

House Bill 1547

By: Representatives Hatchett of the 150<sup>th</sup>, England of the 116<sup>th</sup>, Burns of the 159<sup>th</sup>, Knight of the 130<sup>th</sup>, and Houston of the 170<sup>th</sup>

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 various provisions relating to certificate of need requirements; to revise definitions;  
3 to revise requirements under certificate of need to provide indigent and charity care; to  
4 provide for attorney's fees under certain conditions; to provide for venture capital  
5 partnerships; to expand the exemption for single-specialty ambulatory surgical centers to  
6 physician owned ambulatory surgical centers; to provide that affiliates and subsidiaries of  
7 hospital authorities are subject to open records laws; to provide for withholding of state funds  
8 from hospital authorities that fail to comply with certain reporting requirements; to revise  
9 provisions relating to community benefit; to limit the amount of cash reserves a hospital  
10 authority can maintain; to provide for consequences for noncompliance; to provide for filing  
11 of reports to the Office of Health Strategy and Coordination; to provide that hospitals or  
12 hospital authorities utilizing certain captive insurance companies are not eligible for certain  
13 trust funds; to amend Title 37 of the Official Code of Georgia Annotated, relating to mental  
14 health, so as to establish a program to provide state funded mental health assistance for  
15 indigent persons in this state; to provide for prioritized disability services for uninsured  
16 consumers and Medicaid recipients; to amend Code Section 50-18-70 of the Official Code  
17 of Georgia Annotated, relating to legislative intent and definitions relative to open records  
18 laws, so as to provide that certain organizations or entities that lease or operate facilities of

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19 hospital authorities are considered agencies for purposes of open records; to provide for the  
20 delayed repeal of certificate of need requirements; to transfer charity and indigent care  
21 requirements from certificate of need requirements to licensure requirements; to provide for  
22 regulations and penalties; to amend other provisions in various titles of the Official Code of  
23 Georgia Annotated for purposes of conformity; to revise definitions; to provide for related  
24 matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 PART I  
27 *Hospitals and Hospital Authorities*  
28 SECTION 1-1.

29 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code  
30 Section 31-6-2, relating to definitions relative to state health planning and development, by  
31 redesignating and revising paragraph (33) as paragraph (30.05) and by reserving paragraph  
32 (33) as follows:

33 ~~"(33)(30.05) 'Single specialty Physician owned ambulatory surgical center' means an~~  
34 ~~ambulatory surgical center where surgery is performed in the offices of an individual~~  
35 ~~private physician or single group practice of private physicians if such surgery is~~  
36 ~~performed in a facility that is owned, operated, and utilized by such physicians who also~~  
37 ~~are of a single specialty; provided, however, that general surgery, a group practice which~~  
38 ~~includes one or more physiatrists who perform services that are reasonably related to the~~  
39 ~~surgical procedures performed in the center, and a group practice in orthopedics which~~  
40 ~~includes plastic hand surgeons with a certificate of added qualifications in Surgery of the~~  
41 ~~Hand from the American Board of Plastic and Reconstructive Surgery shall be considered~~  
42 ~~a single specialty."~~

43 "(33) Reserved."

44 **SECTION 1-2.**

45 Said title is further amended in Code Section 31-6-40, relating to the requirement of a  
46 certificate of need for new institutional health services, by revising paragraph (2) of  
47 subsection (c) as follows:

48 "(2) Any facility offering ambulatory surgery pursuant to the exclusion designated on  
49 June 30, 2008, as division (14)(G)(iii) of Code Section 31-6-2; any diagnostic, treatment,  
50 or rehabilitation center offering diagnostic imaging or other imaging services in operation  
51 and exempt prior to July 1, 2008; or any facility operating pursuant to a letter of  
52 nonreviewability and offering diagnostic imaging services prior to July 1, 2008, shall:

53 (A) Provide annual reports in the same manner and in accordance with Code Section  
54 31-6-70; and

55 ~~(B)(i) Provide care to Medicaid beneficiaries and, if the facility provides medical care  
56 and treatment to children, to PeachCare for Kids beneficiaries and provide  
57 uncompensated indigent and charity care in an amount equal to or greater than 2  
58 percent of its adjusted gross revenue; or~~

59 ~~(ii) If the facility is not a participant in Medicaid or the PeachCare for Kids Program,  
60 provide uncompensated care for Medicaid beneficiaries and, if the facility provides  
61 medical care and treatment to children, for PeachCare for Kids beneficiaries,  
62 uncompensated indigent and charity care, or both in an amount equal to or greater  
63 than 4 5 percent of its adjusted gross revenue if it:~~

64 ~~(I) Makes a capital expenditure associated with the construction, development,  
65 expansion, or other establishment of a clinical health service or the acquisition or  
66 replacement of diagnostic or therapeutic equipment with a value in excess of  
67 \$800,000.00 over a two-year period;~~

68 ~~(H) Builds a new operating room; or~~

69 ~~(H) Chooses to relocate in accordance with Code Section 31-6-47.~~  
70 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
71 in the amount of the difference between the services which the center is required to  
72 provide and the amount actually provided applicable amount contained in subsection (c)  
73 of Code Section 31-6-40.1 and may be subject the center to revocation of its exemption  
74 status by the department for repeated failure to pay any fees or moneys due to the  
75 department or for repeated failure to produce data as required by Code Section 31-6-70  
76 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50,  
77 the 'Georgia Administrative Procedure Act.' Any penalty so recovered shall be dedicated  
78 and deposited by the department into the Indigent Care Trust Fund created pursuant to  
79 Code Section 31-8-152. ~~The dollar amount specified in this paragraph shall be adjusted~~  
80 ~~annually by an amount calculated by multiplying such dollar amount (as adjusted for the~~  
81 ~~preceding year) by the annual percentage of change in the consumer price index, or its~~  
82 ~~successor or appropriate replacement index, if any, published by the United States~~  
83 ~~Department of Labor for the preceding calendar year, commencing on July 1, 2009. In~~  
84 ~~calculating the dollar amounts of a proposed project for the purposes of this paragraph,~~  
85 ~~the costs of all items subject to review by this chapter and items not subject to review by~~  
86 ~~this chapter associated with and simultaneously developed or proposed with the project~~  
87 ~~shall be counted, except for the expenditure or commitment of or incurring an obligation~~  
88 ~~for the expenditure of funds to develop certificate of need applications, studies, reports,~~  
89 ~~schematics, preliminary plans and specifications or working drawings, or to acquire sites.~~  
90 Subparagraph (B) of this paragraph The provisions of this subparagraph shall not apply  
91 to facilities offering ophthalmic ambulatory surgery pursuant to the exclusion designated  
92 on June 30, 2008, as division (14)(G)(iii) of Code Section 31-6-2 that are owned by  
93 physicians in the practice of ophthalmology."

