incurring an obligation for the
 553 expenditure of funds to develop certificate of need applications, studies, reports,
 554 schematics, preliminary plans and specifications or working drawings, or to acquire sites;

555 (20) Expansion of services by an imaging center based on a population needs
 556 methodology taking into consideration whether the population residing in the area served
 557 by the imaging center has a need for expanded services, as determined by the department
 558 in accordance with its rules and regulations, if such imaging center:

559 (A) Was in existence and operational in this state on January 1, 2008;

560 (B) Is owned by a hospital or by a physician or a group of physicians comprising at
 561 least 80 percent ownership who are currently board certified in radiology;

562 (C) Provides three or more diagnostic and other imaging services;

563 (D) Accepts all patients regardless of ability to pay; and

564 (E) Provides uncompensated indigent and charity care in an amount equal to or greater
565 than the amount of such care provided by the geographically closest general acute care
566 hospital; provided, however, this paragraph shall not apply to an imaging center in a
567 rural county;

568 (21) Diagnostic cardiac catheterization in a hospital setting on patients 15 years of age
569 and older;

570 (22) Therapeutic cardiac catheterization in hospitals selected by the department prior to
571 July 1, 2008, to participate in the Atlantic Cardiovascular Patient Outcomes Research
572 Team (C-PORT) Study and therapeutic cardiac catheterization in hospitals that, as
573 determined by the department on an annual basis, meet the criteria to participate in the
574 C-PORT Study but have not been selected for participation; provided, however, that if
575 the criteria requires a transfer agreement to another hospital, no hospital shall
576 unreasonably deny a transfer agreement to another hospital;

577 (23) Infirmaries or facilities operated by, on behalf of, or under contract with the
578 Department of Corrections or the Department of Juvenile Justice for the sole and
579 exclusive purpose of providing health care services in a secure environment to prisoners
580 within a penal institution, penitentiary, prison, detention center, or other secure
581 correctional institution, including correctional institutions operated by private entities in
582 this state which house inmates under the Department of Corrections or the Department
583 of Juvenile Justice;

584 (24) The relocation of any skilled nursing facility, intermediate care facility, or
585 micro-hospital within the same county, any other health care facility in a rural county
586 within the same county, and any other health care facility in an urban county within a
587 three-mile radius of the existing facility so long as the facility does not propose to offer
588 any new or expanded clinical health services at the new location;

589 (25) Facilities which are devoted to the provision of treatment and rehabilitative care for
590 periods continuing for 24 hours or longer for persons who have traumatic brain injury,
591 as defined in Code Section 37-3-1; ~~and~~

592 (26) Capital expenditures for a project otherwise requiring a certificate of need if those
593 expenditures are for a project to remodel, renovate, replace, or any combination thereof,
594 a medical-surgical hospital and:

595 (A) That hospital:

596 (i) Has a bed capacity of not more than 50 beds;

597 (ii) Is located in a county in which no other medical-surgical hospital is located;

598 (iii) Has at any time been designated as a disproportionate share hospital by the
599 department; and

