

The Senate Committee on Health and Human Services offered the following substitute to HB 1393:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to  
2 provide for government efficiency and improved regulation of healthcare facilities and  
3 hospital authorities in order to maximize the provision of quality and affordable healthcare  
4 services throughout the state; to eliminate certificate of need requirements for all healthcare  
5 facilities except certain skilled nursing facilities and related services; to provide for the  
6 certificate of need program for skilled nursing facilities; to authorize the Department of  
7 Community Health to administer such program; to provide for rules promulgation; to provide  
8 for new institutional health services; to provide for exemptions; to provide for resolution of  
9 prior applications; to provide for applications; to provide for indigent care requirements; to  
10 provide for scope and term of validity of certificate; to provide for qualifications for  
11 issuances of certification; to require applicants to pay certain outstanding debts; to provide  
12 for letters of intent; to provide for acceptance or rejection of applications; to provide for the  
13 recreation of the Certificate of Need Appeal Panel; to provide for appeal procedure and  
14 judicial review; to provide for discretionary and automatic revocation; to provide for  
15 participation as a Medicaid provider; to provide for the Department of Community Health  
16 to submit annual reports; to provide for exemptions for the certificate of need program; to  
17 provide for resolution of matters under review no longer applicable; to allow rural hospital  
18 authorities to engage in coordinated healthcare planning and delivery; to provide for

19 legislative declarations, findings, and intentions; to provide for corporate restructuring; to  
20 provide for strategic alliances; to provide for shared staffing; to provide for joint purchasing  
21 arrangements and shared services agreements; to provide for shared information; to provide  
22 for integrated networks; to provide for collaborative activities; to provide for limited  
23 immunity to antitrust liability; to provide for notice; to provide for review by the Attorney  
24 General; to provide for aggrieved parties; to provide for appeals; to provide for guidance; to  
25 provide for review of conduct; to amend other provisions in various titles of the Official  
26 Code of Georgia Annotated, so as to make conforming changes; to provide for definitions;  
27 to provide for narrow construction; to provide for related matters; to provide for an effective  
28 date; to repeal conflicting laws; and for other purposes.

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

30

**PART I**

31

*Certificate of need program*

32

**SECTION 1-1.**

33 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by  
34 repealing Chapter 6, relating to state health planning and development, and enacting a new  
35 Chapter 6 to read as follows:

36

"CHAPTER 6

37

ARTICLE 1

38 31-6-1.

39 As used in this chapter, the term:

- 40 (1) 'Application' means a written request for a certificate of need made to the department,  
41 containing such documentation and information as the department may require.
- 42 (2) 'Bed capacity' means space used exclusively for inpatient care, including space  
43 designed or remodeled for inpatient beds even when not used for such purposes. The  
44 number of beds to be counted in any patient room shall be the maximum number for  
45 which adequate square footage is provided as established by rules of the department,  
46 except that single beds in single rooms shall be counted even if the room contains  
47 inadequate square footage.
- 48 (3) 'Board' means the Board of Community Health established under Chapter 2 of this  
49 title.
- 50 (4) 'Certificate of need' means an official finding by the department, evidenced by  
51 certification issued pursuant to an application, that the action proposed in the application  
52 satisfies and complies with the criteria contained in this chapter and rules promulgated  
53 pursuant hereto.
- 54 (5) 'Certificate of Need Appeal Panel' or 'appeal panel' means the panel of independent  
55 hearing officers created pursuant to Code Section 31-6-46 to conduct appeal hearings.
- 56 (6) 'Clinical health services' means diagnostic, treatment, or rehabilitative services  
57 provided in a skilled nursing facility and includes inpatient nursing care, whether  
58 intermediate, skilled, or extended care.
- 59 (7) 'Commissioner' means the commissioner of community health established under  
60 Chapter 2 of this title.
- 61 (8) 'Department' means the Department of Community Health established under  
62 Chapter 2 of this title.
- 63 (9) 'Develop,' with reference to a project, means constructing, remodeling, installing, or  
64 proceeding with a project, or any part of a project, or a capital expenditure project, the  
65 cost estimate for which exceeds \$10 million. Notwithstanding the provisions of this  
66 paragraph, the expenditure or commitment or incurring an obligation for the expenditure

67 of funds to develop certificate of need applications, studies, reports, schematics,  
68 preliminary plans and specifications, or working drawings or to acquire, develop, or  
69 prepare sites shall not be considered to be the developing of a project.