94 **SECTION 1-3.**

95 Said title is further amended in Code Section 31-6-40.1, relating to acquisition of health care  
96 facilities, penalty for failure to notify the department, limitation on applications, agreement  
97 to care for indigent patients, requirements for destination cancer hospitals, and notice and  
98 hearing provisions for penalties, by revising subsection (c) as follows:

99 "~~(c) The department may~~ shall require that ~~any applicant for a holder of~~ a certificate of  
100 need ~~agree to provide a specified amount of clinical health services to indigent patients~~  
101 uncompensated indigent or charity care in an amount which meets or exceeds 5 percent of  
102 such applicant's adjusted gross revenues as a condition for ~~the grant of~~ a certificate of need;  
103 ~~provided, however, that each facility granted a certificate of need by the department as a~~  
104 ~~destination cancer hospital shall be required to provide uncompensated indigent or charity~~  
105 ~~care for residents of Georgia which meets or exceeds 3 percent of such destination cancer~~  
106 ~~hospital's adjusted gross revenues and provide care to Medicaid beneficiaries. A grantee~~  
107 ~~or successor in interest of a certificate of need or an authorization to operate under this~~  
108 ~~chapter which violates such an agreement or violates any conditions imposed by the~~  
109 ~~department relating to such services, whether made before or after July 1, 2008, shall be~~  
110 ~~liable to the department for a monetary penalty in the amount of the difference between the~~  
111 ~~amount of services so agreed to be provided and the amount actually provided~~ following  
112 amounts and may be subject to revocation of its certificate of need, in whole or in part, by  
113 the department pursuant to Code Section 31-6-45:

114 (1) If the amount of services actually provided is between 4.5 percent and 4.99 percent,  
115 a monetary penalty in the amount of 1 percent of its adjusted gross revenues;

116 (2) If the amount of services actually provided is between 4 percent and 4.49 percent, a  
117 monetary penalty in the amount of 2 percent of its adjusted gross revenues;

118 (3) If the amount of services actually provided is between 3.5 percent and 3.99 percent,  
119 a monetary penalty in the amount of 3 percent of its adjusted gross revenues;

- 120 (4) If the amount of services actually provided is between 3 percent and 3.49 percent, a  
 121 monetary penalty in the amount of 4 percent of its adjusted gross revenues;  
 122 (5) If the amount of services actually provided is between 2.5 percent and 2.99 percent,  
 123 a monetary penalty in the amount of 5 percent of its adjusted gross revenues;  
 124 (6) If the amount of services actually provided is between 2 percent and 2.49 percent, a  
 125 monetary penalty in the amount of 6 percent of its adjusted gross revenues;  
 126 (7) If the amount of services actually provided is between 1.5 percent and 1.99 percent,  
 127 a monetary penalty in the amount of 7 percent of its adjusted gross revenues;  
 128 (8) If the amount of services actually provided is between 1 percent and 1.49 percent, a  
 129 monetary penalty in the amount of 8 percent of its adjusted gross revenues;  
 130 (9) If the amount of services actually provided is between 0.5 percent and 0.99 percent,  
 131 a monetary penalty in the amount of 9 percent of its adjusted gross revenues; and  
 132 (10) If the amount of services actually provided is less than 0.5 percent, a monetary  
 133 penalty in the amount of 10 percent of its adjusted gross revenues.

134 Any penalty so recovered shall be ~~paid into the state treasury~~ dedicated and deposited by  
 135 the department into the Indigent Care Trust Fund created pursuant to Code Section  
 136 31-8-152."

137 **SECTION 1-4.**

138 Said title is further amended in Code Section 31-6-40.2, relating to new perinatal services,  
 139 by revising subsection (b) as follows:

140 "(b)(1) A ~~new~~ perinatal service shall provide uncompensated indigent or charity care in  
 141 an amount which meets or exceeds 5 percent of its adjusted gross revenues ~~the~~  
 142 ~~department's established minimum at the time the department issued the certificate of~~  
 143 ~~need approval for such service for each of the service's first three years of operation;~~  
 144 ~~provided, however, that if the certificate of need application under which a new perinatal~~  
 145 ~~service was approved included a commitment that uncompensated indigent or charity~~

146 ~~care would be provided in an amount greater than the established minimum for any time~~  
147 ~~period described in the certificate of need application that falls completely within such~~  
148 ~~new perinatal service's first three years of operation, such new perinatal service shall~~  
149 ~~provide indigent or charity care in an amount which meets or exceeds the amount~~  
150 ~~committed in the certificate of need application for each time period described in the~~  
151 ~~certificate of need application that falls completely within the service's first three years~~  
152 ~~of operation. Noncompliance with this paragraph shall result in a monetary penalty in~~  
153 ~~the applicable amount contained in subsection (c) of Code Section 31-6-40.1. Any~~  
154 ~~penalty so recovered shall be dedicated and deposited by the department into the Indigent~~  
155 ~~Care Trust Fund created pursuant to Code Section 31-8-152.~~

156 (2) The department shall revoke the certificate of need and authority to operate of a new  
157 perinatal service if after notice to the grantee of the certificate or such grantee's  
158 successors, and after opportunity for a fair hearing pursuant to Chapter 13 of Title 50, the  
159 'Georgia Administrative Procedure Act,' the department determines that such new  
160 perinatal service has failed to provide indigent or charity care in accordance with the  
161 requirements of paragraph (1) of this subsection and such failure is determined by the  
162 department to be for reasons substantially within the perinatal service provider's control.  
163 The department shall provide the requisite notice, conduct the fair hearing, if requested,  
164 and render its determination within 90 days after the end of the first year, ~~or, if~~  
165 ~~applicable, the first time period described in paragraph (1) of this subsection during~~  
166 ~~which the new perinatal service fails to provide indigent or charity care in accordance~~  
167 ~~with the requirements of paragraph (1) of this subsection. Revocation shall be effective~~  
168 30 days after the date of the determination by the department that the requirements of  
169 paragraph (1) of this subsection have not been met."

170 **SECTION 1-5.**

171 Said title is further amended in Code Section 31-6-44, relating to the Certificate of Need  
 172 Appeal Panel, by revising subsection (n) as follows:

173 "(n) A party responding to an appeal to the commissioner may be entitled to reasonable  
 174 attorney's fees and costs of such appeal if it is determined that the appeal lacked substantial  
 175 justification and was undertaken primarily for the purpose of delay or harassment;  
 176 provided, however, that the department shall not be required to pay attorney's fees or costs.  
 177 An applicant responding to an appeal by a party that is permitted to oppose an application  
 178 before the department shall be entitled to reasonable attorney's fees and costs of such  
 179 appeal if the applicant is the prevailing party. This subsection shall not apply to the portion  
 180 of attorney's fees accrued on behalf of a party responding to or bringing a challenge to the  
 181 department's authority to enact a rule or regulation or the department's jurisdiction or  
 182 another challenge that could not have been decided in the administrative proceeding, nor  
 183 shall it apply to costs accrued when the only argument raised by the appealing party is one  
 184 described in this subsection."

185 **SECTION 1-6.**

186 Said title is further amended in Code Section 31-6-47, relating to exemptions from chapter,  
 187 by revising paragraphs (18) and (19) of subsection (a) as follows:

188 "(18) Any ~~single specialty~~ physician owned ambulatory surgical center that:  
 189 (A)(i) Has capital expenditures associated with the construction, development, or  
 190 other establishment of the clinical health service which do not exceed \$2.5 million;  
 191 or  
 192 (ii) Is the only ~~single specialty~~ physician owned ambulatory surgical center in the  
 193 county owned by the group practice and has two or fewer operating rooms; provided,  
 194 however, that a center exempt pursuant to this division shall be required to obtain a  
 195 certificate of need in order to add any additional operating rooms;

196 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance  
197 from the facility or the medical staff at the center has admitting privileges or other  
198 acceptable documented arrangements with such hospital to ensure the necessary backup  
199 for the center for medical complications. The center shall have the capability to transfer  
200 a patient immediately to a hospital within a reasonable distance from the facility with  
201 adequate emergency room services. Hospitals shall not unreasonably deny a transfer  
202 agreement or affiliation agreement to the center;

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

207 (ii) ~~If the center is not a participant in Medicaid or the PeachCare for Kids Program,~~  
208 ~~provides uncompensated care to Medicaid beneficiaries and, if the facility provides~~  
209 ~~medical care and treatment to children, to PeachCare for Kids beneficiaries,~~  
210 ~~uncompensated indigent and charity care, or both in an amount equal to or greater~~  
211 ~~than 4 5 percent of its adjusted gross revenue;~~

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

215 (D) Provides annual reports in the same manner and in accordance with Code Section  
216 31-6-70.