- 600 (iv) Has at least 45 percent of its patient revenues derived from ~~medicare~~ Medicare,
 601 Medicaid, or any combination thereof, for the immediately preceding three years; and
 602 (B) That project:
- 603 (i) Does not result in any of the following:
- 604 (I) The offering of any new clinical health services;
- 605 (II) Any increase in bed capacity;
- 606 (III) Any redistribution of existing beds among existing clinical health services; or
- 607 (IV) Any increase in capacity of existing clinical health services;
- 608 (ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a
 609 special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8
 610 of Title 48; and
- 611 (iii) Is located within a three-mile radius of and within the same county as the
 612 hospital's existing facility-;
- 613 (27) Public or private psychiatric hospitals, mental health or substance abuse facilities
 614 or programs, or mental health or substance abuse services; and
- 615 (28) A freestanding ambulatory surgical center with no more than six operating rooms
 616 developed on the same site as a sports training and educational facility that includes
 617 sports training facilities and fields; a medical education facility and program for
 618 physicians and other health care professionals training in sports medicine; a medical
 619 research program; ancillary services, including physical therapy and diagnostic imaging;
 620 a community education program for student athletic programs on injury prevention and
 621 treatment and related topics, and that provides uncompensated indigent or charity care
 622 in accordance with subsection (c) of Code Section 31-6-40.1 and Code Section 31-6-40.3,
 623 provides care to Medicaid patients, and demonstrates a positive economic impact of no
 624 less than \$25 million, taking into consideration the full-time and part-time jobs generated
 625 by the initial construction and ongoing operation of the center, new state and local tax
 626 revenue generated by the initial construction and ongoing operation of the center, and
 627 other factors deemed relevant as determined by the department based on a report prepared
 628 by an independent consultant or expert retained by the center.
- 629 (b) By rule, the department shall establish a procedure for expediting or waiving reviews
 630 of certain projects the nonreview of which it deems compatible with the purposes of this
 631 chapter, in addition to expenditures exempted from review by this Code section."

PART II

SECTION 2-1.

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Said title is further amended by adding new Code sections to Article 1 of Chapter 7, relating to regulation of hospitals and related institutions, to read as follows:

"31-7-22.

(a) As used in this Code section, the term 'hospital' means a nonprofit hospital, a hospital owned or operated by a hospital authority, or a nonprofit corporation formed, created, or operated by or on behalf of a hospital authority.

(b) Beginning July 1, 2020, each hospital in this state shall post a link in a prominent location on the main page of its website to the most recent version of the following documents:

(1) Federal related disclosures:

(A) Copies of audited financial statements that are general purpose financial statements, which express the unqualified opinion of an independent certified public accounting firm for the most recently completed fiscal year for the hospital; each of its affiliates, except those affiliates that were inactive or that had an immaterial amount of total assets; and the hospital's parent corporation that include the following:

(i) A PDF version of all audited financial statements;

(ii) A note in the hospital's audited consolidated financial statements that identifies individual amounts for such hospital's gross patient revenue, allowances, charity care, and net patient revenue;

(iii) Audited consolidated financial statements for hospitals with subsidiaries and consolidating financial statements that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the hospital's and each subsidiary's numbers with a report from independent accountants on other financial information; and

(iv) Audited consolidated financial statements for the hospital's parent corporation and consolidating financial statements that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the hospital's and each affiliate's numbers with a report from independent accountants on other financial information; and

(B) Copy of audited Internal Revenue Service Form 990, including Schedule H for hospitals and other applicable attachments; provided, however, that for any hospital not required to file IRS Form 990, the department shall establish and provide a form that collects the same information as is contained in Internal Revenue Service Form 990, including Schedule H for hospitals, as applicable; and

