

Senate Bill 162

By: Senators Watson of the 1st, Dolezal of the 27th, Kirkpatrick of the 32nd, Brass of the 28th, Albers of the 56th and others

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 eliminate certificate of need requirements for all health care facilities except certain
3 long-term care facilities and services; to provide for a special health care services license for
4 other health care facilities and services; to provide for definitions; to provide for
5 requirements; to provide for exceptions; to provide for applications; to provide for notice and
6 timely objections; to require the provision of indigent and charity care and Medicaid
7 services; to provide for revocation; to require annual reports; to provide for rules and
8 regulations; to provide for transition and grandfather provisions; to provide for the posting
9 of certain documents on hospital websites; to amend Code Section 50-18-70 of the Official
10 Code of Georgia Annotated, relating to legislative intent and definitions relative to open
11 records laws, so as to revise definitions; to amend other provisions in various titles of the
12 Official Code of Georgia Annotated for purposes of conformity; to provide for related
13 matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15

PART I

16

SECTION 1-1.

17 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
18 Chapter 6, relating to state health planning and development, as follows:

19

"CHAPTER 6

20

ARTICLE 1

21 31-6-1.

22 The policy of this state and the purposes of this chapter are to ensure access to quality
23 ~~health~~ long-term care services and to ensure that long-term health care services and
24 facilities are developed in an orderly and economical manner and are made available to all
25 citizens and that only those long-term health care services found to be in the public interest
26 shall be provided in this state. To achieve such public policy and purposes, it is essential
27 that appropriate health planning activities be undertaken and implemented and that a
28 system of mandatory review of new institutional health services be provided. Long-term
29 health ~~Health~~ care services and facilities should be provided in a manner that avoids
30 unnecessary duplication of services, that is cost effective, that provides quality health care
31 services, and that is compatible with the long-term health care needs of the various areas
32 and populations of the state.

33 31-6-2.

34 As used in this chapter, the term:

35 (1) ~~'Ambulatory surgical center or obstetrical facility' means a public or private facility,~~
36 ~~not a part of a hospital, which provides surgical or obstetrical treatment performed under~~

37 ~~general or regional anesthesia in an operating room environment to patients not requiring~~
38 ~~hospitalization.~~

39 ~~(2)(1)~~ 'Application' means a written request for a certificate of need made to the
40 department, containing such documentation and information as the department may
41 require.

42 ~~(3)~~ 'Basic perinatal services' means providing basic inpatient care for pregnant women
43 ~~and newborns without complications; managing perinatal emergencies; consulting with~~
44 ~~and referring to specialty and subspecialty hospitals; identifying high-risk pregnancies;~~
45 ~~providing follow-up care for new mothers and infants; and providing public/community~~
46 ~~education on perinatal health.~~

47 ~~(4)(2)~~ 'Bed capacity' means space used exclusively for inpatient care, including space
48 designed or remodeled for inpatient beds even though temporarily not used for such
49 purposes. The number of beds to be counted in any patient room shall be the maximum
50 number for which adequate square footage is provided as established by rules of the
51 department, except that single beds in single rooms shall be counted even if the room
52 contains inadequate square footage.

53 ~~(5)(3)~~ 'Board' means the Board of Community Health.

54 ~~(6)(4)~~ 'Certificate of need' means an official finding by the department, evidenced by
55 certification issued pursuant to an application, that the action proposed in the application
56 satisfies and complies with the criteria contained in this chapter and rules promulgated
57 pursuant hereto.

58 ~~(7)(5)~~ 'Certificate of Need Appeal Panel' or 'appeal panel' means the panel of
59 independent hearing officers created pursuant to Code Section 31-6-44 to conduct appeal
60 hearings.

61 ~~(8)(6)~~ 'Clinical health services' means diagnostic, treatment, or rehabilitative services
62 provided in a health care facility and includes, ~~but is not limited to, the following:~~
63 ~~radiology and diagnostic imaging, such as magnetic resonance imaging and positron~~

64 emission tomography (PET); radiation therapy; biliary lithotripsy; surgery; intensive care;
 65 coronary care; pediatrics; gynecology; obstetrics; general medical care; medical-surgical
 66 care; inpatient nursing care, whether intermediate, skilled, or extended care; cardiac
 67 catheterization; open heart surgery; inpatient rehabilitation; and alcohol, drug abuse, and
 68 mental health services.

69 ~~(9)~~(7) 'Commissioner' means the commissioner of community health.

70 ~~(10)~~ 'Consumer' means a person who is not employed by any health care facility or
 71 provider and who has no financial or fiduciary interest in any health care facility or
 72 provider.

73 ~~(11)~~ Reserved.

74 ~~(12)~~(8) 'Department' means the Department of Community Health established under
 75 Chapter 2 of this title.

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

81 ~~(14)~~(9) 'Develop,' with reference to a project, means constructing, remodeling, installing,
 82 or proceeding with a project, or any part of a project, or a capital expenditure project, the
 83 cost estimate for which exceeds \$10 million \$3,068,601.00. ~~Notwithstanding the~~
 84 ~~provisions of this paragraph,~~ The dollar amount specified in this paragraph shall be
 85 adjusted annually by an amount calculated by the department to reflect inflation, which
 86 may be calculated by multiplying such dollar amount, as adjusted for the preceding year,
 87 by the annual percentage of change in the composite index of construction material
 88 prices, or its successor or appropriate replacement index, if any, published by the United
 89 States Department of Commerce for the preceding calendar year, commencing on
 90 July 1, 2023, and on each anniversary thereafter of the publication of the index. The

91 department shall immediately institute rule-making procedures to adopt such adjusted
92 dollar amounts. In calculating the dollar amount of a proposed project for purposes of
93 this paragraph, the costs of all items subject to review by this chapter and items not
94 subject to review by this chapter associated with and simultaneously developed or
95 proposed with the project shall be counted; provided, however, that the expenditure or
96 commitment or incurring an obligation for the expenditure of funds to develop certificate
97 of need applications, studies, reports, schematics, preliminary plans and specifications,
98 or working drawings or to acquire, develop, or prepare sites shall not be considered to be
99 the developing of a project.

100 ~~(15) 'Diagnostic imaging' means magnetic resonance imaging, computed tomography~~
101 ~~(CT) scanning, positron emission tomography (PET) scanning, positron emission~~
102 ~~tomography/computed tomography, and other advanced imaging services as defined by~~
103 ~~the department by rule, but such term shall not include X-rays, fluoroscopy, or ultrasound~~
104 ~~services.~~

105 ~~(16) 'Diagnostic, treatment, or rehabilitation center' means any professional or business~~
106 ~~undertaking, whether for profit or not for profit, which offers or proposes to offer any~~
107 ~~clinical health service in a setting which is not part of a hospital; provided, however, that~~
108 ~~any such diagnostic, treatment, or rehabilitation center that offers or proposes to offer~~
109 ~~surgery in an operating room environment and to allow patients to remain more than 23~~
110 ~~hours shall be considered a hospital for purposes of this chapter.~~

111 ~~(16.1) 'General cancer hospital' means an institution which was an existing and approved~~
112 ~~destination cancer hospital as of January 1, 2019; has obtained final certificate of need~~
113 ~~approval for conversion from a destination cancer hospital to a general cancer hospital~~
114 ~~in accordance with Code Section 31-6-40.3; and offers inpatient and outpatient~~
115 ~~diagnostic, therapeutic, treatment, and rehabilitative cancer care services or other services~~
116 ~~to diagnose or treat co-morbid medical conditions or diseases of cancer patients so long~~
117 ~~as such services do not result in the offering of any new or expanded clinical health~~

118 ~~service that would require a certificate of need under this chapter unless a certificate of~~
119 ~~need or letter of determination has been obtained for such new or expanded services.~~

120 ~~(17)(10) 'Health care facility' means hospitals, destination cancer hospitals, other special~~
121 ~~care units, including but not limited to podiatric facilities; skilled nursing facilities;~~
122 ~~intermediate care facilities; personal care homes; ambulatory surgical centers or~~
123 ~~obstetrical facilities; freestanding emergency departments or facilities not located on a~~
124 ~~hospital's primary campus; health maintenance organizations; and home health agencies;~~
125 ~~and diagnostic, treatment, or rehabilitation centers, but only to the extent paragraph (3)~~
126 ~~or (7), or both paragraphs (3) and (7), of subsection (a) of Code Section 31-6-40 are~~
127 ~~applicable thereto.~~

128 ~~(18) 'Health maintenance organization' means a public or private organization organized~~
129 ~~under the laws of this state which:~~

130 ~~(A) Provides or otherwise makes available to enrolled participants health care services,~~
131 ~~including at least the following basic health care services: usual physicians' services,~~
132 ~~hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area~~
133 ~~coverage;~~

134 ~~(B) Is compensated, except for copayments, for the provision of the basic health care~~
135 ~~services listed in subparagraph (A) of this paragraph to enrolled participants on a~~
136 ~~predetermined periodic rate basis; and~~

137 ~~(C) Provides physicians' services primarily:~~

138 ~~(i) Directly through physicians who are either employees or partners of such~~
139 ~~organization; or~~

140 ~~(ii) Through arrangements with individual physicians organized on a group practice~~
141 ~~or individual practice basis.~~

142 ~~(19) 'Health Strategies Council' or 'council' means the body created by this chapter to~~
143 ~~advise the department.~~

144 ~~(20)~~(11) 'Home health agency' means a public agency or private organization, or a
145 subdivision of such an agency or organization, which is primarily engaged in providing
146 to individuals who are under a written plan of care of a physician, on a visiting basis in
147 the places of residence used as such individuals' homes, part-time or intermittent nursing
148 care provided by or under the supervision of a registered professional nurse, and one or
149 more of the following services:

150 (A) Physical therapy;

151 (B) Occupational therapy;

152 (C) Speech therapy;

153 (D) Medical social services under the direction of a physician; or

154 (E) Part-time or intermittent services of a home health aide.

155 ~~(21)~~ 'Hospital' means an institution which is primarily engaged in providing to inpatients,
156 by or under the supervision of physicians, diagnostic services and therapeutic services for
157 medical diagnosis, treatment, and care of injured, disabled, or sick persons or
158 rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such
159 term includes public, private, psychiatric, rehabilitative, geriatric, osteopathic,
160 micro-hospitals, general cancer hospitals, and other specialty hospitals:

161 ~~(22)~~(12) 'Intermediate care facility' means an institution which provides, on a regular
162 basis, health related care and services to individuals who do not require the degree of care
163 and treatment which a hospital or skilled nursing facility is designed to provide but who,
164 because of their mental or physical condition, require health related care and services
165 beyond the provision of room and board.

166 ~~(23)~~ 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical
167 center that is jointly owned by a hospital in the same county as the center or a hospital in
168 a contiguous county if there is no hospital in the same county as the center and a single
169 group of physicians practicing in the center and that provides surgery in a single specialty
170 as defined by the department; provided, however, that general surgery, a group practice

171 ~~which includes one or more psychiatrists who perform services that are reasonably related~~
172 ~~to the surgical procedures performed in the center, and a group practice in orthopedics~~
173 ~~which includes plastic hand surgeons with a certificate of added qualifications in Surgery~~
174 ~~of the Hand from the American Board of Plastic and Reconstructive Surgery shall be~~
175 ~~considered a single specialty. The ownership interest of the hospital shall be no less than~~
176 ~~30 percent and the collective ownership of the physicians or group of physicians shall be~~
177 ~~no less than 30 percent.~~

178 ~~(23.1)~~(13) 'Life plan community' means an organization, whether operated for profit or
179 not, whose owner or operator undertakes to provide shelter, food, and either nursing care
180 or personal services, whether such nursing care or personal services are provided in the
181 facility or in another setting, and other services, as designated by agreement, to an
182 individual not related by consanguinity or affinity to such owner or operator providing
183 such care pursuant to an agreement for a fixed or variable fee, or for any other
184 remuneration of any type, whether fixed or variable, for the period of care, payable in a
185 lump sum, lump sum and monthly maintenance charges or in installments. Agreements
186 to provide continuing care include agreements to provide care for any duration, including
187 agreements that are terminable by either party.

188 ~~(23.2)~~ 'Micro-hospital' means a hospital in a rural county which has at least two and not
189 more than seven inpatient beds and which provides emergency services seven days per
190 week and 24 hours per day.

191 ~~(24)~~ 'New and emerging health care service' means a health care service or utilization of
192 medical equipment which has been developed and has become acceptable or available for
193 implementation or use but which has not yet been addressed under the rules and
194 regulations promulgated by the department pursuant to this chapter.

195 ~~(25)~~ 'Nonclinical health services' means services or functions provided or performed by
196 a health care facility, and the parts of the physical plant where they are located in a health

197 ~~care facility that are not diagnostic, therapeutic, or rehabilitative services to patients and~~
198 ~~are not clinical health services defined in this chapter.~~

199 ~~(26)~~(14) 'Offer' means that the health care facility is open for the acceptance of patients
200 or performance of services and has qualified personnel, equipment, and supplies
201 necessary to provide specified clinical health services.

202 ~~(27)~~ 'Operating room environment' means an environment which meets the minimum
203 physical plant and operational standards specified in the rules of the department which
204 shall consider and use the design and construction specifications as set forth in the
205 *Guidelines for Design and Construction of Health Care Facilities* published by the
206 American Institute of Architects.

207 ~~(28)~~ 'Pediatric cardiac catheterization' means the performance of angiographic,
208 physiologic, and, as appropriate, therapeutic cardiac catheterization on children 14 years
209 of age or younger.

210 ~~(29)~~(15) 'Person' means any individual, trust or estate, partnership, limited liability
211 company or partnership, corporation (including associations, joint-stock companies, and
212 insurance companies), state, political subdivision, hospital authority, or instrumentality
213 (including a municipal corporation) of a state as defined in the laws of this state. This
214 term shall include all related parties, including individuals, business corporations, general
215 partnerships, limited partnerships, limited liability companies, limited liability
216 partnerships, joint ventures, nonprofit corporations, or any other for profit or not for profit
217 entity that owns or controls, is owned or controlled by, or operates under common
218 ownership or control with a person.

219 ~~(30)~~(16) 'Personal care home' means a residential facility that is certified as a provider
220 of medical assistance for Medicaid purposes pursuant to Article 7 of Chapter 4 of Title
221 49 having at least 25 beds and providing, for compensation, protective care and oversight
222 of ambulatory, nonrelated persons who need a monitored environment but who do not
223 have injuries or disabilities which require chronic or convalescent care, including

224 medical, nursing, or intermediate care. Personal care homes include those facilities
225 which monitor daily residents' functioning and location, have the capability for crisis
226 intervention, and provide supervision in areas of nutrition, medication, and provision of
227 transient medical care. Such term does not include:

228 (A) Old age residences which are devoted to independent living units with kitchen
229 facilities in which residents have the option of preparing and serving some or all of their
230 own meals; or

231 (B) Boarding facilities which do not provide personal care.

232 ~~(30.1) 'Primary campus' means the building at which the majority of a hospital's or a~~
233 ~~remote location of a hospital's licensed and operational inpatient hospital beds are~~
234 ~~located, and includes the health care facilities of such hospital within 1,000 yards of such~~
235 ~~building. Any health care facility operated under a hospital's license prior to July 1, 2019,~~
236 ~~but not on the hospital's primary campus shall remain part of such hospital but shall not~~
237 ~~constitute such hospital's primary campus unless otherwise meeting the requirements of~~
238 ~~this paragraph.~~

239 ~~(31)(17)~~ (17) 'Project' means a proposal to take an action for which a certificate of need is
240 required under this chapter. A project or proposed project may refer to the proposal from
241 its earliest planning stages up through the point at which the new institutional health
242 service is offered.

243 ~~(31.1) 'Remote location of a hospital' means a hospital facility or organization that is~~
244 ~~either created by, or acquired by, a hospital that is the main provider for the purpose of~~
245 ~~furnishing inpatient hospital services under the name, ownership, and financial and~~
246 ~~administrative control of the main provider.~~

247 ~~(32) 'Rural county' means a county having a population of less than 50,000 according to~~
248 ~~the United States decennial census of 2010 or any future such census.~~

249 ~~(33) 'Single specialty ambulatory surgical center' means an ambulatory surgical center~~
250 ~~where surgery is performed in the offices of an individual private physician or single~~

251 ~~group practice of private physicians if such surgery is performed in a facility that is~~
252 ~~owned, operated, and utilized by such physicians who also are of a single specialty;~~
253 ~~provided, however, that general surgery, a group practice which includes one or more~~
254 ~~physiatrists who perform services that are reasonably related to the surgical procedures~~
255 ~~performed in the center, and a group practice in orthopedics which includes plastic hand~~
256 ~~surgeons with a certificate of added qualifications in Surgery of the Hand from the~~
257 ~~American Board of Plastic and Reconstructive Surgery shall be considered a single~~
258 ~~specialty.~~

259 ~~(34)(18) 'Skilled nursing facility' means a public or private institution or a distinct part~~
260 ~~of an institution which is primarily engaged in providing inpatient skilled nursing care~~
261 ~~and related services for patients who require medical or nursing care or rehabilitation~~
262 ~~services for the rehabilitation of injured, disabled, or sick persons.~~

263 ~~(35) 'Specialty hospital' means a hospital that is primarily or exclusively engaged in the~~
264 ~~care and treatment of one of the following: patients with a cardiac condition, patients with~~
265 ~~an orthopedic condition, patients receiving a surgical procedure, or patients receiving any~~
266 ~~other specialized category of services defined by the department. A 'specialty hospital'~~
267 ~~does not include a destination cancer hospital or a general cancer hospital.~~

268 ~~(36)(19) 'State health plan' means a comprehensive program based on recommendations~~
269 ~~by the Health Strategies Council and the board, approved by the Governor, and~~
270 ~~implemented by the State of Georgia for the purpose of providing adequate long-term~~
271 ~~health care services and facilities throughout the state.~~

272 ~~(37)(20) 'Uncompensated indigent or charity care' means the dollar amount of 'net~~
273 ~~uncompensated indigent or charity care after direct and indirect (all) compensation' as~~
274 ~~defined by, and calculated in accordance with, the department's Hospital Financial Survey~~
275 ~~and related instructions.~~

276 ~~(38) 'Urban county' means a county having a population equal to or greater than 50,000~~
277 ~~according to the United States decennial census of 2010 or any future such census.~~

278 ~~31-6-3.~~

279 ~~(a) As used in this Code section, the term 'medical use rights' means rights or interests in~~
280 ~~real property in which the owner of the property has agreed not to sell or lease such real~~
281 ~~property for identified medical uses or purposes.~~

282 ~~(b) It shall be unlawful for any health care facility to purchase, renew, extend, lease,~~
283 ~~maintain, or hold medical use rights.~~

284 ~~(c) This Code section shall not be construed to impair any contracts in existence as of July~~
285 ~~1, 2019.~~

286 ARTICLE 2

287 31-6-20.

288 Reserved.

289 31-6-21.

290 (a) The Department of Community Health, established under Chapter 2 of this title, is
291 authorized to administer the certificate of need program established under this chapter and,
292 within the appropriations made available to the department by the General Assembly of
293 Georgia and consistently with the laws of the State of Georgia, a state health plan adopted
294 by the board. The department shall provide, by rule, for procedures to administer its
295 functions until otherwise provided by the board.

296 (b) The functions of the department shall be:

297 (1) To conduct the health planning activities of the state and to implement those parts of
298 the state health plan which relate to the government of the state;

299 (2) To prepare and revise a draft state health plan with recommendations from technical
300 advisory committees;

301 ~~(3) To seek advice, at its discretion, from technical advisory committees in the~~
302 ~~performance by the department of its functions pursuant to this chapter;~~
303 ~~(4)(3) To adopt, promulgate, and implement rules and regulations sufficient to administer~~
304 ~~the provisions of this chapter including the certificate of need program;~~
305 ~~(5)(4) To define, by rule, the form, content, schedules, and procedures for submission~~
306 ~~of applications for certificates of need, other determinations, and periodic reports;~~
307 ~~(6)(5) To establish time periods and procedures consistent with this chapter to hold~~
308 ~~hearings and to obtain the viewpoints of interested persons prior to issuance or denial of~~
309 ~~a certificate of need;~~
310 ~~(7)(6) To provide, by rule, for such fees as may be necessary to cover the costs of~~
311 ~~hearing officers, preparing the record for appeals before such hearing officers and the~~
312 ~~Certificate of Need Appeal Panel of the decisions of the department, and other related~~
313 ~~administrative costs, which costs may include reasonable sharing between the department~~
314 ~~and the parties to appeal hearings;~~
315 ~~(8)(7) To establish, by rule, need methodologies for new institutional health services and~~
316 ~~health care facilities. In developing such need methodologies, the department shall, at~~
317 ~~a minimum, consider the demographic characteristics of the population, the health status~~
318 ~~of the population, service use patterns, standards and trends, financial and geographic~~
319 ~~accessibility, and market economics. The department shall establish service-specific need~~
320 ~~methodologies and criteria for at least the following clinical health services: short stay~~
321 ~~hospital beds, adult therapeutic cardiac catheterization, adult open heart surgery, pediatric~~
322 ~~cardiac catheterization and open heart surgery, Level II and III perinatal services,~~
323 ~~freestanding birthing centers, psychiatric and substance abuse inpatient programs, skilled~~
324 ~~nursing and intermediate care facilities, home health agencies, and life plan community~~
325 ~~sheltered facilities;~~

326 ~~(9)~~(8) To provide, by rule, for a reasonable and equitable fee schedule for certificate of
327 need applications; ~~provided, however, that a certificate of need application filed by or on~~
328 ~~behalf of a hospital in a rural county shall be exempt from any such fee;~~
329 ~~(10)~~(9) To grant, deny, or revoke a certificate of need as applied for or as amended; and
330 ~~(11)~~(10) To perform powers and functions delegated by the Governor, which delegation
331 may include the powers to carry out the duties and powers which have been delegated to
332 the department under Section 1122 of the federal Social Security Act of 1935, as
333 amended; and
334 ~~(12) Study the amount of uncompensated indigent and charity care provided by each type~~
335 ~~of health care facility, recommend requirements for the levels of uncompensated indigent~~
336 ~~and charity care required to be performed by each health care facility type and develop~~
337 ~~standardized reporting requirements for the department to accurately track the amount of~~
338 ~~uncompensated indigent and charity care provided by each health care facility.~~
339 (c) The commissioner shall have the power to establish and abolish technical advisory
340 committees as he or she deems necessary, in consultation with the board, to inform
341 effective strategy development and execution.