70 (10) 'New institutional health service' shall have the same meaning as described in  
71 subsection (a) of Code Section 31-6-40.

72 (11) 'Offer' means that a skilled nursing facility is open for the acceptance of patients or  
73 performance of services and has qualified personnel, equipment, and supplies necessary  
74 to provide specified clinical health services.

75 (12) 'Person' means any individual, trust or estate, partnership, limited liability company  
76 or partnership, corporation (including associations, joint-stock companies, and insurance  
77 companies), state, political subdivision, hospital authority, or instrumentality (including  
78 a municipal corporation) of a state as defined in the laws of this state. This term shall  
79 include all related parties, including individuals, business corporations, general  
80 partnerships, limited partnerships, limited liability companies, limited liability  
81 partnerships, joint ventures, nonprofit corporations, or any other for profit or not for profit  
82 entity that owns or controls, is owned or controlled by, or operates under common  
83 ownership or control with a person.

84 (13) 'Project' means a proposal to take an action for which a certificate of need is  
85 required under this chapter. A project or proposed project may refer to the proposal from  
86 its earliest planning stages up through the point at which the new institutional health  
87 service is offered.

88 (14) 'Skilled nursing facility' means a public or private institution or a distinct part of an  
89 institution which is primarily engaged in providing inpatient skilled nursing care and  
90 related services for patients who require medical or nursing care or rehabilitation services  
91 for the rehabilitation of injured, disabled, or sick persons.

92 (15) 'State health plan' means a comprehensive program based on recommendations by  
93 the Health Strategies Council and the board, approved by the Governor, and implemented

94 by the State of Georgia for the purpose of providing adequate healthcare services and  
95 facilities throughout the state.

96 ARTICLE 2

97 31-6-20.

98 (a) The department is authorized to administer the certificate of need program established  
99 under this chapter and, within the appropriations made available to the department by the  
100 General Assembly of Georgia and consistently with the laws of the State of Georgia, a state  
101 health plan adopted by the board. The department shall review and update the state health  
102 plan at least every five years to ensure the plan meets the evolving needs of the state. The  
103 department shall provide, by rule, for procedures to administer its functions unless  
104 otherwise provided by the board.

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

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

108 (2) To prepare and revise a draft state health plan;

109 (3) To adopt, promulgate, and implement rules and regulations sufficient to administer  
110 the provisions of this chapter including the certificate of need program;

111 (4) To define, by rule, the form, content, schedules, and procedures for submission of  
112 applications for certificates of need, other determinations, and periodic reports;

113 (5) To establish time periods and procedures consistent with this chapter to hold hearings  
114 and to obtain the viewpoints of interested persons prior to issuance or denial of a  
115 certificate of need;

116 (6) To provide, by rule, for such fees as may be necessary to cover the costs of hearing  
117 officers, preparing the record for appeals before such hearing officers and the Certificate  
118 of Need Appeal Panel of the decisions of the department, and other related administrative

119 costs, which costs may include reasonable sharing between the department and the parties  
120 to appeal hearings;

121 (7) To establish, by rule, service-specific need methodologies and criteria for new skilled  
122 nursing facilities. In developing such need methodologies, the department shall, at a  
123 minimum, consider the demographic characteristics of the population, the health status  
124 of the population, service use patterns, standards and trends, financial and geographic  
125 accessibility, and market economics;

126 (8) To provide, by rule, for a reasonable and equitable fee schedule for certificate of need  
127 applications;

128 (9) To grant, deny, or revoke a certificate of need as applied for or as amended; and

129 (10) To perform powers and functions delegated by the Governor, which delegation may  
130 include the powers to carry out the duties and powers which have been delegated to the  
131 department under Section 1122 of the federal Social Security Act of 1935, as amended.

