

**ADOPTED**

Representative Parrish of the 158<sup>th</sup> offers the following amendment:

1 *Amend the Senate substitute to HB 1339 (LC 33 9707S) by striking lines 1 through 1075 and*  
2 *inserting in lieu thereof the following:*

3 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to  
4 revise provisions relative to certificate of need; to revise definitions; to provide for review  
5 of the state health plan every five years; to eliminate capital expenditure thresholds in certain  
6 circumstances; to revise provisions relating to acceptance and review of applications; to  
7 provide a timeframe for opposing an application; to revise provisions relating to appeals; to  
8 revise exemptions from certificate of need requirements; to provide for a review of the  
9 statutory framework of the certificate of need program; to provide for automatic repeal; to  
10 increase fines for reporting deficiencies; to amend Code Section 48-7-29.20 of the Official  
11 Code of Georgia Annotated, relating to tax credits for contributions to rural hospital  
12 organizations, so as to increase the tax credit limit for contributions by corporate donors; to  
13 increase the aggregate limit for tax credits for contributions to rural hospital organizations;  
14 to provide for preapproval of proportional amounts of contributions under certain  
15 circumstances; to provide for certain timelines; to extend the sunset provision; to amend  
16 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to  
17 medical assistance generally, so as to provide for the creation of the Comprehensive Health  
18 Coverage Commission; to provide for its members; to provide for its purpose and duties; to  
19 provide for assistance from experts and consultants; to provide for semiannual reports; to  
20 provide for the automatic repeal of the commission; to provide for related matters; to provide  
21 for effective dates; to provide for applicability; to repeal conflicting laws; and for other  
22 purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 SECTION 1.

25 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
26 paragraphs (23) and (33) of Code Section 31-6-2, relating to definitions relative to state  
27 health planning and development, as follows:

28 "(23) 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical  
29 center that is jointly owned by a hospital in the same county as the center or a hospital in  
30 a contiguous county if there is no hospital in the same county as the center and a single  
31 group of physicians practicing in the center and that provides surgery in a single specialty  
32 as defined by the department. Such ambulatory surgical center shall only be utilized by  
33 physicians who are of the same single specialty, who may include physicians who are not  
34 owners or employees of the single group practice of physicians that own and operate the  
35 center; provided, however, that general surgery, a group practice which includes one or  
36 more physiatrists who perform services that are reasonably related to the surgical  
37 procedures performed in the center, and a group practice in orthopedics which includes  
38 plastic hand surgeons with a certificate of added qualifications in Surgery of the Hand  
39 from the American Board of Plastic and Reconstructive Surgery shall be considered a  
40 single specialty. The ownership interest of the hospital shall be no less than 30 percent  
41 and the collective ownership of the physicians or group of physicians shall be no less than  
42 30 percent. Nothing in this paragraph shall prohibit the owners of the center from  
43 entering into an arrangement with an outside entity for practice management,  
44 administrative services, or both."

45 "(33) 'Single specialty ambulatory surgical center' means an ambulatory surgical center  
46 where surgery is performed in the offices of an individual private physician or single  
47 group practice of private physicians if such surgery is performed in a facility that is  
48 owned; and operated, and utilized by such the individual physician or single group

49 practice of private physicians or single group of physicians who also are of a single  
50 specialty. Such ambulatory surgical center shall only be utilized by physicians who are  
51 of the same single specialty, who may include physicians who are not owners or  
52 employees of the individual private physician or single group practice of private  
53 physicians that own and operate the center; provided, however, that general surgery, a  
54 group practice which includes one or more physiatrists who perform services that are  
55 reasonably related to the surgical procedures performed in the center, and a group  
56 practice in orthopedics which includes plastic hand surgeons with a certificate of added  
57 qualifications in Surgery of the Hand from the American Board of Plastic and  
58 Reconstructive Surgery shall be considered a single specialty. Nothing in this paragraph  
59 shall prohibit an individual private physician or a single group practice of private  
60 physicians from entering into an arrangement with an outside entity for practice  
61 management, administrative services, or both."

62 **SECTION 2.**

63 Said title is further amended in Code Section 31-6-21, relating to Department of Community  
64 Health functions and powers with respect to state health planning and development, by  
65 revising subsection (a) as follows:

66 "(a) The Department of Community Health, established under Chapter 2 of this title, is  
67 authorized to administer the certificate of need program established under this chapter and,  
68 within the appropriations made available to the department by the General Assembly of  
69 Georgia and consistently with the laws of the State of Georgia, a state health plan adopted  
70 by the board. The department shall review and update the state health plan at least every  
71 five years beginning no later than January 1, 2025, to ensure the plan meets the evolving  
72 needs of the state. The department shall provide, by rule, for procedures to administer its  
73 functions until otherwise provided by the board."

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### SECTION 3.

Said title is further amended in Code Section 31-6-40, relating to certificate of need required for new institutional health services and exemption, by revising subsections (a), (b), and (c) as follows:

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

(1) The construction, development, or other establishment of a new, expanded, or relocated health care facility, except as otherwise provided in Code Section 31-6-47;

~~(2) Any expenditure by or on behalf of a health care facility in excess of \$10 million which, under generally accepted accounting principles consistently applied, is a capital expenditure, except expenditures for acquisition of an existing health care facility. The dollar amounts specified in this paragraph and in paragraph (14) of Code Section 31-6-2 shall be adjusted annually by an amount calculated by multiplying such dollar amounts (as adjusted for the preceding year) by the annual percentage of change in the composite index of construction material prices, or its successor or appropriate replacement index, if any, published by the United States Department of Commerce for the preceding calendar year, commencing on July 1, 2019, and on each anniversary thereafter of publication of the index. The department shall immediately institute rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar amounts of a proposed project for purposes of this paragraph and paragraph (14) of Code Section 31-6-2, the costs of all items subject to review by this chapter and items not subject to review by this chapter associated with and simultaneously developed or proposed with the project shall be counted, except for the expenditure or commitment of or incurring an obligation for the expenditure of funds to develop certificate of need applications, studies, reports, schematics, preliminary plans and specifications or working drawings, or to acquire sites; Reserved;~~

- 101 (3) The purchase or lease by or on behalf of a health care facility or a diagnostic,  
102 treatment, or rehabilitation center of diagnostic or therapeutic equipment, except as  
103 otherwise provided in Code Section 31-6-47;
- 104 (4) Any increase in the bed capacity of a health care facility except as provided in Code  
105 Section 31-6-47;
- 106 (5) Clinical health services which are offered in or through a health care facility, which  
107 were not offered on a regular basis in or through such health care facility within the 12  
108 month period prior to the time such services would be offered;
- 109 (6) Any conversion or upgrading of any general acute care hospital to a specialty hospital  
110 or of a facility such that it is converted from a type of facility not covered by this chapter  
111 to any of the types of health care facilities which are covered by this chapter;
- 112 (7) Clinical health services which are offered in or through a diagnostic, treatment, or  
113 rehabilitation center which were not offered on a regular basis in or through that center  
114 within the 12 month period prior to the time such services would be offered, but only if  
115 the clinical health services are any of the following:
- 116 (A) Radiation therapy;
  - 117 (B) Biliary lithotripsy;
  - 118 (C) Surgery in an operating room environment, including, but not limited to,  
119 ambulatory surgery; and
  - 120 (D) Cardiac catheterization; and
- 121 (8) The conversion of a destination cancer hospital to a general cancer hospital.
- 122 (b) Any person proposing to develop or offer a new institutional health service or health  
123 care facility shall, before commencing such activity, submit a letter of intent and an  
124 application to the department and obtain a certificate of need in the manner provided in this  
125 chapter unless such activity is excluded from the scope of this chapter.

