

The House Committee on Health offers the following substitute to HB 1393:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
2 relating to county and municipal hospital authorities, so as to allow rural hospitals to join
3 together to allow further purchasing power with third-party payors but retain their
4 independence; to provide for legislative findings and intentions; to provide for the application
5 doctrine developed in federal antitrust jurisprudence; to provide for construction; to provide
6 for immunity; to provide for collaboration; to provide for joint negotiations with third-party
7 payors; to provide for best practices; to provide for shared staffing; to provide for certain
8 immunity; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 4 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
12 county and municipal hospital authorities, is amended by adding a new Code section to read
13 as follows:

14 "31-7-70.1.

15 (a) The General Assembly declares that in support of and in furtherance of the powers
16 granted in Code Section 31-7-75, in connection with the merger and coordination

17 provisions of Code Sections 31-7-72 and 31-7-72.1, and in support of and in furtherance
18 of the capacity for hospital authorities operating projects in rural counties to collaborate
19 and integrate the delivery of care to best meet the needs of the community, this legislative
20 body finds that:

21 (1) Hospital authorities organized under this article perform essential public and
22 governmental functions on behalf of the State of Georgia and the counties and
23 municipalities that activate them. The General Assembly finds that the provision of
24 healthcare services through hospital authorities operating in rural counties serves vital
25 public interests, including ensuring access to care, promoting public health, supporting
26 medical education and research, sustaining rural healthcare providers, and maintaining
27 healthcare infrastructure in communities throughout this state;

28 (2) Healthcare delivery in rural counties in Georgia can be significantly enhanced
29 through coordinated planning, joint operations, and collaborative arrangements among
30 hospital authorities and restructured hospital authorities and between hospital authorities
31 in rural counties, restructured hospital authorities in rural counties, and other healthcare
32 providers operating projects in rural counties. Such coordination may be necessary to
33 achieve efficiency, reduce costs, improve quality, expand access to services, attract and
34 retain healthcare professionals, maintain financial viability of essential healthcare
35 facilities, and respond effectively to public health emergencies and evolving community
36 health needs; and

37 (3) The nature and scope of the powers conferred on hospital authorities operating in
38 rural counties by this article are such as may compel each hospital authority operating
39 projects in rural counties, in the course of exercising its powers or by virtue of such
40 exercise of powers, to engage in activities itself or in collaboration with other hospital
41 authorities, public or private healthcare entities, and individuals that may be characterized
42 as anticompetitive or may result in the acquisition or maintenance of market power within
43 the meaning of state and federal antitrust laws, or otherwise may have the effect of

44 displacing competition in the provision of hospital, physician, or other healthcare related
45 services.

46 (b) It is the express policy of the State of Georgia to permit and encourage hospital
47 authorities or restructured hospital authorities operating in rural counties to engage in
48 coordinated healthcare planning and delivery, including but not limited to:

49 (1) Mergers, acquisitions, consolidations, and affiliations with other hospital authorities
50 or healthcare providers;

51 (2) Joint ventures, partnerships, and collaborative arrangements for the provision of
52 healthcare services;

53 (3) Coordinated or joint negotiations with third-party payors, health insurers, and
54 managed care organizations, whether such negotiations result in separate or combined
55 agreements;

56 (4) Joint purchasing arrangements and shared services agreements;

57 (5) Shared staffing to promote flexible staffing among rural providers in light of the
58 workforce shortages for trained staff;

59 (6) Coordinated decisions regarding the allocation, expansion, reduction, or
60 discontinuation of healthcare services and service lines;

61 (7) Agreements regarding pricing, reimbursement rates, or the terms of contracts with
62 third-party payors and other third parties;

63 (8) Information sharing and other collaborative activities with public or private entities
64 and individuals;

65 (9) Creation, operation, and participation in delivery system networks, clinically
66 integrated networks, and accountable care organizations; and

67 (10) Any other coordinated activities that the hospital authority determines will promote
68 the public health needs of the communities it serves.