342 31-6-21.1.

343 (a) Rules of the department shall be adopted, promulgated, and implemented as provided
344 in this Code section and in Chapter 13 of Title 50, the 'Georgia Administrative Procedure
345 Act,' except that the department shall not be required to comply with subsections (c)
346 through (g) of Code Section 50-13-4.

347 (b) The department shall transmit three copies of the notice provided for in paragraph (1)
348 of subsection (a) of Code Section 50-13-4 to the legislative counsel. The copies shall be
349 transmitted at least 30 days prior to that department's intended action. Within five days
350 after receipt of the copies, if possible, the legislative counsel shall furnish the presiding
351 officer of each house with a copy of the notice and mail a copy of the notice to each

352 member of the Senate Health and Human Services Committee ~~of the Senate~~ and each
353 member of the House Committee on Health and Human Services Committee ~~of the House~~
354 ~~of Representatives~~. Each such rule and any part thereof shall be subject to the making of
355 an objection by either such committee within 30 days of transmission of the rule to the
356 members of such committee. Any rule or part thereof to which no objection is made by
357 both such committees may become adopted by the department at the end of such 30 day
358 period. The department may not adopt any such rule or part thereof which has been
359 changed since having been submitted to those committees unless:

- 360 (1) That change is to correct only typographical errors;
- 361 (2) That change is approved in writing by both committees and that approval expressly
362 exempts that change from being subject to the public notice and hearing requirements of
363 subsection (a) of Code Section 50-13-4;
- 364 (3) That change is approved in writing by both committees and is again subject to the
365 public notice and hearing requirements of subsection (a) of Code Section 50-13-4; or
- 366 (4) That change is again subject to the public notice and hearing requirements of
367 subsection (a) of Code Section 50-13-4 and the change is submitted and again subject to
368 committee objection as provided in this subsection.

369 Nothing in this subsection shall prohibit the department from adopting any rule or part
370 thereof without adopting all of the rules submitted to the committees if the rule or part so
371 adopted has not been changed since having been submitted to the committees and objection
372 thereto was not made by both committees.

373 (c) Any rule or part thereof to which an objection is made by both committees within the
374 30 day objection period under subsection (b) of this Code section shall not be adopted by
375 the department and shall be invalid if so adopted. A rule or part thereof thus prohibited
376 from being adopted shall be deemed to have been withdrawn by the department unless the
377 department, within the first 15 days of the next regular session of the General Assembly,
378 transmits written notification to each member of the objecting committees that the

379 department does not intend to withdraw that rule or part thereof but intends to adopt the
380 specified rule or part effective the day following adjournment sine die of that regular
381 session. A resolution objecting to such intended adoption may be introduced in either
382 branch of the General Assembly after the fifteenth day but before the thirtieth day of the
383 session in which occurs the notification of intent not to withdraw a rule or part thereof. In
384 the event the resolution is adopted by the branch of the General Assembly in which the
385 resolution was introduced, it shall be immediately transmitted to the other branch of the
386 General Assembly. It shall be the duty of the presiding officer of the other branch to have
387 that branch, within five days after receipt of the resolution, consider the resolution for
388 purposes of objecting to the intended adoption of the rule or part thereof. Upon such
389 resolution being adopted by two-thirds of the vote of each branch of the General Assembly,
390 the rule or part thereof objected to in that resolution shall be disapproved and not adopted
391 by the department. If the resolution is adopted by a majority but by less than two-thirds of
392 the vote of each such branch, the resolution shall be submitted to the Governor for his or
393 her approval or veto. In the event of a veto, or if no resolution is introduced objecting to
394 the rule, or if the resolution introduced is not approved by at least a majority of the vote of
395 each such branch, the rule shall automatically become adopted the day following
396 adjournment sine die of that regular session. In the event of the Governor's approval of the
397 resolution, the rule shall be disapproved and not adopted by the department.

398 (d) Any rule or part thereof which is objected to by only one committee under
399 subsection (b) of this Code section and which is adopted by the department may be
400 considered by the branch of the General Assembly whose committee objected to its
401 adoption by the introduction of a resolution for the purpose of overriding the rule at any
402 time within the first 30 days of the next regular session of the General Assembly. It shall
403 be the duty of the department in adopting a proposed rule over such objection so to notify
404 the chairpersons of the Senate Health and Human Services Committee ~~of the Senate~~ and
405 the House Committee on Health and Human Services ~~Committee of the House~~ within ten

406 days after the adoption of the rule. In the event the resolution is adopted by such branch
407 of the General Assembly, it shall be immediately transmitted to the other branch of the
408 General Assembly. It shall be the duty of the presiding officer of the other branch of the
409 General Assembly to have such branch, within five days after the receipt of the resolution,
410 consider the resolution for the purpose of overriding the rule. In the event the resolution
411 is adopted by two-thirds of the votes of each branch of the General Assembly, the rule shall
412 be void on the day after the adoption of the resolution by the second branch of the General
413 Assembly. In the event the resolution is ratified by a majority but by less than two-thirds
414 of the votes of either branch, the resolution shall be submitted to the Governor for his or
415 her approval or veto. In the event of a veto, the rule shall remain in effect. In the event of
416 the Governor's approval, the rule shall be void on the day after the date of approval.

417 (e) Except for emergency rules, no rule or part thereof adopted by the department after
418 April 3, 1985, shall be valid unless adopted in compliance with subsections (b), (c), and (d)
419 of this Code section and subsection (a) of Code Section 50-13-4.

420 (f) Emergency rules shall not be subject to the requirements of subsection (b), (c), or (d)
421 of this Code section but shall be subject to the requirements of subsection (b) of Code
422 Section 50-13-4. Upon the first expiration of any department emergency rules, ~~where~~ when
423 those emergency rules are intended to cover matters which had been dealt with by the
424 department's nonemergency rules but such nonemergency rules have been objected to by
425 both legislative committees under this Code section, the emergency rules concerning those
426 matters may not again be adopted except for one 120 day period. No emergency rule or
427 part thereof which is adopted by the department shall be valid unless adopted in
428 compliance with this subsection.

429 (g) Any proceeding to contest any rule on the ground of noncompliance with this Code
430 section must be commenced within two years from the effective date of the rule.

431 (h) For purposes of this Code section, the term 'rules' shall mean rules and regulations.

- 432 (i) The state health plan or the rules establishing considerations, standards, or similar
433 criteria for the grant or denial of a certificate of need pursuant to Code Section 31-6-42
434 shall not apply to any application for a certificate of need as to which, prior to the effective
435 date of such plan or rules, respectively, the evidence has been closed following a full
436 evidentiary hearing before a hearing officer.
- 437 (j) This Code section shall apply only to rules adopted pursuant to this chapter.

438

ARTICLE 3

439 31-6-40.

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

- 443 (1) The construction, development, or other establishment of a new, expanded, or
444 relocated health care facility, except as otherwise provided in Code Section 31-6-47;
- 445 ~~(2) Any expenditure by or on behalf of a health care facility in excess of \$10 million~~
446 ~~which, under generally accepted accounting principles consistently applied, is a capital~~
447 ~~expenditure, except expenditures for acquisition of an existing health care facility. The~~
448 ~~dollar amounts specified in this paragraph and in paragraph (14) of Code Section 31-6-2~~
449 ~~shall be adjusted annually by an amount calculated by multiplying such dollar amounts~~
450 ~~(as adjusted for the preceding year) by the annual percentage of change in the composite~~
451 ~~index of construction material prices, or its successor or appropriate replacement index,~~
452 ~~if any, published by the United States Department of Commerce for the preceding~~
453 ~~calendar year, commencing on July 1, 2019, and on each anniversary thereafter of~~
454 ~~publication of the index. The department shall immediately institute rule-making~~
455 ~~procedures to adopt such adjusted dollar amounts. In calculating the dollar amounts of~~
456 ~~a proposed project for purposes of this paragraph and paragraph (14) of Code Section~~

457 ~~31-6-2, the costs of all items subject to review by this chapter and items not subject to~~
458 ~~review by this chapter associated with and simultaneously developed or proposed with~~
459 ~~the project shall be counted, except for the expenditure or commitment of or incurring an~~
460 ~~obligation for the expenditure of funds to develop certificate of need applications, studies,~~
461 ~~reports, schematics, preliminary plans and specifications or working drawings, or to~~
462 ~~acquire sites;~~

463 ~~(3) The purchase or lease by or on behalf of a health care facility or a diagnostic,~~
464 ~~treatment, or rehabilitation center of diagnostic or therapeutic equipment, except as~~
465 ~~otherwise provided in Code Section 31-6-47;~~

466 ~~(4)(2) Any increase in the bed capacity of a health care facility except as provided in~~
467 ~~Code Section 31-6-47; and~~

468 ~~(5)(3) Clinical health services which are offered in or through a health care facility,~~
469 ~~which were not offered on a regular basis in or through such health care facility within~~
470 ~~the 12 month period prior to the time such services would be offered;.~~

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

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

478 ~~(A) Radiation therapy;~~

479 ~~(B) Biliary lithotripsy;~~

480 ~~(C) Surgery in an operating room environment, including but not limited to ambulatory~~
481 ~~surgery; and~~

482 ~~(D) Cardiac catheterization; and~~

483 ~~(8) The conversion of a destination cancer hospital to a general cancer hospital.~~

484 (b) Any person proposing to develop or offer a new institutional health service or health
485 care facility shall, before commencing such activity, submit a letter of intent and an
486 application to the department and obtain a certificate of need in the manner provided in this
487 chapter unless such activity is excluded from the scope of this chapter.

488 (c)(1) Any person who had a valid exemption granted or approved by the former Health
489 Planning Agency or the department prior to July 1, 2008, shall not be required to obtain
490 a certificate of need in order to continue to offer those previously offered services.

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

496 ~~(A) Provide annual reports in the same manner and in accordance with Code Section
497 31-6-70; and~~

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

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

507 ~~(1) Makes a capital expenditure associated with the construction, development,
508 expansion, or other establishment of a clinical health service or the acquisition or
509 replacement of diagnostic or therapeutic equipment with a value in excess of
510 \$800,000.00 over a two-year period;~~

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

512 ~~(III) Chooses to relocate in accordance with Code Section 31-6-47.~~

513 ~~Noncompliance with any condition of this paragraph shall result in a monetary penalty~~
514 ~~in the amount of the difference between the services which the center is required to~~
515 ~~provide and the amount actually provided and may be subject to revocation of its~~
516 ~~exemption status by the department for repeated failure to pay any fees or moneys due~~
517 ~~to the department or for repeated failure to produce data as required by Code Section~~
518 ~~31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of~~
519 ~~Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this~~
520 ~~paragraph shall be adjusted annually by an amount calculated by multiplying such dollar~~
521 ~~amount (as adjusted for the preceding year) by the annual percentage of change in the~~
522 ~~consumer price index, or its successor or appropriate replacement index, if any, published~~
523 ~~by the United States Department of Labor for the preceding calendar year, commencing~~
524 ~~on July 1, 2009. In calculating the dollar amounts of a proposed project for the purposes~~
525 ~~of this paragraph, the costs of all items subject to review by this chapter and items not~~
526 ~~subject to review by this chapter associated with and simultaneously developed or~~
527 ~~proposed with the project shall be counted, except for the expenditure or commitment of~~
528 ~~or incurring an obligation for the expenditure of funds to develop certificate of need~~
529 ~~applications, studies, reports, schematics, preliminary plans and specifications or working~~
530 ~~drawings, or to acquire sites. Subparagraph (B) of this paragraph shall not apply to~~
531 ~~facilities offering ophthalmic ambulatory surgery pursuant to the exclusion designated~~
532 ~~on June 30, 2008, as division (14)(G)(iii) of Code Section 31-6-2 that are owned by~~
533 ~~physicians in the practice of ophthalmology.~~

534 ~~(d) A certificate of need issued to a destination cancer hospital shall authorize the beds and~~
535 ~~all new institutional health services of such destination cancer hospital. As used in this~~
536 ~~subsection, the term 'new institutional health service' shall have the same meaning provided~~
537 ~~for in subsection (a) of this Code section. A certificate of need shall only be issued to a~~

~~538 destination cancer hospital that locates itself and all affiliated facilities within 25 miles of
539 a commercial airport in this state with five or more runways. Such destination cancer
540 hospital shall not be required to apply for or obtain additional certificates of need for new
541 institutional health services related to the treatment of cancer patients, and such new
542 institutional health services related to the treatment of cancer patients offered by the
543 destination cancer hospital shall not be reviewed under any service-specific need
544 methodology or rules except for those promulgated by the department for destination
545 cancer hospitals. After commencing operations, in order to add an additional new
546 institutional health service, a destination cancer hospital shall apply for and obtain an
547 additional certificate of need under the applicable statutory provisions and any rules
548 promulgated by the department for destination cancer hospitals, and such applications shall
549 only be granted if the patient base of such destination cancer hospital is composed of at
550 least 65 percent of out-of-state patients for two consecutive years. The department may
551 apply rules for a destination cancer hospital only for those services that the department
552 determines are to be used by the destination cancer hospital in connection with the
553 treatment of cancer. In no case shall destination cancer hospital specific rules be used in
554 the case of an application for open heart surgery, perinatal services, cardiac catheterization,
555 and other services deemed by the department to be not reasonably related to the diagnosis
556 and treatment of cancer; provided, however, that the department shall apply the destination
557 cancer hospital specific rules if a destination cancer hospital applies for services and
558 equipment required for it to meet federal or state laws applicable to a hospital. If such
559 destination cancer hospital cannot show a patient base of a minimum of 65 percent from
560 outside of this state, then its application for any new institutional health service shall be
561 evaluated under the specific statutes and rules applicable to that particular service. If such
562 destination cancer hospital applies for a certificate of need to add an additional new
563 institutional health service before commencing operations or completing two consecutive
564 years of operation, such applicant may rely on historical data from its affiliated entities, as~~

565 ~~set forth in paragraph (2) of subsection (b.1) of Code Section 31-6-42. Because destination~~
566 ~~cancer hospitals provide services primarily to out-of-state residents, the number of beds,~~
567 ~~services, and equipment destination cancer hospitals use shall not be counted as part of the~~
568 ~~department's inventory when determining the need for those items by other providers. No~~
569 ~~person shall be issued more than one certificate of need for a destination cancer hospital.~~
570 ~~Nothing in this Code section shall in any way require a destination cancer hospital to obtain~~
571 ~~a certificate of need for any purpose that is otherwise exempt from the certificate of need~~
572 ~~requirement. Beginning January 1, 2010, the department shall not accept any application~~
573 ~~for a certificate of need for a new destination cancer hospital; provided, however, all other~~
574 ~~provisions regarding the upgrading, replacing, or purchasing of diagnostic or therapeutic~~
575 ~~equipment shall be applicable to an existing destination cancer hospital.~~

576 ~~(e) The commissioner shall be authorized, with the approval of the board, to place a~~
577 ~~temporary moratorium of up to six months on the issuance of certificates of need for new~~
578 ~~and emerging health care services. Any such moratorium placed shall be for the purpose~~
579 ~~of promulgating rules and regulations regarding such new and emerging health care~~
580 ~~services. A moratorium may be extended one time for an additional three months if~~
581 ~~circumstances warrant, as approved by the board. In the event that final rules and~~
582 ~~regulations are not promulgated within the time period allowed by the moratorium, any~~
583 ~~applications received by the department for a new and emerging health care service shall~~
584 ~~be reviewed under existing general statutes and regulations relating to certificates of need.~~

585 31-6-40.1.

586 (a) Any person who acquires a health care facility by stock or asset purchase, merger,
587 consolidation, or other lawful means shall notify the department of such acquisition, the
588 date thereof, and the name and address of the acquiring person. Such notification shall be
589 made in writing to the department within 45 days following the acquisition and the

590 acquiring person may be fined by the department in the amount of \$500.00 for each day
591 that such notification is late. Such fine shall be paid into the state treasury.

592 (b) The department may limit the time periods during which it will accept applications for
593 the following health care facilities:

- 594 (1) Skilled nursing facilities;
- 595 (2) Intermediate care facilities; and
- 596 (3) Home health agencies,

597 to only such times after the department has determined there is an unmet need for such
598 facilities. The department shall make a determination as to whether or not there is an
599 unmet need for each type of facility at least every six months and shall notify those
600 requesting such notification of that determination.

601 (c) The department may require that any applicant for a certificate of need agree to provide
602 a specified amount of clinical health services to indigent patients as a condition for the
603 grant of a certificate of need; ~~provided, however, that each facility granted a certificate of~~
604 ~~need by the department as a destination cancer hospital shall be required to provide~~
605 ~~uncompensated indigent or charity care for residents of Georgia which meets or exceeds~~
606 ~~3 percent of such destination cancer hospital's adjusted gross revenues and provide care to~~
607 ~~Medicaid beneficiaries.~~ A grantee or successor in interest of a certificate of need or an
608 authorization to operate under this chapter which violates such an agreement or violates
609 any conditions imposed by the department relating to such services, whether made before
610 or after July 1, 2008, shall be liable to the department for a monetary penalty in the amount
611 of the difference between the amount of services so agreed to be provided and the amount
612 actually provided and may be subject to revocation of its certificate of need, in whole or
613 in part, by the department pursuant to Code Section 31-6-45. Any penalty so recovered
614 shall be paid into the state treasury.

615 ~~(c.1)(1) A destination cancer hospital that does not meet an annual patient base~~
616 ~~composed of a minimum of 65 percent of patients who reside outside this state in a~~

617 calendar year shall be fined \$2 million for the first year of noncompliance, \$4 million for
618 the second consecutive year of noncompliance, and \$6 million for the third consecutive
619 year of noncompliance. Such fine amount shall reset to \$2 million after any year of
620 compliance. In the event that a destination cancer hospital does not meet an annual
621 patient base composed of a minimum of 65 percent of patients who reside outside this
622 state for three calendar years in any five-year period, such hospital shall be fined an
623 additional amount of \$8 million. It is the intent of the General Assembly that all revenues
624 collected from any such fines shall be dedicated and deposited by the department into the
625 Indigent Care Trust Fund created pursuant to Code Section 31-8-152.

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

629 (3) In addition to the annual report required pursuant to Code Section 31-6-70, a
630 destination cancer hospital shall submit an annual statement, in accordance with
631 timeframes and a format specified by the department, affirming that the hospital has met
632 an annual patient base composed of a minimum of 65 percent of patients who reside
633 outside this state. The chief executive officer of the destination cancer hospital shall
634 certify under penalties of perjury that the statement as prepared accurately reflects the
635 composition of the annual patient base. The department shall have the authority to
636 inspect any books, records, papers, or other information pursuant to subsection (c) of
637 Code Section 31-6-45 of the destination cancer hospital to confirm the information
638 provided on such statement or any other information required of the destination cancer
639 hospital. Nothing in this paragraph shall be construed to require the release of any
640 information which would violate the Health Insurance Portability and Accountability Act
641 of 1996, P.L. 104-191.

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

644 ~~31-6-40.2.~~

645 ~~(a) As used in this Code section only, the term:~~

646 ~~(1) 'Certificate of need application' means an application for a certificate of need filed~~
647 ~~with the department, any amendments thereto, and any other written material relating to~~
648 ~~the application and filed by the applicant with the department.~~

649 ~~(2) 'First three years of operation' means the first three consecutive 12 month periods~~
650 ~~beginning on the first day of a new perinatal service's first full calendar month of~~
651 ~~operation.~~

652 ~~(3) 'First year of operation' means the first consecutive 12 month period beginning on the~~
653 ~~first day of a new perinatal service's first full calendar month of operation.~~

654 ~~(4) 'New perinatal service' means a perinatal service whose first year of operation ends~~
655 ~~after April 6, 1992.~~

656 ~~(5) 'Perinatal service' means obstetric and neonatal services relating to managing~~
657 ~~high-risk pregnancies, care for moderately ill newborns, care for all maternal and fetal~~
658 ~~complications either on site or by referral, and operation of neonatal intensive care units~~
659 ~~equipped to treat critically ill newborns; provided however, this shall not include basic~~
660 ~~perinatal services as defined in Code Section 31-6-2.~~

661 ~~(6) 'Year' means one of the three consecutive 12 month periods in a new perinatal~~
662 ~~service's first 36 months of operation.~~

663 ~~(b)(1) A new perinatal service shall provide uncompensated indigent or charity care in~~
664 ~~an amount which meets or exceeds the department's established minimum at the time the~~
665 ~~department issued the certificate of need approval for such service for each of the~~
666 ~~service's first three years of operation; provided, however, that if the certificate of need~~
667 ~~application under which a new perinatal service was approved included a commitment~~
668 ~~that uncompensated indigent or charity care would be provided in an amount greater than~~
669 ~~the established minimum for any time period described in the certificate of need~~
670 ~~application that falls completely within such new perinatal service's first three years of~~

671 operation, such new perinatal service shall provide indigent or charity care in an amount
672 which meets or exceeds the amount committed in the certificate of need application for
673 each time period described in the certificate of need application that falls completely
674 within the service's first three years of operation.