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

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

134 (A) Provide annual reports in the same manner and in accordance with Code Section  
135 31-6-70; and

136 (B)(i) Provide care to Medicaid beneficiaries and, if the facility provides medical care  
137 and treatment to children, to PeachCare for Kids beneficiaries and provide  
138 uncompensated indigent and charity care in an amount equal to or greater than 2  
139 percent of its adjusted gross revenue, and on and after January 1, 2026, in an amount  
140 equal to or greater than the minimum amount established by the department which  
141 shall be reviewed by the department every 12 months; or

142 (ii) If the facility is not a participant in Medicaid or the PeachCare for Kids Program,  
143 provide uncompensated care for Medicaid beneficiaries and, if the facility provides  
144 medical care and treatment to children, for PeachCare for Kids beneficiaries,  
145 uncompensated indigent and charity care, or both in an amount equal to or greater  
146 than 4 percent of its adjusted gross revenue, and on and after January 1, 2026, in an  
147 amount equal to or greater than the minimum amount established by the department  
148 which shall be reviewed by the department every 12 months, if it:

149 (I) Makes a capital expenditure associated with the construction, development,  
150 expansion, or other establishment of a clinical health service or the acquisition or  
151 replacement of diagnostic or therapeutic equipment with a value in excess of  
152 \$800,000.00 over a two-year period;

153 (II) Builds a new operating room; or

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

155 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
156 in the amount of the difference between the services which the center is required to  
157 provide and the amount actually provided and may be subject to revocation of its  
158 exemption status by the department for repeated failure to pay any fees or moneys due  
159 to the department or for repeated failure to produce data as required by Code Section  
160 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of  
161 Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this  
162 paragraph shall be adjusted annually by an amount calculated by multiplying such dollar  
163 amount (as adjusted for the preceding year) by the annual percentage of change in the  
164 consumer price index, or its successor or appropriate replacement index, if any, published  
165 by the United States Department of Labor for the preceding calendar year, commencing  
166 on July 1, 2009. In calculating the dollar amounts of a proposed project for the purposes  
167 of this paragraph, the costs of all items subject to review by this chapter and items not  
168 subject to review by this chapter associated with and simultaneously developed or  
169 proposed with the project shall be counted, except for the expenditure or commitment of  
170 or incurring an obligation for the expenditure of funds to develop certificate of need  
171 applications, studies, reports, schematics, preliminary plans and specifications or working  
172 drawings, or to acquire sites. Subparagraph (B) of this paragraph shall not apply to  
173 facilities offering ophthalmic ambulatory surgery pursuant to the exclusion designated  
174 on June 30, 2008, as division (14)(G)(iii) of Code Section 31-6-2 that are owned by  
175 physicians in the practice of ophthalmology."

176 **SECTION 4.**

177 Said title is further amended by revising Code Section 31-6-43, relating to acceptance or  
178 rejection of application for certificate, as follows:

179 "31-6-43.

180 (a) At least ~~30~~ 25 days prior to submitting an application for a certificate of need for  
181 clinical health services, a person shall submit a letter of intent to the department. The  
182 department shall provide by rule a process for submitting letters of intent and a mechanism  
183 by which applications may be filed to compete with and be reviewed comparatively with  
184 proposals described in submitted letters of intent.

185 (b) Each application for a certificate of need shall be ~~reviewed~~ received by the department,  
186 ~~and within ten working days after the date of its receipt a determination shall be made as~~  
187 ~~to whether the application complies with the rules governing the preparation and~~  
188 ~~submission of applications. If the application complies with the rules governing the~~  
189 ~~preparation and submission of applications,~~ and the department shall declare the  
190 application complete for review, shall accept and date the application, and shall notify the  
191 applicant of the timetable for its review. The department shall also notify a newspaper of  
192 general circulation in the county in which the project shall be developed that the  
193 application has been deemed complete. The department shall also notify the appropriate  
194 regional commission and the chief elected official of the county and municipal  
195 governments, if any, in whose boundaries the proposed project will be located that the  
196 application is complete for review. If the application does not comply with the rules  
197 governing the preparation and submission of applications, the department shall notify the  
198 applicant in writing and provide a list of all deficiencies. The applicant shall be afforded  
199 an opportunity to correct such deficiencies, and upon such correction, the application shall  
200 then be declared complete for review within ten days of the correction of such deficiencies,  
201 and notice given to a newspaper of general circulation in the county in which the project  
202 shall be developed that the application has been so declared. The department shall also  
203 notify the appropriate regional commission and the chief elected official of the county and  
204 municipal governments, if any, in whose boundaries the proposed project will be located

205 that the application is complete for review or when in the determination of the department  
206 a significant amendment is filed.

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

210 (d)(1) There shall be a time limit of 120 days for review of a project, beginning on the  
211 day the department ~~declares the application complete for review or in the case of~~  
212 ~~applications joined for comparative review, beginning on the day the department declares~~  
213 ~~the final application complete~~ receives the application. The department may adopt rules  
214 for determining when it is not practicable to complete a review in 120 days and may  
215 extend the review period upon written notice to the applicant but only for an extended  
216 period of not longer than an additional 30 days. The department shall adopt rules  
217 governing the submission of additional information by the applicant and for opposing an  
218 application; provided, however, that such rules shall provide that any party permitted to  
219 oppose an application shall submit a notice of opposition no later than 30 days of receipt  
220 by the department of such application.

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

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

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

230 (e) To allow the opportunity for comparative review of applications, the department may  
231 provide by rule for applications for a certificate of need to be submitted on a timetable or

232 batching cycle basis no less often than two times per calendar year for each clinical health  
233 service. Applications for services, facilities, or expenditures for which there is no specified  
234 batching cycle may be filed at any time.

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

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

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

242 Following joinder of the first application with subsequent applications, none of the  
243 subsequent applications so joined may be considered as a first application for the purposes  
244 of future joinder. The department shall notify the applicant to whose application a joinder  
245 is ordered and all other applicants previously joined to such application of the fact of each  
246 joinder pursuant to this subsection. In the event one or more applications have been joined  
247 pursuant to this subsection, the time limits for department action for all of the applicants  
248 shall run from the latest date that any one of the joined applications was declared complete  
249 for review. In the event of the consideration of one or more applications joined pursuant  
250 to this subsection, the department may award no certificate of need or one or more  
251 certificates of need to the application or applications, if any, which are consistent with the  
252 considerations contained in Code Section 31-6-42, the department's applicable rules, and  
253 the award of which will best satisfy the purposes of this chapter.

254 (g) The department shall review the application and all written information submitted by  
255 the applicant in support of the application and all information submitted in opposition to  
256 the application to determine the extent to which the proposed project is consistent with the  
257 applicable considerations stated in Code Section 31-6-42 and in the department's applicable  
258 rules. During the course of the review, the department staff may request additional

259 information from the applicant as deemed appropriate. Pursuant to rules adopted by the  
260 department, a public hearing on applications covered by those regulations may be held  
261 prior to the date of the department's decision thereon. Such rules shall provide that when  
262 good cause has been shown, a public hearing shall be held by the department. Any  
263 interested person may submit information to the department concerning an application, and  
264 an applicant shall be entitled to notice of and to respond to any such submission.

265 (h) The department shall within 30 days of receipt of the application provide the applicant  
266 an opportunity to meet with the department to discuss ~~the~~ such application and to provide  
267 the applicant an opportunity to submit additional information. Such additional information  
268 shall be submitted within the time limits adopted by the department. The department shall  
269 also provide an opportunity for any party that is permitted to oppose an application  
270 pursuant to paragraph (2) of subsection (d) of this Code section to meet with the  
271 department and to provide additional information to the department. In order for any such  
272 opposing party to have standing to appeal an adverse decision pursuant to Code Section  
273 31-6-44, such party must attend and participate in an opposition meeting.