69 (c) The General Assembly hereby declares that in carrying out the public health mission
70 of this state through the exercise of the powers granted by this article, including without

71 limitation the collaborative activities expressly authorized by this article, hospital
72 authorities and restructured hospital authorities operating in rural counties, as well as any
73 collaborating entities, to the extent of their activities in connection with projects in rural
74 counties undertaken with or on behalf of such hospital authorities or restructured hospital
75 authorities, shall be immune from liability under all federal and state antitrust laws to the
76 fullest extent permitted by law.

77 (d) As an expression of the public policy of this state with respect to the displacement of
78 competition in the field of healthcare in rural counties, the General Assembly hereby
79 declares that:

80 (1) Each hospital authority operating in a rural county, when exercising its powers under
81 this article, acts as an agency or instrumentality of the county or municipality that
82 activated it and as a public body corporate and politic. For purposes of federal and state
83 antitrust law, including the application of the state action doctrine as developed in federal
84 antitrust jurisprudence, each such hospital authority shall be deemed a political
85 subdivision of the State of Georgia;

86 (2) The powers granted to hospital authorities operating in rural counties under this
87 article constitute a clearly articulated and affirmatively expressed state policy to displace
88 competition with regulation or monopoly public service in the field of healthcare delivery
89 in rural counties;

90 (3) The General Assembly has determined that the potential anticompetitive effects of
91 hospital authority conduct authorized under this article are a foreseeable result of the
92 powers granted herein, and such potential anticompetitive effects are consistent with the
93 state's policy of promoting coordinated healthcare delivery through hospital authorities
94 in rural counties;

95 (4) Neither a hospital authority nor any entity with which a hospital authority
96 collaborates with respect to projects in rural counties, in exercising the powers granted
97 under this article, shall be subject to what has come to be known in relevant antitrust

98 jurisprudence as 'active supervision' by the state in order to enjoy immunity from the
99 application of all state and federal antitrust laws; and
100 (5) The conduct of hospital authorities and their collaborating entities in exercising the
101 powers granted under this article with respect to projects in rural counties, is exempt from
102 all antitrust laws of this state, including but not limited to any state law counterpart to the
103 federal Sherman Act, Clayton Act, or Federal Trade Commission Act.
104 (e) Nothing in this Code section shall be construed to authorize conduct that would violate
105 any other applicable state or federal law, rule, or regulation, other than the antitrust laws
106 addressed herein.
107 (f) The provisions of this Code section shall be liberally construed to effectuate the
108 purposes and intent of the General Assembly as expressed herein."

109 **SECTION 2.**

110 Said article is further amended by revising Code Section 31-7-71, relating to definitions, as
111 follows:

112 "31-7-71.

113 As used in this article, the term:

114 (1) 'Area of operation' means the area within the city or county activating an authority.
115 Such term shall also mean any other city or county in which the authority wishes to
116 operate, provided the governing authorities and the board of any hospital authorities of
117 such city and county request or approve such operation.

118 (2) 'Authority' or 'hospital authority' means any public corporation created by this article.

119 (3) 'Collaborating entity' means any public or not-for-profit hospital authority, or
120 restructured hospital authority, nonprofit licensed healthcare entity operating in a rural
121 county that enters into any agreement, contract, merger, acquisition, joint venture,
122 affiliation, partnership, network arrangement, or other collaborative relationship with a

123 hospital authority for the purpose of exercising or furthering any power granted to
124 hospital authorities under this article to operate in a rural county.

125 ~~(3)~~(4) 'Governing body' means the elected or duly appointed officials constituting the
126 governing body of a city or county.

127 ~~(4)~~(5) 'Participating units' or 'participating subdivisions' means any two or more counties,
128 or any two or more municipalities, or a combination of any county and any municipality
129 acting together for the creation of an authority.