- 668 (2) Georgia supplemental disclosures:
- 669 (A) Copy of the hospital's completed annual hospital questionnaire, as required by the
670 department;
- 671 (B) The community benefit report prepared pursuant to Code Section 31-7-90.1, if
672 applicable;
- 673 (C) The disproportionate share hospital survey, if applicable;
- 674 (D) Listing of all property holdings of the hospital, including the location and size,
675 parcel ID number, purchase price, current use, and any improvements made to such
676 property at the end of each fiscal year;
- 677 (E) Listing of any ownership or interest the nonprofit hospital has in any joint venture,
678 business venture foundation, operating contract, partnership, subsidiary holding
679 company, or captive insurance company; where any such entity is domiciled; and the
680 value of any such ownership or interest at the end of each fiscal year;
- 681 (F) Listing of any bonded indebtedness, outstanding loans, and bond defaults, whether
682 or not in forbearance; and any bond disclosure sites of the hospital;
- 683 (G) A report that identifies by purpose, the ending fund balances of the net assets of
684 the hospital and each affiliate as of the close of the most recently completed fiscal year,
685 distinguishing between donor permanently restricted, donor temporarily restricted,
686 board restricted, and unrestricted fund balances. The hospital's interest in its foundation
687 shall be deducted from the foundation's total fund balance;
- 688 (H) Report of all cash reserves of the hospital;
- 689 (I) Copy of all going concern statements regarding the hospital;
- 690 (J) The most recent legal chart of corporate structure, including the hospital, each of
691 its affiliates and subsidiaries, and its parent corporation, duly dated;
- 692 (K) Report listing the salaries and fringe benefits for the ten highest paid administrative
693 positions in the hospital. Each position shall be identified by its complete,
694 unabbreviated title. Fringe benefits shall include all forms of compensation, whether
695 actual or deferred, made to or on behalf of the employee, whether full or part-time;
- 696 (L) Evidence of accreditation by accrediting bodies, including, but not limited to, the
697 Joint Commission and DNV; and
- 698 (M) Copy of the hospital's policies regarding the provision of charity care and reduced
699 cost services to the indigent, excluding medical assistance recipients, and its debt
700 collection practices.
- 701 (c) Each hospital shall update the documents in the links posted pursuant to subsection (b)
702 of this Code section on July 1 of each year or more frequently at its discretion. Noncurrent
703 documents shall remain posted and accessible on the hospital's website indefinitely.

704 (d) All documents listed in subsection (b) of this Code section shall be prepared in
 705 accordance with generally accepted accounting principles, as applicable.

706 (e) The department shall also post a link in a prominent location on its website to the
 707 documents listed in subsection (b) of this Code section for each hospital in this state.

708 (f) Any hospital that fails to post the documents required pursuant to subsection (b) of this
 709 Code section within 30 days of the dates required in this Code section shall be suspended
 710 from receiving any state funds or any donations pursuant to Code Section 48-7-29.20.

711 (g) The department shall have jurisdiction to enforce this Code section and to promulgate
 712 rules and regulations required to administer this Code section.

713 (h) Any person who knowingly and willfully includes false, fictitious, or fraudulent
 714 information in any documents required to be posted pursuant to this Code section shall be
 715 subject to a violation of Code Section 16-10-20.

716 31-7-23.

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

718 (1) 'Hospital' shall have the same meaning as in Code Section 31-7-22.

719 (2) 'Medical use rights' means rights or interests in real property in which the owner of
 720 the property has agreed not to sell or lease such real property for identified medical uses
 721 or purposes.

722 (b) It shall be unlawful for any hospital to purchase, renew, extend, lease, maintain, or hold
 723 medical use rights.

724 (c) This Code section shall not be construed to impair any contracts in existence as of the
 725 effective date of this Code section. Reserved."

726 **SECTION 2-2.**

727 Said title is further amended by revising Code Section 31-7-75.1, relating to proceeds of sale
 728 of hospital held in trust to fund indigent hospital care, as follows:

729 "31-7-75.1.

730 (a) The proceeds from any sale or lease of a hospital owned by a hospital authority or
 731 political subdivision of this state, which proceeds shall not include funds required to pay
 732 off the bonded indebtedness of the sold hospital or any expense of the authority or political
 733 subdivision attributable to the sale or lease, shall be held by the authority or political
 734 subdivision in an irrevocable trust fund. Such proceeds in that fund may be invested in the
 735 same way that public moneys may be invested generally pursuant to general law and as
 736 permitted under Code Section 31-7-83, but money in that trust fund shall be used
 737 exclusively for funding the provision of hospital health care for the indigent residents of
 738 the political subdivision which owned the hospital or by which the authority was activated

739 or for which the authority was created. If the funds available for a political subdivision in
 740 that irrevocable trust fund are less than \$100,000.00, the principal amount may be used to
 741 fund the provision of indigent ~~hospital~~ health care; otherwise, only the income from that
 742 fund may be used for that care. Such funding or reimbursement for indigent care shall not
 743 exceed the diagnosis related group rate for that hospital in each individual case.