274 (i) Unless extended by the department for an additional period of up to 30 days pursuant  
275 to subsection (d) of this Code section, the department shall, no later than 120 days after an  
276 application is determined to be complete for review, or, in the event of joined applications,  
277 120 days after the last application is declared complete for review, provide written  
278 notification to an applicant of the department's decision to issue or to deny issuance of a  
279 certificate of need for the proposed project. Such notice shall contain the department's  
280 written findings of fact and decision as to each applicable consideration or rule and a  
281 detailed statement of the reasons and evidentiary support for issuing or denying a certificate  
282 of need for the action proposed by each applicant. The department shall also mail such  
283 notification to the appropriate regional commission and the chief elected official of the  
284 county and municipal governments, if any, in whose boundaries the proposed project will  
285 be located. In the event such decision is to issue a certificate of need, the certificate of

286 need shall be effective on the day of the decision unless the decision is appealed to the  
287 Certificate of Need Appeal Panel in accordance with this chapter. Within seven days of  
288 the decision, the department shall publish notice of its decision to grant or deny an  
289 application in the same manner as it publishes notice of the filing of an application.

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

295 (k) Notwithstanding other provisions of this article, when the Governor has declared a  
296 state of emergency in a region of the state, existing health care facilities in the affected  
297 region may seek emergency approval from the department ~~to make expenditures in excess~~  
298 ~~of the capital expenditure threshold~~ or to offer services that may otherwise require a  
299 certificate of need. The department shall give special expedited consideration to such  
300 requests and may authorize such requests for good cause. Once the state of emergency has  
301 been lifted, any services offered by an affected health care facility under this subsection  
302 shall cease to be offered until such time as the health care facility that received the  
303 emergency authorization has requested and received a certificate of need. For purposes of  
304 this subsection, the term 'good cause' means that authorization of the request shall directly  
305 resolve a situation posing an immediate threat to the health and safety of the public. The  
306 department shall establish, by rule, procedures whereby requirements for the process of  
307 review and issuance of a certificate of need may be modified and expedited as a result of  
308 emergency situations."

309 **SECTION 5.**

310 Said title is further amended by revising subsections (h), (i), (j), (k), (l), (m), and (n) of Code  
311 Section 31-6-44, relating to the Certificate of Need Appeal Panel, as follows:

312 "(h) After the issuance of a decision by the department pursuant to Code Section 31-6-43,  
313 no party to an appeal hearing, nor any person on behalf of such party, including the  
314 department, shall make any ex parte contact with the appeal panel hearing officer appointed  
315 to conduct the appeal hearing; or any other member of the appeal panel, ~~or the~~  
316 ~~commissioner~~ in regard to a decision under appeal.

317 (i) Within 30 days after the conclusion of the hearing, the hearing officer shall make  
318 written findings of fact and conclusions of law as to each consideration as set forth in Code  
319 Section 31-6-42 and the department's rules, including a detailed statement of the reasons  
320 for the decision of the hearing officer. If any party has alleged that an appeal lacks  
321 substantial justification or was undertaken primarily for the purpose of delay or harassment,  
322 the decision of the hearing officer shall make findings of fact addressing the merits of the  
323 allegation. The hearing officer shall file such decision with the chairperson of the appeal  
324 panel who shall serve such decision upon all parties, and shall transmit the administrative  
325 record to the ~~commissioner~~ department. ~~Any party, including the department, which~~  
326 ~~disputes any finding of fact or conclusion of law rendered by the hearing officer in such~~  
327 ~~hearing officer's decision and which wishes to appeal that decision may appeal to the~~  
328 ~~commissioner and shall file its specific objections with the commissioner or his or her~~  
329 ~~designee within 30 days of the date of the hearing officer's decision pursuant to rules~~  
330 ~~adopted by the department.~~

331 (j) The decision of the appeal panel hearing officer ~~will become~~ shall constitute the final  
332 decision of the department ~~upon the sixty-first day following the date of the decision unless~~  
333 ~~an objection thereto is filed with the commissioner within the time limit established in~~  
334 ~~subsection (i) of this Code section.~~

335 ~~(k)(1) In the event an appeal of the hearing officer's decision is filed, the commissioner~~  
336 ~~may adopt the hearing officer's order as the final order of the department or the~~  
337 ~~commissioner may reject or modify the conclusions of law over which the department has~~  
338 ~~substantive jurisdiction and the interpretation of administrative rules over which it has~~

339 ~~substantive jurisdiction. By rejecting or modifying such conclusion of law or~~  
340 ~~interpretation of administrative rule, the department must state with particularity its~~  
341 ~~reasons for rejecting or modifying such conclusion of law or interpretation of~~  
342 ~~administrative rule and must make a finding that its substituted conclusion of law or~~  
343 ~~interpretation of administrative rule is as or more reasonable than that which was rejected~~  
344 ~~or modified. Rejection or modification of conclusions of law may not form the basis for~~  
345 ~~rejection or modification of findings of fact. The commissioner may not reject or modify~~  
346 ~~the findings of fact unless the commissioner first determines from a review of the entire~~  
347 ~~record, and states with particularity in the order, that the findings of fact were not based~~  
348 ~~upon any competent substantial evidence or that the proceedings on which the findings~~  
349 ~~were based did not comply with the essential requirements of law.~~

350 ~~(2) If, before the date set for the commissioner's decision, application is made to the~~  
351 ~~commissioner for leave to present additional evidence and it is shown to the satisfaction~~  
352 ~~of the commissioner that the additional evidence is material and there were good reasons~~  
353 ~~for failure to present it in the proceedings before the hearing officer, the commissioner~~  
354 ~~may order that the additional evidence be taken before the same hearing officer who~~  
355 ~~rendered the initial decision upon conditions determined by the commissioner. The~~  
356 ~~hearing officer may modify the initial decision by reason of the additional evidence and~~  
357 ~~shall file that evidence and any modifications, new findings, or decision with the~~  
358 ~~commissioner. Unless leave is given by the commissioner in accordance with the~~  
359 ~~provisions of this subsection, the appeal panel may not consider new evidence under any~~  
360 ~~circumstances. In all circumstances, the commissioner's decision shall be based upon~~  
361 ~~considerations as set forth in Code Section 31-6-42 and the department's rules.~~

362 ~~(f) If, based upon the findings of fact by the hearing officer, the commissioner determines~~  
363 ~~that the appeal filed by any party of a decision of the department lacks substantial~~  
364 ~~justification and was undertaken primarily for the purpose of delay or harassment, the~~  
365 ~~commissioner may enter an award in his or her written order against such party and in~~

366 favor of the successful party or parties, including the department, of all or any part of their  
367 respective reasonable and necessary attorney's fees and expenses of litigation, as the  
368 commissioner deems just. Such award may be enforced by any court undertaking judicial  
369 review of the final decision. In the absence of any petition for judicial review, then such  
370 award shall be enforced, upon due application, by any court having personal jurisdiction  
371 over the party against whom such an award is made.