130 ~~(5)~~(6) 'Project' includes the acquisition, construction, and equipping of hospitals, health
131 care facilities, dormitories, office buildings, clinics, housing accommodations, nursing
132 homes, rehabilitation centers, extended care facilities, and other public health facilities
133 for the use of patients and officers and employees of any institution under the supervision
134 and control of any hospital authority or leased by the hospital authority for operation by
135 others to promote the public health needs of the community and all utilities and facilities
136 deemed by the authority necessary or convenient for the efficient operation thereof. Such
137 term may also include any such institutions, utilities, and facilities located outside the city
138 or county in which the authority is located, provided that the acquisition, construction,
139 equipping, and operation thereof is requested or approved by the governing bodies of
140 such city and county in which the project is located and by the board of any hospital
141 authorities located within such city and county or provided that the acquisition,
142 construction, equipping, and operation is to be located in the area of operation of the
143 authority.

144 ~~(6)~~(7) 'Resolution' means the resolution or ordinance to be adopted by governing bodies
145 pursuant to which authorities are established.

146 (8) 'Restructured hospital authority' means a nonprofit tax-exempt entity that leases its
147 operating assets from a hospital authority organized and created by resolution that
148 includes at least one member of such hospital authority on the restructured nonprofit
149 governing board and operates a project in a rural county.

176 (c) A county whose hospital authorities have merged under the authority of this Code
177 section shall not thereafter be prohibited from activating a hospital authority under Code
178 Section 31-7-73.

179 (d) When a merger under this Code section takes effect:

180 (1) Each hospital authority party to the merger merges into the surviving hospital
181 authority and the separate existence of each such hospital authority except the surviving
182 hospital authority ceases;

183 (2) The ownership of and authority to operate the hospitals owned by each hospital
184 authority and the title to all real estate and other property owned by each hospital
185 authority party to the merger is vested in the surviving hospital authority without
186 reversion or impairment subject to any and all conditions to which the property was
187 subject prior to the merger;

188 (3) The surviving hospital authority has all liabilities and obligations of each hospital
189 authority party to the merger; and

190 (4) A proceeding pending against any hospital authority party to the merger may be
191 continued as if the merger did not occur or the surviving hospital authority may be
192 substituted in the proceeding for the hospital authority whose existence ceased.

193 (e) It is declared by the General Assembly of Georgia that in the exercise of the power
194 specifically granted to them by this Code section, hospital authorities are acting pursuant
195 to state policy and shall be immune from antitrust liability to the same degree and extent
196 as enjoyed by the State of Georgia.

197 (f)(1) It is declared by the General Assembly of Georgia that hospital authorities, in the
198 exercise of the powers specifically granted to them by this Code section and by Code
199 Sections 31-7-72, 31-7-75, and any other provision of this article, are acting pursuant to
200 a clearly articulated and affirmatively expressed state policy to displace competition in
201 the field of healthcare delivery.

202 (2) Hospital authorities exercising any power granted under this article in rural counties,
203 including without limitation the power to merge with other hospital authorities, to
204 consolidate operations, to affiliate with other healthcare entities, to coordinate healthcare
205 planning and delivery, and to engage in the collaborative activities described in Code
206 Section 31-7-75, shall be immune from antitrust liability under all federal and state laws
207 to the same degree and extent as enjoyed by the State of Georgia.

208 (3) Without limiting the generality of the foregoing, hospital authorities operating in
209 rural counties shall be immune from liability under all federal antitrust laws, including
210 without limitation the federal Sherman Act 15 U.S.C. Section 1, et seq., the federal
211 Clayton Act 15 U.S.C. Section 12, et seq., and the Federal Trade Commission Act 15
212 U.S.C. Section 41, et seq., as well as any state law counterpart thereto or any other state
213 or federal law prohibiting or regulating anticompetitive conduct, monopolization,
214 restraints of trade, or unfair methods of competition.