217 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
218 in the amount of the ~~difference between the services which the center is required to~~  
219 ~~provide and the amount actually provided~~ applicable amount contained in subsection (c)  
220 of Code Section 31-6-40.1 and may be subject the center to revocation of its exemption  
221 status by the department for repeated failure to pay any fines or moneys due to the  
222 department or for repeated failure to produce data as required by Code Section 31-6-70

223 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50,  
224 the 'Georgia Administrative Procedure Act.' Any penalty so recovered shall be dedicated  
225 and deposited by the department into the Indigent Care Trust Fund created pursuant to  
226 Code Section 31-8-152. The dollar amount specified in this paragraph shall be adjusted  
227 annually by an amount calculated by multiplying such dollar amount (as adjusted for the  
228 preceding year) by the annual percentage of change in the composite index of  
229 construction material prices, or its successor or appropriate replacement index, if any,  
230 published by the United States Department of Commerce for the preceding calendar year,  
231 commencing on July 1, 2009, and on each anniversary thereafter of publication of the  
232 index. The department shall immediately institute rule-making procedures to adopt such  
233 adjusted dollar amounts. In calculating the dollar amounts of a proposed project for  
234 purposes of this paragraph, the costs of all items subject to review by this chapter and  
235 items not subject to review by this chapter associated with and simultaneously developed  
236 or proposed with the project shall be counted, except for the expenditure or commitment  
237 of or incurring an obligation for the expenditure of funds to develop certificate of need  
238 applications, studies, reports, schematics, preliminary plans and specifications or working  
239 drawings, or to acquire sites;

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

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

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

247 ~~(ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,~~  
248 ~~provides uncompensated care to Medicaid beneficiaries and, if the facility provides~~  
249 ~~medical care and treatment to children, to PeachCare for Kids beneficiaries,~~

250 uncompensated indigent and charity care, ~~or both~~ in an amount equal to or greater  
251 than ~~4~~ 5 percent of its adjusted gross revenue; and

252 (C) Provides annual reports in the same manner and in accordance with Code Section  
253 31-6-70.

254 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
255 in the ~~amount of the difference between the services which the center is required to~~  
256 ~~provide and the amount actually provided~~ applicable amount contained in subsection (c)  
257 of Code Section 31-6-40.1 and may be subject the center to revocation of its exemption  
258 status by the department for repeated failure to pay any fines or moneys due to the  
259 department or for repeated failure to produce data as required by Code Section 31-6-70  
260 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50,  
261 the 'Georgia Administrative Procedure Act.' Any penalty so recovered shall be dedicated  
262 and deposited by the department into the Indigent Care Trust Fund created pursuant to  
263 Code Section 31-8-152. The dollar amount specified in this paragraph shall be adjusted  
264 annually by an amount calculated by multiplying such dollar amount (as adjusted for the  
265 preceding year) by the annual percentage of change in the composite index of  
266 construction material prices, or its successor or appropriate replacement index, if any,  
267 published by the United States Department of Commerce for the preceding calendar year,  
268 commencing on July 1, 2009, and on each anniversary thereafter of publication of the  
269 index. The department shall immediately institute rule-making procedures to adopt such  
270 adjusted dollar amounts. In calculating the dollar amounts of a proposed project for  
271 purposes of this paragraph, the costs of all items subject to review by this chapter and  
272 items not subject to review by this chapter associated with and simultaneously developed  
273 or proposed with the project shall be counted, except for the expenditure or commitment  
274 of or incurring an obligation for the expenditure of funds to develop certificate of need  
275 applications, studies, reports, schematics, preliminary plans and specifications or working  
276 drawings, or to acquire sites;"

277 **SECTION 1-7.**

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

280 "31-7-3.5.

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

282 (1) 'Rural county' means a county having a population of less than 50,000 according to  
283 the United States decennial census of 2020 or any future such census.

284 (2) 'Urban county' means a county having a population equal to or greater than 50,000  
285 according to the United States decennial census of 2020 or any future such census.

286 (b) On and after July 1, 2022, any hospital in an urban county shall be authorized to enter  
287 into a venture capital partnership with a regional critical access or safety net hospital in a  
288 rural county to construct or operate an ambulatory surgical center in such rural county.  
289 Such venture capital partnership shall provide that profits are shared between the urban  
290 partner and the rural partner proportionately to the investment.

291 31-7-3.6.

292 (a) As used in this Code section, the term 'rural county' means a county having a  
293 population of less than 50,000 according to the United States decennial census of 2020 or  
294 any future such census.

295 (b) On and after January 1, 2023, the department shall provide Medicaid reimbursement  
296 at 100 percent of cost for any Medicaid patients treated by a hospital located in a rural  
297 county."

298 **SECTION 1-8.**

299 Said title is further amended by revising paragraph (27) of Code Section 31-7-75, relating  
300 to powers and duties of hospital authorities, as follows:

301 "(27) To form and operate, either directly or indirectly, one or more networks of  
302 hospitals, physicians, and other health care providers and to arrange for the provision of  
303 health care services through such networks; to contract, either directly or through such  
304 networks, with the Department of Community Health to provide services to Medicaid  
305 beneficiaries; to provide health care services in an efficient and cost-effective manner on  
306 a prepaid, capitation, or other reimbursement basis; and to undertake other managed  
307 health care activities; provided, however, that for purposes of this paragraph only and  
308 notwithstanding the provisions of Code Section 33-3-3, as now or hereafter amended, a  
309 hospital authority shall be permitted to and shall comply with the requirements of Chapter  
310 21 of Title 33 to the extent that such requirements apply to the activities undertaken by  
311 the hospital authority pursuant to this paragraph. No hospital authority, whether or not  
312 it exercises the powers authorized by this paragraph, shall be relieved of compliance with  
313 Article 4 of Chapter 18 of Title 50, relating to inspection of public records unless  
314 otherwise authorized by law. Further, any affiliate or subsidiary of a hospital authority  
315 shall be subject to Article 4 of Chapter 18 of Title 50 in the same manner as the hospital  
316 authority. Any health care provider licensed under Chapter 30 of Title 43 shall be  
317 eligible to apply to become a participating provider under such a hospital plan or network  
318 which provides coverage for health care services which are within the lawful scope of his  
319 or her practice, provided that nothing contained in this Code section shall be construed  
320 to require any such hospital plan or network to provide coverage for any specific health  
321 care service."

322 **SECTION 1-9.**

323 Said title is further amended in Article 4 of Chapter 7, relating to county and municipal  
324 hospital authorities by adding a new Code section to read as follows:

325 "31-7-76.1.

326 (a) The department may withhold all or any portion of any state grants or funds from a  
327 hospital authority which fails to comply with any one or more of the following  
328 requirements until such time as it meets all such requirements:

329 (1) Make and file its annual report as required by Code Section 31-7-90;

330 (2) Adopt and file an annual budget as required by Code Section 31-7-90;

331 (3) Prepare and file a community benefit report as required by Code Section 31-7-90.1;

332 (4) Prepare and file a report relating to member ownership of assets or stocks as required  
333 by Code Section 31-7-90.1;

334 (5) Conduct and file an annual audit as required by Code Section 31-7-91;

335 (6) Report or publish the annual audit as required by Code Section 31-7-92; or

336 (7) Register annually with the Department of Community Affairs as required by Code  
337 Section 36-80-16, the 'Local Government Authorities Registration Act.'

338 (b) In the event that the department withholds any state grants or funds pursuant to  
339 subsection (a) of this Code section, the department shall provide notice of such action to  
340 the governing body of each participating unit of the authority."

341 **SECTION 1-10.**

342 Said title is further amended in Code Section 31-7-76, relating to procedure in event of  
343 failure of hospital authority to perform minimum functions, determination of removal from  
344 office, and appointments to fill vacancies created by removal, by adding a new paragraph to  
345 subsection (d) to read as follows:

346 "(1.1) Failed to comply with the maximum cash reserves requirement as provided in  
347 Code Section 31-7-77;"

348 **SECTION 1-11.**

349 Said title is further amended in Code Section 31-7-77, relating to prohibition on hospital  
350 authorities on for-profit projects, rates and charges, and utilization of revenues to pay certain  
351 obligations, as follows:

352 "31-7-77.