675 (2) The department shall revoke the certificate of need and authority to operate of a new
676 perinatal service if after notice to the grantee of the certificate or such grantee's
677 successors, and after opportunity for a fair hearing pursuant to Chapter 13 of Title 50, the
678 'Georgia Administrative Procedure Act,' the department determines that such new
679 perinatal service has failed to provide indigent or charity care in accordance with the
680 requirements of paragraph (1) of this subsection and such failure is determined by the
681 department to be for reasons substantially within the perinatal service provider's control.
682 The department shall provide the requisite notice, conduct the fair hearing, if requested,
683 and render its determination within 90 days after the end of the first year, or, if
684 applicable, the first time period described in paragraph (1) of this subsection during
685 which the new perinatal service fails to provide indigent or charity care in accordance
686 with the requirements of paragraph (1) of this subsection. Revocation shall be effective
687 30 days after the date of the determination by the department that the requirements of
688 paragraph (1) of this subsection have not been met.

689 (c)(1) A new perinatal service shall achieve the standard number of births specified in
690 the state health plan in effect at the time of the issuance of the certificate of need approval
691 by the department in at least one year during its first three years of operation.

692 (2) The department shall revoke the certificate of need and authority to operate of a new
693 perinatal service if after notice to the grantee of the certificate of need or such grantee's
694 successors, and after opportunity for a fair hearing pursuant to Chapter 13 of Title 50, the
695 'Georgia Administrative Procedure Act,' the department determines that such new
696 perinatal service has failed to comply with the applicable requirements of paragraph (1)
697 of this subsection and such failure is determined by the department to be for reasons

698 ~~substantially within the perinatal service provider's control. The department shall provide~~
699 ~~the requisite notice, conduct the fair hearing, if requested, and render its determination~~
700 ~~within 90 days after the end of the new perinatal service's first three years of operation.~~
701 ~~Revocation shall be effective 30 days after the date of the determination by the~~
702 ~~department that the requirements of this paragraph or paragraph (1) of this subsection~~
703 ~~have not been met.~~

704 ~~(d) Nothing contained in this Code section shall limit the department's authority to regulate~~
705 ~~perinatal services in ways or for time periods not addressed by the provisions of this Code~~
706 ~~section.~~

707 ~~31-6-40.3.~~

708 ~~(a) On and after July 1, 2019, a destination cancer hospital may apply for a certificate of~~
709 ~~need to convert to a general cancer hospital in accordance with this Code section. A~~
710 ~~destination cancer hospital that elects to convert to a general cancer hospital shall notify~~
711 ~~the department in a form and manner established by the department.~~

712 ~~(b) The department shall establish a form and process for a destination cancer hospital to~~
713 ~~submit a certificate of need application to convert to a general cancer hospital; provided,~~
714 ~~however, that such a conversion shall not be subject to any of the considerations in Code~~
715 ~~Section 31-6-42 or service specific rules and shall not be subject to opposition or appeal~~
716 ~~by any other health care facilities. The department shall develop such form and guidance~~
717 ~~required by this subsection within 30 days of July 1, 2019. Upon its receipt of a complete~~
718 ~~application for a destination cancer hospital to convert to a general cancer hospital, the~~
719 ~~department shall issue such certificate of need within 60 days.~~

720 ~~(c) Upon the conversion of a destination cancer hospital to a general cancer hospital:~~

721 ~~(1) The general cancer hospital may continue to provide all institutional health care~~
722 ~~services and other services it provided as of the date of such conversion, including but not~~
723 ~~limited to inpatient beds, outpatient services, surgery, radiation therapy, imaging, and~~

724 ~~positron emission tomography (PET) scanning, without any further approval from the~~
725 ~~department;~~

726 ~~(2) The destination cancer hospital shall be classified as a general cancer hospital under~~
727 ~~this chapter and shall be subject to all requirements and conditions applicable to hospitals~~
728 ~~under this article, including but not limited to, indigent and charity care and inventories~~
729 ~~and methodologies to determine need for additional providers or services; and~~

730 ~~(3) The hospital's inpatient beds, operating rooms, radiation therapy equipment, and~~
731 ~~imaging equipment existing on the date of conversion shall not be counted in the~~
732 ~~inventory by the department for purposes of determining need for additional providers~~
733 ~~or services, except that any inpatient beds, operating rooms, radiation therapy equipment,~~
734 ~~and imaging equipment added after the date of conversion shall be counted in accordance~~
735 ~~with the department's rules and regulations.~~

736 ~~(d) In the event that a destination cancer hospital does not convert to a general cancer~~
737 ~~hospital, it shall remain subject to all requirements and conditions applicable to destination~~
738 ~~cancer hospitals under this article.~~

739 31-6-41.

740 (a) A certificate of need shall be valid only for the defined scope, location, cost, service
741 area, and person named in an application, as it may be amended, and as such scope,
742 location, service area, cost, and person are approved by the department, unless such
743 certificate of need owned by an existing health care facility is transferred to a person who
744 acquires such existing facility. In such case, the certificate of need shall be valid for the
745 person who acquires such a facility and for the scope, location, cost, and service area
746 approved by the department. However, in reviewing an application to relocate all or a
747 portion of an existing skilled nursing facility, intermediate care facility, or intermingled
748 nursing facility, the department may allow such facility to divide into two or more such

749 facilities if the department determines that the proposed division is financially feasible and
750 would be consistent with quality patient care.

751 (b) A certificate of need shall be valid and effective for a period of 12 months after it is
752 issued, or such greater period of time as may be specified by the department at the time the
753 certificate of need is issued. Within the effective period after the grant of a certificate of
754 need, the applicant of a proposed project shall fulfill reasonable performance and
755 scheduling requirements specified by the department, by rule, to assure reasonable progress
756 toward timely completion of a project.

757 (c) By rule, the department may provide for extension of the effective period of a
758 certificate of need when an applicant, by petition, makes a good faith showing that the
759 conditions to be specified according to subsection (b) of this Code section will be
760 performed within the extended period and that the reasons for the extension are beyond the
761 control of the applicant.

762 31-6-42.

763 (a) The written findings of fact and decision, with respect to the department's grant or
764 denial of a certificate of need, shall be based on the applicable considerations specified in
765 this Code section and reasonable rules promulgated by the department interpretive thereof.
766 The department shall issue a certificate of need to each applicant whose application is
767 consistent with the following considerations and such rules deemed applicable to a project,
768 except as specified in subsection (f) of Code Section 31-6-43:

769 (1) The proposed new institutional health services are reasonably consistent with the
770 relevant general goals and objectives of the state health plan;

771 (2) The population residing in the area served, or to be served, by the new institutional
772 health service has a need for such services;

773 (3) Existing alternatives for providing services in the service area the same as the new
774 institutional health service proposed are neither currently available, implemented,

775 similarly utilized, nor capable of providing a less costly alternative, or no certificate of
776 need to provide such alternative services has been issued by the department and is
777 currently valid;

778 (4) The project can be adequately financed and is, in the immediate and long term,
779 financially feasible;

780 (5) The effects of new institutional health service on ~~payors~~ payers for health services,
781 including governmental ~~payors~~ payers, are not unreasonable;

782 (6) The costs and methods of a proposed construction project, including the costs and
783 methods of energy provision and conservation, are reasonable and adequate for quality
784 health care;

785 (7) The new institutional health service proposed is reasonably financially and physically
786 accessible to the residents of the proposed service area;

787 (8) The proposed new institutional health service has a positive relationship to the
788 existing health care delivery system in the service area;

789 (9) The proposed new institutional health service encourages more efficient utilization
790 of the health care facility proposing such service;

791 (10) The proposed new institutional health service provides, or would provide, a
792 substantial portion of its services to individuals not residing in its defined service area or
793 the adjacent service area;

794 (11) The proposed new institutional health service conducts biomedical or behavioral
795 research projects or new service development which is designed to meet a national,
796 regional, or state-wide need;

797 (12) The proposed new institutional health service meets the clinical needs of health
798 professional training programs which request assistance;

799 (13) The proposed new institutional health service fosters improvements or innovations
800 in the financing or delivery of health services, promotes health care quality assurance or

801 cost effectiveness, or fosters competition that is shown to result in lower patient costs
802 without a loss of the quality of care;

803 ~~(14) The proposed new institutional health service fosters the special needs and~~
804 ~~circumstances of health maintenance organizations; Reserved;~~

805 (15) The proposed new institutional health service meets the department's minimum
806 quality standards, including, but not limited to, standards relating to accreditation,
807 minimum volumes, quality improvements, assurance practices, and utilization review
808 procedures;

809 (16) The proposed new institutional health service can obtain the necessary resources,
810 including health care personnel and management personnel; and

811 (17) The proposed new institutional health service is an underrepresented health service,
812 as determined annually by the department. The department shall, by rule, provide for an
813 advantage to equally qualified applicants that agree to provide an underrepresented
814 service in addition to the services for which the application was originally submitted.

815 ~~(b) In the case of applications for the development or offering of a new institutional health~~
816 ~~service or health care facility for osteopathic medicine, the need for such service or facility~~
817 ~~shall be determined on the basis of the need and availability in the community for~~
818 ~~osteopathic services and facilities in addition to the considerations in subsection (a) of this~~
819 ~~Code section. Nothing in this chapter shall, however, be construed as otherwise~~
820 ~~recognizing any distinction between allopathic and osteopathic medicine.~~

821 ~~(b.1) In the case of applications for the construction, development, or establishment of a~~
822 ~~destination cancer hospital, the applicable considerations as to the need for such service~~
823 ~~shall not include paragraphs (1), (2), (3), (7), (8), (10), (11), and (14) of subsection (a) of~~
824 ~~this Code section but shall include:~~

825 ~~(1) Paragraphs (4), (5), (6), (9), (12), (13), (15), (16), and (17) of subsection (a) of this~~
826 ~~Code section;~~

- 827 ~~(2) That the proposed new destination cancer hospital can demonstrate, based on~~
828 ~~historical data from the applicant or its affiliated entities, that its annual patient base shall~~
829 ~~be composed of a minimum of 65 percent of patients who reside outside of the State of~~
830 ~~Georgia;~~
- 831 ~~(3) That the proposed new destination cancer hospital states its intent to provide~~
832 ~~uncompensated indigent or charity care which shall meet or exceed 3 percent of its~~
833 ~~adjusted gross revenues and provide care to Medicaid beneficiaries;~~
- 834 ~~(4) That the proposed new destination cancer hospital shall conduct biomedical or~~
835 ~~behavioral research projects or service development which is designed to meet a national~~
836 ~~or regional need;~~
- 837 ~~(5) That the proposed new destination cancer hospital shall be reasonably financially and~~
838 ~~physically accessible;~~
- 839 ~~(6) That the proposed new destination cancer hospital shall have a positive relationship~~
840 ~~to the existing health care delivery system on a regional basis;~~
- 841 ~~(6.1) That the proposed new destination cancer hospital shall enter into a hospital~~
842 ~~transfer agreement with one or more hospitals within a reasonable distance from the~~
843 ~~destination cancer hospital or the medical staff at the destination cancer hospital has~~
844 ~~admitting privileges or other acceptable documented arrangements with such hospital or~~
845 ~~hospitals to ensure the necessary backup for the destination cancer hospital for medical~~
846 ~~complications. The destination cancer hospital shall have the capability to transfer a~~
847 ~~patient immediately to a hospital within a reasonable distance from the destination cancer~~
848 ~~hospital with adequate emergency room services. Hospitals shall not unreasonably deny~~
849 ~~a transfer agreement with the destination cancer hospital. In the event that a destination~~
850 ~~cancer hospital and another hospital cannot agree to the terms of a transfer agreement as~~
851 ~~required by this paragraph, the department shall mediate between such parties for a period~~
852 ~~of no more than 45 days. If an agreement is still not reached within such 45 day period,~~
853 ~~the parties shall enter into binding arbitration conducted by the department;~~

854 ~~(7) That an applicant for a new destination cancer hospital shall document in its~~
855 ~~application that the new facility is not predicted to be detrimental to existing hospitals~~
856 ~~within the planning area. Such demonstration shall be made by providing an analysis in~~
857 ~~such application that compares current and projected changes in market share and payor~~
858 ~~mix for such applicant and such existing hospitals within the planning area. Impact on~~
859 ~~an existing hospital shall be determined to be adverse if, based on the utilization projected~~
860 ~~by the applicant, such existing hospital would have a total decrease of 10 percent or more~~
861 ~~in its average annual utilization, as measured by patient days for the two most recent and~~
862 ~~available preceding calendar years of data; and~~

863 ~~(8) That the destination cancer hospital shall express its intent to participate in medical~~
864 ~~staffing work force development activities.~~

865 ~~(b.2) In the case of applications for basic perinatal services in counties where:~~

866 ~~(1) Only one civilian health care facility or health system is currently providing basic~~
867 ~~perinatal services; and~~

868 ~~(2) There are not at least three different health care facilities in a contiguous county~~
869 ~~providing basic perinatal services;~~

870 ~~the department shall not apply the consideration contained in paragraph (2) of~~
871 ~~subsection (a) of this Code section.~~

872 ~~(c) If the denial of an application for a certificate of need for a new institutional health~~
873 ~~service proposed to be offered or developed by a:~~

874 ~~(1) Minority administered hospital facility serving a socially and economically~~
875 ~~disadvantaged minority population in an urban setting; or~~

876 ~~(2) Minority administered hospital facility utilized for the training of minority medical~~
877 ~~practitioners~~

878 ~~would adversely impact upon the facility and population served by said facility, the special~~
879 ~~needs of such hospital facility and the population served by said facility for the new~~
880 ~~institutional health service shall be given extraordinary consideration by the department in~~

881 ~~making its determination of need as required by this Code section. The department shall~~
882 ~~have the authority to vary or modify strict adherence to the provisions of this chapter and~~
883 ~~the rules enacted pursuant hereto in considering the special needs of such facility and its~~
884 ~~population served and to avoid an adverse impact on the facility and the population served~~
885 ~~thereby. For purposes of this subsection, the term 'minority administered hospital facility'~~
886 ~~means a hospital controlled or operated by a governing body or administrative staff~~
887 ~~composed predominantly of members of a minority race.~~

888 ~~(d)~~(b) For the purposes of the considerations contained in this Code section and in the
889 department's applicable rules, relevant data which were unavailable or omitted when the
890 state health plan or rules were prepared or revised may be considered in the evaluation of
891 a project.

892 ~~(e)~~(c) The department shall specify in its written findings of fact and decision which of the
893 considerations contained in this Code section and the department's applicable rules are
894 applicable to an application and its reasoning as to and evidentiary support for its
895 evaluation of each such applicable consideration and rule.

896 ~~31-6-42.1:~~

897 ~~No applicant for a new certificate of need, a modification to an existing certificate of need,~~
898 ~~or a conversion of a certificate of need that has any outstanding amounts owed to the state~~
899 ~~including fines, penalties, fees, or other payments for noncompliance with any~~
900 ~~requirements contained in Code Section 31-6-40.1, 31-6-45.2, 31-6-70, 31-7-280, or~~
901 ~~31-8-179.2 shall be eligible to receive a new certificate of need or a modification to an~~
902 ~~existing certificate of need unless such applicant pays such outstanding amounts to the~~
903 ~~state. Any such fines, penalties, fees, or other payments for noncompliance shall be subject~~
904 ~~to the same notices and hearing for the levy of fines under Code Section 31-6-45.~~

905 31-6-43.

906 (a) At least 30 days prior to submitting an application for a certificate of need for clinical
907 health services, a person shall submit a letter of intent to the department. The department
908 shall provide by rule a process for submitting letters of intent and a mechanism by which
909 applications may be filed to compete with and be reviewed comparatively with proposals
910 described in submitted letters of intent.

911 (b) Each application for a certificate of need shall be reviewed by the department and
912 within ten working days after the date of its receipt a determination shall be made as to
913 whether the application complies with the rules governing the preparation and submission
914 of applications. If the application complies with the rules governing the preparation and
915 submission of applications, the department shall declare the application complete for
916 review, shall accept and date the application, and shall notify the applicant of the timetable
917 for its review. The department shall also notify a newspaper of general circulation in the
918 county in which the project shall be developed that the application has been deemed
919 complete. The department shall also notify the appropriate regional commission and the
920 chief elected official of the county and municipal governments, if any, in whose boundaries
921 the proposed project will be located that the application is complete for review. If the
922 application does not comply with the rules governing the preparation and submission of
923 applications, the department shall notify the applicant in writing and provide a list of all
924 deficiencies. The applicant shall be afforded an opportunity to correct such deficiencies,
925 and upon such correction, the application shall then be declared complete for review within
926 ten days of the correction of such deficiencies, and notice given to a newspaper of general
927 circulation in the county in which the project shall be developed that the application has
928 been so declared. The department shall also notify the appropriate regional commission
929 and the chief elected official of the county and municipal governments, if any, in whose
930 boundaries the proposed project will be located that the application is complete for review
931 or when in the determination of the department a significant amendment is filed.

932 (c) The department shall specify by rule the time within which an applicant may amend
933 its application. The department may request an applicant to make amendments. The
934 department decision shall be made on an application as amended, if at all, by the applicant.

935 (d)(1) There shall be a time limit of 120 days for review of a project, beginning on the
936 day the department declares the application complete for review or in the case of
937 applications joined for comparative review, beginning on the day the department declares
938 the final application complete. The department may adopt rules for determining when
939 it is not practicable to complete a review in 120 days and may extend the review period
940 upon written notice to the applicant but only for an extended period of not longer than an
941 additional 30 days. The department shall adopt rules governing the submission of
942 additional information by the applicant and for opposing an application.

943 (2) No party may oppose an application for a certificate of need for a proposed project
944 unless:

945 (A) Such party offers substantially similar services as proposed within a 35 mile radius
946 of the proposed project or has a service area that overlaps the applicant's proposed
947 service area; or

948 (B) Such party has submitted a competing application in the same batching cycle and
949 is proposing to establish the same type of facility proposed or offers substantially
950 similar services as proposed and has a service area that overlaps the applicant's
951 proposed service area.

952 (e) To allow the opportunity for comparative review of applications, the department may
953 provide by rule for applications for a certificate of need to be submitted on a timetable or
954 batching cycle basis no less often than two times per calendar year for each clinical health
955 service. Applications for services, facilities, or expenditures for which there is no specified
956 batching cycle may be filed at any time.

957 (f) The department may order the joinder of an application which is determined to be
958 complete by the department for comparative review with one or more subsequently filed
959 applications declared complete for review during the same batching cycle when:

960 (1) The first and subsequent applications involve similar clinical health service projects
961 in the same service area or overlapping service areas; and

962 (2) The subsequent applications are filed and are declared complete for review within 30
963 days of the date the first application was declared complete for review.

964 Following joinder of the first application with subsequent applications, none of the
965 subsequent applications so joined may be considered as a first application for the purposes
966 of future joinder. The department shall notify the applicant to whose application a joinder
967 is ordered and all other applicants previously joined to such application of the fact of each
968 joinder pursuant to this subsection. In the event one or more applications have been joined
969 pursuant to this subsection, the time limits for department action for all of the applicants
970 shall run from the latest date that any one of the joined applications was declared complete
971 for review. In the event of the consideration of one or more applications joined pursuant
972 to this subsection, the department may award no certificate of need or one or more
973 certificates of need to the ~~application or applications~~ applicant or applicants, if any, which
974 are consistent with the considerations contained in Code Section 31-6-42, the department's
975 applicable rules, and the award of which will best satisfy the purposes of this chapter.

976 (g) The department shall review the application and all written information submitted by
977 the applicant in support of the application and all information submitted in opposition to
978 the application to determine the extent to which the proposed project is consistent with the
979 applicable considerations stated in Code Section 31-6-42 and in the department's applicable
980 rules. During the course of the review, the department staff may request additional
981 information from the applicant as deemed appropriate. Pursuant to rules adopted by the
982 department, a public hearing on applications covered by those regulations may be held
983 prior to the date of the department's decision thereon. Such rules shall provide that when

984 good cause has been shown, a public hearing shall be held by the department. Any
985 interested person may submit information to the department concerning an application, and
986 an applicant shall be entitled to notice of and to respond to any such submission.