372 ~~(m) Unless the hearing officer's decision becomes the department's final decision by~~  
373 ~~operation of law as provided in subsection (j) of this Code section, the decision of the~~  
374 ~~commissioner shall become the department's final decision by operation of law. Such final~~  
375 ~~decision shall be the final department decision for purposes of Chapter 13 of Title 50, the~~  
376 ~~'Georgia Administrative Procedure Act.' The appeals process provided by this Code~~  
377 ~~section shall be the administrative remedy only for decisions made by the department~~  
378 ~~pursuant to Code Section 31-6-43 which involve the approval or denial of applications for~~  
379 ~~certificates of need.~~

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

389 **SECTION 6.**

390 Said title is further amended by revising subsection (a) of Code Section 31-6-44.1, relating  
391 to judicial review, as follows:

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

400 (1) In violation of constitutional or statutory provisions;  
 401 (2) In excess of the statutory authority of the department;  
 402 (3) Made upon unlawful procedures;  
 403 (4) Affected by other error of law;  
 404 (5) Not supported by substantial evidence, which shall mean that the record does not  
 405 contain such relevant evidence as a reasonable mind might accept as adequate to support  
 406 such findings, inferences, conclusions, or decisions, which such evidentiary standard shall  
 407 be in excess of the 'any evidence' standard contained in other statutory provisions; or  
 408 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted  
 409 exercise of discretion."

410 **SECTION 7.**

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

413 "31-6-47.

414 (a) Notwithstanding the other provisions of this chapter, this chapter shall not apply to:  
 415 (1) Infirmaries operated by educational institutions for the sole and exclusive benefit of  
 416 students, faculty members, officers, or employees thereof;

- 417 (2) Infirmaries or facilities operated by businesses for the sole and exclusive benefit of  
418 officers or employees thereof, provided that such infirmaries or facilities make no  
419 provision for overnight stay by persons receiving their services;
- 420 (3) Institutions operated exclusively by the federal government or by any of its agencies;
- 421 (4) Offices of private physicians or dentists whether for individual or group practice,  
422 except as otherwise provided in paragraph (3) or (7) of subsection (a) of Code  
423 Section 31-6-40;
- 424 (5) Religious, nonmedical health care institutions as defined in 42 U.S.C.  
425 Section 1395x(ss)(1), listed and certified by a national accrediting organization;
- 426 (6) Site acquisitions for health care facilities or preparation or development costs for  
427 such sites prior to the decision to file a certificate of need application;
- 428 (7) Expenditures related to adequate preparation and development of an application for  
429 a certificate of need;
- 430 (8) The commitment of funds conditioned upon the obtaining of a certificate of need;
- 431 (9) Expenditures for the restructuring or acquisition of existing health care facilities by  
432 stock or asset purchase, merger, consolidation, or other lawful means;
- 433 (9.1) The purchase of a closing hospital or of a hospital that has been closed for no more  
434 than ~~12~~ 24 months by a hospital in a contiguous county to repurpose the facility as a  
435 micro-hospital;
- 436 ~~Expenditures of less than \$870,000.00 for any minor or major repair or replacement~~  
437 ~~of~~ The acquisition, replacement, or repair of diagnostic, therapeutic, or other imaging  
438 equipment by a any existing health care facility that is not owned by a group practice of  
439 physicians or a hospital and that provides diagnostic imaging services so long as it does  
440 not result in the offering of any new clinical health services if such facility received a  
441 letter of nonreviewability from the department prior to July 1, 2008. This paragraph shall  
442 not apply to such facilities in rural counties;

443 (10.1) ~~Except as provided in paragraph (10) of this subsection, An expenditure for the~~  
444 ~~minor or major repair of a health care facility or a facility that is exempt from the~~  
445 ~~requirements of this chapter, parts thereof, or services provided or equipment used~~  
446 ~~therein; or the replacement of equipment, including but not limited to CT scanners,~~  
447 ~~magnetic resonance imaging, positron emission tomography (PET), and positron~~  
448 ~~emission tomography/computed tomography previously approved for a certificate of~~  
449 ~~need;~~

450 (11) Capital expenditures otherwise covered by this chapter required solely to eliminate  
451 or prevent safety hazards as defined by federal, state, or local fire, building,  
452 environmental, occupational health, or life safety codes or regulations, to comply with  
453 licensing requirements of the department, or to comply with accreditation standards of  
454 a nationally recognized health care accreditation body;

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

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

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

468 (15) Increases in the bed capacity of a hospital up to ten beds or ~~10~~ 20 percent of  
469 capacity, whichever is greater, in any consecutive ~~two-year~~ three-year period, in a

470 hospital that has maintained an overall occupancy rate greater than ~~75~~ 60 percent for the  
471 previous 12 month period;

472 (16) Expenditures for nonclinical projects, including parking lots, parking decks, and  
473 other parking facilities; computer systems, software, and other information technology;  
474 medical office buildings; administrative office space; conference rooms; education  
475 facilities; lobbies; common spaces; clinical staff lounges and sleep areas; waiting rooms;  
476 bathrooms; cafeterias; hallways; engineering facilities; mechanical systems; roofs;  
477 grounds; signage; family meeting or lounge areas; other nonclinical physical plant  
478 renovations or upgrades that do not result in new or expanded clinical health services, and  
479 state mental health facilities;

480 (17) Life plan communities, provided that the skilled nursing component of the facility  
481 is for the exclusive use of residents of the life plan community and that a written  
482 exemption is obtained from the department; provided, however, that new sheltered  
483 nursing home beds may be used on a limited basis by persons who are not residents of  
484 the life plan community for a period up to five years after the date of issuance of the  
485 initial nursing home license, but such beds shall not be eligible for Medicaid  
486 reimbursement. For the first year, the life plan community sheltered nursing facility may  
487 utilize not more than 50 percent of its licensed beds for patients who are not residents of  
488 the life plan community. In the second year of operation, the life plan community shall  
489 allow not more than 40 percent of its licensed beds for new patients who are not residents  
490 of the life plan community. In the third year of operation, the life plan community shall  
491 allow not more than 30 percent of its licensed beds for new patients who are not residents  
492 of the life plan community. In the fourth year of operation, the life plan community shall  
493 allow not more than 20 percent of its licensed beds for new patients who are not residents  
494 of the life plan community. In the fifth year of operation, the life plan community shall  
495 allow not more than 10 percent of its licensed beds for new patients who are not residents  
496 of the life plan community. At no time during the first five years shall the life plan

497 community sheltered nursing facility occupy more than 50 percent of its licensed beds  
498 with patients who are not residents under contract with the life plan community. At the  
499 end of the five-year period, the life plan community sheltered nursing facility shall be  
500 utilized exclusively by residents of the life plan community, and at no time shall a  
501 resident of a life plan community be denied access to the sheltered nursing facility. At  
502 no time shall any existing patient be forced to leave the life plan community to comply  
503 with this paragraph. The department is authorized to promulgate rules and regulations  
504 regarding the use and definition of the term 'sheltered nursing facility' in a manner  
505 consistent with this Code section. Agreements to provide continuing care include  
506 agreements to provide care for any duration, including agreements that are terminable by  
507 either party;

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

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

511 or

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

516 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance  
517 from the facility or the medical staff at the center has admitting privileges or other  
518 acceptable documented arrangements with such hospital to ensure the necessary backup  
519 for the center for medical complications. The center shall have the capability to transfer  
520 a patient immediately to a hospital within a reasonable distance from the facility with  
521 adequate emergency room services. Hospitals shall not unreasonably deny a transfer  
522 agreement or affiliation agreement to with the center;

523 (C)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical  
524 care and treatment to children, to PeachCare for Kids beneficiaries and provides  
525 uncompensated indigent and charity care in an amount equal to or greater than 2  
526 percent of its adjusted gross revenue, and on and after January 1, 2026, in an amount  
527 equal to or greater than the minimum amount established by the department which  
528 shall be reviewed by the department every 12 months; or