132 (c) The commissioner shall have the power to establish and abolish technical advisory  
133 committees as he or she deems necessary, in consultation with the board, to inform  
134 effective strategy development and execution.

135 31-6-21.

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

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

145 member of the Senate Health and Human Services Committee and each member of the  
146 House Committee on Health and Human Services. Each such rule promulgated pursuant  
147 to subsection (a) of this Code section and any part thereof shall be subject to the making  
148 of an objection by either such committee within 30 days of transmission of the rule to the  
149 members of such committee. Any rule or part thereof to which no objection is made by  
150 both such committees may become adopted by the department at the end of such 30 day  
151 period. The department may not adopt any such rule or part thereof which has been  
152 changed since having been submitted to such committees unless:

- 153 (1) That change is to correct only typographical errors;  
154 (2) That change is approved in writing by both committees and that approval expressly  
155 exempts that change from being subject to the public notice and hearing requirements of  
156 subsection (a) of Code Section 50-13-4;  
157 (3) That change is approved in writing by both committees and is again subject to the  
158 public notice and hearing requirements of subsection (a) of Code Section 50-13-4; or  
159 (4) That change is again subject to the public notice and hearing requirements of  
160 subsection (a) of Code Section 50-13-4 and the change is submitted and again subject to  
161 committee objection as provided in this subsection.

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

166 (c) Any rule or part thereof to which an objection is made by both committees within the  
167 30 day objection period under subsection (b) of this Code section shall not be adopted by  
168 the department and shall be invalid if so adopted. A rule or part thereof thus prohibited  
169 from being adopted shall be deemed to have been withdrawn by the department unless the  
170 department, within the first 15 days of the next regular session of the General Assembly,  
171 transmits written notification to each member of the objecting committee or committees

172 that the department does not intend to withdraw that rule or part thereof but intends to  
173 adopt the specified rule or part effective the day following adjournment sine die of that  
174 regular session. A resolution objecting to such intended adoption may be introduced in  
175 either house of the General Assembly after the fifteenth day but before the thirtieth day of  
176 the session in which occurs the notification of intent not to withdraw a rule or part thereof.  
177 In the event the resolution is adopted by the house of the General Assembly in which the  
178 resolution was introduced, it shall be immediately transmitted to the other house of the  
179 General Assembly. It shall be the duty of the presiding officer of the other house to have  
180 that house, within five days after receipt of the resolution, consider the resolution for  
181 purposes of objecting to the intended adoption of the rule or part thereof. Upon such  
182 resolution being adopted by two-thirds of the vote of each house of the General Assembly,  
183 the rule or part thereof objected to in that resolution shall be disapproved and not adopted  
184 by the department. If the resolution is adopted by a majority but by less than two-thirds of  
185 the vote of each such house, the resolution shall be submitted to the Governor for his or her  
186 approval or veto. In the event of a veto, or if no resolution is introduced objecting to the  
187 rule, or if the resolution introduced is not approved by at least a majority of the vote of each  
188 such house, the rule shall automatically become adopted the day following adjournment  
189 sine die of that regular session. In the event of the Governor's approval of the resolution,  
190 the rule shall be disapproved and not adopted by the department.  
191 (d) Any rule or part thereof which is objected to by only one committee under  
192 subsection (b) of this Code section and which is adopted by the department may be  
193 considered by the house of the General Assembly whose committee objected to its adoption  
194 by the introduction of a resolution for the purpose of overriding the rule at any time within  
195 the first 30 days of the next regular session of the General Assembly. It shall be the duty  
196 of the department in adopting a proposed rule over such objection to notify the  
197 chairpersons of the Senate Health and Human Services Committee and the House  
198 Committee on Health and Human Services within ten days after the adoption of the rule.