353 (a) No authority shall operate or construct any project for profit. It shall fix rates and  
354 charges consistent with this declaration of policy and such as will produce revenues only  
355 in amounts sufficient, together with all other funds of the authority, to pay principal and  
356 interest on certificates and obligations of the authority, to provide for maintenance and  
357 operation of the project, and to create and maintain a reserve sufficient to meet principal  
358 and interest payments due on any certificates in any one year after the issuance thereof.  
359 The authority may provide reasonable reserves for the improvement, replacement, or  
360 expansion of its facilities or services; provided, however, that in no event shall cash  
361 reserves exceed an amount equivalent to 12 months' operating costs. For purposes of this  
362 subsection, operating costs shall be the aggregated amount of the total expenses included  
363 on the Internal Revenue Service Form 990 for each of the authority's nonprofit hospitals.

364 (b) Notwithstanding subsection (a) of this Code section or any other provisions to the  
365 contrary, a joint hospital authority established pursuant to Code Section 31-7-72 which  
366 operates or leases a hospital containing more than 900 licensed beds shall only utilize  
367 revenues to pay principal and interest on certificates and obligations of the authority, to pay  
368 pension plan obligations of the authority existing as of January 1, 2021, and for funding  
369 projects leased by the authority to a lessee pursuant to a contract entered into in accordance  
370 with paragraph (7) of Code Section 31-7-75; provided, however, that no more than 1  
371 percent of revenues shall be utilized to pay for personnel costs for employees or contractors  
372 of the authority and no revenues shall be used to perform any power or duty delegated in  
373 a lease."

374 **SECTION 1-12.**

375 Said title is further amended in Code Section 31-7-90, relating to annual report and budget  
376 of hospital authorities, as follows:

377 "31-7-90.

378 The board of trustees of each authority created under this article shall file with the  
379 governing body or bodies of political subdivisions or participating units and with the Office  
380 of Health Strategy and Coordination, on forms prescribed by the ~~department~~ office, an  
381 annual report of the activities of the authority and shall annually consider and adopt as a  
382 part of such report a budget, which budget shall be filed with the annual report. The board  
383 of trustees may hold a public hearing on the budget, and representatives of any governing  
384 body within the area of operation of the authority or any other person having an interest in  
385 such budget shall have the right to be heard with respect to any matter covered by the  
386 report of the board of trustees or by the budget."

387 **SECTION 1-13.**

388 Said title is further amended by revising subsection (a) of Code Section 31-7-90.1, relating  
389 to community benefit report and report disclosing member ownership in entities transacting  
390 business with authority, as follows:

391 "(a) Each hospital authority created by and under this article shall annually prepare a  
392 community benefit report disclosing the cost of indigent and charity care provided by such  
393 authority for the preceding year not later than 90 days after the close of the fiscal or  
394 calendar year. Such report provided for in this Code section shall include a statement of  
395 the cost and type of indigent and charity care provided by the authority, including the  
396 number of indigent persons served, categorization of those persons by county of residence,  
397 as well as the cost of indigent and charity care provided in dollars. Such community  
398 benefit report shall also be prepared and published, in accordance with this Code section,  
399 by any corporation that operates, leases, or otherwise contracts with the hospital authority

400 for the operation, lease, or management of the hospital authority or hospital authority's  
 401 assets. Medicare or Medicaid losses shall not be considered a community benefit for  
 402 purposes of the report. The report shall be filed with the clerk of superior court of the  
 403 county in which the authority's hospital is located, as well as with Office of Health Strategy  
 404 and Coordination and the governing body or bodies of such authority's participating units."

405 **SECTION 1-14.**

406 Said title is further amended in Code Section 31-7-92, relating to filing of audits by hospital  
 407 authorities, as follows:

408 "31-7-92.

409 All final audits provided for in Code Section 31-7-91 ~~shall be reproduced in sufficient~~  
 410 ~~number and copies of the audit shall be filed with the clerk of the superior court in the~~  
 411 ~~county where any hospital is operated by a hospital authority and in the office of the clerk~~  
 412 ~~of the superior court of any county that is a participating unit of the authority~~ Office of  
 413 Health Strategy and Coordination. ~~In the event any hospital is operated by a municipal~~  
 414 ~~hospital authority, the audit required by this Code section to be filed with the office of the~~  
 415 ~~clerk of the superior court shall be filed in the office of city clerk, clerk of council, clerk~~  
 416 ~~of the board of aldermen, or clerk of the governing body of the municipality, in lieu of~~  
 417 ~~being filed with the clerk of the superior court."~~

418 **SECTION 1-15.**

419 Said title is further amended in Code Section 31-8-154, relating to authorized expenditures  
 420 of contributed funds in the Indigent Care Trust Fund, as follows:

421 "31-8-154.

422 (a) All moneys contributed and revenues deposited and transferred to the trust fund  
 423 pursuant to this article and any interest earned on such moneys shall be appropriated to the  
 424 department for only the following purposes:

- 425 (1) To expand Medicaid eligibility and services;
- 426 (2) For programs to support rural and other health care providers, primarily hospitals,
- 427 who serve the medically indigent;
- 428 (3) For primary health care programs for medically indigent citizens and children of this
- 429 state; or
- 430 (4) Any combination of purposes specified in paragraphs (1) through (3) of this Code
- 431 section.
- 432 (b) No hospital or hospital authority which possesses ownership or interest in any captive
- 433 insurance company domiciled outside of the United States shall be eligible to receive funds
- 434 pursuant to this article; provided, however, that this shall not prevent a hospital or hospital
- 435 authority from possessing ownership in any such company through publicly traded stocks,
- 436 bonds, or other securities."

437 **SECTION 1-16.**

438 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended in

439 Article 2, relating to the powers and duties of the Department of Behavioral Health and

440 Developmental Disabilities, by adding a new Code section to read as follows:

441 "37-1-30.

442 (a) The department shall establish a program to provide state funded mental health

443 assistance for indigent persons in this state.

444 (b) Eligible individuals shall be persons who:

445 (1) Are uninsured and not otherwise eligible for Medicare, Medicaid, or the PeachCare

446 for Kids Program; and

447 (2) Meet income eligibility requirements established by the department.

448 (c) The program shall provide coverage for mental or emotional illnesses, developmental

449 disabilities, and addictive diseases, as determined by the department. The department shall

450 implement and maintain an effective outreach campaign designed to inform Georgians of  
451 the availability of the program.

452 (d) Enrollees shall be required to reimburse the state for certain costs over a period of time  
453 determined by the department pursuant to a sliding scale based on ability to pay.

454 (e) The department shall be authorized to promulgate rules and regulations consistent with  
455 and necessary to carry out the provisions of this Code section.

456 (f) This Code section shall become effective only upon the effective date of a specific  
457 appropriation of funds for purposes of this Act, as expressed in a line item making specific  
458 reference to this Act in a General Appropriations Act enacted by the General Assembly."

459 **SECTION 1-17.**

460 Said title is further amended in Code Section 37-2-6.1, relating to community service boards,  
461 executive director, staff, budget, facilities, powers and duties, and exemption from state and  
462 local taxation, by revising paragraph (3) of subsection (b) as follows:

463 "(3) Each community service board shall provide an adequate range of disability services  
464 as prescribed by the department and shall ensure that such disability services are  
465 prioritized for uninsured consumers and Medicaid recipients over insured consumers;"

466 **SECTION 1-18.**

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

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

471 (1) 'Agency' shall have the same meaning as in Code Section 50-14-1 and shall  
472 additionally include any association, corporation, or other similar organization that has  
473 a membership or ownership body composed primarily of counties, municipal  
474 corporations, or school districts of this state, their officers, or any combination thereof

475 and derives more than 33 1/3 percent of its general operating budget from payments from  
 476 such political subdivisions. Such term shall also include any organization or entity to  
 477 which is leased and transferred hospital assets of a hospital authority through a corporate  
 478 restructuring, and any subsidiaries or foundations established by such organization in  
 479 furtherance of the public mission of the hospital authority.