744 (b) In the event a hospital authority which sold or leased a hospital was activated by or
 745 created for more than one political subdivision or in the event a hospital having as owner
 746 more than one political subdivision is sold or leased by those political subdivisions, each
 747 such constituent political subdivision's portion of the irrevocable trust fund for indigent
 748 ~~hospital~~ health care shall be determined by multiplying the amount of that fund by a figure
 749 having a numerator which is the population of that political subdivision and a denominator
 750 which is the combined population of all the political subdivisions which owned the hospital
 751 or by which or for which the authority was activated or created.

752 (c) For purposes of ~~hospital~~ health care for the indigent under this Code section, the
 753 standard of indigency shall be that determined under Code Section 31-8-43, relating to
 754 standards of indigency for emergency care of pregnant women, based upon 125 percent of
 755 the federal poverty level.

756 (d) This Code section shall not apply to the following actions:

757 (1) A reorganization or restructuring;

758 (2) Any sale of a hospital, or the proceeds from that sale, made prior to April 2, 1986;
 759 and

760 (3) Any sale or lease of a hospital when the purchaser or lessee pledges, by written
 761 contract entered into concurrently with such purchase or lease, to provide an amount of
 762 ~~hospital~~ health care equal to that which would have otherwise been available pursuant to
 763 subsections (a), (b), and (c) of this Code section for the indigent residents of the political
 764 subdivisions which owned the hospital, by which the hospital authority was activated, or
 765 for which the authority was created. However, the exception to this Code section
 766 provided by this paragraph shall only apply to:

767 (A) Hospital authorities that operate a licensed hospital pursuant to a lease from the
 768 county which created the appropriate authority; ~~and~~

769 (B) Hospitals that have a bed capacity of more than 150 beds; ~~and~~

770 (C) Hospitals located in a county in which no other medical-surgical licensed hospital
 771 is located; ~~and~~

772 (D) Hospitals located in a county having a population of less than 45,000 according to
 773 the United States decennial census of 1990; and

774 (E) Hospitals operated by a hospital authority that entered into a lease-purchase
 775 agreement between such hospital and a private corporation prior to July 1, 1997."

776 **SECTION 2-3.**

777 Said title is further amended by adding a new Code section to Article 4 of Chapter 7, relating
778 to hospital authorities, to read as follows:

779 "31-7-74.4.

780 Members on the board of a hospital authority at the time of a sale or lease of a hospital
781 owned by such hospital authority shall be deemed directors and subject to the provisions
782 of Part 6 of Article 8 of Chapter 3 of Title 14, relating to conflicting interest transactions
783 with respect to the proceeds of such sale or lease."

784 **SECTION 2-4.**

785 Said title is further amended by revising Code Section 31-7-83, relating to investment of
786 surplus moneys and moneys received through issuance of revenue certificates, as follows:

787 "31-7-83.

788 (a) Pending use for the purpose for which received, each hospital authority created by and
789 under this article is authorized and empowered to invest all moneys or any part thereof
790 received through the issuance and sale of revenue certificates of the authority in any
791 securities which are legal investments or which are provided for in the trust indenture
792 securing such certificates or other legal investments; provided, however, that such
793 investments ~~will~~ shall be used at all times while held, or upon sale, for the purposes for
794 which the money was originally received and no other. Contributions or gifts received by
795 any authority shall be invested as provided by the terms of the contribution or gift or in the
796 absence thereof as determined by the authority.

797 (b) In addition to the authorized investments in subsection (a) of this Code section and in
798 Code Section 36-83-4, hospital authorities that have ceased to own or operate medical
799 facilities for a minimum of seven years, have paid off all bonded indebtedness and
800 outstanding short-term or long-term debt obligations, and hold more than \$20 million in
801 funds for charitable health care purposes may invest a maximum of 30 percent of their
802 funds in the following:

803 (1) Shares of mutual funds registered with the Securities and Exchange Commission of
804 the United States under the 'Investment Company Act of 1940,' as amended; and

805 (2) Commingled funds and collective investment funds maintained by state chartered
806 banks or trust companies or regulated by the Office of the Comptroller of the Currency
807 of the United States Department of the Treasury, including common and group trusts,
808 and, to the extent the funds are invested in such collective investment funds, the funds
809 shall adopt the terms of the instruments establishing any group trust in accordance with
810 applicable United States Internal Revenue Service Revenue Rulings."