987 (h) The department shall provide the applicant an opportunity to meet with the department
988 to discuss the application and to provide an opportunity to submit additional information.
989 Such additional information shall be submitted within the time limits adopted by the
990 department. The department shall also provide an opportunity for any party that is
991 permitted to oppose an application pursuant to paragraph (2) of subsection (d) of this Code
992 section to meet with the department and to provide additional information to the
993 department. In order for any such opposing party to have standing to appeal an adverse
994 decision pursuant to Code Section 31-6-44, such party must attend and participate in an
995 opposition meeting.

996 (i) Unless extended by the department for an additional period of up to 30 days pursuant
997 to subsection (d) of this Code section, the department shall, no later than 120 days after an
998 application is determined to be complete for review, or, in the event of joined applications,
999 120 days after the last application is declared complete for review, provide written
1000 notification to an applicant of the department's decision to issue or to deny issuance of a
1001 certificate of need for the proposed project. Such notice shall contain the department's
1002 written findings of fact and decision as to each applicable consideration or rule and a
1003 detailed statement of the reasons and evidentiary support for issuing or denying a certificate
1004 of need for the action proposed by each applicant. The department shall also mail such
1005 notification to the appropriate regional commission and the chief elected official of the
1006 county and municipal governments, if any, in whose boundaries the proposed project will
1007 be located. In the event such decision is to issue a certificate of need, the certificate of
1008 need shall be effective on the day of the decision unless the decision is appealed to the
1009 Certificate of Need Appeal Panel in accordance with this chapter. Within seven days of

1010 the decision, the department shall publish notice of its decision to grant or deny an
1011 application in the same manner as it publishes notice of the filing of an application.

1012 (j) Should the department fail to provide written notification of the decision within the
1013 time limitations set forth in this Code section, an application shall be deemed to have been
1014 approved as of the one hundred twenty-first day following notice from the department that
1015 an application, or the last of any applications joined pursuant to subsection (f) of this Code
1016 section, is declared 'complete for review.'

1017 (k) Notwithstanding other provisions of this article, when the Governor has declared a
1018 state of emergency in a region of the state, existing health care facilities in the affected
1019 region may seek emergency approval from the department to make expenditures in excess
1020 of the capital expenditure threshold or to offer services that may otherwise require a
1021 certificate of need. The department shall give special expedited consideration to such
1022 requests and may authorize such requests for good cause. Once the state of emergency has
1023 been lifted, any services offered by an affected health care facility under this subsection
1024 shall cease to be offered until such time as the health care facility that received the
1025 emergency authorization has requested and received a certificate of need. For purposes of
1026 this subsection, the term 'good cause' means that authorization of the request shall directly
1027 resolve a situation posing an immediate threat to the health and safety of the public. The
1028 department shall establish, by rule, procedures whereby requirements for the process of
1029 review and issuance of a certificate of need may be modified and expedited as a result of
1030 emergency situations.

1031 31-6-44.

1032 (a) Effective July 1, 2008, there is created the Certificate of Need Appeal Panel, which
1033 shall be an agency separate and apart from the department and shall consist of a panel of
1034 independent hearing officers. The purpose of the appeal panel shall be to serve as a panel
1035 of independent hearing officers to review the department's initial decision to grant or deny

1036 a certificate of need application. The Health Planning Review Board which existed on
1037 June 30, 2008, shall cease to exist after that date and the Certificate of Need Appeal Panel
1038 shall be constituted effective July 1, 2008, pursuant to this Code section.

1039 (b) On and after July 1, 2008, the appeal panel shall be composed of five members
1040 appointed by the Governor for a term of up to four years each. The Governor shall appoint
1041 to the appeal panel attorneys who practice law in this state and who are familiar with the
1042 health care industry but who do not have a financial interest in or represent or have any
1043 compensation arrangement with any health care facility. Each member of the appeal panel
1044 shall be an active member of the State Bar of Georgia in good standing, and each attorney
1045 shall have maintained such active status for the five years immediately preceding such
1046 person's appointment. The Governor shall name from among such members a chairperson
1047 and a vice chairperson of the appeal panel. The vice chairperson shall have the same
1048 authority as the chairperson; provided, however, that the vice chairperson shall not exercise
1049 such authority unless expressly delegated by the chairperson or in the event the chairperson
1050 becomes incapacitated, as determined by the Governor. Vacancies on the appeal panel
1051 caused by resignation, death, or any other cause shall be filled for the unexpired term in the
1052 same manner as the original appointment. No person required to register with the Secretary
1053 of State as a lobbyist or registered agent shall be eligible for appointment by the Governor
1054 to the appeal panel.

1055 (c) The appeal panel shall promulgate reasonable rules for its operation and rules of
1056 procedure for the conduct of initial administrative appeal hearings held by the appointed
1057 hearing officers, including an appropriate fee schedule for filing such appeals. Members
1058 of the appeal panel shall serve as hearing officers for appeals that are assigned to them on
1059 a random basis by the chairperson of the appeal panel. The members of the appeal panel
1060 shall receive no salary but shall be reimbursed for their expenses in attending meetings and
1061 for transportation costs as authorized by Code Section 45-7-21, which provides for
1062 compensation and allowances of certain state officials; provided, however, that the

1063 chairperson and vice chairperson of the appeal panel shall also be compensated for their
1064 services rendered to the appeal panel outside of attendance at an appeal panel meeting, such
1065 as for time spent assigning hearing officers, the amount of which compensation shall be
1066 determined according to regulations of the Department of Administrative Services. Appeal
1067 panel members shall receive compensation for the administration of the cases assigned to
1068 them, including prehearing, hearing, and posthearing work, in an amount determined to be
1069 appropriate and reasonable by the Department of Administrative Services. Such
1070 compensation to the members of the appeal panel shall be made by the Department of
1071 Administrative Services.

1072 (d) Any party that is permitted to oppose an application pursuant to paragraph (2) of
1073 subsection (d) of Code Section 31-6-43 that has notified the department prior to its decision
1074 that such party is opposed to the application before the department shall have the right to
1075 an initial administrative appeal hearing before an appeal panel hearing officer or to
1076 intervene in such hearing. Such request for hearing or intervention shall be filed with the
1077 chairperson of the appeal panel within 30 days of the date of the decision made pursuant
1078 to Code Section 31-6-43. In the event an appeal is filed by a party that is permitted to
1079 oppose an application pursuant to paragraph (2) of subsection (d) of Code Section 31-6-43,
1080 the appeal shall be accompanied by payment of such fee as is established by the appeal
1081 panel. In the event an appeal is requested, the chairperson of the appeal panel shall appoint
1082 a hearing officer for each such hearing within 30 days after the date the appeal is received.
1083 Within 14 days after the appointment of the hearing officer, such hearing officer shall
1084 confer with the parties and set the date or dates for the hearing, provided that no hearing
1085 shall be scheduled less than 60 days nor more than 120 days after the filing of the request
1086 for a hearing, unless the applicant consents or, in the case of competing applicants, all
1087 applicants consent to an extension of this time period to a specified date. Unless the
1088 applicant consents or, in the case of competing applicants, all applicants consent to an
1089 extension of said 120 day period, any hearing officer who regularly fails to commence a

1090 hearing within the required time period shall not be eligible for continued service as a
1091 hearing officer for the purposes of this Code section. The hearing officer shall have the
1092 authority to dispose of all motions made by any party before the issuance of the hearing
1093 officer's decision and shall make such rulings as may be required for the conduct of the
1094 hearing.

1095 (e) In fulfilling the functions and duties of this chapter, the hearing officer shall act, and
1096 the hearing shall be conducted as a full evidentiary hearing, in accordance with Chapter 13
1097 of Title 50, the 'Georgia Administrative Procedure Act,' relating to contested cases, except
1098 as otherwise specified in this Code section. Subject to the provisions of Article 4 of
1099 Chapter 18 of Title 50, all files, working papers, studies, notes, and other writings or
1100 information used by the department in making its decision shall be public records and
1101 available to the parties, and the hearing officer may permit each party to exercise such
1102 reasonable rights of prehearing discovery of such information used by the parties as will
1103 expedite the hearing.

1104 (f) In addition to evidence submitted to the department, a party may present any additional
1105 relevant evidence to the appeal panel hearing officer reviewing the decision of the
1106 department if the evidence was not reasonably available to the party presenting the
1107 evidence at the time of the department's review. The burden of proof as to whether the
1108 evidence was reasonably available shall be on the party attempting to introduce the new
1109 evidence. The issue for the decision by the hearing officer shall be whether, and the
1110 hearing officer shall order the issuance of a certificate of need if, in the hearing officer's
1111 judgment, the application is consistent with the considerations as set forth in Code Section
1112 31-6-42 and the department's rules, as the hearing officer deems such considerations and
1113 rules applicable to the review of the project. The appeal hearing conducted by the appeal
1114 panel hearing officer shall be a de novo review of the decision of the department. The
1115 hearing officer shall also consider:

- 1116 (1) Whether the department committed prejudicial procedural error in its consideration
1117 of the application;
- 1118 (2) Whether the appeal lacks substantial justification; and
- 1119 (3) Whether such appeal was undertaken primarily for the purpose of delay or
1120 harassment.

1121 The burden of proof shall be on the appellant. Appellants or applicants shall proceed first
1122 with their cases before the hearing officer in the order determined by the hearing officer,
1123 and the department, if a party, shall proceed last. In the event of a consolidated hearing on
1124 applications which were joined for comparative review pursuant to subsection (f) of Code
1125 Section 31-6-43, the hearing officer shall have the same powers specified for the
1126 department in subsection (f) of Code Section 31-6-43 to order the issuance of no certificate
1127 of need or one or more certificates of need.

1128 (g) All evidence shall be presented at the initial administrative appeal hearing conducted
1129 by the appointed hearing officer. A party or intervenor may present any relevant evidence
1130 on all issues raised by the hearing officer or any party to the hearing or revealed during
1131 discovery and shall not be limited to evidence or information presented to the department
1132 prior to its decision, except that an applicant may not present a new need study or analysis
1133 responsive to the general need consideration or service-specific need formula as provided
1134 in the applicable rules that is substantially different from any such study or analysis
1135 submitted to the department prior to its decision and that could have reasonably been
1136 available for submission. The hearing officer may consider the latest data available,
1137 including updates of studies previously submitted, in deciding whether an application is
1138 consistent with the applicable considerations or rules. The hearing officer shall consider
1139 the applicable considerations and rules in effect on the date the appeal is filed, even if the
1140 provisions of those considerations or rules were changed after the department's decision.
1141 The hearing officer may remand a matter to the department if the hearing officer
1142 determines that it would be beneficial for the department to consider new data, studies, or

1143 analyses that were not available before the decision or changes to the provisions of the
1144 applicable considerations or rules made after the department's decision. The hearing officer
1145 shall establish the time deadlines for completion of the remand and shall retain jurisdiction
1146 of the matter throughout the completion of the remand.

1147 (h) After the issuance of a decision by the department pursuant to Code Section 31-6-43,
1148 no party to an appeal hearing, nor any person on behalf of such party, including the
1149 department, shall make any ex parte contact with the appeal panel hearing officer appointed
1150 to conduct the appeal hearing, any other member of the appeal panel, or the commissioner
1151 in regard to a decision under appeal.

1152 (i) Within 30 days after the conclusion of the hearing, the hearing officer shall make
1153 written findings of fact and conclusions of law as to each consideration as set forth in Code
1154 Section 31-6-42 and the department's rules, including a detailed statement of the reasons
1155 for the decision of the hearing officer. If any party has alleged that an appeal lacks
1156 substantial justification or was undertaken primarily for the purpose of delay or harassment,
1157 the decision of the hearing officer shall make findings of fact addressing the merits of the
1158 allegation. The hearing officer shall file such decision with the chairperson of the appeal
1159 panel who shall serve such decision upon all parties, and shall transmit the administrative
1160 record to the commissioner. Any party, including the department, which disputes any
1161 finding of fact or conclusion of law rendered by the hearing officer in such hearing officer's
1162 decision and which wishes to appeal that decision may appeal to the commissioner and
1163 shall file its specific objections with the commissioner or his or her designee within 30 days
1164 of the date of the hearing officer's decision pursuant to rules adopted by the department.

1165 (j) The decision of the appeal panel hearing officer will become the final decision of the
1166 department upon the sixty-first day following the date of the decision unless an objection
1167 thereto is filed with the commissioner within the time limit established in subsection (i) of
1168 this Code section.

1169 (k)(1) In the event an appeal of the hearing officer's decision is filed, the commissioner
1170 may adopt the hearing officer's order as the final order of the department or the
1171 commissioner may reject or modify the conclusions of law over which the department has
1172 substantive jurisdiction and the interpretation of administrative rules over which it has
1173 substantive jurisdiction. By rejecting or modifying such conclusion of law or
1174 interpretation of administrative rule, the department must state with particularity its
1175 reasons for rejecting or modifying such conclusion of law or interpretation of
1176 administrative rule and must make a finding that its substituted conclusion of law or
1177 interpretation of administrative rule is as or more reasonable than that which was rejected
1178 or modified. Rejection or modification of conclusions of law may not form the basis for
1179 rejection or modification of findings of fact. The commissioner may not reject or modify
1180 the findings of fact unless the commissioner first determines from a review of the entire
1181 record, and states with particularity in the order, that the findings of fact were not based
1182 upon any competent substantial evidence or that the proceedings on which the findings
1183 were based did not comply with the essential requirements of law.

1184 (2) If, before the date set for the commissioner's decision, application is made to the
1185 commissioner for leave to present additional evidence and it is shown to the satisfaction
1186 of the commissioner that the additional evidence is material and there were good reasons
1187 for failure to present it in the proceedings before the hearing officer, the commissioner
1188 may order that the additional evidence be taken before the same hearing officer who
1189 rendered the initial decision upon conditions determined by the commissioner. The
1190 hearing officer may modify the initial decision by reason of the additional evidence and
1191 shall file that evidence and any modifications, new findings, or decision with the
1192 commissioner. Unless leave is given by the commissioner in accordance with the
1193 provisions of this subsection, the appeal panel may not consider new evidence under any
1194 circumstances. In all circumstances, the commissioner's decision shall be based upon
1195 considerations as set forth in Code Section 31-6-42 and the department's rules.

1196 (l) If, based upon the findings of fact by the hearing officer, the commissioner determines
1197 that the appeal filed by any party of a decision of the department lacks substantial
1198 justification and was undertaken primarily for the purpose of delay or harassment, the
1199 commissioner may enter an award in his or her written order against such party and in
1200 favor of the successful party or parties, including the department, of all or any part of their
1201 respective reasonable and necessary attorney's fees and expenses of litigation, as the
1202 commissioner deems just. Such award may be enforced by any court undertaking judicial
1203 review of the final decision. In the absence of any petition for judicial review, then such
1204 award shall be enforced, upon due application, by any court having personal jurisdiction
1205 over the party against whom such an award is made.

1206 (m) Unless the hearing officer's decision becomes the department's final decision by
1207 operation of law as provided in subsection (j) of this Code section, the decision of the
1208 commissioner shall become the department's final decision by operation of law. Such final
1209 decision shall be the final department decision for purposes of Chapter 13 of Title 50, the
1210 'Georgia Administrative Procedure Act.' The appeals process provided by this Code
1211 section shall be the administrative remedy only for decisions made by the department
1212 pursuant to Code Section 31-6-43 which involve the approval or denial of applications for
1213 certificates of need.

1214 (n) A party responding to an appeal to the commissioner may be entitled to reasonable
1215 attorney's fees and costs of such appeal if it is determined that the appeal lacked substantial
1216 justification and was undertaken primarily for the purpose of delay or harassment;
1217 provided, however, that the department shall not be required to pay attorney's fees or costs.
1218 This subsection shall not apply to the portion of attorney's fees accrued on behalf of a party
1219 responding to or bringing a challenge to the department's authority to enact a rule or
1220 regulation or the department's jurisdiction or another challenge that could not have been
1221 decided in the administrative proceeding, nor shall it apply to costs accrued when the only
1222 argument raised by the appealing party is one described in this subsection.

1223 31-6-44.1.

1224 (a) Any party to the initial administrative appeal hearing conducted by the appointed
1225 appeal panel hearing officer, excluding the department, may seek judicial review of the
1226 final decision in accordance with the method set forth in Chapter 13 of Title 50, the
1227 'Georgia Administrative Procedure Act,' except as otherwise modified by this Code section;
1228 provided, however, that in conducting such review, the court may reverse or modify the
1229 final decision only if substantial rights of the appellant have been prejudiced because the
1230 procedures followed by the department, the hearing officer, or the commissioner or the
1231 administrative findings, inferences, and conclusions contained in the final decision are:

1232 (1) In violation of constitutional or statutory provisions;

1233 (2) In excess of the statutory authority of the department;

1234 (3) Made upon unlawful procedures;

1235 (4) Affected by other error of law;

1236 (5) Not supported by substantial evidence, which shall mean that the record does not
1237 contain such relevant evidence as a reasonable mind might accept as adequate to support
1238 such findings, inferences, conclusions, or decisions, which such evidentiary standard shall
1239 be in excess of the 'any evidence' standard contained in other statutory provisions; or

1240 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
1241 exercise of discretion.

1242 (b) In the event a party seeks judicial review, the proceedings for such review shall be
1243 governed by Chapter 3 of Title 5 except as provided otherwise in this Code section. If a
1244 party seeks judicial review, the department shall, within 30 days after being served with a
1245 copy of the petition for review filed in the superior court, transmit certified copies of all
1246 documents and papers in its file together with a transcript of the testimony taken and its
1247 findings of fact and decision to the clerk of the superior court to which the case has been
1248 appealed. The case so appealed may then be brought by either party upon ten days' written
1249 notice to the other before the superior court for a hearing upon such record, subject to an

1250 assignment of the case for hearing by the court; provided, however, that, if the court does
1251 not hear the case within 120 days of the date of docketing in the superior court, the decision
1252 of the department shall be considered affirmed by operation of law unless a hearing
1253 originally scheduled to be heard within the 120 days has been continued to a date certain
1254 by order of the court. In the event a hearing is held later than 90 days after the date of
1255 docketing in the superior court because same has been continued to a date certain by order
1256 of the court, the decision of the department shall be considered affirmed by operation of
1257 law if no order of the court disposing of the issues on appeal has been entered within 30
1258 days after the date of the continued hearing. If a case is heard within 120 days from the
1259 date of docketing in the superior court, the decision of the department shall be considered
1260 affirmed by operation of law if no order of the court disposing of the issues on appeal has
1261 been entered within 30 days of the date of the hearing.

1262 (c) A party responding to an appeal to the superior court shall be entitled to reasonable
1263 attorney's fees and costs if such party is the prevailing party of such appeal as decided by
1264 final order; provided, however, that the department shall not be required to pay attorney's
1265 fees or costs. This subsection shall not apply to the portion of attorney's fees accrued on
1266 behalf of a party responding to or bringing a challenge to the department's authority to
1267 enact a rule or regulation or the department's jurisdiction or another challenge that could
1268 not have been raised in the administrative proceeding.

1269 31-6-45.

1270 (a) The department may revoke a certificate of need, in whole or in part, after notice to the
1271 holder of the certificate and a fair hearing pursuant to Chapter 13 of Title 50, the 'Georgia
1272 Administrative Procedure Act,' for the following reasons:

1273 (1) Failure to comply with the provisions of Code Section 31-6-41;

1274 (2) The intentional provision of false information to the department by an applicant in
1275 that applicant's application;

- 1276 (3) Repeated failure to pay any fines or moneys due to the department;
1277 (4) Failure to maintain minimum quality of care standards that may be established by the
1278 department;
1279 (5) Failure to participate as a provider of medical assistance for Medicaid purposes
1280 pursuant to Code Section 31-6-45.2 or any other applicable Code section; or
1281 (6) The failure to submit a timely or complete report within 180 days following the date
1282 the report is due pursuant to Code Section 31-6-70; ~~or~~
1283 ~~(7) Failure of a destination cancer hospital to meet an annual patient base composed of~~
1284 ~~a minimum of 65 percent of patients who reside outside this state for three calendar years~~
1285 ~~in any five-year period.~~
- 1286 The department may not, however, revoke a certificate of need if the applicant changes the
1287 defined location of the project within the same county less than three miles from the
1288 location specified in the certificate of need for financial reasons or other reasons beyond
1289 its control, including, but not limited to, failure to obtain any required approval from
1290 zoning or other governmental agencies or entities, provided that such change in location
1291 is otherwise consistent with the considerations and rules applied in the evaluation of the
1292 project.
- 1293 (a.1) The department may revoke a certificate of need, in whole or in part, after notice to
1294 the holder of the certificate and a fair hearing pursuant to Chapter 13 of Title 50, the
1295 'Georgia Administrative Procedure Act,' if the services or units of services for which the
1296 certificate of need was issued are not implemented in a timely manner, as established by
1297 the department in its rules. This subsection shall apply only to certificates of need issued
1298 on or after July 1, 2008.
- 1299 (b) Any health care facility offering a new institutional health service without having
1300 obtained a certificate of need and which has not been previously licensed as a health care
1301 facility shall be denied a license to operate.