215 (4) The immunity declared in this subsection extends to:

216 (A) Any hospital authority operating in rural counties and exercising powers granted
217 under this article;

218 (B) Any surviving, resulting, or successor hospital authority following a merger,
219 acquisition, consolidation, or other combination authorized under this article;

220 (C) Any members of the board of a hospital authority, and any officers, employees, or
221 agents of a hospital authority, acting within the scope of their authority;

222 (D) Any collaborating entity, to the extent of such entity's coordination, collaboration,
223 contract, or concerted action with a hospital authority in connection with the exercise
224 of powers granted under this article with respect to projects in rural counties; and

225 (E) Any entity controlled by, or under common control with, a hospital authority,
226 including without limitation any nonprofit subsidiary, affiliate, joint venture, or other
227 entity in which a hospital authority has an ownership or membership interest.

228 (5) Neither a hospital authority nor any person or entity described in paragraph (4) of this
229 subsection shall be required to demonstrate 'active state supervision' of its conduct, as that
230 concept has been developed in federal antitrust jurisprudence, in order to claim the
231 immunity declared in this subsection. The General Assembly hereby finds and declares
232 that:

233 (A) Hospital authorities are public bodies corporate and politic created pursuant to this
234 article to exercise public and essential governmental functions and are activated by and
235 accountable to the governing bodies of the counties and municipalities that activate
236 them. For purposes of federal and state antitrust law, including the application of the
237 state action doctrine as developed in federal antitrust jurisprudence, hospital authorities
238 operating in rural counties shall be deemed political subdivisions of this state when
239 exercising their powers under this article;

240 (B) The powers granted to hospital authorities under this article are conferred for the
241 purpose of carrying out the state's public health mission in rural counties, and the
242 exercise of such powers in accordance with this article constitutes implementation of
243 the express policy of the State of Georgia;

244 (C) The requirement of active state supervision is inapplicable to the conduct of
245 hospital authorities and collaborating entities pursuant to the powers granted under this
246 article; and

247 (D) To the extent that any court or regulatory body determines that active state
248 supervision is required for any person or entity to claim immunity under this
249 subsection, the General Assembly hereby designates the governing body of the rural
250 county or municipality that activated the hospital authority or, if activated by multiple
251 governing bodies, the governing bodies acting jointly, as the state actor responsible for
252 supervising the conduct of the hospital authority and any collaborating entities, and
253 such governing body or bodies are hereby authorized and directed to review, approve,

254 and supervise agreements and collaborative arrangements entered into by hospital
255 authorities pursuant to this article.

256 (6) The immunity declared in this subsection shall apply to:

257 (A) Any action, suit, or proceeding brought by the Federal Trade Commission, the
258 United States Department of Justice, or any other federal agency or instrumentality;

259 (B) Any action, suit, or proceeding brought by the State of Georgia, the Attorney
260 General, or any other state agency or instrumentality;

261 (C) Any action, suit, or proceeding brought by any county, municipality, or other
262 political subdivision of this state;

263 (D) Any private action, suit, or proceeding, including without limitation any action for
264 damages, injunctive relief, or other remedy under federal or state antitrust laws; and

265 (E) Any investigation, inquiry, civil investigative demand, subpoena, or other
266 compulsory process issued in connection with any matter described in
267 subparagraphs (A) through (D) of this paragraph.

268 (7) The provisions of this subsection shall be liberally construed to effectuate the intent
269 of the General Assembly as expressed in Code Section 31-7-70.1 and this Code section.

270 Any ambiguity in the scope or application of this subsection shall be resolved in favor of
271 immunity.

272 (g) In addition to the merger of hospital authorities operating in rural counties authorized
273 by subsections (a) through (d) of this Code section, hospital authorities or restructured
274 hospital authorities operating in rural counties may enter into affiliations, joint ventures,
275 joint operating agreements, and other collaborative arrangements with other hospital
276 authorities or with other healthcare entities, including without limitation healthcare
277 systems, hospitals, physician groups, and other providers, without effecting a formal
278 merger, for the purpose of operating, supporting, or furthering projects in rural counties.
279 The immunity declared in subsection (e) of this Code section shall extend to any such
280 affiliation or collaborative arrangement and to each participating entity to the extent of its

281 activities in connection with projects in rural counties, regardless of where such
 282 participating entity is located or headquartered. Such affiliations and collaborative
 283 arrangements shall be deemed to be an exercise of the powers granted under Code Section
 284 31-7-75.