811 **SECTION 2-5.**

812 Code Section 50-18-70 of the Official Code of Georgia Annotated, relating to legislative
 813 intent and definitions relative to open records laws, is amended by revising subsection (b)
 814 as follows:

815 "(b) As used in this article, the term:

816 (1) 'Agency' shall have the same meaning as in Code Section 50-14-1 and shall
 817 additionally include any association, corporation, or other similar organization that has
 818 a membership or ownership body composed primarily of counties, municipal
 819 corporations, or school districts of this state, their officers, or any combination thereof
 820 and derives more than 33 1/3 percent of its general operating budget from payments from
 821 such political subdivisions. Such term shall also include any nonprofit organization to
 822 which is leased and transferred hospital assets of a hospital authority through a corporate
 823 restructuring and any subsidiaries or foundations established by such nonprofit
 824 organization in furtherance of the public mission of the hospital authority.

825 (2) 'Public record' means all documents, papers, letters, maps, books, tapes, photographs,
 826 computer based or generated information, data, data fields, or similar material prepared
 827 and maintained or received by an agency or by a private person or entity in the
 828 performance of a service or function for or on behalf of an agency or when such
 829 documents have been transferred to a private person or entity by an agency for storage
 830 or future governmental use, including, but not limited to any such material in the
 831 possession or control of a nonprofit organization to which is leased and transferred
 832 hospital assets of a hospital authority through a corporate restructuring which are related
 833 to the operation of the hospital and other leased facilities in the performance of services
 834 on behalf of the hospital authority."

835 **PART III**836 **SECTION 3-1.**

837 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to care and
 838 protection of indigent and elderly patients, is amended by revising Code Section 31-8-9.1,
 839 relating to eligibility to receive tax credits and obligations of rural hospitals after receipt of
 840 funds, as follows:

841 "31-8-9.1.

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

843 (1) 'Critical access hospital' means a hospital that meets the requirements of the federal
 844 Centers for Medicare and Medicaid Services to be designated as a critical access hospital

845 and that is recognized by the department as a critical access hospital for purposes of
846 Medicaid.

847 (2) 'Rural county' means a county having a population of less than 50,000 according to
848 the United States decennial census of 2010 or any future such census; provided, however,
849 that for counties which contain a military base or installation, the military personnel and
850 their dependents living in such county shall be excluded from the total population of such
851 county for purposes of this definition.

852 (3) 'Rural hospital organization' means an acute care hospital licensed by the department
853 pursuant to Article 1 of Chapter 7 of this title that:

854 (A) Provides inpatient hospital services at a facility located in a rural county or is a
855 critical access hospital;

856 (B) Participates in both Medicaid and ~~medicare~~ Medicare and accepts both Medicaid
857 and ~~medicare~~ Medicare patients;

858 (C) Provides health care services to indigent patients;

859 (D) Has at least 10 percent of its annual net revenue categorized as indigent care,
860 charity care, or bad debt;

861 (E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax,
862 with the department, or for any hospital not required to file IRS Form 990, the
863 department will provide a form that collects the same information to be submitted to the
864 department on an annual basis;

865 (F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7
866 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the
867 Internal Revenue Code; ~~and~~

868 (G) Is current with all audits and reports required by law; and

869 (H) Does not have a margin above expenses of greater than 15 percent, as calculated
870 by the department.

871 (b)(1) By December 1 of each year, the department shall approve a list of rural hospital
872 organizations eligible to receive contributions from the tax credit provided pursuant to
873 Code Section 48-7-29.20 ranked in order of financial need and transmit such list to the
874 Department of Revenue.