480 (2) 'Public record' means all documents, papers, letters, maps, books, tapes, photographs,  
 481 computer based or generated information, data, data fields, or similar material prepared  
 482 and maintained or received by an agency or by a private person or entity in the  
 483 performance of a service or function for or on behalf of an agency or when such  
 484 documents have been transferred to a private person or entity by an agency for storage  
 485 or future governmental use."

## 486 PART II

### 487 *Delayed Repeal of Certificate of Need*

#### 488 **SECTION 2-1.**

489 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by  
 490 repealing Chapter 6, relating to state health planning and development, and by designating  
 491 such chapter as reserved.

#### 492 **SECTION 2-2.**

493 Said title is further amended by revising Code Section 31-7-1, relating to definitions relative  
 494 to hospitals and related institutions, as follows:

495 "31-7-1.

496 As used in this chapter, the term:

497 (1) 'Board' means the Board of Community Health.

498 (2) 'Commissioner' means the commissioner of community health.

499 (3) 'Department' means the Department of Community Health.

500 (4) 'Institution' means:

501 (A) Any building, facility, or place in which are provided two or more beds and other  
502 facilities and services that are used for persons received for examination, diagnosis,  
503 treatment, surgery, maternity care, nursing care, assisted living care, or personal care  
504 for periods continuing for 24 hours or longer and which is classified by the department,  
505 as provided for in this chapter, as either a hospital, nursing home, assisted living  
506 community, or personal care home;

507 (B) Any health facility wherein abortion procedures under subsections (b) and (c) of  
508 Code Section 16-12-141 are performed or are to be performed;

509 (C) Any building or facility, not under the operation or control of a hospital, which is  
510 primarily devoted to the provision of surgical treatment to patients not requiring  
511 hospitalization and which is classified by the department as an ambulatory surgical  
512 treatment center;

513 (D) Any fixed or mobile specimen collection center or health testing facility where  
514 specimens are taken from the human body for delivery to and examination in a licensed  
515 clinical laboratory or where certain measurements such as height and weight  
516 determination, limited audio and visual tests, and electrocardiograms are made,  
517 excluding public health services operated by the state, its counties, or municipalities;

518 (E) Any building or facility where human births occur on a regular and ongoing basis  
519 and which is classified by the department as a birthing center;

520 (F) Any building or facility which is devoted to the provision of treatment and  
521 rehabilitative care for periods continuing for 24 hours or longer for persons who have  
522 traumatic brain injury, as defined in Code Section 37-3-1; or

523 (G) Any freestanding imaging center where magnetic resonance imaging, computed  
524 tomography (CT) scanning, positron emission tomography (PET) scanning, positron  
525 emission tomography/computed tomography, and other advanced imaging services as

526 defined by the department by rule, but not including X-rays, fluoroscopy, or ultrasound  
527 services, are conducted in a location or setting not affiliated or attached to a hospital or  
528 in the offices of an individual private physician or single group practice of physicians  
529 and conducted exclusively for patients of that physician or group practice.

530 The term 'institution' shall exclude all physicians' and dentists' private offices and  
531 treatment rooms in which such physicians or dentists primarily see, consult with, and  
532 treat patients.

533 (5) 'Medical facility' means any licensed general hospital, ~~destination~~ general cancer  
534 hospital, or specialty hospital, institutional infirmary, public health center, or diagnostic  
535 and treatment center.

536 (6) 'Permit' means a permit issued by the department upon compliance with the rules and  
537 regulations of the department.

538 (7) 'Provisional permit' means a permit issued on a conditional basis for one of the  
539 following reasons:

540 (A) To allow a newly established institution a reasonable but limited period of time to  
541 demonstrate that its operational procedures equal standards specified by the rules and  
542 regulations of the department; or

543 (B) To allow an existing institution a reasonable length of time to comply with rules  
544 and regulations, provided that the institution shall present a plan of improvement  
545 acceptable to the department.

546 (8) 'Uncompensated indigent or charity care' means the dollar amount of 'net  
547 uncompensated indigent or charity care after direct and indirect (all) compensation' as  
548 defined by, and calculated in accordance with, the department's Hospital Financial Survey  
549 and related instructions.'

550 **SECTION 2-3.**

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

553 "31-7-3.7.

554 (a) As used in this Code section, the term 'uncompensated indigent or charity care' means  
555 the dollar amount of 'net uncompensated indigent or charity care after direct and indirect  
556 (all) compensation' as defined by, and calculated in accordance with, the department's  
557 Hospital Financial Survey and related instructions.

558 (b) The department shall require that any institution permitted to operate in this state agree  
559 to provide uncompensated indigent or charity care in an amount which meets or exceeds  
560 5 percent of its adjusted gross revenues. A grantee or successor in interest of a permit to  
561 operate pursuant to this chapter which violates such an agreement or violates any  
562 conditions imposed by the department relating to such services shall be liable to the  
563 department for a monetary penalty in the following amounts and may be subject to  
564 revocation of its permit to operate by the department pursuant to Code Section 31-7-4:

565 (1) If the amount of services actually provided is between 4.5 percent and 4.99 percent,  
566 a monetary penalty in the amount of 1 percent of its adjusted gross revenues;

567 (2) If the amount of services actually provided is between 4 percent and 4.49 percent, a  
568 monetary penalty in the amount of 2 percent of its adjusted gross revenues;

569 (3) If the amount of services actually provided is between 3.5 percent and 3.99 percent,  
570 a monetary penalty in the amount of 3 percent of its adjusted gross revenues;

571 (4) If the amount of services actually provided is between 3 percent and 3.49 percent, a  
572 monetary penalty in the amount of 4 percent of its adjusted gross revenues;

573 (5) If the amount of services actually provided is between 2.5 percent and 2.99 percent,  
574 a monetary penalty in the amount of 5 percent of its adjusted gross revenues;

575 (6) If the amount of services actually provided is between 2 percent and 2.49 percent, a  
576 monetary penalty in the amount of 6 percent of its adjusted gross revenues;

577 (7) If the amount of services actually provided is between 1.5 percent and 1.99 percent,  
578 a monetary penalty in the amount of 7 percent of its adjusted gross revenues;  
579 (8) If the amount of services actually provided is between 1 percent and 1.49 percent, a  
580 monetary penalty in the amount of 8 percent of its adjusted gross revenues;  
581 (9) If the amount of services actually provided is between 0.5 percent and 0.99 percent,  
582 a monetary penalty in the amount of 9 percent of its adjusted gross revenues; and  
583 (10) If the amount of services actually provided is less than 0.5 percent, a monetary  
584 penalty in the amount of 10 percent of its adjusted gross revenues.  
585 Any penalty so recovered shall be dedicated and deposited by the department into the  
586 Indigent Care Trust Fund created pursuant to Code Section 31-8-152.

587 31-7-3.8.

588 (a) Each institution in this state that is required by the department to provide  
589 uncompensated indigent or charity care pursuant to Code Section 31-7-3.7 shall submit an  
590 annual report of certain health care information to the department. The report shall be due  
591 on the last day of January and shall cover the 12 month period preceding each such  
592 calendar year.