285 (h) Nothing in this Code section shall be construed to limit, modify, or repeal any power
 286 granted to hospital authorities under Code Section 31-7-75 or any other provision of this
 287 article, or to limit the immunity declared in subsection (b) of Code Section 31-7-75. The
 288 provisions of this Code section and Code Section 31-7-75 shall be construed together and
 289 in harmony to provide hospital authorities and restructured hospital authorities operating
 290 projects in rural counties with the broadest possible authority to engage in coordinated
 291 healthcare planning and delivery, and the fullest possible immunity from antitrust liability
 292 for the exercise of such authority to operate projects in rural counties."

293 **SECTION 4.**

294 Said article is further amended by revising Code Section 31-7-75, relating to functions and
 295 powers, as follows:

296 "31-7-75.

297 (a) Every hospital authority shall be deemed to exercise public and essential governmental
 298 functions and shall have all the powers necessary or convenient to carry out and effectuate
 299 the purposes and provisions of this article, including, but without limiting the generality
 300 of the foregoing, the following powers:

301 (1) To sue and be sued;

302 (2) To have a seal and alter the same;

303 (3) To make and execute contracts and other instruments necessary to exercise the
 304 powers of the authority;

305 (4) To acquire by purchase, lease, or otherwise and to operate projects;

306 (5) To construct, reconstruct, improve, alter, and repair projects;

307 (6) To sell to others, or to lease to others for any number of years up to a maximum of
308 40 years, any lands, buildings, structures, or facilities constituting all or any part of any
309 existing or hereafter established project. In the event a hospital authority undertakes to
310 sell a hospital facility, such authority shall, prior to the execution of a contract of sale,
311 provide reasonable public notice of such sale and provide for a public hearing to receive
312 comments from the public concerning such sale. This power shall be unaffected by the
313 language set forth in paragraph (13) of this Code section or any implications arising
314 therefrom unless grants of assistance have been received by the authority with respect to
315 such lands, buildings, structures, or facilities, in which case approval in writing as set
316 forth in paragraph (13) of this Code section shall be obtained prior to selling or leasing
317 to others within 20 years after completion of construction;

318 (7) To lease for any number of years up to a maximum of 40 years for operation by
319 others any project, provided that the authority shall have first determined that such lease
320 will promote the public health needs of the community by making additional facilities
321 available in the community or by lowering the cost of health care in the community and
322 that the authority shall have retained sufficient control over any project so leased so as
323 to ensure that the lessee will not in any event obtain more than a reasonable rate of return
324 on its investment in the project, which reasonable rate of return, if and when realized by
325 such lessee, shall not contravene in any way the mandate set forth in Code
326 Section 31-7-77 specifying that no authority shall operate or construct any project for
327 profit. Any lessee shall agree in the lease to pay rent sufficient in each year to pay the
328 principal of and the interest on any revenue anticipation certificates proposed to be issued
329 to finance the cost of the construction or acquisition of any such project and to pay off
330 or refinance, in whole or in part, any outstanding debt or obligation of the lessee,
331 (including any redemption or prepayment premium due thereon), which was incurred in
332 connection with the acquisition and construction of facilities of such lessee and the
333 amount necessary in the opinion of the authority to be paid each year into any reserve