529 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,  
530 provides uncompensated care to Medicaid beneficiaries and, if the facility provides  
531 medical care and treatment to children, to PeachCare for Kids beneficiaries,  
532 uncompensated indigent and charity care, or both in an amount equal to or greater  
533 than 4 percent of its adjusted gross revenue, and on and after January 1, 2026, in an  
534 amount equal to or greater than the minimum amount established by the department  
535 which shall be reviewed by the department every 12 months;

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

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

541 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
542 in the amount of the difference between the services which the center is required to  
543 provide and the amount actually provided and may be subject to revocation of its  
544 exemption status by the department for repeated failure to pay any fines or moneys due  
545 to the department or for repeated failure to produce data as required by Code Section  
546 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of  
547 Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this  
548 paragraph shall be adjusted annually by an amount calculated by multiplying such dollar  
549 amount (as adjusted for the preceding year) by the annual percentage of change in the

550 composite index of construction material prices, or its successor or appropriate  
551 replacement index, if any, published by the United States Department of Commerce for  
552 the preceding calendar year, commencing on July 1, 2009, and on each anniversary  
553 thereafter of publication of the index. The department shall immediately institute  
554 rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar  
555 amounts of a proposed project for purposes of this paragraph, the costs of all items  
556 subject to review by this chapter and items not subject to review by this chapter  
557 associated with and simultaneously developed or proposed with the project shall be  
558 counted, except for the expenditure or commitment of or incurring an obligation for the  
559 expenditure of funds to develop certificate of need applications, studies, reports,  
560 schematics, preliminary plans and specifications or working drawings, or to acquire sites;

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

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

564 (B)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical  
565 care and treatment to children, to PeachCare for Kids beneficiaries and provides  
566 uncompensated indigent and charity care in an amount equal to or greater than 2  
567 percent of its adjusted gross revenue, and on and after January 1, 2026, in an amount  
568 equal to or greater than the minimum amount established by the department which  
569 shall be reviewed by the department every 12 months; or

570 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,  
571 provides uncompensated care to Medicaid beneficiaries and, if the facility provides  
572 medical care and treatment to children, to PeachCare for Kids beneficiaries,  
573 uncompensated indigent and charity care, or both in an amount equal to or greater  
574 than 4 percent of its adjusted gross revenue, and on and after January 1, 2026, in an  
575 amount equal to or greater than the minimum amount established by the department  
576 which shall be reviewed by the department every 12 months; and

577 (C) Provides annual reports in the same manner and in accordance with Code Section  
578 31-6-70.

579 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
580 in the amount of the difference between the services which the center is required to  
581 provide and the amount actually provided and may be subject to revocation of its  
582 exemption status by the department for repeated failure to pay any fines or moneys due  
583 to the department or for repeated failure to produce data as required by Code  
584 Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to  
585 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount  
586 specified in this paragraph shall be adjusted annually by an amount calculated by  
587 multiplying such dollar amount (as adjusted for the preceding year) by the annual  
588 percentage of change in the composite index of construction material prices, or its  
589 successor or appropriate replacement index, if any, published by the United States  
590 Department of Commerce for the preceding calendar year, commencing on July 1, 2009,  
591 and on each anniversary thereafter of publication of the index. The department shall  
592 immediately institute rule-making procedures to adopt such adjusted dollar amounts. In  
593 calculating the dollar amounts of a proposed project for purposes of this paragraph, the  
594 costs of all items subject to review by this chapter and items not subject to review by this  
595 chapter associated with and simultaneously developed or proposed with the project shall  
596 be counted, except for the expenditure or commitment of or incurring an obligation for  
597 the expenditure of funds to develop certificate of need applications, studies, reports,  
598 schematics, preliminary plans and specifications or working drawings, or to acquire sites;

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

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

- 604 (B) Is owned by a hospital or by a physician or a group of physicians comprising at  
605 least 80 percent ownership who are currently board certified in radiology;
- 606 (C) Provides three or more diagnostic and other imaging services;
- 607 (D) Accepts all patients regardless of ability to pay; and
- 608 (E) Provides uncompensated indigent and charity care in an amount equal to or greater  
609 than the amount of such care provided by the geographically closest general acute care  
610 hospital; provided, however, that this paragraph shall not apply to an imaging center in  
611 a rural county;
- 612 (21) Diagnostic cardiac catheterization in a hospital setting on patients 15 years of age  
613 and older;
- 614 (22) Therapeutic cardiac catheterization in hospitals selected by the department prior to  
615 July 1, 2008, to participate in the Atlantic Cardiovascular Patient Outcomes Research  
616 Team (C-PORT) Study and therapeutic cardiac catheterization in hospitals that, as  
617 determined by the department on an annual basis, meet the criteria to participate in the  
618 C-PORT Study but have not been selected for participation; provided, however, that if  
619 the criteria requires a transfer agreement ~~to~~ with another hospital, no hospital shall  
620 unreasonably deny a transfer agreement ~~to~~ with another hospital;
- 621 (23) Infirmaries or facilities operated by, on behalf of, or under contract with the  
622 Department of Corrections or the Department of Juvenile Justice for the sole and  
623 exclusive purpose of providing health care services in a secure environment to prisoners  
624 within a penal institution, penitentiary, prison, detention center, or other secure  
625 correctional institution, including correctional institutions operated by private entities in  
626 this state which house inmates under the Department of Corrections or the Department  
627 of Juvenile Justice;
- 628 (24) The relocation of any skilled nursing facility, intermediate care facility, or  
629 micro-hospital within the same county, any other health care facility in a rural county  
630 within the same county, and any other health care facility in an urban county within a

- 631 ~~three-mile~~ five-mile radius of the existing facility so long as the facility does not propose  
632 to offer any new or expanded clinical health services at the new location;
- 633 (25) Facilities which are devoted to the provision of treatment and rehabilitative care for  
634 periods continuing for 24 hours or longer for persons who have traumatic brain injury,  
635 as defined in Code Section 37-3-1;
- 636 (26) Capital expenditures for a project otherwise requiring a certificate of need if those  
637 expenditures are for a project to remodel, renovate, replace, or any combination thereof,  
638 a medical-surgical hospital and:
- 639 (A) That hospital:
- 640 (i) Has a bed capacity of not more than 50 beds;
- 641 (ii) Is located in a county in which no other medical-surgical hospital is located;
- 642 (iii) Has at any time been designated as a disproportionate share hospital by the  
643 department; and
- 644 (iv) Has at least 45 percent of its patient revenues derived from medicare, Medicaid,  
645 or any combination thereof, for the immediately preceding three years; and
- 646 (B) That project:
- 647 (i) Does not result in any of the following:
- 648 (I) The offering of any new clinical health services;
- 649 (II) Any increase in bed capacity;
- 650 (III) Any redistribution of existing beds among existing clinical health services; or
- 651 (IV) Any increase in capacity of existing clinical health services;
- 652 (ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a  
653 special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8  
654 of Title 48; and
- 655 (iii) Is located within a ~~three-mile~~ five-mile radius of and within the same county as  
656 the hospital's existing facility;

657 (27) The renovation, remodeling, refurbishment, or upgrading of a health care facility,  
 658 so long as the project does not result in any of the following:

659 (A) The offering of any new or expanded clinical health services;

660 (B) Any increase in inpatient bed capacity; or

661 (C) Any redistribution of existing beds among existing clinical health services; or

662 ~~(D) A capital expenditure exceeding the threshold contained in paragraph (2) of~~  
 663 ~~subsection (a) of Code Section 31-6-40;~~

664 ~~(28) Other than for equipment used to provide positron emission tomography (PET)~~  
 665 ~~services, the The acquisition of diagnostic, therapeutic, or other imaging equipment with~~  
 666 ~~a value of \$3 million or less, by or on behalf of:~~