593 (b) The annual report required under subsection (a) of this Code section shall contain the  
594 following information:

595 (1) Total gross revenues;

596 (2) Bad debts;

597 (3) Amounts of free care extended, excluding bad debts;

598 (4) Contractual adjustments;

599 (5) Amounts of care provided under a Hill-Burton commitment;

600 (6) Amounts of charity care provided to indigent persons;

601 (7) Amounts of outside sources of funding from governmental entities, philanthropic  
602 groups, or any other source, including the proportion of any such funding dedicated to the  
603 care of indigent persons; and

604 (8) For cases involving indigent persons:

605 (A) The number of persons treated;

606 (B) The number of inpatients and outpatients;

607 (C) Total patient days;

608 (D) The number of patients categorized by county of residence; and

609 (E) The indigent care costs incurred by the health care facility by county of residence.

610 As used in this subsection, the term 'indigent persons' means persons having as a maximum  
611 allowable income level an amount corresponding to 125 percent of the federal poverty  
612 guideline.

613 (c) The department shall provide a form for the report required by this Code section and  
614 may provide in said form for further categorical divisions of the information listed in  
615 subsection (b) of this Code section.

616 (d)(1) In the event the department does not receive an annual report from an institution,  
617 on or before the date such report was due or receives a timely but incomplete report, the  
618 department shall notify the institution regarding the deficiencies and shall be authorized  
619 to fine such institution an amount not to exceed \$500.00 per day for every day up to 30  
620 days and \$1,000.00 per day for every day over 30 days of such untimely or deficient  
621 report.

622 (2) In the event the department does not receive an annual report from an institution  
623 within 180 days following the date such report was due or receives a timely but  
624 incomplete report which is not completed within such 180 days, the department shall be  
625 authorized to revoke such institution's permit in accordance with Code Section 31-7-4."

626  
627  
628

PART III  
*Conforming Changes*  
**SECTION 3-1.**

629 Said title is further amended in Code Section 31-2-5, relating to the transfer of personnel and  
630 functions to the Department of Community Health, by revising subsection (c) as follows:

631 "(c) The department shall succeed to all rules, regulations, policies, procedures, and  
632 administrative orders of the predecessor agency or unit which were in effect on June 30,  
633 2009, or scheduled to go into effect on or after July 1, 2009, and which relate to the  
634 functions transferred to the department by this chapter. Such rules, regulations, policies,  
635 procedures, and administrative orders shall remain in effect until amended, repealed,  
636 superseded, or nullified by proper authority or as otherwise provided by law. Rules of the  
637 department shall be adopted, promulgated, and implemented as provided in Chapter 13 of  
638 Title 50, the 'Georgia Administrative Procedure Act,' ~~except that only rules promulgated~~  
639 ~~pursuant to Chapter 6 of this title shall be subject to the provisions of Code Section~~  
640 ~~31-6-21.1."~~

641

**SECTION 3-2.**

642 Said title is further amended in Code Section 31-2-7, relating to rules and regulations and  
643 variances and waivers, by revising subsection (b) as follows:

644 "(b) The department upon application or petition may grant variances and waivers to  
645 specific rules and regulations which establish standards for facilities or entities regulated  
646 by the department as follows:

647 (1) The department may authorize departure from the literal requirements of a rule or  
648 regulation by granting a variance upon a showing by the applicant or petitioner that the  
649 particular rule or regulation that is the subject of the variance request should not be  
650 applied as written because strict application would cause undue hardship. The applicant

651 or petitioner additionally must show that adequate standards affording protection of  
652 health, safety, and care exist and will be met in lieu of the exact requirements of the rule  
653 or regulation in question;

654 (2) The department may dispense entirely with the enforcement of a rule or regulation  
655 by granting a waiver upon a showing by the applicant or petitioner that the purpose of the  
656 rule or regulation is met through equivalent standards affording equivalent protection of  
657 health, safety, and care;

658 (3) The department may grant waivers and variances to allow experimentation and  
659 demonstration of new and innovative approaches to delivery of services upon a showing  
660 by the applicant or petitioner that the intended protections afforded by the rule or  
661 regulation which is the subject of the request are met and that the innovative approach has  
662 the potential to improve service delivery;

663 (4) Waivers or variances which affect an entire class of facilities may only be approved  
664 by the Board of Community Health and shall be for a time certain, as determined by the  
665 board. A notice of the proposed variance or waiver affecting an entire class of facilities  
666 shall be made in accordance with the requirements for notice of rule making in Chapter  
667 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

668 (5) Variances or waivers which affect only one facility in a class may be approved or  
669 denied by the department and shall be for a time certain, as determined by the  
670 department. The department shall maintain a record of such action and shall make this  
671 information available to the board and all other persons who request it.

672 ~~This subsection shall not apply to rules adopted by the department pursuant to Code~~  
673 ~~Section 31-6-21.1."~~

674 **SECTION 3-3.**

675 Said title is further amended in Code Section 31-7-3, relating to requirements for permits to  
676 operate institutions, by revising subsection (a) as follows:

677 "(a) Any person or persons responsible for the operation of any institution, or who may  
678 hereafter propose to establish and operate an institution and to provide specified clinical  
679 services, shall submit an application to the department for a permit to operate the institution  
680 and provide such services, with such application to be made on forms prescribed by the  
681 department. No institution shall be operated in this state without such a permit, which shall  
682 be displayed in a conspicuous place on the premises. No clinical services shall be provided  
683 by an institution except as approved by the department in accordance with the rules and  
684 regulations established pursuant to Code Section 31-7-2.1. Failure or refusal to file an  
685 application for a permit shall constitute a violation of this chapter and shall be dealt with  
686 as provided for in Article 1 of Chapter 5 of this title. Following inspection and  
687 classification of the institution for which a permit is applied for, the department may issue  
688 or refuse to issue a permit or a provisional permit. Permits issued shall remain in force and  
689 effect until revoked or suspended; provisional permits issued shall remain in force and  
690 effect for such limited period of time as may be specified by the department. Upon  
691 conclusion of the Atlantic Cardiovascular Patient Outcomes Research Team (C-PORT)  
692 Study, the department shall consider and analyze the data and conclusions of the study and  
693 promulgate rules pursuant to Code Section 31-7-2.1 to regulate the quality of care for  
694 therapeutic cardiac catheterization. All hospitals that participated in the study and are were  
695 exempt from obtaining a certificate of need based on paragraph (22) of subsection (a) of  
696 former Code Section 31-6-47 as it existed on January 1, 2025, shall apply for a permit to  
697 continue providing therapeutic cardiac catheterization services once the department  
698 promulgates the rules required by this Code section."

699 **SECTION 3-4.**

700 Said title is further amended in Code Section 31-7-75, relating to the functions and powers  
701 of county and municipal hospital authorities, by revising paragraph (24) as follows:

702 "(24) To provide management, consulting, and operating services including, but not  
703 limited to, administrative, operational, personnel, and maintenance services to another  
704 hospital authority, hospital, health care facility, ~~as said term is defined in Chapter 6 of this~~  
705 ~~title~~, person, firm, corporation, or any other entity or any group or groups of the  
706 foregoing; to enter into contracts alone or in conjunction with others to provide such  
707 services without regard to the location of the parties to such transactions; to receive  
708 management, consulting, and operating services including, but not limited to,  
709 administrative, operational, personnel, and maintenance services from another such  
710 hospital authority, hospital, health care facility, person, firm, corporation, or any other  
711 entity or any group or groups of the foregoing; and to enter into contracts alone or in  
712 conjunction with others to receive such services without regard to the location of the  
713 parties to such transactions;"

714 **SECTION 3-5.**

715 Said title is further amended in Code Section 31-7-94.1, the "Rural Hospital Assistance Act,"  
716 by revising paragraph (1) of subsection (e) as follows:

717 "(1) Infrastructure development, including, without being limited to, health information  
718 technology, facility renovation, or equipment acquisition; provided, however, that ~~the~~  
719 ~~amount granted to any qualified hospital may not exceed the expenditure thresholds that~~  
720 ~~would constitute a new institutional health service requiring a certificate of need under~~  
721 ~~Chapter 6 of this title~~ and the grant award may be conditioned upon obtaining local  
722 matching funds;"

723 **SECTION 3-6.**

724 Said title is further amended in Code Section 31-7-116, relating to provisions contained in  
725 obligations and security for obligations, procedures for issuance of bonds and bond

726 anticipation notes, interest rates, and limitations and conditions, by revising subsection (i)  
727 as follows:

728 "(i) No bonds or bond anticipation notes except refunding bonds shall be issued by an  
729 authority under this article unless its board of directors ~~shall adopt~~ adopts a resolution  
730 finding that the project for which such bonds or notes are to be issued will promote the  
731 objectives stated in subsection (b) of Code Section 31-7-111 and will increase or maintain  
732 employment in the territorial area of such authority. Nothing contained in this Code  
733 section shall be construed as permitting any authority created under this article or any  
734 qualified sponsor to finance, construct, or operate any project without obtaining any  
735 ~~certificate of need or other~~ approval, permit, or license which, under the laws of this state,  
736 is required in connection therewith."