1302 (c) In the event that a new institutional health service is knowingly offered or developed
1303 without having obtained a certificate of need as required by this chapter, or the certificate
1304 of need for such service is revoked according to the provisions of this Code section, a
1305 facility or applicant may be fined an amount of \$5,000.00 per day up to 30 days,
1306 \$10,000.00 per day from 31 days through 60 days, and \$25,000.00 per day after 60 days
1307 for each day that the violation of this chapter has existed and knowingly and willingly
1308 continues; provided, however, that the expenditure or commitment of or incurring an
1309 obligation for the expenditure of funds to take or perform actions not subject to this chapter
1310 or to acquire, develop, or prepare a health care facility site for which a certificate of need
1311 application is denied shall not be a violation of this chapter and shall not be subject to such
1312 a fine. The commissioner shall determine, after notice and a hearing, whether the fines
1313 provided in this Code section shall be levied.

1314 (d) In addition, for purposes of this Code section, the State of Georgia, acting by and
1315 through the department, or any other interested person, shall have standing in any court of
1316 competent jurisdiction to maintain an action for injunctive relief to enforce the provisions
1317 of this chapter.

1318 (e) The department shall have the authority to make public or private investigations or
1319 examinations inside or outside of this state to determine whether all provisions of this Code
1320 section or any other law, rule, regulation, or formal order relating to the provisions of Code
1321 Section 31-6-40 has been violated. Such investigations may be initiated at any time in the
1322 discretion of the department and may continue during the pendency of any action initiated
1323 by the department pursuant to subsection (a) of this Code section. For the purpose of
1324 conducting any investigation or inspection pursuant to this subsection, the department shall
1325 have the authority, upon providing reasonable notice, to require the production of any
1326 books, records, papers, or other information related to any certificate of need issue.

1327 31-6-45.1.

1328 (a) A health care facility which has a certificate of need or is otherwise authorized to
1329 operate pursuant to this chapter shall have such certificate of need or authority to operate
1330 automatically revoked by operation of law without any action by the department when that
1331 facility's permit to operate pursuant to Code Section 31-7-4 is finally revoked by order of
1332 the department. For purposes of this subsection, the date of such final revocation shall be
1333 as follows:

1334 (1) When there is no appeal of the order pursuant to Chapter 5 of this title, the one
1335 hundred and eightieth day after the date upon which expires the time for appealing the
1336 revocation order without such an appeal being filed; or

1337 (2) When there is an appeal of the order pursuant to Chapter 5 of this title, the date upon
1338 which expires the time to appeal the last administrative or judicial order affirming or
1339 approving the revocation or revocation order without such appeal being filed.

1340 (b) The services which had been authorized to be offered by a health care facility for
1341 which a certificate of need has been revoked pursuant to subsection (a) of this Code section
1342 may continue to be offered in the service area in which that facility was located under such
1343 conditions as specified by the department notwithstanding that some or all of such services
1344 could not otherwise be offered as new institutional health services.

1345 31-6-45.2.

1346 (a) The department may require that any applicant for a certificate of need agree to
1347 participate as a provider of medical assistance for Medicaid purposes pursuant to Article 7
1348 of Chapter 4 of Title 49.

1349 (b) Any proposed or existing health care facility which obtains a certificate of need on or
1350 after April 6, 1992, based in part upon assurances that it will participate as a provider of
1351 medical assistance, as defined in paragraph (6) of Code Section 49-4-141, and which
1352 terminates its participation as a provider of medical assistance or violates any conditions

1353 imposed by the department relating to such participation, shall be subject to a monetary
1354 penalty in the amount of the difference between the Medicaid covered services which the
1355 facility agreed to provide in its certificate of need application and the amount actually
1356 provided and may be subject to revocation of its certificate of need by the department
1357 pursuant to Code Section 31-6-45; provided, however, that this Code section shall not
1358 apply if:

1359 (1) The proposed or existing health care facility's certificate of need application was
1360 approved by the Health Planning Agency prior to April 6, 1992, and the Health Planning
1361 Agency's approval of such application was under appeal on or after April 6, 1992, and the
1362 Health Planning Agency's approval of such application is ultimately affirmed;

1363 (2) Such facility's participation as a provider of medical assistance is terminated by the
1364 state or federal government; or

1365 (3) Such facility establishes good cause for terminating its participation as a provider of
1366 medical assistance. For purposes of this Code section, the term 'good cause' shall mean:

1367 (A) Changes in the adequacy of medical assistance payments, as 'medical assistance'
1368 is defined in paragraph (5) of Code Section 49-4-141, provided that at least 10 percent
1369 of the facility's utilization during the preceding 12 month period was attributable to
1370 services to recipients of medical assistance, as defined in paragraph (7) of Code
1371 Section 49-4-141. Medical assistance payments to a facility shall be presumed
1372 adequate unless the revenues received by the facility from all sources are less than the
1373 total costs set forth in the cost report for the preceding full 12 month period filed by
1374 such facility pursuant to the state plan as defined in paragraph (8) of Code
1375 Section 49-4-141 which are allowed under the state plan for purposes of determining
1376 such facility's reimbursement rate for medical assistance and the aggregate amount of
1377 such facility's medical assistance payments (including any amounts received by the
1378 facility from recipients of medical assistance) during the preceding full 12 month cost
1379 reporting period is less than 85 percent of such facility's Medicaid costs for such period.

1380 Medicaid costs shall be determined by multiplying the allowable costs set forth in the
1381 cost report, less any audit adjustments, by the percentage of the facility's utilization
1382 during the cost reporting period which was attributable to recipients of medical
1383 assistance;

1384 (B) Changes in the overall ability of the facility to cover its costs if such changes are
1385 of such a degree as to seriously threaten the continued viability of the facility; or

1386 (C) Changes in the state plan, statutes, or rules and regulations governing providers of
1387 medical assistance which impose substantial new obligations upon the facility which
1388 are not reimbursed by Medicaid and which adversely affect the financial viability of the
1389 facility in a substantial manner.

1390 (c) A facility seeking to terminate its enrollment as a provider of medical assistance shall
1391 submit a written request to the department documenting good cause for termination. The
1392 department shall grant or deny the facility's request within 30 days. If the department
1393 denies the facility's request, the facility shall be entitled to a hearing conducted in the same
1394 manner as an evidentiary hearing conducted by the department pursuant to the provisions
1395 of Code Section 49-4-153 within 30 days of the department's decision.

1396 (d) The imposition of the monetary penalty provided in this Code section shall commence
1397 upon the date that said facility has terminated its participation as a provider of medical
1398 assistance, as determined by the commissioner. The monetary penalty shall be levied and
1399 collected by the department on an annual basis for every year in which the facility fails to
1400 participate as a provider of medical assistance. Penalties authorized under this Code
1401 section shall be subject to the same notices and hearings as provided for levy of fines under
1402 Code Section 31-6-45.

1403 31-6-46.

1404 The department shall prepare and submit an annual report to the board and to the Senate
1405 Health and Human Services Committee of the Senate and the House Committee on Health

1406 ~~and Human Services Committee of the House of Representatives~~ about its operations and
1407 decisions for the preceding 12 month period, not later than 30 days prior to each convening
1408 of the General Assembly in regular session. Either committee may request any additional
1409 reports or information, including decisions, from the department at any time, including a
1410 period in which the General Assembly is not in regular session. The annual report shall
1411 include information and updates relating to the state health plan and the certificate of need
1412 program and an annual analysis of proactive and prospective approaches to need
1413 methodologies and access to health care services. The annual report shall include
1414 information for Georgia's congressional delegation which highlights issues regarding
1415 federal laws and regulations influencing Medicaid and medicare, insurance and related tax
1416 laws, and long-term health care.

1417 31-6-47.

1418 (a) Notwithstanding the other provisions of this chapter, this chapter shall not apply to:

1419 ~~(1) Infirmaries operated by educational institutions for the sole and exclusive benefit of~~
1420 ~~students, faculty members, officers, or employees thereof;~~

1421 ~~(2) Infirmaries or facilities operated by businesses for the sole and exclusive benefit of~~
1422 ~~officers or employees thereof, provided that such infirmaries or facilities make no~~
1423 ~~provision for overnight stay by persons receiving their services;~~

1424 ~~(3)~~(1) Institutions operated exclusively by the federal government or by any of its
1425 agencies;

1426 ~~(4) Offices of private physicians or dentists whether for individual or group practice,~~
1427 ~~except as otherwise provided in paragraph (3) or (7) of subsection (a) of Code Section~~
1428 ~~31-6-40;~~

1429 ~~(5)~~(2) Religious, nonmedical health care institutions as defined in 42 U.S.C. Section
1430 1395x(ss)(1), listed and certified by a national accrediting organization;

1431 ~~(6)~~(3) Site acquisitions for health care facilities or preparation or development costs for
1432 such sites prior to the decision to file a certificate of need application;

1433 ~~(7)~~(4) Expenditures related to adequate preparation and development of an application
1434 for a certificate of need;

1435 ~~(8)~~(5) The commitment of funds conditioned upon the obtaining of a certificate of need;

1436 ~~(9)~~(6) Expenditures for the restructuring or acquisition of existing health care facilities
1437 by stock or asset purchase, merger, consolidation, or other lawful means;

1438 ~~(9.1)~~ The purchase of a closing hospital or of a hospital that has been closed for no more
1439 than 12 months by a hospital in a contiguous county to repurpose the facility as a
1440 micro-hospital;

1441 ~~(10)~~ Expenditures of less than \$870,000.00 for any minor or major repair or replacement
1442 of equipment by a health care facility that is not owned by a group practice of physicians
1443 or a hospital and that provides diagnostic imaging services if such facility received a
1444 letter of nonreviewability from the department prior to July 1, 2008. This paragraph shall
1445 not apply to such facilities in rural counties;

1446 ~~(10.1)~~(7) Expenditures Except as provided in paragraph (10) of this subsection,
1447 expenditures for the minor or major repair of a health care facility or a facility that is
1448 exempt from the requirements of this chapter, parts thereof or services provided or
1449 equipment used therein; or the replacement of equipment, including but not limited to CT
1450 scanners, magnetic resonance imaging, positron emission tomography (PET), and
1451 positron emission tomography/computed tomography previously approved for a
1452 certificate of need;

1453 ~~(11)~~(8) Capital expenditures otherwise covered by this chapter required solely to
1454 eliminate or prevent safety hazards as defined by federal, state, or local fire, building,
1455 environmental, occupational health, or life safety codes or regulations, to comply with
1456 licensing requirements of the department, or to comply with accreditation standards of
1457 a nationally recognized health care accreditation body;

1458 ~~(12)~~(9) Cost overruns whose percentage of the cost of a project is equal to or less than
1459 the cumulative annual rate of increase in the composite construction index, published by
1460 the United States Bureau of the Census of the Department of Commerce, calculated from
1461 the date of approval of the project;

1462 ~~(13)~~(10) Transfers from one health care facility to another such facility of major medical
1463 equipment previously approved under or exempted from certificate of need review,
1464 except where such transfer results in the institution of a new clinical health service for
1465 which a certificate of need is required in the facility acquiring such equipment, provided
1466 that such transfers are recorded at net book value of the medical equipment as recorded
1467 on the books of the transferring facility;

1468 ~~(14)~~(11) New institutional health services provided by or on behalf of ~~health~~
1469 ~~maintenance organizations or related~~ health care facilities in circumstances defined by
1470 the department pursuant to federal law;

1471 ~~(15) Increases in the bed capacity of a hospital up to ten beds or 10 percent of capacity,~~
1472 ~~whichever is greater, in any consecutive two-year period, in a hospital that has~~
1473 ~~maintained an overall occupancy rate greater than 75 percent for the previous 12 month~~
1474 ~~period;~~

1475 ~~(16)~~(12) Expenditures for nonclinical projects, including parking lots, parking decks, and
1476 other parking facilities; computer systems, software, and other information technology;
1477 ~~medical office buildings;~~ administrative office space; conference rooms; education
1478 facilities; lobbies; common spaces; clinical staff lounges and sleep areas; waiting rooms;
1479 bathrooms; cafeterias; hallways; engineering facilities; mechanical systems; roofs;
1480 grounds; signage; family meeting or lounge areas; and other nonclinical physical plant
1481 renovations or upgrades that do not result in new or expanded clinical health services, ~~and~~
1482 ~~state mental health facilities;~~

1483 ~~(17)~~(13) Life plan communities, provided that the skilled nursing component of the
1484 facility is for the exclusive use of residents of the life plan community and that a written

1485 exemption is obtained from the department; provided, however, that new sheltered
1486 nursing home beds may be used on a limited basis by persons who are not residents of
1487 the life plan community for a period up to five years after the date of issuance of the
1488 initial nursing home license, but such beds shall not be eligible for Medicaid
1489 reimbursement. For the first year, the life plan community sheltered nursing facility may
1490 utilize not more than 50 percent of its licensed beds for patients who are not residents of
1491 the life plan community. In the second year of operation, the life plan community shall
1492 allow not more than 40 percent of its licensed beds for new patients who are not residents
1493 of the life plan community. In the third year of operation, the life plan community shall
1494 allow not more than 30 percent of its licensed beds for new patients who are not residents
1495 of the life plan community. In the fourth year of operation, the life plan community shall
1496 allow not more than 20 percent of its licensed beds for new patients who are not residents
1497 of the life plan community. In the fifth year of operation, the life plan community shall
1498 allow not more than 10 percent of its licensed beds for new patients who are not residents
1499 of the life plan community. At no time during the first five years shall the life plan
1500 community sheltered nursing facility occupy more than 50 percent of its licensed beds
1501 with patients who are not residents under contract with the life plan community. At the
1502 end of the five-year period, the life plan community sheltered nursing facility shall be
1503 utilized exclusively by residents of the life plan community, and at no time shall a
1504 resident of a life plan community be denied access to the sheltered nursing facility. At
1505 no time shall any existing patient be forced to leave the life plan community to comply
1506 with this paragraph. The department is authorized to promulgate rules and regulations
1507 regarding the use and definition of 'sheltered nursing facility' in a manner consistent with
1508 this Code section. Agreements to provide continuing care include agreements to provide
1509 care for any duration, including agreements that are terminable by either party;
1510 ~~(18) Any single specialty ambulatory surgical center that:~~

1511 ~~(A)(i) Has capital expenditures associated with the construction, development, or~~
1512 ~~other establishment of the clinical health service which do not exceed \$2.5 million;~~
1513 ~~or~~
1514 ~~(ii) Is the only single specialty ambulatory surgical center in the county owned by the~~
1515 ~~group practice and has two or fewer operating rooms; provided, however, that a center~~
1516 ~~exempt pursuant to this division shall be required to obtain a certificate of need in~~
1517 ~~order to add any additional operating rooms;~~
1518 ~~(B) Has a hospital affiliation agreement with a hospital within a reasonable distance~~
1519 ~~from the facility or the medical staff at the center has admitting privileges or other~~
1520 ~~acceptable documented arrangements with such hospital to ensure the necessary backup~~
1521 ~~for the center for medical complications. The center shall have the capability to transfer~~
1522 ~~a patient immediately to a hospital within a reasonable distance from the facility with~~
1523 ~~adequate emergency room services. Hospitals shall not unreasonably deny a transfer~~
1524 ~~agreement or affiliation agreement to the center;~~
1525 ~~(C)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical~~
1526 ~~care and treatment to children, to PeachCare for Kids beneficiaries and provides~~
1527 ~~uncompensated indigent and charity care in an amount equal to or greater than~~
1528 ~~2 percent of its adjusted gross revenue; or~~
1529 ~~(ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,~~
1530 ~~provides uncompensated care to Medicaid beneficiaries and, if the facility provides~~
1531 ~~medical care and treatment to children, to PeachCare for Kids beneficiaries,~~
1532 ~~uncompensated indigent and charity care, or both in an amount equal to or greater~~
1533 ~~than 4 percent of its adjusted gross revenue;~~
1534 ~~provided, however, that single specialty ambulatory surgical centers owned by~~
1535 ~~physicians in the practice of ophthalmology shall not be required to comply with this~~
1536 ~~subparagraph; and~~

1537 ~~(D) Provides annual reports in the same manner and in accordance with Code~~
1538 ~~Section 31-6-70.~~

1539 ~~Noncompliance with any condition of this paragraph shall result in a monetary penalty~~
1540 ~~in the amount of the difference between the services which the center is required to~~
1541 ~~provide and the amount actually provided and may be subject to revocation of its~~
1542 ~~exemption status by the department for repeated failure to pay any fines or moneys due~~
1543 ~~to the department or for repeated failure to produce data as required by Code~~
1544 ~~Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to~~
1545 ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount~~
1546 ~~specified in this paragraph shall be adjusted annually by an amount calculated by~~
1547 ~~multiplying such dollar amount (as adjusted for the preceding year) by the annual~~
1548 ~~percentage of change in the composite index of construction material prices, or its~~
1549 ~~successor or appropriate replacement index, if any, published by the United States~~
1550 ~~Department of Commerce for the preceding calendar year, commencing on July 1, 2009,~~
1551 ~~and on each anniversary thereafter of publication of the index. The department shall~~
1552 ~~immediately institute rule-making procedures to adopt such adjusted dollar amounts. In~~
1553 ~~calculating the dollar amounts of a proposed project for purposes of this paragraph, the~~
1554 ~~costs of all items subject to review by this chapter and items not subject to review by this~~
1555 ~~chapter associated with and simultaneously developed or proposed with the project shall~~
1556 ~~be counted, except for the expenditure or commitment of or incurring an obligation for~~
1557 ~~the expenditure of funds to develop certificate of need applications, studies, reports,~~
1558 ~~schematics, preliminary plans and specifications or working drawings, or to acquire sites;~~
1559 ~~(19) Any joint venture ambulatory surgical center that:~~

1560 ~~(A) Has capital expenditures associated with the construction, development, or other~~
1561 ~~establishment of the clinical health service which do not exceed \$5 million;~~

1562 ~~(B)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical~~
1563 ~~care and treatment to children, to PeachCare for Kids beneficiaries and provides~~

1564 ~~uncompensated indigent and charity care in an amount equal to or greater than 2~~
1565 ~~percent of its adjusted gross revenue; or~~
1566 ~~(ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,~~
1567 ~~provides uncompensated care to Medicaid beneficiaries and, if the facility provides~~
1568 ~~medical care and treatment to children, to PeachCare for Kids beneficiaries,~~
1569 ~~uncompensated indigent and charity care, or both in an amount equal to or greater~~
1570 ~~than 4 percent of its adjusted gross revenue; and~~
1571 ~~(C) Provides annual reports in the same manner and in accordance with Code Section~~
1572 ~~31-6-70.~~
1573 ~~Noncompliance with any condition of this paragraph shall result in a monetary penalty~~
1574 ~~in the amount of the difference between the services which the center is required to~~
1575 ~~provide and the amount actually provided and may be subject to revocation of its~~
1576 ~~exemption status by the department for repeated failure to pay any fines or moneys due~~
1577 ~~to the department or for repeated failure to produce data as required by Code~~
1578 ~~Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to~~
1579 ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount~~
1580 ~~specified in this paragraph shall be adjusted annually by an amount calculated by~~
1581 ~~multiplying such dollar amount (as adjusted for the preceding year) by the annual~~
1582 ~~percentage of change in the composite index of construction material prices, or its~~
1583 ~~successor or appropriate replacement index, if any, published by the United States~~
1584 ~~Department of Commerce for the preceding calendar year, commencing on July 1, 2009,~~
1585 ~~and on each anniversary thereafter of publication of the index. The department shall~~
1586 ~~immediately institute rule-making procedures to adopt such adjusted dollar amounts. In~~
1587 ~~calculating the dollar amounts of a proposed project for purposes of this paragraph, the~~
1588 ~~costs of all items subject to review by this chapter and items not subject to review by this~~
1589 ~~chapter associated with and simultaneously developed or proposed with the project shall~~
1590 ~~be counted, except for the expenditure or commitment of or incurring an obligation for~~

1591 ~~the expenditure of funds to develop certificate of need applications, studies, reports,~~
1592 ~~schematics, preliminary plans and specifications or working drawings, or to acquire sites;~~
1593 ~~(20) Expansion of services by an imaging center based on a population needs~~
1594 ~~methodology taking into consideration whether the population residing in the area served~~
1595 ~~by the imaging center has a need for expanded services, as determined by the department~~
1596 ~~in accordance with its rules and regulations, if such imaging center:~~
1597 ~~(A) Was in existence and operational in this state on January 1, 2008;~~
1598 ~~(B) Is owned by a hospital or by a physician or a group of physicians comprising at~~
1599 ~~least 80 percent ownership who are currently board certified in radiology;~~
1600 ~~(C) Provides three or more diagnostic and other imaging services;~~
1601 ~~(D) Accepts all patients regardless of ability to pay; and~~
1602 ~~(E) Provides uncompensated indigent and charity care in an amount equal to or greater~~
1603 ~~than the amount of such care provided by the geographically closest general acute care~~
1604 ~~hospital; provided, however, that this paragraph shall not apply to an imaging center in~~
1605 ~~a rural county;~~
1606 ~~(21) Diagnostic cardiac catheterization in a hospital setting on patients 15 years of age~~
1607 ~~and older;~~
1608 ~~(22) Therapeutic cardiac catheterization in hospitals selected by the department prior to~~
1609 ~~July 1, 2008, to participate in the Atlantic Cardiovascular Patient Outcomes Research~~
1610 ~~Team (C-PORT) Study and therapeutic cardiac catheterization in hospitals that, as~~
1611 ~~determined by the department on an annual basis, meet the criteria to participate in the~~
1612 ~~C-PORT Study but have not been selected for participation; provided, however, that if~~
1613 ~~the criteria requires a transfer agreement to another hospital, no hospital shall~~
1614 ~~unreasonably deny a transfer agreement to another hospital;~~
1615 ~~(23)(14) Facilities Infirmaries or facilities operated by, on behalf of, or under contract~~
1616 ~~with the Department of Corrections or the Department of Juvenile Justice for the sole and~~
1617 ~~exclusive purpose of providing health care services in a secure environment to prisoners~~