667 (A) A hospital; or

668 (B) An individual private physician or single group practice of physicians exclusively  
 669 for use on patients of such private physician or single group practice of physicians and  
 670 such private physician or member of such single group practice of physicians is  
 671 physically present at the practice location where the diagnostic or other imaging  
 672 equipment is located at least 75 percent of the time that the equipment is in use;

673 ~~The amount specified in this paragraph shall not include build-out costs, as defined by~~  
 674 ~~the department, but shall include all functionally related equipment, software, and any~~  
 675 ~~warranty and services contract costs for the first five years. The acquisition of one or~~  
 676 ~~more items of functionally related diagnostic or therapeutic equipment shall be~~  
 677 ~~considered as one project. The dollar amount specified in this paragraph and in~~  
 678 ~~paragraph (10) of this subsection shall be adjusted annually by an amount calculated by~~  
 679 ~~multiplying such dollar amounts (as adjusted for the preceding year) by the annual~~  
 680 ~~percentage of change in the consumer price index, or its successor or appropriate~~  
 681 ~~replacement index, if any, published by the United States Department of Labor for the~~  
 682 ~~preceding calendar year, commencing on July 1, 2010; and~~

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

685 (A) The expansion or addition of the following clinical health services: operating  
686 rooms, other than dedicated outpatient operating rooms; medical-surgical services;  
687 gynecology; procedure rooms; intensive care; pharmaceutical services; pediatrics;  
688 cardiac care or other general hospital services; provided, however, that such  
689 expenditure does not include the expansion or addition of inpatient beds or the  
690 conversion of one type of inpatient bed to another type of inpatient bed; or

691 (B) The movement of clinical health services from one location on the hospital's  
692 primary campus to another location on such hospital's primary campus;

693 (30) New or expanded psychiatric or substance abuse inpatient programs or state funded  
694 beds that serve Medicaid and uninsured patients that:

695 (A) Are open 365 days per year, seven days per week, and 24 hours per day;

696 (B) Provide uncompensated indigent and charity care in an amount equal to or greater  
697 than 3 percent of its adjusted gross revenue, and on and after January 1, 2026, in an  
698 amount equal to or greater than the minimum amount established by the department by  
699 rule which shall be at least 3 percent and which shall be reviewed by the department  
700 every 12 months;

701 (C) Participate as providers of medical assistance for Medicaid purposes;

702 (D) Have hospital affiliation agreements with acute care hospitals within a reasonable  
703 distance from the programs or state funded beds or the medical staffs at the programs  
704 or state funded beds have admitting privileges or other acceptable documented  
705 arrangements with such hospitals to ensure the necessary backup for the programs or  
706 state funded beds for medical complications. The programs or state funded beds shall  
707 have the capability to transfer a patient immediately to a hospital within a reasonable  
708 distance from the programs or state funded beds with adequate emergency room

709 services. Acute care hospitals shall not unreasonably deny a transfer agreement or  
710 affiliation agreement with the programs or state funded beds; and  
711 (E) Provide annual reports in the same manner and in accordance with Code Section  
712 31-6-70;

713 (31) The offering of new or expanded basic perinatal services by a hospital in a rural  
714 county provided that:

715 (A) Such services are available 365 days per year, seven days per week, and 24 hours  
716 per day;

717 (B) The hospital participates as a provider of medical assistance for Medicaid  
718 purposes;

719 (C) The hospital has a hospital affiliation agreement with an acute care hospital with  
720 at least Level III perinatal services within a reasonable distance from the hospital  
721 providing the perinatal services or the medical staff at the hospital providing the  
722 perinatal services has admitting privileges or other acceptable documented  
723 arrangements with such acute care hospital to ensure the necessary backup for the  
724 hospital providing the perinatal services for medical complications. The hospital  
725 providing the perinatal services shall have the capability to transfer a patient  
726 immediately to the acute care hospital within a reasonable distance from the hospital  
727 providing the perinatal services with adequate emergency room services. Acute care  
728 hospitals shall not unreasonably deny a transfer agreement or affiliation agreement with  
729 the hospital providing the perinatal services. This subparagraph shall not apply if the  
730 hospital providing the basic perinatal services is itself an acute care hospital with at  
731 least Level III perinatal services; and

732 (D) Provides annual reports in the same manner and in accordance with Code Section  
733 31-6-70;

734 (31.1) Any new or expanded building or facility where human births occur on a regular  
735 and ongoing basis and which is classified as a birthing center by the department for  
736 purposes of Chapter 7 of this title, provided that:

737 (A) Services are available 365 days per year, seven days per week, and 24 hours per  
738 day;

739 (B) The birthing center participates as a provider of medical assistance for Medicaid  
740 purposes;

741 (C) The birthing center has a hospital affiliation agreement with an acute care hospital  
742 with at least Level III perinatal services within a reasonable distance from the birthing  
743 center or the medical staff at the birthing center has admitting privileges or other  
744 acceptable documented arrangements with such acute care hospital to ensure the  
745 necessary backup for the birthing center for medical complications. The birthing center  
746 shall have the capability to transfer a patient immediately to the acute care hospital  
747 within a reasonable distance from the birthing center. Acute care hospitals shall not  
748 unreasonably deny a transfer agreement or affiliation agreement with the birthing  
749 center;

750 (D) The birthing center:

751 (i) Provides basic perinatal services, as defined by the department, which shall  
752 include but not be limited to a combination of such services as determined by the  
753 department;

754 (ii) Meets the standards for certification established by the American Association of  
755 Birth Centers, or equivalent or higher standards as determined by the department;

756 (iii) Schedules routine visits and visits with other appropriate providers, as necessary,  
757 and tracks patients to verify that services have been received;

758 (iv) Prior to 20 weeks gestation, certifies that a patient has been deemed to be a low  
759 risk patient, as defined by the department for purposes of this paragraph;

760 (v) Admits and provides services only to patients certified as low risk; and

- 761 (vi) Refers patients to other appropriate providers if, at any point between the 20  
762 weeks gestation certification and antepartum, the birthing center determines that a  
763 patient no longer qualifies as a low risk patient for any reason; and  
764 (E) The birthing center provides annual reports in the same manner and in accordance  
765 with Code Section 31-6-70;
- 766 (32) A new general acute care hospital in a rural county that:
- 767 (A)(i) Attains status as a teaching hospital within 36 months of opening, and  
768 maintains such status thereafter; or
- 769 (ii) Obtains verification as a Level I, II, III, or IV trauma center from the American  
770 College of Surgeons within 36 months of opening, and maintains such verification  
771 thereafter;
- 772 (B) Provides emergency, inpatient, and outpatient psychiatric and behavioral health  
773 services;
- 774 (C) Has an emergency department that is open 365 days per year, seven days per week,  
775 and 24 hours per day;
- 776 (D) Provides uncompensated indigent and charity care in an amount equal to or greater  
777 than 3 percent of its adjusted gross revenue, and on and after January 1, 2026, in an  
778 amount equal to or greater than the minimum amount established by the department by  
779 rule which shall be no less than 3 percent and which shall be reviewed by the  
780 department every 12 months;
- 781 (E) Participates as a provider of medical assistance for Medicaid purposes; and  
782 (F) Provides annual reports in the same manner and in accordance with Code Section  
783 31-6-70;
- 784 (33) A new acute care hospital where a short-stay general hospital in a rural county has  
785 been closed for more than 12 months and a new replacement hospital has not opened that:
- 786 (A) Is located in the same rural county where the short-stay general hospital was  
787 closed;

788 (B) Has no more than the number of licensed beds that were previously licensed in the  
789 closed hospital;

790 (C) Has an emergency department that is open 365 days per year, seven days per week,  
791 and 24 hours per day;

792 (D) Provides all required clinical health services as generally offered by a short-stay  
793 general hospital to meet licensure requirements; and

794 (E) Provides uncompensated indigent and charity care in an amount equal to or greater  
795 than 3 percent of its adjusted gross revenue, and on and after January 1, 2026, in an  
796 amount equal to or greater than the minimum amount established by the department by  
797 rule which shall be no less than 3 percent and which shall be reviewed by the  
798 department every 12 months.