334 funds which the authority may deem advisable to be established in connection with the
335 retirement of the proposed revenue anticipation certificates and the maintenance of the
336 project. Any such lease shall further provide that the cost of all insurance with respect
337 to the project and the cost of maintenance and repair thereof shall be borne by the lessee.
338 In carrying out a refinancing plan with regard to any outstanding debt or obligation of the
339 lessee which was incurred in connection with the acquisition and construction of facilities
340 of such lessee, the authority may use proceeds of any revenue anticipation certificates
341 issued for such purpose to acquire such outstanding debt or obligation, in whole or in
342 part, and may itself or through a fiduciary or agent hold and pledge such acquired debt
343 or obligation as security for the payment of such revenue anticipation certificates. The
344 powers granted in this paragraph shall be unaffected by the language set forth in
345 paragraph (13) of this Code section or any implications arising therefrom unless grants
346 of assistance have been received by the authority with respect to such project, in which
347 case approval in writing as set forth in paragraph (13) of this Code section shall be
348 obtained prior to leasing to others within 20 years after completion of construction. Any
349 revenues derived by the authority from any such lease shall be applied by the authority
350 to the payment of any revenue anticipation certificates issued in connection with the
351 acquisition and construction of the project and the payment, in whole or in part, of any
352 outstanding debt or obligation of the lessee which was incurred in connection with the
353 acquisition and construction of facilities of such lessee, (including any redemption or
354 prepayment premium due thereon), or to the payment of any other expenses incurred in
355 connection with acquiring, financing, maintaining, expanding, operating, or equipping
356 the project;

357 (8) To extend credit or make loans to others for the planning, design, construction,
358 acquisition, or carrying out of any project, which credit or loans may be secured by such
359 loan agreements, mortgages, security agreements, contracts, or other instruments or fees
360 or charges, for a term not to exceed 40 years, and upon such terms and conditions as the

361 authority shall determine reasonable in connection with such loans, including provisions
362 for the establishment and maintenance of reserves and insurance funds, and in the
363 exercise of powers granted by this Code section in connection with a project, to require
364 the inclusion in any contract, loan agreement, security agreement, or other instrument
365 such provisions for guaranty, insurance, construction, use, operation, maintenance, and
366 financing of a project as the authority may deem necessary or desirable;

367 (9) To acquire, accept, or retain equitable interests, security interests, or other interests
368 in any property, real or personal, by mortgage, assignment, security agreement, pledge,
369 conveyance, contract, lien, loan agreement, or other consensual transfer in order to secure
370 the repayment of any moneys loaned or credit extended by the authority;

371 (10) To establish rates and charges for the services and use of the facilities of the
372 authority;

373 (11) To accept gifts, grants, or devises of any property;

374 (12) To acquire by the exercise of the right of eminent domain any property essential to
375 the purposes of the authority;

376 (13) To sell or lease within 20 years after the completion of construction of properties
377 or facilities operated by the hospital authority where grants of financial assistance have
378 been received from federal or state governments, after such action has first been approved
379 by the department in writing;

380 (14) To exchange, transfer, assign, pledge, mortgage, or dispose of any real or personal
381 property or interest therein;

382 (15) To mortgage, pledge, or assign any revenue, income, tolls, charges, or fees received
383 by the authority;

384 (16) To issue revenue anticipation certificates or other evidences of indebtedness for the
385 purpose of providing funds to carry out the duties of the authority; provided, however,
386 that the maturity of any such indebtedness shall not extend for more than 40 years;

387 (17) To borrow money for any corporate purpose;