1618 within a penal institution, penitentiary, prison, detention center, or other secure
 1619 correctional institution, including correctional institutions operated by private entities in
 1620 this state which house inmates under the Department of Corrections or the Department
 1621 of Juvenile Justice;

1622 ~~(24)~~(15) The relocation of any skilled nursing facility; or intermediate care facility, ~~or~~
 1623 ~~micro-hospital~~ within the same county; ~~any other health care facility in a rural county~~
 1624 ~~within the same county, and any other health care facility in an urban county within a~~
 1625 ~~three-mile radius of the existing facility~~ so long as the facility does not propose to offer
 1626 any new or expanded clinical health services at the new location; or

1627 ~~(25) Facilities which are devoted to the provision of treatment and rehabilitative care for~~
 1628 ~~periods continuing for 24 hours or longer for persons who have traumatic brain injury,~~
 1629 ~~as defined in Code Section 37-3-1;~~

1630 ~~(26) Capital expenditures for a project otherwise requiring a certificate of need if those~~
 1631 ~~expenditures are for a project to remodel, renovate, replace, or any combination thereof,~~
 1632 ~~a medical-surgical hospital and:~~

1633 ~~(A) That hospital:~~

1634 ~~(i) Has a bed capacity of not more than 50 beds;~~

1635 ~~(ii) Is located in a county in which no other medical-surgical hospital is located;~~

1636 ~~(iii) Has at any time been designated as a disproportionate share hospital by the~~
 1637 ~~department; and~~

1638 ~~(iv) Has at least 45 percent of its patient revenues derived from medicare, Medicaid,~~
 1639 ~~or any combination thereof, for the immediately preceding three years; and~~

1640 ~~(B) That project:~~

1641 ~~(i) Does not result in any of the following:~~

1642 ~~(I) The offering of any new clinical health services;~~

1643 ~~(II) Any increase in bed capacity;~~

1644 ~~(III) Any redistribution of existing beds among existing clinical health services; or~~

1645 ~~(IV) Any increase in capacity of existing clinical health services;~~
 1646 ~~(ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a~~
 1647 ~~special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8~~
 1648 ~~of Title 48; and~~
 1649 ~~(iii) Is located within a three-mile radius of and within the same county as the~~
 1650 ~~hospital's existing facility;~~
 1651 ~~(27)~~(16) The renovation, remodeling, refurbishment, or upgrading of a health care
 1652 facility, so long as the project does not result in any of the following:
 1653 (A) The offering of any new or expanded clinical health services; or
 1654 ~~(B) Any increase in inpatient bed capacity;~~
 1655 ~~(C) Any redistribution of existing beds among existing clinical health services; or~~
 1656 ~~(D)~~(B) A capital expenditure exceeding the threshold contained in paragraph (2) of
 1657 subsection (a) of Code Section 31-6-40;;
 1658 ~~(28) Other than for equipment used to provide positron emission tomography (PET)~~
 1659 ~~services, the acquisition of diagnostic, therapeutic, or other imaging equipment with a~~
 1660 ~~value of \$3 million or less, by or on behalf of:~~
 1661 ~~(A) A hospital; or~~
 1662 ~~(B) An individual private physician or single group practice of physicians exclusively~~
 1663 ~~for use on patients of such private physician or single group practice of physicians and~~
 1664 ~~such private physician or member of such single group practice of physicians is~~
 1665 ~~physically present at the practice location where the diagnostic or other imaging~~
 1666 ~~equipment is located at least 75 percent of the time that the equipment is in use.~~
 1667 ~~The amount specified in this paragraph shall not include build-out costs, as defined by~~
 1668 ~~the department, but shall include all functionally related equipment, software, and any~~
 1669 ~~warranty and services contract costs for the first five years. The acquisition of one or~~
 1670 ~~more items of functionally related diagnostic or therapeutic equipment shall be~~
 1671 ~~considered as one project. The dollar amount specified in this paragraph and in~~

1672 ~~paragraph (10) of this subsection shall be adjusted annually by an amount calculated by~~
1673 ~~multiplying such dollar amounts (as adjusted for the preceding year) by the annual~~
1674 ~~percentage of change in the consumer price index, or its successor or appropriate~~
1675 ~~replacement index, if any, published by the United States Department of Labor for the~~
1676 ~~preceding calendar year, commencing on July 1, 2010; and~~

1677 ~~(29) A capital expenditure of \$10 million or less by a hospital at such hospital's primary~~
1678 ~~campus for:~~

1679 ~~(A) The expansion or addition of the following clinical health services: operating~~
1680 ~~rooms, other than dedicated outpatient operating rooms; medical-surgical services;~~
1681 ~~gynecology; procedure rooms; intensive care; pharmaceutical services; pediatrics;~~
1682 ~~cardiac care or other general hospital services; provided, however, that such~~
1683 ~~expenditure does not include the expansion or addition of inpatient beds or the~~
1684 ~~conversion of one type of inpatient bed to another type of inpatient bed; or~~

1685 ~~(B) The movement of clinical health services from one location on the hospital's~~
1686 ~~primary campus to another location on such hospital's primary campus.~~

1687 (b) By rule, the department shall establish a procedure for expediting or waiving reviews
1688 of certain projects the nonreview of which it deems compatible with the purposes of this
1689 chapter, in addition to expenditures exempted from review by this Code section.

1690 31-6-47.1.

1691 The department shall require prior notice from a new health care facility for approval of
1692 any activity which is believed to be exempt pursuant to Code Section 31-6-47 or excluded
1693 from the requirements of this chapter under other provisions of this chapter. The
1694 department may require prior notice and approval of any activity which is believed to be
1695 exempt pursuant to paragraphs ~~(10), (15), (16), (17), (20), (21), (23), (25), (26), (27), (28),~~
1696 ~~and (29)~~ (12), (13), and (14) of subsection (a) of Code Section 31-6-47. The department
1697 shall establish timeframes, forms, and criteria to request a letter of determination that an

1698 activity is properly exempt or excluded under this chapter prior to its implementation. The
1699 department shall publish notice of all requests for letters of determination regarding exempt
1700 activity and opposition to such request. Persons opposing a request for approval of an
1701 exempt activity shall be entitled to file an objection with the department and the department
1702 shall consider any filed objection when determining whether an activity is exempt. After
1703 the department's decision, an opposing party shall have the right to a fair hearing pursuant
1704 to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' on an adverse
1705 decision of the department and judicial review of a final decision in the same manner and
1706 under the same provisions as in Code Section 31-6-44.1. If no objection to a request for
1707 determination is filed within 30 days of the department's receipt of such request for
1708 determination, the department shall have 60 days from the date of the department's receipt
1709 of such request to review the request and issue a letter of determination. The department
1710 may adopt rules for deciding when it is not practicable to provide a determination in 60
1711 days and may extend the review period upon written notice to the requestor but only for an
1712 extended period of no longer than an additional 30 days.

1713 31-6-48.

1714 The State Health Planning and Development Agency, the State-wide Health Coordinating
1715 Council, and the State Health Planning Review Board existing immediately prior to
1716 July 1, 1983, are abolished, and their respective successors on and after July 1, 1983, shall
1717 be the Health Planning Agency, the Health Policy Council, and the Health Planning
1718 Review Board, as established in this chapter, except that on and after July 1, 1991, the
1719 Health Strategies Council shall be the successor to the Health Policy Council, and except
1720 that on and after July 1, 1999, the Department of Community Health shall be the successor
1721 to the Health Planning Agency, and except that on and after July 1, 2008, the Board of
1722 Community Health shall be the successor to the duties of the Health Strategies Council
1723 with respect to adoption of the state health plan, and except that on June 30, 2008, the

1724 Health Planning Review Board is abolished and the terms of all members on such board
1725 on such date shall automatically terminate and the Certificate of Need Appeal Panel shall
1726 be the successor to the duties of the Health Planning Review Board on such date. For
1727 purposes of any existing contract with the federal government, or federal law referring to
1728 such abolished agency, council, or board, the successor department, council, or board
1729 established in this chapter or in Chapter 2 of this title shall be deemed to be the abolished
1730 agency, council, or board and shall succeed to the abolished agency's, council's, or board's
1731 functions. The State Health Planning and Development Commission is abolished.

1732 31-6-49.

1733 All matters transferred to the Health Planning Agency by the previously existing provisions
1734 of this Code section and that are in effect on June 30, 1999, shall automatically be
1735 transferred to the Department of Community Health on July 1, 1999. All matters of the
1736 Health Planning Review Board that are pending on June 30, 2008, shall automatically be
1737 transferred to the Certificate of Need Appeal Panel established pursuant to Code
1738 Section 31-6-44.

1739 31-6-50.

1740 The review and appeal considerations and procedures set forth in Code Sections 31-6-42
1741 through 31-6-44, respectively, shall apply to and govern the review of capital expenditures
1742 under the Section 1122 program of the federal Social Security Act of 1935, as amended,
1743 including, but not limited to, any application for approval under Section 1122 which is
1744 under consideration by the Health Planning Agency or on appeal before the Certificate of
1745 Need Appeal Panel, successor to the former Health Planning Review Board as of June 30,
1746 2008.

1747

ARTICLE 4

1748 31-6-70.

1749 (a) There shall be required from each health care facility in this state requiring a certificate
1750 of need ~~and all ambulatory surgical centers and imaging centers, whether or not exempt~~
1751 ~~from obtaining a certificate of need under this chapter~~, an annual report of such health care
1752 information as determined by the department. The report shall be due on the date
1753 determined by the department and shall cover the 12 month period preceding each such
1754 calendar year.

1755 (b) The report required under subsection (a) of this Code section shall contain the
1756 following information:

1757 (1) Total gross revenues;

1758 (2) Bad debts;

1759 (3) Amounts of free care extended, excluding bad debts;

1760 (4) Contractual adjustments;

1761 (5) Amounts of care provided under a Hill-Burton commitment;

1762 (6) Amounts of charity care provided to indigent and nonindigent persons;

1763 (7) Amounts of outside sources of funding from governmental entities, philanthropic
1764 groups, or any other source, including the proportion of any such funding dedicated to the
1765 care of indigent persons; and

1766 (8) For cases involving indigent persons and nonindigent ~~person~~ persons receiving
1767 charity care:

1768 (A) The number of persons treated;

1769 (B) The number of inpatients and outpatients;

1770 (C) Total patient days;

1771 (D) The number of patients categorized by county of residence; and

- 1772 (E) The indigent and nonindigent care costs incurred by the health care facility by
1773 county of residence;
- 1774 ~~(9) Transfers to a hospital or hospital emergency department, including both direct~~
1775 ~~transfers and transfers by emergency medical services;~~
- 1776 ~~(10) Number of rooms, beds, procedures, and patients, including, without limitation,~~
1777 ~~demographic information and payer source;~~
- 1778 ~~(11) Patient origin by county; and~~
- 1779 ~~(12) Operational information such as procedure types, volumes, and charges.~~
- 1780 (c) As used in subsection (b) of this Code section, the term 'indigent persons' means
1781 persons having as a maximum allowable income level an amount corresponding to 125
1782 percent of the federal poverty guideline.
- 1783 (d) The department shall provide a form for the reports required by this Code section and
1784 may provide in said form for further categorical divisions of the information listed in
1785 subsection (b) ~~or (c.1)~~ of this Code section.
- 1786 (e)(1) In the event the department does not receive an annual report from a health care
1787 facility requiring a certificate of need ~~or an ambulatory surgical center or imaging center,~~
1788 ~~whether or not exempt from obtaining a certificate of need under this chapter,~~ on or
1789 before the date such report was due or receives a timely but incomplete report, the
1790 department shall notify the health care facility ~~or center~~ regarding the deficiencies and
1791 shall be authorized to fine such health care facility ~~or center~~ an amount not to exceed
1792 \$500.00 per day for every day up to 30 days and \$1,000.00 per day for every day over 30
1793 days for every day of such untimely or deficient report.
- 1794 (2) In the event the department does not receive an annual report from a health care
1795 facility within 180 days following the date such report was due or receives a timely but
1796 incomplete report which is not completed within such 180 days, the department shall be
1797 authorized to revoke such health care facility's certificate of need in accordance with
1798 Code Section 31-6-45.

1799 (f) No application for a certificate of need under Article 3 of this chapter shall be
 1800 considered as complete if the applicant has not submitted the annual report required by
 1801 subsection (a) of this Code section.

1802 (g) The department shall make publicly available all annual reports submitted pursuant to
 1803 this Code section on the department website. The department shall also provide a copy of
 1804 such annual reports to the Governor, the President of the Senate, the Speaker of the House
 1805 of Representatives, and the chairpersons of the House Committee on Health ~~and Human~~
 1806 ~~Services~~ and the Senate Health and Human Services Committee.

1807 (h) All health care facilities, ~~ambulatory surgical centers, and imaging centers~~ required to
 1808 submit an annual report pursuant to subsection (a) of this Code section shall make such
 1809 annual reports publicly available on their websites."

1810 **PART II**
 1811 **SECTION 2-1.**

1812 Said title is further amended by adding a new chapter to read as follows:

1813 "CHAPTER 6A

1814 31-6A-1.

1815 As used in this chapter, the term:

1816 (1) 'Ambulatory surgical center' means a public or private facility, not a part of a
 1817 hospital, which meets the criteria contained in subparagraph (C) of paragraph (4) of Code
 1818 Section 31-7-1; provided, however, that if a private facility, at least 51 percent must be
 1819 owned directly or indirectly by a hospital or a physician or physicians licensed to practice
 1820 in Georgia.

1821 (2) 'Bed capacity' means space used exclusively for inpatient care, including space
1822 designed or remodeled for inpatient beds even though temporarily not used for such
1823 purposes. The number of beds to be counted in any patient room shall be the maximum
1824 number for which adequate square footage is provided as established by rules of the
1825 department, except that single beds in single rooms shall be counted even if the room
1826 contains inadequate square footage.

1827 (3) 'Board' means the Board of Community Health.

1828 (4) 'Clinical health services' means diagnostic, treatment, or rehabilitative services
1829 provided in a health care facility, or parts of the physical plant where such services are
1830 located in a health care facility, and includes, but is not limited to, the following:
1831 radiation therapy; biliary lithotripsy; surgery; intensive care; coronary care; pediatrics;
1832 gynecology; obstetrics; general medical care; medical/surgical care; inpatient nursing
1833 care, whether intermediate, skilled, or extended care; cardiac catheterization; open-heart
1834 surgery; and inpatient rehabilitation.

1835 (5) 'Commissioner' means the commissioner of community health.

1836 (6) 'Department' means the Department of Community Health established under Chapter
1837 2 of this title.

1838 (7) 'Destination cancer hospital' means an institution with a licensed bed capacity of 50
1839 or fewer which provides diagnostic, therapeutic, treatment, and rehabilitative care
1840 services to cancer inpatients and outpatients, by or under the supervision of physicians,
1841 and whose proposed annual patient base is composed of a minimum of 65 percent of
1842 patients who reside outside of this state.

1843 (8) 'Develop,' with reference to a project, means constructing, remodeling, installing, or
1844 proceeding with a project, or any part of a project, or a capital expenditure project, the
1845 cost estimate for which exceeds \$3,068,601.00. The dollar amount specified in this
1846 paragraph shall be adjusted annually by an amount calculated by the department to reflect
1847 inflation, which may be calculated by multiplying such dollar amount, as adjusted for the

1848 preceding year, by the annual percentage of change in the composite index of
1849 construction material prices, or its successor or appropriate replacement index, if any,
1850 published by the United States Department of Commerce for the preceding calendar year,
1851 commencing on July 1, 2023, and on each anniversary thereafter of the publication of the
1852 index. The department shall immediately institute rule-making procedures to adopt such
1853 adjusted dollar amounts. In calculating the dollar amount of a proposed project for
1854 purposes of this paragraph, the costs of all items subject to review by this chapter and
1855 items not subject to review by this chapter associated with and simultaneously developed
1856 or proposed with the project shall be counted; provided, however, that the expenditure
1857 or commitment or incurring an obligation for the expenditure of funds to develop special
1858 health care services license applications, studies, reports, schematics, preliminary plans
1859 and specifications, or working drawings or to acquire, develop, or prepare sites shall not
1860 be considered to be the developing of a project.

1861 (9) 'Diagnostic imaging' means magnetic resonance imaging, computed tomography
1862 (CT) scanning, positron emission tomography (PET), positron emission
1863 tomography/computed tomography, X-rays, fluoroscopy, or ultrasound services, and
1864 other imaging services as defined by the department by rule.

1865 (10) 'Diagnostic, treatment, or rehabilitation center' means any professional or business
1866 undertaking, whether for profit or not for profit, which offers or proposes to offer any
1867 clinical health service in a setting which is not part of a hospital; provided, however, that
1868 any such diagnostic, treatment, or rehabilitation center that offers or proposes to offer
1869 surgery in an operating room environment and to allow patients to remain more than 23
1870 hours shall be considered a hospital for purposes of this chapter.

1871 (11) 'Exception acknowledgment' means a written notice from the department confirming
1872 that a person is exempt from the requirements of this chapter pursuant to subsection (b)
1873 of Code Section 31-6A-3 or pursuant to subsection (b) or (d) of Code Section 31-6A-10.

1874 (12) 'Health care facility' means hospitals; other special care units, including, but not
1875 limited to, podiatric facilities; ambulatory surgical centers; health maintenance
1876 organizations; and diagnostic, treatment, or rehabilitation centers, but only to the extent
1877 subparagraph (a)(3)(B) of Code Section 31-6A-3 is applicable thereto.

1878 (13) 'Health maintenance organization' means a public or private organization organized
1879 under the laws of this state which:

1880 (A) Provides or otherwise makes available to enrolled participants health care services,
1881 including at least the following basic health care services: usual physicians' services,
1882 hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area
1883 coverage;

1884 (B) Is compensated, except for copayments, for the provision of the basic health care
1885 services listed in subparagraph (A) of this paragraph to enrolled participants on a
1886 predetermined periodic rate basis; and

1887 (C) Provides physicians' services primarily:

1888 (i) Directly through physicians who are either employees or partners of such
1889 organization; or

1890 (ii) Through arrangements with individual physicians organized on a group practice
1891 or individual practice basis.

1892 (14) 'Hospital' means an institution which is primarily engaged in providing to inpatients,
1893 by or under the supervision of physicians, diagnostic services and therapeutic services for
1894 medical diagnosis, treatment, and care of injured, disabled, or sick persons or
1895 rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such
1896 term includes micro-hospitals and public, private, psychiatric, rehabilitative, geriatric,
1897 osteopathic, and other specialty hospitals.

1898 (15) 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical
1899 center that is jointly owned by a hospital in the same county as the center or a hospital in
1900 a contiguous county if there is no hospital in the same county as the center and a single

1901 group of physicians practicing in the center and that provides surgery or where
1902 cardiologists perform procedures in a single specialty as defined by the department;
1903 provided, however, that general surgery, a group practice which includes one or more
1904 physiatrists who perform services that are reasonably related to the surgical procedures
1905 performed in the center, and a group practice in orthopedics which includes plastic hand
1906 surgeons with a certificate of added qualifications in Surgery of the Hand from the
1907 American Board of Plastic and Reconstructive Surgery shall be considered a single
1908 specialty. The ownership interest of the hospital shall be no less than 30 percent and the
1909 collective ownership of the physicians or group of physicians shall be no less than 30
1910 percent.

1911 (16) 'Micro-hospital' means a hospital in a rural county which has at least two and not
1912 more than seven inpatient beds and which provides emergency services seven days per
1913 week and 24 hours per day.

1914 (17) 'Offer' means that the health care facility is open for the acceptance of patients or
1915 performance of services and has qualified personnel, equipment, and supplies necessary
1916 to provide specified clinical health services.

1917 (18) 'Operating room environment' means an environment which meets the minimum
1918 physical plant and operational standards specified in the rules of the department which
1919 shall consider and use the design and construction specifications as set forth in the
1920 Guidelines for Design and Construction of Health Care Facilities published by the
1921 American Institute of Architects.

1922 (19) 'Person' means any individual, trust or estate, partnership, limited liability company
1923 or partnership, corporation (including associations, joint-stock companies, and insurance
1924 companies), state, political subdivision, hospital authority, or instrumentality (including
1925 a municipal corporation) of a state as defined in the laws of this state. This term shall
1926 include all related parties, including individuals, business corporations, general
1927 partnerships, limited partnerships, limited liability companies, limited liability

1928 partnerships, joint ventures, nonprofit corporations, or any other for profit or not for profit
1929 entity that owns or controls, is owned or controlled by, or operates under common
1930 ownership or control with a person.

1931 (20) 'Project' means a proposal to take an action for which a special health care services
1932 license is required under this chapter. A project or proposed project may refer to the
1933 proposal from its earliest planning stages up through the point at which the new special
1934 health care services are offered.

1935 (21) 'Rural county' means a county having a population of less than 50,000 according to
1936 the United States decennial census of 2010 or any future such census.