737 **SECTION 3-7.**

738 Said title is further amended by revising Code Section 31-7-155, relating to certificates of  
739 need for new service or extending service area and exemption from certificate, as follows:

740 "31-7-155.

741 ~~(a) No home health agency initiating service or extending the range of its service area shall~~  
742 ~~be licensed unless the department determines, in accordance with Article 3 of Chapter 6~~  
743 ~~of this title and regulations pursuant thereto, that there is a need for said services within the~~  
744 ~~area to be served. All home health agencies which were delivering services prior to July~~  
745 ~~1, 1979, and were certified for participation in either Title XVIII or Title XIX of the federal~~  
746 ~~Social Security Act prior to such date shall be exempt from a certificate of need, except in~~  
747 ~~those instances where expansion of services or service areas is requested by such home~~  
748 ~~health agencies. Such exemption from a certificate of need shall extend to all areas in~~  
749 ~~which a home health agency was licensed by the department to provide services on or~~  
750 ~~before December 31, 1989, except as provided in subsection (b) of this Code section.~~

751 ~~(b) Concerning an exemption from a certificate of need pursuant to subsection (a) of this~~  
 752 ~~Code section, service areas which were the subject of litigation pending in any court of~~  
 753 ~~competent jurisdiction, whether by way of appeal, remand, stay, or otherwise, as of~~  
 754 ~~December 31, 1989, shall not be so exempt except as set forth in the final unappealed~~  
 755 ~~administrative or judicial decision rendered in such litigation.~~

756 ~~(c) Except with respect to a home health agency's service areas which were the subject of~~  
 757 ~~litigation pending in any court of competent jurisdiction as of December 31, 1989, the~~  
 758 ~~department shall not consider any request for or issue a determination of an exemption~~  
 759 ~~from a certificate of need pursuant to this Code section after December 31, 1989.~~  
 760 Reserved."

### 761 **SECTION 3-8.**

762 Said title is further amended by repealing in its entirety Code Section 31-7-179, relating to  
 763 certificate of need not required for hospice care.

### 764 **SECTION 3-9.**

765 Said title is further amended by revising Code Section 31-7-307, relating to certificate of  
 766 need not required of private home care provider licensees, as follows:

767 "31-7-307.

768 ~~(a) A certificate of need issued pursuant to Chapter 6 of this title is not required for any~~  
 769 ~~person, business entity, corporation, or association, whether operated for profit or not for~~  
 770 ~~profit, which is operating as a private home care provider as long as such operation does~~  
 771 ~~not also constitute such person, entity, or organization operating as a home health agency~~  
 772 ~~or personal care home under this chapter.~~

773 ~~(b) A license issued under this article shall not entitle the licensee to operate as a home~~  
 774 ~~health agency, as defined in Code Section 31-7-150, under ~~medicare~~ Medicare or Medicaid~~  
 775 ~~guidelines."~~

776 **SECTION 3-10.**

777 Said title is further amended by revising Code Section 31-8-153.1, relating to irrevocable  
778 transfer of funds to trust fund and provision for indigent patients, as follows:

779 "31-8-153.1.

780 After June 30, 1993, any hospital authority, county, municipality, or other state or local  
781 public or governmental entity is authorized to transfer moneys to the trust fund. Transfer  
782 of funds under the control of a hospital authority, county, municipality, or other state or  
783 local public or governmental entity shall be a valid public purpose for which those funds  
784 may be expended. The department is authorized to transfer to the trust fund moneys paid  
785 to the state by a health care facility as a monetary penalty for the violation of an agreement  
786 to provide a specified amount of ~~clinical health services to indigent patients~~ uncompensated  
787 indigent or charity care pursuant to a ~~certificate of need~~ license held by such facility. Such  
788 transfers shall be irrevocable and shall be used only for the purposes contained in Code  
789 Section 31-8-154."

790 **SECTION 3-11.**

791 Said title is further amended by revising Code Section 31-8-181, relating to individuals and  
792 hospitals excluded from application of article, as follows:

793 "31-8-181.

794 This article shall not apply to the following:

795 (1) An individual licensed to practice medicine under the provisions of Chapter 34 of  
796 Title 43, and persons employed by such an individual, provided that any nursing home,  
797 personal care home as defined by Code Section ~~31-6-2~~ 31-7-12, hospice as defined by  
798 Code Section 31-7-172, respite care service as defined by Code Section 49-6-72, adult  
799 day program, or home health agency owned, operated, managed, or controlled by a  
800 person licensed to practice medicine under the provisions of Chapter 34 of Title 43 shall  
801 be subject to the provisions of this article; or

802 (2) A hospital. However, to the extent that a hospital's nursing home, personal care  
 803 home as defined by Code Section ~~31-6-2~~ 31-7-12, hospice as defined by Code Section  
 804 31-7-172, respite care service as defined by Code Section 49-6-72, adult day program,  
 805 or home health agency holds itself out as providing care, treatment, or therapeutic  
 806 activities for persons with Alzheimer's disease or Alzheimer's related dementia as part of  
 807 a specialty unit, such nursing home, personal care home, hospice, respite care service,  
 808 adult day program, or home health agency shall be subject to the provisions of this  
 809 article."

### 810 SECTION 3-12.

811 Said title is further amended in Code Section 31-11-100, relating to definitions relative to the  
 812 Georgia Trauma Care Network Commission, by revising paragraph (3) as follows:

813 "(3) 'Trauma center' means a facility designated by the Department of Public Health as  
 814 a Level I, II, III, or IV or burn trauma center. However, a burn trauma center shall not  
 815 be considered or treated as a trauma center ~~for purposes of certificate of need~~  
 816 ~~requirements under state law or regulations, including exceptions to need and adverse~~  
 817 ~~impact standards allowed by the department for trauma centers or~~ for purposes of  
 818 identifying safety net hospitals."