799 Such new acute care hospital may provide basic perinatal services;

800 (34)(A) A new short-stay general hospital to address the underserved population  
801 previously served by a short-stay general hospital that was closed within the 48 months  
802 preceding the filing of a request for a letter of determination that:

803 (i) Is located within a county with a population of more than 1 million according to  
804 the United States decennial census of 2020 or any future such census;

805 (ii) Is located within five miles of and in the same county as the main campus of a  
806 medical school that is accredited by the Liaison Committee on Medical Education to  
807 confer Doctor of Medicine (M.D.) degrees;

808 (iii) Has in place at the time of filing of a request for a letter of determination a  
809 written agreement to serve as a teaching hospital for students of the medical school  
810 described in division (ii) of this subparagraph;

811 (iv) Has a maximum number of short-stay general hospital beds not greater than 50  
812 percent of the maximum number of short-stay general hospital beds for which the  
813 closed short-stay general hospital had previously been licensed at any time during the  
814 12 months prior to its closure;

815 (v) Has an emergency department that is open 365 days per year, seven days per  
816 week, and 24 hours per day; and

817 (vi) Provides uncompensated indigent and charity care in an amount equal to or  
818 greater than 3 percent of its adjusted gross revenue, and on and after January 1, 2026,  
819 in an amount equal to or greater than the minimum amount established by the  
820 department by rule which shall be no less than 3 percent and which shall be reviewed  
821 by the department every 12 months;

822 (B) An exemption for a new short-stay general hospital under this paragraph shall  
823 include an exemption for all clinical services and equipment generally utilized at an  
824 acute care short-stay general hospital and required for licensure, including, but not  
825 limited to, an emergency department; Level II perinatal/neonatal services, including  
826 labor, delivery, recovery, and Level II neonatal intermediate care services; diagnostic  
827 imaging services; and surgical services; and

828 (C) For a period of ten years following the issuance of its original license, a new  
829 short-stay general hospital approved for an exemption pursuant to this paragraph shall  
830 be entitled to one or more determinations from the department to add additional  
831 short-stay general hospital beds, so long as the total licensed capacity of such hospital  
832 does not exceed the maximum number of short-stay general hospital beds for which the  
833 closed short-stay general hospital had previously been licensed at any time during the  
834 12 months prior to its closure; and

835 (35) Transfer of existing beds from one general acute care hospital's primary campus to  
836 another general acute care hospital's primary campus within the same hospital system  
837 within a 15 mile radius of the original campus, provided that all of the following are  
838 satisfied:

839 (A) Both hospitals involved in the transfer are general acute care hospitals and neither  
840 is a specialty hospital;

841 (B) Both hospitals involved in the transfer are under common ownership or control;

842 (C) The transferring hospital may not, for a period of 12 months after the transfer is  
843 effective, seek to expand the bed type which was transferred; and

844 (D) The transferring hospital is open and operational at the time of transfer and shall  
845 not close within 12 months after the transfer is effective.

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

849 **SECTION 8.**

850 Said title is further amended by revising Code Section 31-6-47.1, relating to prior notice and  
851 approval of certain activities, as follows:

852 "31-6-47.1.

853 (a) The department shall require prior notice from a new health care facility for approval  
854 of any activity which is believed to be exempt pursuant to Code Section 31-6-47 or  
855 excluded from the requirements of this chapter under other provisions of this chapter. The  
856 department shall require prior notice and approval of any activity which is believed to be  
857 exempt pursuant to paragraphs (31.1), (32), (33), and (34) of subsection (a) of Code  
858 Section 31-6-47. The department may require prior notice and approval of any activity  
859 which is believed to be exempt pursuant to paragraphs (10), (15), (16), (17), (20), (21),  
860 (23), (25), (26), (27), (28), and (29), (30), and (31) of subsection (a) of Code Section  
861 31-6-47. The department shall establish timeframes, forms, and criteria to request a letter  
862 of determination that an activity is properly exempt or excluded under this chapter prior to  
863 its implementation. The department shall publish notice of all requests for letters of  
864 determination regarding exempt activity and opposition to such request. Persons opposing  
865 a request for approval of an exempt activity shall be entitled to file an objection with the  
866 department and the department shall consider any filed objection when determining  
867 whether an activity is exempt. After the department's decision, an opposing party shall

868 have the right to a fair hearing pursuant to Chapter 13 of Title 50, the 'Georgia  
869 Administrative Procedure Act,' on an adverse decision of the department and judicial  
870 review of a final decision in the same manner and under the same provisions as in Code  
871 Section 31-6-44.1. If no objection to a request for determination is filed within 30 days of  
872 the department's receipt of such request for determination, the department shall have 60  
873 days from the date of the department's receipt of such request to review the request and  
874 issue a letter of determination. The department may adopt rules for deciding when it is not  
875 practicable to provide a determination in 60 days and may extend the review period upon  
876 written notice to the requestor but only for an extended period of no longer than an  
877 additional 30 days.

878 (b) Noncompliance with any condition of paragraph (30), (31), (31.1), or (32) of  
879 subsection (a) of Code Section 31-6-47 shall result in a monetary penalty in the amount of  
880 the difference between the services which the exemption holder is required to provide and  
881 the amount actually provided and shall be subject to revocation of its exemption status by  
882 the department for repeated failure to meet any one or more requirements for the  
883 exemption, for repeated failure to pay any fines or moneys due to the department, or for  
884 repeated failure to produce data as required by Code Section 31-6-70 after notice to the  
885 exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the 'Georgia  
886 Administrative Procedure Act.'

887 **SECTION 9.**

888 Said title is further amended in Article 3 of Chapter 6, relating to the Certificate of Need  
889 Program, by adding a new Code section to read as follows:

890 "31-6-51.

891 (a) The department, in conjunction with the Office of Legislative Counsel, shall review the  
892 statutory framework and provisions of this chapter and the certificate of need program  
893 generally and shall make recommendations relating to rewriting, reorganizing, and

894 clarifying the provisions of this chapter. Such review shall also include recommendations  
 895 to streamline the statutory procedures required to obtain a certificate of need or a letter of  
 896 determination.

897 (b) The department may consult with and obtain input from certificate of need applicants,  
 898 certificate of need holders, local government representatives, citizens, or other interested  
 899 parties in conducting such review.

900 (c) The department shall submit its recommendations to the General Assembly, which may  
 901 include proposed legislation, no later than December 1, 2024.

902 (d) This Code section shall stand repealed on December 31, 2024."

903

### SECTION 10.

904 Said title is further amended in Code Section 31-6-70, relating to reports to the department  
 905 by certain health care facilities an all ambulatory surgical centers and imaging centers and  
 906 public availability, by revising subsection (e) as follows:

907 "(e)(1) In the event the department does not receive an annual report from a health care  
 908 facility requiring a certificate of need or an ambulatory surgical center or imaging center,  
 909 whether or not exempt from obtaining a certificate of need under this chapter, on or  
 910 before the date such report was due or receives a timely but incomplete report, the  
 911 department shall notify the health care facility or center regarding the deficiencies and  
 912 shall be authorized to fine such health care facility or center an amount not to exceed  
 913 ~~\$500.00~~ \$2,000.00 per day for every day up to 30 days and ~~\$1,000.00~~ \$5,000.00 per day  
 914 for every day over 30 days for every day of such untimely or deficient report.