1937 (22) 'Special health care services' means any facilities or services described in
1938 paragraphs (1) through (4) of subsection (a) of Code Section 31-6A-3.

1939 (23) 'Specialty ambulatory surgical center' means:

1940 (A) An ambulatory surgical center where surgery is performed or where cardiologists
1941 perform procedures in the offices of an individual private physician or single group
1942 practice of private physicians if such surgery or cardiology procedures are performed
1943 in a facility that is owned, operated, and utilized by such physicians who also are of a
1944 single specialty; provided, however, that general surgery, a group practice which
1945 includes one or more physiatrists who perform services that are reasonably related to
1946 the surgical procedures performed in the center, and a group practice in orthopedics
1947 which includes plastic hand surgeons with a certificate of added qualifications in
1948 Surgery of the Hand from the American Board of Plastic and Reconstructive Surgery
1949 shall be considered a single specialty; or

1950 (B) A multispecialty physician group owning, operating, and utilizing no more than
1951 three specialty ambulatory surgical centers located in the same or different counties in
1952 which the group has provided medical services in a clinical office for at least five years
1953 and which limits each center to a single specialty which may be different single

1954 specialties; provided, however, that the specialty ambulatory surgical centers may be
1955 colocated.

1956 (24) 'Specialty hospital' means a hospital that is primarily or exclusively engaged in the
1957 care and treatment of one of the following: patients with a cardiac condition, patients with
1958 an orthopedic condition, patients receiving a surgical procedure, or patients receiving any
1959 other specialized category of services defined by the department.

1960 (25) 'Uncompensated indigent or charity care' means the dollar amount of 'net
1961 uncompensated indigent or charity care after direct and indirect (all) compensation' as
1962 defined by, and calculated in accordance with, the department's Hospital Financial Survey
1963 and related instructions.

1964 (26) 'Urban county' means a county having a population equal to or greater than 50,000
1965 according to the United States decennial census of 2010 or any future such census.

1966 31-6A-2.

1967 (a) On and after January 1, 2024, no person shall operate or provide any new special health
1968 care services without acquiring a special health care services license under this chapter
1969 unless such person has an exception acknowledgment from the department.

1970 (b) The department shall adopt rules to specify:

1971 (1) The minimal requirements for quality and safety for patients receiving each special
1972 health care service;

1973 (2) The procedure for applying for and maintaining a special health care services license,
1974 including, but not limited to, the frequency of licensing inspections, submission of
1975 information, and data to evaluate the performance and ongoing operation of services and
1976 enforcement under this chapter;

1977 (3) The fees for applying for and maintaining a special health care services license in
1978 order to fully offset the cost to the department, including consultant fees and other related

1979 expenses necessary to process the application, and for any ongoing expenses to the
1980 department for maintaining a special health care services license; and

1981 (4) The procedure and criteria for requesting and approving an exception
1982 acknowledgment.

1983 31-6A-3.

1984 (a) A special health care services license shall be required for:

1985 (1) The construction, development, or other establishment of a new health care facility;

1986 (2) Any increase in the bed capacity of a health care facility except as provided in
1987 subsection (b) of this Code section;

1988 (3) Clinical health services which are offered in or through:

1989 (A) A health care facility, which were not offered on a regular basis in or through such
1990 health care facility within the 12 month period prior to the time such services would be
1991 offered; and

1992 (B) A diagnostic, treatment, or rehabilitation center, which were not offered on a
1993 regular basis in or through such center within the 12 month period prior to the time such
1994 services would be offered, but only if the clinical health services are any of the
1995 following:

1996 (i) Radiation therapy;

1997 (ii) Biliary lithotripsy;

1998 (iii) Surgery in an operating room environment, including, but not limited to,
1999 ambulatory surgery; and

2000 (iv) Cardiac catheterization; and

2001 (4) Any conversion or upgrading of any general acute care hospital to a specialty hospital
2002 or of a facility such that it is converted from a type of facility not covered by this chapter
2003 to any of the types of health care facilities which are covered by this chapter.

2004 (b) A special health care services license shall not be required for:

- 2005 (1) Infirmaries operated by educational institutions for the sole and exclusive benefit of
2006 students, faculty members, officers, or employees thereof;
- 2007 (2) Infirmaries or facilities operated by businesses for the sole and exclusive benefit of
2008 officers or employees thereof, provided that such infirmaries or facilities make no
2009 provision for overnight stay by persons receiving their services;
- 2010 (3) Institutions operated exclusively by the federal government or by any of its agencies;
- 2011 (4) Offices of private physicians or dentists whether for individual or group practice;
- 2012 (5) Religious, nonmedical health care institutions as defined in 42 U.S.C.
2013 Section 1395x(ss)(1), listed and certified by a national accrediting organization;
- 2014 (6) Site acquisitions for health care facilities or preparation or development costs for
2015 such sites prior to the decision to file an application for a special health care services
2016 license;
- 2017 (7) Expenditures related to adequate preparation and development of an application for
2018 a special health care services license;
- 2019 (8) The commitment of funds conditioned upon the obtaining of a special health care
2020 services license;
- 2021 (9) Expenditures for the acquisition of existing health care facilities by stock or asset
2022 purchase, merger, consolidation, or other lawful means unless the facilities are owned or
2023 operated by or on behalf of a:
- 2024 (A) Political subdivision of this state;
- 2025 (B) Combination of such political subdivisions; or
- 2026 (C) Hospital authority, as defined in Article 4 of Chapter 7 of this title;
- 2027 (10) Expenditures for the restructuring of or for the acquisition by stock or asset
2028 purchase, merger, consolidation, or other lawful means of an existing health care facility
2029 which is owned or operated by or on behalf of any entity described in
2030 subparagraph (A), (B), or (C) of paragraph (9) of this subsection only if such

2031 restructuring or acquisition is made by any entity described in subparagraph (A), (B),
2032 or (C) of paragraph (9) of this subsection;
2033 (11) The purchase of a closing hospital or of a hospital that has been closed for no more
2034 than 12 months by a hospital in a contiguous county to repurpose the facility as a
2035 micro-hospital;
2036 (12) Expenditures for the purchase, lease, replacement, upgrade, or repair of diagnostic
2037 imaging equipment, diagnostic or therapeutic equipment, or medical equipment or the
2038 provision of diagnostic imaging services;
2039 (13) Expenditures for the minor or major repair of a health care facility or a facility that
2040 is exempt from the requirements of this chapter or parts thereof or services provided
2041 therein;
2042 (14) Capital expenditures otherwise covered by this chapter required solely to eliminate
2043 or prevent safety hazards as defined by federal, state, or local fire, building,
2044 environmental, occupational health, or life safety codes or regulations, to comply with
2045 licensing requirements of the department, or to comply with accreditation standards of
2046 a nationally recognized health care accreditation body;
2047 (15) Cost overruns whose percentage of the cost of a project is equal to or less than the
2048 cumulative annual rate of increase in the composite construction index, published by the
2049 federal Bureau of the Census of the Department of Commerce, calculated from the date
2050 of approval of the project;
2051 (16) Transfers from one health care facility to another such facility of major medical
2052 equipment previously approved under or exempted from special health care services
2053 license review, except where such transfer results in the institution of a new clinical
2054 health service for which a special health care services license is required in the facility
2055 acquiring said equipment;

2056 (17) New special health care services provided by or on behalf of health maintenance
2057 organizations or related health care facilities in circumstances defined by the department
2058 pursuant to federal law;

2059 (18) Increases in the bed capacity of a hospital up to ten beds or 20 percent of capacity,
2060 whichever is greater, in any consecutive two-year period, in a hospital that has
2061 maintained an overall occupancy rate greater than 60 percent for the previous 12 month
2062 period;

2063 (19) Expenditures for nonclinical projects, including parking lots, parking decks, and
2064 other parking facilities; computer systems, software, and other information technology;
2065 and medical office buildings;

2066 (20) Continuing care retirement communities, home health agencies, intermediate care
2067 facilities, personal care homes, and skilled nursing facilities, as all such terms are defined
2068 in Code Section 31-6-2;

2069 (21) Any specialty ambulatory surgical center that:

2070 (A) Has a hospital affiliation agreement with a hospital within a reasonable distance
2071 from the facility or the medical staff at the center has admitting privileges or other
2072 acceptable documented arrangements with such hospital to ensure the necessary backup
2073 for the center for medical complications. The center shall have the capability to transfer
2074 a patient immediately to a hospital within a reasonable distance from the facility with
2075 adequate emergency room services. Hospitals shall not unreasonably deny a transfer
2076 agreement or affiliation agreement to the center;

2077 (B) Provides care to Medicaid beneficiaries and, if the facility provides medical care
2078 and treatment to children, to PeachCare for Kids beneficiaries and provides
2079 uncompensated indigent and charity care in accordance with Code Section 31-6A-6;
2080 provided, however, that specialty ambulatory surgical centers owned by physicians in
2081 the practice of ophthalmology shall not be required to comply with this subparagraph;
2082 and

2083 (C) Provides annual reports in the same manner and in accordance with Code
2084 Section 31-6A-7.

2085 Noncompliance with any condition of this paragraph shall result in a monetary penalty
2086 in the amount of the difference between the services which the center is required to
2087 provide and the amount actually provided and may be subject to revocation of its
2088 exemption status by the department for repeated failure to pay any fines or moneys due
2089 to the department or for repeated failure to produce data as required by Code
2090 Section 31-6A-7 after notice to the exemption holder and a fair hearing pursuant to
2091 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any penalty so
2092 recovered shall be dedicated and deposited by the department into the Indigent Care Trust
2093 Fund created pursuant to Code Section 31-8-152 for the purposes set out in Code
2094 Section 31-8-154, including expanding Medicaid eligibility and services; programs to
2095 support rural and other health care providers, primarily hospitals, who serve the medically
2096 indigent; and for primary health care programs for medically indigent citizens and
2097 children of this state;

2098 (22) Any joint venture ambulatory surgical center that:

2099 (A) Provides care to Medicaid beneficiaries and, if the facility provides medical care
2100 and treatment to children, to PeachCare for Kids beneficiaries and provides
2101 uncompensated indigent and charity care in accordance with Code Section 31-6A-6;
2102 and

2103 (B) Provides annual reports in the same manner and in accordance with Code
2104 Section 31-6A-7.

2105 Noncompliance with any condition of this paragraph shall result in a monetary penalty
2106 in the amount of the difference between the services which the center is required to
2107 provide and the amount actually provided and may be subject to revocation of its
2108 exemption status by the department for repeated failure to pay any fines or moneys due
2109 to the department or for repeated failure to produce data as required by Code

2110 Section 31-6A-7 after notice to the exemption holder and a fair hearing pursuant to
2111 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any penalty so
2112 recovered shall be dedicated and deposited by the department into the Indigent Care Trust
2113 Fund created pursuant to Code Section 31-8-152 for the purposes set out in Code
2114 Section 31-8-154, including expanding Medicaid eligibility and services; programs to
2115 support rural and other health care providers, primarily hospitals, who serve the medically
2116 indigent; and for primary health care programs for medically indigent citizens and
2117 children of this state;

2118 (23) Diagnostic cardiac catheterization in a hospital setting on patients 15 years of age
2119 and older;

2120 (24) Therapeutic cardiac catheterization in hospitals selected by the department prior to
2121 July 1, 2008, to participate in the Atlantic Cardiovascular Patient Outcomes Research
2122 Team (C-PORT) Study and therapeutic cardiac catheterization in hospitals that, as
2123 determined by the department on an annual basis, meet the criteria to participate in the
2124 C-PORT Study but have not been selected for participation; provided, however, that if
2125 the criteria requires a transfer agreement to another hospital, no hospital shall
2126 unreasonably deny a transfer agreement to another hospital;

2127 (25) Infirmaries or facilities operated by, on behalf of, or under contract with the
2128 Department of Corrections or the Department of Juvenile Justice for the sole and
2129 exclusive purpose of providing health care services in a secure environment to prisoners
2130 within a penal institution, penitentiary, prison, detention center, or other secure
2131 correctional institution, including correctional institutions operated by private entities in
2132 this state which house inmates under the Department of Corrections or the Department
2133 of Juvenile Justice;

2134 (26) The relocation of any micro-hospital within the same county, any other health care
2135 facility in a rural county within the same county, and any other health care facility in an

2136 urban county within a three-mile radius of the existing facility so long as the facility does
2137 not propose to offer any new or expanded clinical health services at the new location;
2138 (27) Facilities which are devoted to the provision of treatment and rehabilitative care for
2139 periods continuing for 24 hours or longer for persons who have traumatic brain injury,
2140 as defined in Code Section 37-3-1;
2141 (28) Capital expenditures for a project otherwise requiring a special health care services
2142 license if those expenditures are for a project to remodel, renovate, replace, or any
2143 combination thereof, a medical-surgical hospital and:
2144 (A) That hospital:
2145 (i) Has a bed capacity of not more than 50 beds;
2146 (ii) Is located in a county in which no other medical-surgical hospital is located;
2147 (iii) Has at any time been designated as a disproportionate share hospital by the
2148 department; and
2149 (iv) Has at least 45 percent of its patient revenues derived from medicare, Medicaid,
2150 or any combination thereof, for the immediately preceding three years; and
2151 (B) That project:
2152 (i) Does not result in any of the following:
2153 (I) The offering of any new clinical health services;
2154 (II) Any increase in bed capacity;
2155 (III) Any redistribution of existing beds among existing clinical health services; or
2156 (IV) Any increase in capacity of existing clinical health services;
2157 (ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a
2158 special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8
2159 of Title 48; and
2160 (iii) Is located within a three-mile radius of and within the same county as the
2161 hospital's existing facility;

2162 (29) Public or private psychiatric hospitals; mental health or substance abuse facilities
2163 or programs; or mental health or substance abuse services; and
2164 (30) A freestanding ambulatory surgical center with no more than six operating rooms
2165 developed on the same site as a sports training and educational facility that includes
2166 sports training facilities and fields; a medical education facility and program for
2167 physicians and other health care professionals training in sports medicine; a medical
2168 research program; ancillary services, including physical therapy and diagnostic imaging;
2169 a community education program for student athletic programs on injury prevention and
2170 treatment and related topics, and that provides uncompensated indigent or charity care
2171 in accordance with Code Section 31-6A-6, provides care to Medicaid patients, and, if the
2172 facility provides medical care and treatment to children, participates as a provider for
2173 PeachCare for Kids beneficiaries; and demonstrates a positive economic impact of no less
2174 than \$25 million, taking into consideration the full-time and part-time jobs generated by
2175 the initial construction and ongoing operation of the center, new state and local tax
2176 revenue generated by the initial construction and ongoing operation of the center, and
2177 other factors deemed relevant as determined by the department based on a report prepared
2178 by an independent consultant or expert retained by the center.

2179 31-6A-4.

2180 (a) An application for a special health care services license shall include:

2181 (1) Certification that the applicant is licensed or will seek licensure under Chapter 7 of
2182 this title, if subject to the requirements of such chapter;

2183 (2) Certification that the applicant has notified the public of the intent to file the
2184 application with a description of the facility or special health care services to be licensed
2185 by publishing a notice in a newspaper of general circulation covering the area where the
2186 service is to be located in at least two separate issues of the newspaper no less than ten
2187 business days prior to the filing of the application;

2188 (3) Certification that the applicant has given written notice of the intent to file the
2189 application by registered mail no less than ten business days prior to the filing of the
2190 application to the chief executive officer of each existing facility that:

2191 (A) Is located within a ten-mile radius of the applicant's proposed new facility or
2192 services;

2193 (B) Is the same type of facility or offers the same type of services as the proposed new
2194 facility or services; and

2195 (C) Has a special health care services license issued pursuant to this chapter; and

2196 (4) Any other information deemed necessary by the department.

2197 (b) In addition to publication on the department's website, any application for a special
2198 health care services license shall be available for inspection and copying by any person
2199 immediately upon it being filed.

2200 (c) Any complete application for a special health care services license shall be approved
2201 by the department within 45 days of the filing of such application unless a timely objection
2202 in writing to such application is received by the department in accordance with
2203 subsection (a) of Code Section 31-6A-5.

2204 31-6A-5.

2205 (a)(1) No written objection may be made to an application for a special health care
2206 services license for a new special health care service located in a county within health
2207 planning area three of the department's established health planning areas, as such exists
2208 on June 30, 2023, unless an existing facility is located outside of health planning area
2209 three but is within a ten-mile radius of the proposed new facility or services.

2210 (2) Except as provided in paragraph (1) of this subsection, a written objection to an
2211 application for a special health care services license may be submitted by an existing
2212 facility within 30 days of the filing of such application with the department, on the

2213 grounds that the application is not in the public interest of the community, if such existing
2214 facility:

2215 (A) Is located within a ten-mile radius of the applicant's proposed new facility or
2216 services;

2217 (B) Is the same type of facility or offers the same type of services as the proposed new
2218 facility or services; and

2219 (C) Has a special health care services license issued pursuant to this chapter.

2220 (b) No later than 30 days of receipt of a timely written objection pursuant to paragraph (2)
2221 of subsection (a) of this Code section, the commissioner shall conduct a public interest
2222 review and make a written determination as to whether the application is in the public
2223 interest of the community, taking into consideration any material adverse impact on the
2224 objecting party or parties, unique health care needs of the community (not based on a
2225 numerical need formula), atypical barriers or factors, whether the new special health care
2226 services would foster competition or make services less costly or more accessible, and
2227 whether the applicant performs or proposes to perform activities outside of inpatient or
2228 outpatient care in the community for underserved populations. The commissioner may not
2229 deny an application based on an objection unless the objecting party shows by clear and
2230 convincing evidence that the project does not meet the criteria set forth in this subsection.

2231 (c) If the special health care services license is granted by the department over a timely
2232 objection, the person who objected shall have a right to request a fair hearing pursuant to
2233 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

2234 (d) If the special health care services license is denied by the department after a timely
2235 objection, the applicant shall have a right to request a fair hearing pursuant to Chapter 13
2236 of Title 50, the 'Georgia Administrative Procedure Act.'

2237 (e) Any party to the initial administrative appeal hearing, excluding the department, may
2238 seek judicial review of the final decision in accordance with the method set forth in
2239 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

2240 31-6A-6.

2241 (a) As a condition for special health care services licenses issued on and after
2242 January 1, 2024, the department shall require that an applicant or licensee agrees:

2243 (1) To provide uncompensated indigent or charity care in an amount which meets or
2244 exceeds the percentage of such applicant's adjusted gross revenues equivalent to:

2245 (A) The state-wide average of net uncompensated indigent and charity care provided
2246 based on the previous two most recent years if a nonprofit entity; or

2247 (B) The state-wide average of net uncompensated indigent and charity care provided
2248 based on the previous two most recent years less 3 percent if a for profit entity; and

2249 (2) To participate as a provider of medical assistance for Medicaid purposes, and, if the
2250 facility provides medical care and treatment to children, to participate as a provider for
2251 PeachCare for Kids beneficiaries.

2252 (b) A grantee or successor in interest for a special health care services license or an
2253 authorization to operate under this chapter which violates such an agreement or violates
2254 any conditions imposed by the department relating to such services shall be liable to the
2255 department for a monetary penalty in the amount of 1 percent of its net revenue for every
2256 0.5 percent of uncompensated indigent and charity care not provided and may be subject
2257 to revocation of its special health care services license, in whole or in part, by the
2258 department pursuant to Code Section 31-6A-8. Any penalty so recovered shall be
2259 dedicated and deposited by the department into the Indigent Care Trust Fund created
2260 pursuant to Code Section 31-8-152 for the purposes set out in Code Section 31-8-154,
2261 including expanding Medicaid eligibility and services; programs to support rural and other
2262 health care providers, primarily hospitals, who serve the medically indigent; and for
2263 primary health care programs for medically indigent citizens and children of this state.

2264 (c) Penalties authorized under this Code section shall be subject to the same notices and
2265 hearing for the levy of fines under Code Section 31-6A-8.

2266 (d)(1) This Code section shall not apply to a hospital or any health care facilities owned
2267 by a hospital or health care system that has a payer mix of greater than 40 percent
2268 Medicaid recipients and uncompensated indigent and charity care of at least 2 percent;
2269 provided, however, that a hospital's cost gap between its Medicaid reimbursement rate
2270 and the Medicare reimbursement shall count toward such uncompensated indigent and
2271 charity care amount.

2272 (2) As used in this subsection, the term 'payer mix' means the proportionate share of
2273 itemized charges attributable to patients assignable to a specific payer classification to
2274 total itemized charges for all patients.

2275 (e) The department may withhold all or any portion of disproportionate share hospital
2276 funds to any hospital that is subject to the requirements contained in paragraph (1) of
2277 subsection (a) of this Code section that fails to meet the minimum indigent and charity care
2278 requirements for two consecutive years.

2279 31-6A-7.

2280 (a) Each health care facility in this state that is required by the department to provide
2281 uncompensated indigent or charity care pursuant to Code Section 31-6A-6 shall submit an
2282 annual report of certain health care information to the department. The report shall be due
2283 on the last day of January and shall cover the 12 month period preceding each such
2284 calendar year.