- 388 (18) To appoint officers, agents, and employees;
- 389 (19) To make use of any facilities afforded by the federal government or any agency or
390 instrumentality thereof;
- 391 (20) To receive, from the governing body of political subdivisions issuing the same,
392 proceeds from the sale of general obligation bonds or other county obligations issued for
393 hospital authority purposes;
- 394 (21) To exercise any or all powers now or hereafter possessed by private corporations
395 performing similar functions;
- 396 (22) To make plans for unmet needs of their respective communities;
- 397 (23) To contract for the management and operation of the project by a professional
398 hospital or medical facilities consultant or management firm. Each such contract shall
399 require the consultant or firm contracted with to post a suitable and sufficient bond;
- 400 (24) To provide management, consulting, and operating services including, but not
401 limited to, administrative, operational, personnel, and maintenance services to another
402 hospital authority, hospital, health care facility, as said term is defined in Chapter 6 of this
403 title, person, firm, corporation, or any other entity or any group or groups of the
404 foregoing; to enter into contracts alone or in conjunction with others to provide such
405 services without regard to the location of the parties to such transactions; to receive
406 management, consulting, and operating services including, but not limited to,
407 administrative, operational, personnel, and maintenance services from another such
408 hospital authority, hospital, health care facility, person, firm, corporation, or any other
409 entity or any group or groups of the foregoing; and to enter into contracts alone or in
410 conjunction with others to receive such services without regard to the location of the
411 parties to such transactions;
- 412 (25) To provide financial assistance to individuals for the purpose of obtaining
413 educational training in nursing or another health care field if such individuals are
414 employed by, or are on an authorized leave of absence from, such authority or have

415 committed to be employed by such authority upon completion of such educational
416 training; to provide grants, scholarships, loans or other assistance to such individuals and
417 to students and parents of students for programs of study in fields in which critical
418 shortages exist in the authority's service area, whether or not they are employees of the
419 authority; to provide for the assumption, purchase, or cancellation of repayment of any
420 loans, together with interest and charges thereon, made for educational purposes to
421 students, postgraduate trainees, or the parents of such students or postgraduate trainees
422 who have completed a program of study in a field in which critical shortages exist in the
423 authority's service area; and to provide services and financial assistance to private not for
424 profit organizations in the form of grants and loans, with or without interest and secured
425 or unsecured at the discretion of such authority, for any purpose related to the provision
426 of health or medical services or related social services to citizens;

427 (26) To exercise the same powers granted to joint authorities in subsection (f) of Code
428 Section 31-7-72; and

429 (27) To form and operate, either directly or indirectly, one or more networks of hospitals,
430 physicians, and other health care providers and to arrange for the provision of health care
431 services through such networks; to contract, either directly or through such networks,
432 with the Department of Community Health to provide services to Medicaid beneficiaries
433 to provide health care services in an efficient and cost-effective manner on a prepaid,
434 capitation, or other reimbursement basis; and to undertake other managed health care
435 activities; provided, however, that for purposes of this paragraph only and
436 notwithstanding the provisions of Code Section 33-3-3, as now or hereafter amended, a
437 hospital authority shall be permitted to and shall comply with the requirements of
438 Chapter 21 of Title 33 to the extent that such requirements apply to the activities
439 undertaken by the hospital authority pursuant to this paragraph. No hospital authority,
440 whether or not it exercises the powers authorized by this paragraph, shall be relieved of
441 compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public

442 records unless otherwise authorized by law. Any health care provider licensed under
443 Chapter 30 of Title 43 shall be eligible to apply to become a participating provider under
444 such a hospital plan or network which provides coverage for health care services which
445 are within the lawful scope of his or her practice, provided that nothing contained in this
446 Code section shall be construed to require any such hospital plan or network to provide
447 coverage for any specific health care service;:

448 (28) To coordinate, collaborate, or jointly exercise any of the powers granted under this
449 article in rural counties with one or more collaborating entities with respect to projects
450 in rural counties, including without limitation:

451 (A) Entering into mergers, consolidations, affiliations, joint ventures, partnerships, or
452 other collaborative arrangements with other hospital authorities or healthcare entities;

453 (B) Engaging in coordinated or joint negotiations with third-party payors, health
454 insurers, health maintenance organizations, preferred provider organizations, and other
455 managed care organizations, whether such negotiations result in separate agreements
456 or combined agreements covering multiple participating entities;

457 (C) Establishing joint purchasing arrangements, group purchasing organizations, and
458 shared services agreements;

459 (D) Making coordinated decisions regarding the planning, allocation, expansion,
460 reduction, relocation, or discontinuation of healthcare services, service lines, facilities,
461 or programs;