915 (2) In the event the department does not receive an annual report from a health care  
 916 facility within 180 days following the date such report was due or receives a timely but  
 917 incomplete report which is not completed within such 180 days, the department shall be  
 918 authorized to revoke such health care facility's certificate of need in accordance with  
 919 Code Section 31-6-45."

**SECTION 11.**

Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits for contributions to rural hospital organizations, is amended by revising subsections (b.1), (e), and (k) as follows:

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

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

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

(3) In the case of an individual who is a member of a limited liability company duly formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a partnership, ~~\$10,000.00~~ \$25,000.00."

"(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code section exceed ~~\$75~~ \$100 million per taxable year.

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

(B) In the event an individual or corporate donor desires to make a contribution to an individual rural hospital organization that has received the maximum amount of

947 contributions for that taxable year, the Department of Community Health shall provide  
948 the individual or corporate donor with a list, ranked in order of financial need, as  
949 determined by the Department of Community Health, of rural hospital organizations  
950 still eligible to receive contributions for the taxable year.

951 (C) In the event an individual or corporate donor desires to make a contribution to an  
952 individual rural hospital organization that would cause such rural hospital organization  
953 to exceed its maximum amount of contributions for that year, the commissioner shall  
954 not deny such desired contribution, but shall approve the proportional amount of the  
955 desired contribution up to the rural hospital organization's maximum allowed amount  
956 and any remainder shall be attributed as provided for in subparagraph (D) of this  
957 paragraph.

958 ~~(C)~~(D) In the event that an individual or corporate donor desires to make a contribution  
959 to an unspecified or undesignated rural hospital organization, either directly to the  
960 department or through a third party that participates in soliciting, administering, or  
961 managing donations, such donation shall be attributed to the rural hospital organization  
962 ranked with the highest financial need that has not yet received the maximum amount  
963 of contributions for that taxable year, regardless of whether a third party has a  
964 contractual relationship or agreement with such rural hospital organization.

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

971 (3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital  
972 organization shall notify a potential donor of the requirements of this Code section.  
973 Before making a contribution to a rural hospital organization, the taxpayer shall

974 electronically notify the department, in a manner specified by the department, of the total  
 975 amount of contribution that the taxpayer intends to make to the rural hospital  
 976 organization. The commissioner shall preapprove or deny the requested amount or a  
 977 portion of such amount, if applicable pursuant to subparagraph (C) of paragraph (2) of  
 978 this subsection, within 30 days after receiving the request from the taxpayer and shall  
 979 provide written notice to the taxpayer and rural hospital organization of such preapproval  
 980 or denial which shall not require any signed release or notarized approval by the taxpayer.  
 981 ~~In order to receive a tax credit under this Code section, the taxpayer shall make the~~  
 982 ~~contribution to the rural hospital organization within 180 days after receiving notice from~~  
 983 ~~the department that the requested amount was preapproved.~~ In order to receive a tax  
 984 credit under this Code section, a taxpayer preapproved by the commissioner on or before  
 985 September 30 shall make the contribution to the rural hospital organization within 180  
 986 days after receiving notice of preapproval from the commissioner, but not later than  
 987 October 31. A taxpayer preapproved by the commissioner after September 30 shall make  
 988 the contribution to the rural hospital organization on or before December 31. If the  
 989 taxpayer does not comply with this paragraph, the commissioner shall not include this  
 990 preapproved contribution amount when calculating the limits prescribed in paragraphs  
 991 (1) and (2) of this subsection.

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

996 (B) Any taxpayer preapproved by the ~~department~~ commissioner pursuant to this  
 997 subsection shall retain their approval in the event the credit percentage in this Code  
 998 section is modified for the year in which the taxpayer was preapproved.

999 (C) Upon the rural hospital organization's confirmation of receipt of donations that  
 1000 have been preapproved by the ~~department~~ commissioner, any taxpayer preapproved by

1001 the ~~department~~ commissioner pursuant to subsection (c) of this Code section shall  
 1002 receive the full benefit of the income tax credit established by this Code section even  
 1003 though the rural hospital organization to which the taxpayer made a donation does not  
 1004 properly comply with the reports or filings required by this Code section.

1005 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse  
 1006 action against donors to rural hospital organizations if the commissioner preapproved a  
 1007 donation for a tax credit prior to the date the rural hospital organization is removed from  
 1008 the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such  
 1009 donations shall remain as preapproved tax credits subject only to the donor's compliance  
 1010 with paragraph (3) of this subsection."

1011 "(k) This Code section shall stand automatically repealed and reserved on December 31,  
 1012 ~~2024~~ 2029."

## 1013 SECTION 12.

1014 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to  
 1015 medical assistance generally, is amended by adding a new Code section to read as follows:

1016 "49-4-156.

1017 (a) There is created the Comprehensive Health Coverage Commission. The commission  
 1018 shall be attached to the Department of Community Health for administrative purposes only  
 1019 as provided by Code Section 50-4-3.

1020 (b) The commission shall consist of nine members, who shall be appointed no later than  
 1021 July 1, 2024, as follows:

1022 (1) The chairperson, who shall be a subject matter expert on health policy, and shall not  
 1023 be an employee of the State of Georgia, to be appointed by the Governor;

1024 (2) Three nonlegislative members to be appointed by the Speaker of the House of  
 1025 Representatives;

1026 (3) Three nonlegislative members to be appointed by the President of the Senate;

1027 (4) One nonlegislative member to be appointed by the minority leader of the Senate; and

1028 (5) One nonlegislative member to be appointed by the minority leader of the House of  
 1029 Representatives.

1030 (c) Members of the commission shall not be registered lobbyists in the State of Georgia.

1031 (d) Members of the commission shall serve without compensation.

1032 (e) The purpose of the commission shall be to advise the Governor, the General Assembly,  
 1033 and the Department of Community Health, as the administrator of the state medical  
 1034 assistance program, on issues related to access and quality of healthcare for Georgia's  
 1035 low-income and uninsured populations. The commission shall be tasked with reviewing  
 1036 the following:

1037 (1) Opportunities related to reimbursement and funding for Georgia healthcare providers,  
 1038 including premium assistance programs;

1039 (2) Opportunities related to quality improvement of healthcare for Georgia's low-income  
 1040 and uninsured populations; and

1041 (3) Opportunities to enhance service delivery and coordination of healthcare among and  
 1042 across state agencies.

1043 (f) Subject to appropriations, the commission shall contract with experts and consultants  
 1044 to produce a semiannual report on its findings for the Governor and the General Assembly.  
 1045 The commission shall provide its initial report to the Governor and the General Assembly  
 1046 no later than December 1, 2024.

1047 (g) The commission shall stand abolished on December 31, 2026, unless extended by the  
 1048 General Assembly prior to such date."

### 1049 **SECTION 13.**

1050 (a) Sections 2, 9, 12, 13, and 14 of this Act shall become effective upon approval of the Act  
 1051 by the Governor or upon its becoming law without such approval.

1052 (b) Sections 1, 3, 4, 5, 6, 7, 8, and 10 of this Act shall become effective on July 1, 2024.

1053 (c) Section 11 of this Act shall become effective on January 1, 2025, and shall be applicable  
1054 to taxable years beginning on or after January 1, 2025.

1055 **SECTION 14.**

1056 All laws and parts of laws in conflict with this Act are repealed.