### 819 SECTION 3-13.

820 Code Section 33-45-1 of the Official Code of Georgia Annotated, relating to definitions  
 821 relative to continuing care providers and facilities, is amended by revising paragraphs (1),  
 822 (8), and (15) as follows:

823 "(1) 'Continuing care' means furnishing pursuant to a continuing care agreement:

824 (A) Lodging that is not:

825 (i) In a skilled nursing facility, as such term is defined in ~~Code Section 31-6-2~~ Code  
 826 Section 31-7-1;

- 827 (ii) An intermediate care facility, as such term is defined in ~~Code Section 31-6-2~~  
 828 Code Section 31-7-1;
- 829 (iii) An assisted living community, as such term is defined in Code Section  
 830 31-7-12.2; or
- 831 (iv) A personal care home, as such term is defined in Code Section 31-7-12;
- 832 (B) Food; and
- 833 (C) Nursing care provided in a facility or in another setting designated by the  
 834 agreement for continuing care to an individual not related by consanguinity or affinity  
 835 to the provider furnishing such care upon payment of an entrance fee including skilled  
 836 or intermediate nursing services and, at the discretion of the continuing care provider,  
 837 personal care services including, without limitation, assisted living care services  
 838 designated by the continuing care agreement, including such services being provided  
 839 pursuant to a contract to ensure the availability of such services to an individual not  
 840 related by consanguinity or affinity to the provider furnishing such care upon payment  
 841 of an entrance fee.
- 842 Such term shall not include continuing care at home."
- 843 "(8) 'Limited continuing care' means furnishing pursuant to a continuing care agreement:
- 844 (A) Lodging that is not:
- 845 (i) In a skilled nursing facility, as such term is defined in ~~Code Section 31-6-2~~ Code  
 846 Section 31-7-1;
- 847 (ii) An intermediate care facility, as such term is defined in ~~Code Section 31-6-2~~  
 848 Code Section 31-7-1;
- 849 (iii) An assisted living community, as such term is defined in Code Section  
 850 31-7-12.2; or
- 851 (iv) A personal care home, as such term is defined in Code Section 31-7-12;
- 852 (B) Food; and

853 (C) Personal services, whether such personal services are provided in a facility such  
 854 as a personal care home or an assisted living community or in another setting  
 855 designated by the continuing care agreement, to an individual not related by  
 856 consanguinity or affinity to the provider furnishing such care upon payment of an  
 857 entrance fee.

858 Such term shall not include continuing care at home."

859 "(15) 'Residential unit' means a residence or apartment in which a resident lives that is  
 860 not a skilled nursing facility as defined in ~~Code Section 31-6-2~~ Code Section 31-7-1, an  
 861 intermediate care facility as defined in ~~Code Section 31-6-2~~ Code Section 31-7-1, an  
 862 assisted living community as defined in Code Section 31-7-12.2, or a personal care home  
 863 as defined in Code Section 31-7-12."

864 **SECTION 3-14.**

865 Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificate of  
 866 authority required for operation of continuing care facilities, is amended by revising  
 867 subsection (b) as follows:

868 "(b) Nothing in this chapter shall be construed so as to modify or limit in any way:

869 ~~(1) Provisions of Article 3 of Chapter 6 of Title 31 and any rules and regulations~~  
 870 ~~promulgated by the Department of Community Health pursuant to such article relating~~  
 871 ~~to certificates of need for life plan communities or home health agencies, as such terms~~  
 872 ~~are defined in Code Section 31-6-2; or~~

873 ~~(2) Provisions~~ provisions of Chapter 7 of Title 31 relating to licensure or permit  
 874 requirements and any rules and regulations promulgated by the Department of  
 875 Community Health pursuant to such chapter, including, without limitation, licensure or  
 876 permit requirements for nursing home care, assisted living care, personal care home  
 877 services, home health services, and private home care services."

878 **SECTION 3-15.**

879 Code Section 33-45-7.1 of the Official Code of Georgia Annotated, relating to provider  
880 authorized to offer continuing care when resident purchases resident owned living unit, is  
881 amended as follows:

882 "33-45-7.1.

883 A provider which has obtained a certificate of authority pursuant to Code Section 33-45-5  
884 and the written approval of the Commissioner is authorized to offer, as a part of the  
885 continuing care agreement, continuing care at home or continuing care in which the  
886 resident purchases a resident owned living unit, subject to the provisions of ~~Chapters 6 and~~  
887 Chapter 7 of Title 31 and rules and regulations promulgated by the Department of  
888 Community Health pursuant to such chapters relating to certificate of need and licensure  
889 requirements."

890 **SECTION 3-16.**

891 Code Section 37-1-29 of the Official Code of Georgia Annotated, relating to crisis  
892 stabilization units, is amended by revising subsection (j) as follows:

893 "~~(j) Any program certified as a crisis stabilization unit pursuant to this Code section shall~~  
894 ~~be exempt from the requirements to obtain a certificate of need pursuant to Article 3 of~~  
895 ~~Chapter 6 of Title 31. Reserved.~~"

896 **SECTION 3-17.**

897 Code Section 43-26-7 of the Official Code of Georgia Annotated, relating to requirements  
898 for licensure as a registered professional nurse, is amended by revising paragraph (4) of  
899 subsection (c) as follows:

900 "(4)(A)(i) Meet continuing competency requirements as established by the board;

901 ~~(B)(ii)~~ (ii) If the applicant entered a nontraditional nursing education program as a  
902 licensed practical nurse whose academic education as a licensed practical nurse

903 included clinical training in pediatrics, obstetrics and gynecology, medical-surgical,  
904 and mental illness, ~~have~~ has practiced nursing as a registered professional nurse in a  
905 health care facility for at least one year in the three years preceding the date of the  
906 application, and such practice is documented by the applicant and approved by the  
907 board; provided, however, that for an applicant who does not meet the experience  
908 requirement of this subparagraph, the board shall require the applicant to complete a  
909 320 hour postgraduate preceptorship arranged by the applicant under the oversight of  
910 a registered nurse where such applicant is transitioned into the role of a registered  
911 professional nurse. The preceptorship shall have prior approval of the board, and  
912 successful completion of the preceptorship shall be verified in writing by the  
913 preceptor; or

914 ~~(C)~~(iii) If the applicant entered a nontraditional nursing education program as  
915 anything other than a licensed practical nurse whose academic education as a licensed  
916 practical nurse included clinical training in pediatrics, obstetrics and gynecology,  
917 medical-surgical, and mental illness, ~~have~~ has graduated from such program and  
918 practiced nursing as a registered professional nurse in a health care facility for at least  
919 two years in the five years preceding the date of the application, and such practice is  
920 documented by the applicant and approved by the board; provided, however, that for  
921 an applicant who does not meet the experience requirement of this subparagraph, the  
922 board shall require the applicant to complete a postgraduate preceptorship of at least  
923 480 hours but not more than 640 hours, as determined by the board, arranged by the  
924 applicant under the oversight of a registered professional nurse where such applicant  
925 is transitioned into the role of a registered professional nurse. The preceptorship shall  
926 have prior approval of the board, and successful completion of the preceptorship shall  
927 be verified in writing by the preceptor.

928 (B) For purposes of this paragraph, the term 'health care facility' means an acute care  
929 inpatient facility, a long-term acute care facility, an ambulatory surgical center or

930 obstetrical facility as defined in Code Section ~~31-6-2~~ 31-7-1, and a skilled nursing  
931 facility, so long as such skilled nursing facility has 100 beds or more and provides  
932 health care to patients with similar health care needs as those patients in a long-term  
933 acute care facility;"

934 **SECTION 3-18.**

935 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to the  
936 applicability of the Administrative Procedure Act, is amended by revising subsection (a) as  
937 follows:

938 "(a) In addition to those agencies expressly exempted from the operation of this chapter  
939 under paragraph (1) of Code Section 50-13-2, this article shall not apply to the  
940 Commissioner of Agriculture, the Public Service Commission, ~~the Certificate of Need~~  
941 ~~Appeal Panel~~, or the Department of Community Health, unless specifically provided  
942 otherwise for certain programs or in relation to specific laws, or to the Department of Labor  
943 with respect to unemployment insurance benefit hearings conducted under the authority of  
944 Chapter 8 of Title 34. Such exclusion does not prohibit such office or agencies from  
945 contracting with the Office of State Administrative Hearings on a case-by-case basis."

946 **SECTION 3-19.**

947 Code Section 50-26-19 of the Official Code of Georgia Annotated, relating to financing  
948 acquisition, construction, and equipping of health care facilities, is amended by repealing  
949 subsection (c).

950

## PART IV

951

*Effective Dates and Repealer*

952

**SECTION 4-1.**

953 (a) Parts I and IV of this Act shall become effective on January 1, 2023.

954 (b) Parts II and III of this Act shall become effective on January 1, 2025.

955

**SECTION 4-2.**

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