875 (2) Before any rural hospital organization is included on the list as eligible to receive
876 contributions from the tax credit provided pursuant to Code Section 48-7-29.20, it shall
877 submit to the department a five-year plan detailing the financial viability and stability of
878 the rural hospital organization. The criteria to be included in the five-year plan shall be
879 established by the department.

- 880 (3) The department shall create an operations manual for identifying rural hospital
 881 organizations and ranking such rural hospital organizations in order of financial need.
 882 Such manual shall include:
- 883 (A) All deadlines for submitting required information to the department;
 - 884 (B) The criteria to be included in the five-year plan submitted pursuant to paragraph (2)
 885 of this subsection; and
 - 886 (C) The formula applied to rank the rural hospital organizations in order of financial
 887 need.
- 888 (c)(1) A rural hospital organization that receives donations pursuant to Code Section
 889 48-7-29.20 shall:
- 890 (A) Utilize such donations for the provision of health care related services for residents
 891 of a rural county or for residents of the area served by a critical access hospital; and
 - 892 (B) Report on a form provided by the department:
 - 893 (i) All contributions received from individual and corporate donors pursuant to Code
 894 Section 48-7-29.20 detailing the manner in which the contributions received were
 895 expended by the rural hospital organization; and
 - 896 (ii) Any payments made to a third party to solicit, administer, or manage the
 897 donations received by the rural hospital organization pursuant to this Code section or
 898 Code Section 48-7-29.20. In no event shall payments made to a third party to solicit,
 899 administer, or manage the donations received pursuant to this Code section exceed 3
 900 percent of the total amount of the donations.
- 901 (2) The department shall annually prepare a report compiling the information received
 902 pursuant to paragraph (1) of this subsection for the chairpersons of the House Committee
 903 on Ways and Means and the Senate Health and Human Services Committee.
- 904 (d) The department shall post the following information in a prominent location on its
 905 website:
- 906 (1) The ranked list of rural hospital organizations eligible to receive contributions
 907 established pursuant to paragraph (1) of subsection (b) of this Code section;
 - 908 (2) The operations manual created pursuant to paragraph (3) of subsection (b) of this
 909 Code section;
 - 910 (3) The annual report prepared pursuant to paragraph (2) of subsection (c) of this Code
 911 section;
 - 912 (4) The total amount received by each third party that participated in soliciting,
 913 administering, or managing donations; and
 - 914 (5) A link to the Department of Revenue's website containing the information included
 915 in subsection (d) of Code Section 48-7-29.20."

916

SECTION 3-2.

917 Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits
918 for contributions to rural hospital organizations, is amended as follows:

919 "48-7-29.20.

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

921 (1) 'Qualified rural hospital organization expense' means the contribution of funds by an
922 individual or corporate taxpayer to a rural hospital organization for the direct benefit of
923 such organization during the tax year for which a credit under this Code section is
924 claimed.

925 (2) 'Rural hospital organization' means an organization that is approved by the
926 Department of Community Health pursuant to Code Section 31-8-9.1.

927 (b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter
928 for qualified rural hospital organization expenses as follows:

929 (1) In the case of a single individual or a head of household, the actual amount expended;

930 (2) In the case of a married couple filing a joint return, the actual amount expended; or

931 (3) In the case of an individual who is a member of a limited liability company duly
932 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
933 partnership, the amount expended; provided, however, that tax credits pursuant to this
934 paragraph shall be allowed only for the portion of the income on which such tax was
935 actually paid by such individual.

936 (b.1) From January 1 to June 30 each taxable year, an individual taxpayer shall be limited
937 in its qualified rural hospital organization expenses allowable for credit under this Code
938 section, and the commissioner shall not approve qualified rural hospital organization
939 expenses incurred from January 1 to June 30 each taxable year, which exceed the following
940 limits:

941 (1) In the case of a single individual or a head of household, \$5,000.00;

942 (2) In the case of a married couple filing a joint return, \$10,000.00; or

943 (3) In the case of an individual who is a member of a limited liability company duly
944 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
945 partnership, \$10,000.00.