462 (E) Shared staff to promote flexible staffing among rural providers in light of the
463 workforce shortages for trained staff;

464 (F) Entering into agreements regarding pricing, reimbursement rates, fee schedules, or
465 other terms and conditions of contracts with third-party payors, suppliers, vendors, or
466 other third parties;

467 (G) Sharing information, data, best practices, and other resources with other healthcare
468 entities, provided that such sharing complies with applicable state and federal privacy
469 laws;

470 (H) Creating, operating, or participating in clinically integrated networks, accountable
471 care organizations, delivery system networks, or other value-based care arrangements;

472 (I) Jointly recruiting, employing, or contracting with physicians, healthcare
473 professionals, and administrative personnel; and

474 (J) Engaging in any other coordinated or collaborative activities that the authority
475 determines will promote the public health needs of the communities it serves;

476 (29) To engage in arrangements, contracts, information sharing, and other collaborative
477 activities with public or private entities and individuals, including without limitation joint
478 ventures, joint purchasing arrangements, joint negotiations with physicians, hospitals, and
479 third-party payors, regardless of whether or not such negotiations result in separate or
480 combined agreements, leases, management agreements, and agreements that involve
481 delivery system network creation or operation; and

482 (30) To exercise any power granted under this article in such manner in a rural county
483 as the authority may determine to be consistent with the purposes of this article,
484 notwithstanding that, as a consequence of such exercise of powers, activities may be
485 deemed anticompetitive or may result in the acquisition or maintenance of monopoly
486 power or market power in some relevant market within the meaning of all state and
487 federal antitrust laws, and notwithstanding that such activities may have the effect of
488 displacing competition in the provision of hospital, physician, or other healthcare related
489 services.

490 The powers granted in paragraphs (28), (29), and (30) of this subsection are enacted in
491 furtherance of the legislative findings and declarations set forth in Code Section 31-7-70.1.

492 (b) In furtherance of the legislative findings and declarations set forth in Code
493 Section 31-7-70.1, and in addition to the immunity declared in subsection (e) of Code

494 Section 31-7-72.1 with respect to mergers of hospital authorities, it is hereby declared by
495 the General Assembly of Georgia that:

496 (1) Hospital authorities operating in rural counties exercising any power granted under
497 this article, including without limitation the collaborative powers set forth in paragraphs
498 (27), (28), (29), and (30) of subsection (a) of this Code section, are acting pursuant to a
499 clearly articulated and affirmatively expressed state policy to displace competition in the
500 field of healthcare delivery;

501 (2) Such hospital authorities operating in rural counties shall be immune from antitrust
502 liability under all federal and state laws to the same degree and extent as enjoyed by the
503 State of Georgia;

504 (3) Any collaborating entity shall, to the extent of such coordination, collaboration, or
505 agreement with a hospital authority with respect to projects in rural counties, share in the
506 immunity of the hospital authority and shall not be subject to liability under any federal
507 or state antitrust laws for conduct undertaken pursuant to or in furtherance of such
508 coordination, collaboration, or agreement;

509 (4) Neither a hospital authority nor any entity or individual described in paragraph (3)
510 of this subsection shall be required to satisfy what has come to be known in relevant
511 antitrust jurisprudence as 'active state supervision' in order to claim immunity under this
512 Code section, it being the express determination of the General Assembly that hospital
513 authorities are public bodies corporate and politic that, for purposes of federal and state
514 antitrust law, shall be deemed political subdivisions of this state exercising delegated
515 sovereign authority and that supervision of their conduct by another state agency is
516 neither necessary nor required for such immunity to attach; and

517 (5) The provisions of this Code section shall be liberally construed to effectuate the
518 intent of the General Assembly to authorize hospital authorities operating in rural
519 counties to engage in coordinated healthcare planning and delivery for the benefit of the

520 citizens of this state, and to protect hospital authorities and their collaborating entities
521 from antitrust liability arising from such conduct."

522 **SECTION 5.**

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