2285 (b) The annual report required under subsection (a) of this Code section shall contain the
2286 following information:

2287 (1) Total gross revenues;

2288 (2) Bad debts;

2289 (3) Amounts of free care extended, excluding bad debts;

2290 (4) Contractual adjustments;

2291 (5) Amounts of care provided under a Hill-Burton commitment;

- 2292 (6) Amounts of charity care provided to indigent persons;
2293 (7) Amounts of outside sources of funding from governmental entities, philanthropic
2294 groups, or any other source, including the proportion of any such funding dedicated to the
2295 care of indigent persons; and
2296 (8) For cases involving indigent persons:
2297 (A) The number of persons treated;
2298 (B) The number of inpatients and outpatients;
2299 (C) Total patient days;
2300 (D) The number of patients categorized by county of residence; and
2301 (E) The indigent care costs incurred by the health care facility by county of residence.
2302 As used in this subsection, the term 'indigent persons' means persons having as a maximum
2303 allowable income level an amount corresponding to 125 percent of the federal poverty
2304 guideline.
2305 (c) The department shall provide a form for the report required by this Code section and
2306 may provide in said form for further categorical divisions of the information listed in
2307 subsection (b) of this Code section.
2308 (d)(1) In the event the department does not receive an annual report from an institution,
2309 on or before the date such report was due or receives a timely but incomplete report, the
2310 department shall notify the institution regarding the deficiencies and shall be authorized
2311 to fine such institution an amount not to exceed \$500.00 per day for every day up to 30
2312 days and \$1,000.00 per day for every day over 30 days of such untimely or deficient
2313 report. Any fine so recovered shall be dedicated and deposited by the department into the
2314 Indigent Care Trust Fund created pursuant to Code Section 31-8-152 for the purposes set
2315 out in Code Section 31-8-154, including expanding Medicaid eligibility and services;
2316 programs to support rural and other health care providers, primarily hospitals, who serve
2317 the medically indigent; and for primary health care programs for medically indigent
2318 citizens and children of this state.

2319 (2) In the event the department does not receive an annual report from an institution
2320 within 180 days following the date such report was due or receives a timely but
2321 incomplete report which is not completed within such 180 days, the department shall be
2322 authorized to revoke such institution's permit in accordance with Code Section 31-7-4.

2323 31-6A-8.

2324 (a) The department may revoke a special health care services license, in whole or in part,
2325 after notice to the holder of the special health care services license and a fair hearing
2326 pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' for the
2327 following reasons:

2328 (1) Failure to comply with the provisions of this chapter;

2329 (2) The intentional provision of false information to the department by a licensee in that
2330 licensee's application;

2331 (3) Repeated failure to pay any fines or moneys due to the department;

2332 (4) Failure to maintain minimum quality of care standards that may be established by the
2333 department;

2334 (5) Failure to participate as a provider of medical assistance for Medicaid purposes or
2335 the PeachCare for Kids Program, if applicable; or

2336 (6) The failure to submit a timely or complete report within 180 days following the date
2337 the report is due pursuant to Code Section 31-6A-7.

2338 (b) In the event that a new special health care service is knowingly offered or developed
2339 without having obtained a special health care services license as required by this chapter,
2340 or the special health care services license for such service is revoked according to the
2341 provisions of this Code section, a facility or applicant may be fined an amount of \$5,000.00
2342 per day up to 30 days, \$10,000.00 per day from 31 days through 60 days, and \$25,000.00
2343 per day after 60 days for each day that the violation of this chapter has existed and
2344 knowingly and willingly continues; provided, however, that the expenditure or

2345 commitment of or incurring an obligation for the expenditure of funds to take or perform
2346 actions not subject to this chapter or to acquire, develop, or prepare a health care facility
2347 site for which a special health care services license application is denied shall not be a
2348 violation of this chapter and shall not be subject to such a fine. The commissioner shall
2349 determine, after notice and a hearing, whether the fines provided in this Code section shall
2350 be levied. Any fine so recovered shall be dedicated and deposited by the department into
2351 the Indigent Care Trust Fund created pursuant to Code Section 31-8-152 for the purposes
2352 set out in Code Section 31-8-154, including expanding Medicaid eligibility and services;
2353 programs to support rural and other health care providers, primarily hospitals, who serve
2354 the medically indigent; and for primary health care programs for medically indigent
2355 citizens and children of this state.

2356 (c) In addition, for purposes of this Code section, the State of Georgia, acting by and
2357 through the department, or any other interested person, shall have standing in any court of
2358 competent jurisdiction to maintain an action for injunctive relief to enforce the provisions
2359 of this chapter.

2360 (d) The department shall have the authority to make public or private investigations or
2361 examinations inside or outside of this state to determine whether any provisions of this
2362 chapter or any other law, rule, regulation, or formal order relating to the provision of
2363 special health care services has been violated. Such investigations may be initiated at any
2364 time in the discretion of the department and may continue during the pendency of any
2365 action initiated by the department pursuant to this Code section. For the purpose of
2366 conducting any investigation or inspection pursuant to this subsection, the department shall
2367 have the authority, upon providing reasonable notice, to require the production of any
2368 books, records, papers, or other information related to any special health care services
2369 license issue.

2370 31-6A-9.

2371 Any person who acquires a health care facility by stock or asset purchase, merger,
2372 consolidation, or other lawful means shall notify the department of such acquisition, the
2373 date thereof, and the name and address of the acquiring person. Such notification shall be
2374 made in writing to the department within 45 days following the acquisition and the
2375 acquiring person may be fined by the department in the amount of \$500.00 for each day
2376 that such notification is late. Such fine shall be paid into the state treasury. Any fine so
2377 recovered shall be dedicated and deposited by the department into the Indigent Care Trust
2378 Fund created pursuant to Code Section 31-8-152 for the purposes set out in Code
2379 Section 31-8-154, including expanding Medicaid eligibility and services; programs to
2380 support rural and other health care providers, primarily hospitals, who serve the medically
2381 indigent; and for primary health care programs for medically indigent citizens and children
2382 of this state.

2383 31-6A-10.

2384 (a) Except as provided in subsection (c) of this Code section, on and after January 1, 2024,
2385 health care facilities, as defined in Code Section 31-6A-1, shall not be subject to the former
2386 provisions of Chapter 6 of this title, as such existed on December 31, 2023, and shall not
2387 be required to obtain or retain a certificate of need in order to operate, but all such valid
2388 certificates of need in existence on December 31, 2023, shall be converted by operation of
2389 law to special health care services licenses and all such license holders shall be subject to
2390 the provisions of this chapter on and after such date; provided, however, that such health
2391 care facilities shall not be subject to the requirements of Code Section 31-6A-6 but shall
2392 instead be subject to any conditions previously imposed by the department relating to
2393 indigent or charity care and participation as a Medicaid provider that were in effect on
2394 December 31, 2023, pursuant to the former provisions of Chapter 6 of this title, as such
2395 existed on December 31, 2023. The department may withhold all or any portion of

2396 disproportionate share hospital funds to any hospital exempt pursuant to this subsection
2397 that fails to meet any conditions previously imposed by the department relating to indigent
2398 and charity care for two consecutive years. In the event a health care facility operating
2399 pursuant to this subsection receives any modification of its special health care services
2400 license, it shall immediately become subject to the requirements contained in Code Section
2401 31-6A-6 in lieu of the conditions previously imposed by the department relating to indigent
2402 or charity care and participation as a Medicaid provider or PeachCare for Kids Program
2403 provider that were in effect on December 31, 2023.

2404 (b)(1) On and after January 1, 2024, any person who had a valid exemption from
2405 certificate of need requirements under the former provisions of Chapter 6 of this title, as
2406 such existed on December 31, 2023, shall not be required to obtain or retain a special
2407 health care services license under this chapter in order to operate, but any such valid
2408 exemption in existence on December 31, 2023, shall be converted by operation of law to
2409 an exemption to special health care services license requirements under this chapter but
2410 shall be subject to any conditions previously imposed pursuant to the former provisions
2411 of Chapter 6 of this title, as such existed on December 31, 2023.

2412 (2) In the event a person that is exempt pursuant to paragraph (1) of this subsection
2413 makes any modification to the special health care services it provides, it shall
2414 immediately become subject to the requirements contained in Code Section 31-6A-6 in
2415 lieu of the conditions previously imposed by the department relating to indigent or charity
2416 care and participation as a Medicaid provider or PeachCare for Kids Program provider
2417 that were in effect on December 31, 2023.

2418 (c)(1) On and after January 1, 2024, a destination cancer hospital that was granted a
2419 certificate of need pursuant to the former provisions of Chapter 6 of this title, as such
2420 existed on December 31, 2023, may convert to a hospital by notifying the department in
2421 writing as to the date of conversion. Upon such conversion, the hospital may continue
2422 to provide all institutional health services and other services it provided as of the date of

2423 such conversion, including, but not limited to, inpatient beds, outpatient services, surgery,
2424 radiation therapy, imaging, and positron emission tomography (PET) scanning, without
2425 any further approval from the department; provided, however, that upon such conversion,
2426 such hospital shall immediately become subject to the requirements of Code
2427 Section 31-6A-6. On and after the date of conversion, the hospital shall be classified as
2428 a hospital under this chapter and shall be subject to all requirements and conditions for
2429 any new special health care services license requirements, exemptions, and for all other
2430 purposes, except as otherwise provided herein.

2431 (2) In the event that a destination cancer hospital does not convert to a hospital, it shall
2432 remain subject to all requirements and conditions previously in effect as of
2433 December 31, 2023, under the provisions of Chapter 6 of this title as they existed on such
2434 date.

2435 (d) Any outstanding appeals before the Certificate of Need Appeal Panel as of
2436 December 31, 2023, relating to health care facilities, as defined in Code Section 31-6A-1,
2437 shall be deemed moot and dismissed by operation of law as of January 1, 2024.

2438 31-6A-11.

2439 The department shall be authorized to promulgate rules and regulations to implement the
2440 provisions of this chapter."

2441

PART III

2442

SECTION 3-1.

2443 Said title is further amended in Article 2 of Chapter 7, relating to the Georgia Building
2444 Authority, by redesignating Code Section 31-7-24 as Code Section 31-7-25 and by adding
2445 a new Code section to the end of Article 1, relating to regulation of hospitals and related
2446 institutions, to read as follows:

2447 "31-7-24.

2448 (a) As used in this Code section, the term:

2449 (1) 'Hospital' shall have the same meaning as in Code Section 31-7-22.

2450 (2) 'Medical use rights' means rights or interests in real property in which the owner of
2451 the property has agreed not to sell or lease such real property for identified medical uses
2452 or purposes.

2453 (b) It shall be unlawful for any hospital to purchase, renew, extend, lease, maintain, or hold
2454 medical use rights.

2455 (c) This Code section shall not be construed to impair any contracts in existence as of the
2456 effective date of this Code section."

2457 **SECTION 3-2.**

2458 Code Section 50-18-70 of the Official Code of Georgia Annotated, relating to legislative
2459 intent and definitions relative to open records laws, is amended by revising subsection (b)
2460 as follows:

2461 "(b) As used in this article, the term:

2462 (1) 'Agency' shall have the same meaning as in Code Section 50-14-1 and shall
2463 additionally include any association, corporation, or other similar organization that has
2464 a membership or ownership body composed primarily of counties, municipal
2465 corporations, or school districts of this state, their officers, or any combination thereof
2466 and derives more than 33 1/3 percent of its general operating budget from payments from
2467 such political subdivisions. Such term shall also include any nonprofit organization to
2468 which is leased and transferred hospital assets of a hospital authority through a corporate
2469 restructuring and any subsidiaries or foundations established by such nonprofit
2470 organization in furtherance of the public mission of the hospital authority.

2471 (2) 'Public record' means all documents, papers, letters, maps, books, tapes, photographs,
2472 computer based or generated information, data, data fields, or similar material prepared

2473 and maintained or received by an agency or by a private person or entity in the
2474 performance of a service or function for or on behalf of an agency or when such
2475 documents have been transferred to a private person or entity by an agency for storage
2476 or future governmental use, including, but not limited to, any such material in the
2477 possession or control of a nonprofit organization to which is leased and transferred
2478 hospital assets of a hospital authority through a corporate restructuring which are related
2479 to the operation of the hospital and other leased facilities in the performance of services
2480 on behalf of the hospital authority."

2481

PART IV

2482

SECTION 4-1.

2483 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
2484 Section 31-7-3, relating to requirements for permits to operate institutions, by revising
2485 subsection (a) as follows:

2486 "(a) Any person or persons responsible for the operation of any institution, or who may
2487 hereafter propose to establish and operate an institution and to provide specified clinical
2488 services, shall submit an application to the department for a permit to operate the institution
2489 and provide such services, with such application to be made on forms prescribed by the
2490 department. No institution shall be operated in this state without such a permit, which shall
2491 be displayed in a conspicuous place on the premises. No clinical services shall be provided
2492 by an institution except as approved by the department in accordance with the rules and
2493 regulations established pursuant to Code Section 31-7-2.1. Failure or refusal to file an
2494 application for a permit shall constitute a violation of this chapter and shall be dealt with
2495 as provided for in Article 1 of Chapter 5 of this title. Following inspection and
2496 classification of the institution for which a permit is applied for, the department may issue
2497 or refuse to issue a permit or a provisional permit. Permits issued shall remain in force and

2498 effect until revoked or suspended; provisional permits issued shall remain in force and
2499 effect for such limited period of time as may be specified by the department. Upon
2500 conclusion of the Atlantic Cardiovascular Patient Outcomes Research Team (C-PORT)
2501 Study, the department shall consider and analyze the data and conclusions of the study and
2502 promulgate rules pursuant to Code Section 31-7-2.1 to regulate the quality of care for
2503 therapeutic cardiac catheterization. All hospitals that participated in the study and are were
2504 exempt from obtaining a certificate of need based on paragraph (22) of subsection (a) of
2505 former Code Section 31-6-47 as it existed on December 31, 2023, shall apply for a permit
2506 to continue providing therapeutic cardiac catheterization services once the department
2507 promulgates the rules required by this Code section."

2508

SECTION 4-2.

2509 Said title is further amended in Code Section 31-7-75, relating to the functions and powers
2510 of county and municipal hospital authorities, by revising paragraph (24) as follows:

2511 "(24) To provide management, consulting, and operating services including, but not
2512 limited to, administrative, operational, personnel, and maintenance services to another
2513 hospital authority, hospital, health care facility, as said term is defined in ~~Chapter 6 of this~~
2514 title Code Section 31-6A-1, person, firm, corporation, or any other entity or any group
2515 or groups of the foregoing; to enter into contracts alone or in conjunction with others to
2516 provide such services without regard to the location of the parties to such transactions;
2517 to receive management, consulting, and operating services, including, but not limited to,
2518 administrative, operational, personnel, and maintenance services from another such
2519 hospital authority, hospital, health care facility, person, firm, corporation, or any other
2520 entity or any group or groups of the foregoing; and to enter into contracts alone or in
2521 conjunction with others to receive such services without regard to the location of the
2522 parties to such transactions;"

2523 **SECTION 4-3.**

2524 Said title is further amended in Code Section 31-7-94.1, the "Rural Hospital Organization
2525 Assistance Act of 2017," by revising paragraph (1) of subsection (e) as follows:

2526 "(1) Infrastructure development, including, without being limited to, health information
2527 technology, facility renovation, or equipment acquisition; provided, however, that ~~the~~
2528 ~~amount granted to any qualified hospital may not exceed the expenditure thresholds that~~
2529 ~~would constitute a new institutional health service requiring a certificate of need under~~
2530 ~~Chapter 6 of this title and the grant award may be conditioned upon obtaining local~~
2531 matching funds;"

2532 **SECTION 4-4.**

2533 Said title is further amended in Code Section 31-7-116, relating to provisions contained in
2534 obligations and security for obligations, procedures for issuance of bonds and bond
2535 anticipation notes, interest rates, and limitations and conditions, by revising subsection (i)
2536 as follows:

2537 "(i) No bonds or bond anticipation notes except refunding bonds shall be issued by an
2538 authority under this article unless its board of directors ~~shall adopt~~ adopts a resolution
2539 finding that the project for which such bonds or notes are to be issued will promote the
2540 objectives stated in subsection (b) of Code Section 31-7-111 and will increase or maintain
2541 employment in the territorial area of such authority. Nothing contained in this Code
2542 section shall be construed as permitting any authority created under this article or any
2543 qualified sponsor to finance, construct, or operate any project without obtaining any
2544 ~~certificate of need or other~~ approval, permit, or license which, under the laws of this state,
2545 is required in connection therewith."

2546

SECTION 4-5.

2547 Said title is further amended by revising Code Section 31-8-153.1, relating to irrevocable
2548 transfer of funds to trust fund and provision for indigent patients, as follows:

2549 "31-8-153.1.

2550 After June 30, 1993, any hospital authority, county, municipality, or other state or local
2551 public or governmental entity is authorized to transfer moneys to the trust fund. Transfer
2552 of funds under the control of a hospital authority, county, municipality, or other state or
2553 local public or governmental entity shall be a valid public purpose for which those funds
2554 may be expended. The department is authorized to transfer to the trust fund moneys paid
2555 to the state by a health care facility as a monetary penalty for the violation of an agreement
2556 to provide a specified amount of ~~clinical health services to indigent patients~~ uncompensated
2557 indigent or charity care pursuant to a ~~certificate of need~~ license held by such facility. Such
2558 transfers shall be irrevocable and shall be used only for the purposes contained in Code
2559 Section 31-8-154."

2560

SECTION 4-6.

2561 Said title is further amended in Code Section 31-11-100, relating to definitions relative to the
2562 Georgia Trauma Care Network Commission, by revising paragraph (3) as follows:

2563 "(3) 'Trauma center' means a facility designated by the Department of Public Health as
2564 a Level I, II, III, or IV or burn trauma center. However, a burn trauma center shall not
2565 be considered or treated as a trauma center ~~for purposes of certificate of need~~
2566 ~~requirements under state law or regulations, including exceptions to need and adverse~~
2567 ~~impact standards allowed by the department for trauma centers or for purposes of~~
2568 identifying safety net hospitals."

2569

SECTION 4-7.

2570 Code Section 37-1-29 of the Official Code of Georgia Annotated, relating to crisis
2571 stabilization units, is amended by revising subsection (j) as follows:

2572 "~~(j) Any program certified as a crisis stabilization unit pursuant to this Code section shall~~
2573 ~~be exempt from the requirements to obtain a certificate of need pursuant to Article 3 of~~
2574 ~~Chapter 6 of Title 31. Reserved."~~

2575

SECTION 4-8.

2576 Code Section 43-26-7 of the Official Code of Georgia Annotated, relating to requirements
2577 for licensure as a registered professional nurse, is amended by revising paragraph (4) of
2578 subsection (c) as follows:

2579 "(4)(A)~~(i)~~ Meet continuing competency requirements as established by the board;
2580 ~~(B)~~~~(ii)~~ If the applicant entered a nontraditional nursing education program as a
2581 licensed practical nurse whose academic education as a licensed practical nurse
2582 included clinical training in pediatrics, obstetrics and gynecology, medical-surgical,
2583 and mental illness, have practiced nursing as a registered professional nurse in a
2584 health care facility for at least one year in the three years preceding the date of the
2585 application, and such practice is documented by the applicant and approved by the
2586 board; provided, however, that for an applicant who does not meet the experience
2587 requirement of this subparagraph, the board shall require the applicant to complete a
2588 320 hour postgraduate preceptorship arranged by the applicant under the oversight of
2589 a registered nurse where such applicant is transitioned into the role of a registered
2590 professional nurse. The preceptorship shall have prior approval of the board, and
2591 successful completion of the preceptorship shall be verified in writing by the
2592 preceptor; or
2593 ~~(C)~~~~(iii)~~ If the applicant entered a nontraditional nursing education program as
2594 anything other than a licensed practical nurse whose academic education as a licensed

2595 practical nurse included clinical training in pediatrics, obstetrics and gynecology,
2596 medical-surgical, and mental illness, have graduated from such program and practiced
2597 nursing as a registered professional nurse in a health care facility for at least two years
2598 in the five years preceding the date of the application, and such practice is
2599 documented by the applicant and approved by the board; provided, however, that for
2600 an applicant who does not meet the experience requirement of this ~~subparagraph~~
2601 subdivision, the board shall require the applicant to complete a postgraduate
2602 preceptorship of at least 480 hours but not more than 640 hours, as determined by the
2603 board, arranged by the applicant under the oversight of a registered professional nurse
2604 where such applicant is transitioned into the role of a registered professional nurse.
2605 The preceptorship shall have prior approval of the board, and successful completion
2606 of the preceptorship shall be verified in writing by the preceptor.

2607 (B) For purposes of this paragraph, the term 'health care facility' means an acute care
2608 inpatient facility, a long-term acute care facility, an ambulatory surgical center ~~or~~
2609 ~~obstetrical facility~~ as defined in Code Section ~~31-6-2~~ 31-6A-1, and a skilled nursing
2610 facility, so long as such skilled nursing facility has 100 beds or more and provides
2611 health care to patients with similar health care needs as those patients in a long-term
2612 acute care facility;"

2613

PART V

2614

SECTION 5-1.

2615 For purposes of rule-making, this Act shall become effective upon its approval by the
2616 Governor or upon its becoming law without such approval. For all other purposes, this Act
2617 shall become effective on January 1, 2024.

2618

SECTION 5-2.

2619 All laws and parts of laws in conflict with this Act are repealed.