946 (c) A corporation or other entity shall be allowed a credit against the tax imposed by this
947 chapter for qualified rural hospital organization expenses in an amount not to exceed the
948 actual amount expended or 75 percent of the corporation's income tax liability, whichever
949 is less.

950 (d) In no event shall the total amount of the tax credit under this Code section for a taxable
951 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the

952 taxpayer against the succeeding five years' tax liability. No such credit shall be allowed
 953 the taxpayer against prior years' tax liability.

954 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
 955 section exceed \$60 million per taxable year.

956 (2)(A) No more than \$4 million of the aggregate limit established by paragraph (1) of
 957 this subsection shall be contributed to any individual rural hospital organization in any
 958 taxable year. From January 1 to June 30 each taxable year, the commissioner shall only
 959 preapprove contributions submitted by individual taxpayers in an amount not to exceed
 960 \$2 million, and from corporate donors in an amount not to exceed \$2 million. From
 961 July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1)
 962 of this subsection and the individual rural hospital organization limit in this paragraph,
 963 the commissioner shall approve contributions submitted by individual taxpayers and
 964 corporations or other entities.

965 (B) In the event an individual or corporate donor desires to make a contribution to an
 966 individual rural hospital organization that has received the maximum amount of
 967 contributions for that taxable year, the Department of Community Health shall provide
 968 the individual or corporate donor with a list, ranked in order of financial need, as
 969 determined by the Department of Community Health, of rural hospital organizations
 970 still eligible to receive contributions for the taxable year.

971 (C) In the event that an individual or corporate donor desires to make a contribution
 972 to an unspecified or undesignated rural hospital organization, either directly to the
 973 department or through a third party that participates in soliciting, administering, or
 974 managing donations, such donation shall be attributed to the rural hospital organization
 975 ranked with the highest financial need that has not yet received the maximum amount
 976 of contributions for that taxable year, regardless of whether a third party has a
 977 contractual relationship or agreement with such rural hospital organization.

978 (D) Any third party that participates in soliciting, advertising, or managing donations
 979 shall provide the complete list of rural hospital organizations eligible to receive the tax
 980 credit provided pursuant to this Code section including their ranking in order of
 981 financial need as determined by the Department of Community Health pursuant to Code
 982 Section 31-8-9.1, to any potential donor regardless of whether a third party has a
 983 contractual relationship or agreement with such rural hospital organization.

984 (3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital
 985 organization shall notify a potential donor of the requirements of this Code section.
 986 Before making a contribution to a rural hospital organization, the taxpayer shall
 987 electronically notify the department, in a manner specified by the department, of the total
 988 amount of contribution that the taxpayer intends to make to the rural hospital

989 organization. The commissioner shall preapprove or deny the requested amount within
 990 30 days after receiving the request from the taxpayer and shall provide written notice to
 991 the taxpayer and rural hospital organization of such preapproval or denial which shall not
 992 require any signed release or notarized approval by the taxpayer. In order to receive a tax
 993 credit under this Code section, the taxpayer shall make the contribution to the rural
 994 hospital organization within 60 days after receiving notice from the department that the
 995 requested amount was preapproved. If the taxpayer does not comply with this paragraph,
 996 the commissioner shall not include this preapproved contribution amount when
 997 calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

998 (4)(A) Preapproval of contributions by the commissioner shall be based solely on the
 999 availability of tax credits subject to the aggregate total limit established under
 1000 paragraph (1) of this subsection and the individual rural hospital organization limit
 1001 established under paragraph (2) of this subsection.

1002 (B) Any taxpayer preapproved by the department pursuant to this subsection ~~(e) of this~~
 1003 ~~Code section~~ shall retain their approval in the event the credit percentage in ~~subsection~~
 1004 ~~(b) of this Code section~~ is modified for the year in which the taxpayer was preapproved.

1005 (C) Upon the rural hospital organization's confirmation of receipt of donations that
 1006 have been preapproved by the department, any taxpayer preapproved by the department
 1007 pursuant to subsection (c) of this Code section shall receive the full benefit of the
 1008 income tax credit established by this Code section even though the rural hospital
 1009 organization to which the taxpayer made a donation does not properly comply with the
 1010 reports or filings required by this Code section.

1011 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
 1012 action against donors to rural hospital organizations if the commissioner preapproved a
 1013 donation for a tax credit prior to the date the rural hospital organization is removed from
 1014 the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such
 1015 donations shall remain as preapproved tax credits subject only to the donor's compliance
 1016 with paragraph (3) of this subsection.

1017 (f) In order for the taxpayer to claim the tax credit under this Code section, a letter of
 1018 confirmation of donation issued by the rural hospital organization to which the contribution
 1019 was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer
 1020 files an electronic return, such confirmation shall only be required to be electronically
 1021 attached to the return if the Internal Revenue Service allows such attachments when the
 1022 return is transmitted to the department. In the event the taxpayer files an electronic return
 1023 and such confirmation is not attached because the Internal Revenue Service does not, at the
 1024 time of such electronic filing, allow electronic attachments to the Georgia return, such
 1025 confirmation shall be maintained by the taxpayer and made available upon request by the

1026 commissioner. The letter of confirmation of donation shall contain the taxpayer's name,
1027 address, tax identification number, the amount of the contribution, the date of the
1028 contribution, and the amount of the credit.

1029 (g) No credit shall be allowed under this Code section with respect to any amount
1030 deducted from taxable net income by the taxpayer as a charitable contribution to a bona
1031 fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue
1032 Code.

1033 (h) The commissioner shall be authorized to promulgate any rules and regulations
1034 necessary to implement and administer the provisions of this Code section.

1035 (i) The department shall post the following information in a prominent location on its
1036 website:

1037 (1) All pertinent timelines relating to the tax credit, including, but not limited to:

1038 (A) Beginning date when contributions can be submitted for preapproval by donors for
1039 the January 1 to June 30 period;

1040 (B) Ending date when contributions can be submitted for preapproval by donors for the
1041 January 1 to June 30 period;

1042 (C) Beginning date when contributions can be submitted for preapproval by donors for
1043 the July 1 to December 31 period;

1044 (D) Ending date when contributions can be submitted for preapproval by donors for the
1045 July 1 to December 31 period; and

1046 (E) Date by which preapproved contributions are required to be sent to the rural
1047 hospital organization;

1048 (2) The list and ranking order of rural hospital organizations eligible to receive
1049 contributions established pursuant to paragraph (1) of subsection (b) of Code
1050 Section 31-8-9.1;

1051 (3) A monthly progress report including:

1052 (A) Total preapproved contributions to date by rural hospital organization;

1053 (B) Total contributions received to date by rural hospital organization;

1054 (C) Total aggregate amount of preapproved contributions made to date; and

1055 (D) Aggregate amount of tax credits available;

1056 (4) A list of all preapproved contributions that were made to an unspecified or
1057 undesignated rural hospital organization and the rural hospital organizations that received
1058 such contributions.

1059 (j) The Department of Audits and Accounts shall annually conduct an audit of the tax
1060 credit program established under this Code section, including the amount and recipient
1061 rural hospital organization of all contributions made, all tax credits received by individual

1062 and corporate donors, and all amounts received by third parties that solicited, administered,
1063 or managed donations pertaining to this Code section and Code Section 31-8-9.1.
1064 ~~(i)(k)~~ This Code section shall stand automatically repealed on December 31, ~~2021~~ 2024."

1065 **PART IV**

1066 **SECTION 4-1.**

1067 This Act shall become effective upon its approval by the Governor or upon its becoming law
1068 without such approval.

1069 **SECTION 4.2.**

1070 All laws and parts of laws in conflict with this Act are repealed.