199 In the event the resolution is adopted by such house of the General Assembly, it shall be  
200 immediately transmitted to the other house of the General Assembly. It shall be the duty  
201 of the presiding officer of the other house of the General Assembly to have such house,  
202 within five days after the receipt of the resolution, consider the resolution for the purpose  
203 of overriding the rule. In the event the resolution is adopted by two-thirds of the votes of  
204 each house of the General Assembly, the rule shall be void on the day after the adoption  
205 of the resolution by the second house of the General Assembly. In the event the resolution  
206 is ratified by a majority but by less than two-thirds of the votes of either house, the  
207 resolution shall be submitted to the Governor for his or her approval or veto. In the event  
208 of a veto, the rule shall remain in effect. In the event of the Governor's approval, the rule  
209 shall be void on the day after the date of approval.

210 (e) Except for emergency rules, no rule or part thereof adopted by the department after  
211 July 1, 2026, shall be valid unless adopted in compliance with subsections (b), (c), and (d)  
212 of this Code section and subsection (a) of Code Section 50-13-4.

213 (f) Emergency rules shall not be subject to the requirements of subsection (b), (c), or (d)  
214 of this Code section but shall be subject to the requirements of subsection (b) of Code  
215 Section 50-13-4. Upon the first expiration of any department emergency rules, when those  
216 emergency rules are intended to cover matters which had been dealt with by the  
217 department's nonemergency rules but such nonemergency rules have been objected to by  
218 both legislative committees under this Code section, the emergency rules concerning those  
219 matters may not again be adopted except for one 120 day period. No emergency rule or  
220 part thereof which is adopted by the department shall be valid unless adopted in  
221 compliance with this subsection.

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

224 (h) As used in this Code section, the term 'rules' means rules and regulations.

225 (i) The state health plan or the rules establishing considerations, standards, or similar  
226 criteria for the grant or denial of a certificate of need pursuant to Code Section 31-6-43  
227 shall not apply to any application for a certificate of need as to which, prior to the effective  
228 date of such plan or rules, respectively, the evidence has been closed following a full  
229 evidentiary hearing before a hearing officer.

230 ARTICLE 3

231 31-6-40.

232 (a) On and after July 1, 2026, any new institutional health service shall be required to  
233 obtain a certificate of need pursuant to this chapter. New institutional health services  
234 include:

235 (1) The construction, development, or other establishment of a new, expanded, or  
236 relocated skilled nursing facility, except as otherwise provided in Code Section 31-6-52;

237 (2) Any increase in the bed capacity of a skilled nursing facility; and

238 (3) Clinical health services which are offered in or through a skilled nursing facility,  
239 which were not offered on a regular basis in or through such skilled nursing facility  
240 within the 12 month period prior to the time such services would be offered.

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

245 (c) Any person that had a valid exemption granted or approved by the former Health  
246 Planning Agency prior to July 1, 2008, or the department prior to July 1, 2026, shall not  
247 be required to obtain a certificate of need in order to continue to offer those previously  
248 offered services.

249 (d) Any pending application with the department as of the day prior to the effective date  
250 of this Act that relates to a facility or services other than a skilled nursing facility shall be  
251 deemed withdrawn by operation of law as of the effective date of this Act.

252 31-6-41.

253 (a) Any person who acquires a skilled nursing facility by stock or asset purchase, merger,  
254 consolidation, or other lawful means shall notify the department of such acquisition, the  
255 date thereof, and the name and address of the acquiring person. Such notification shall be  
256 made in writing to the department within 45 days following the acquisition and the  
257 acquiring person may be fined by the department in the amount of \$500.00 for each day  
258 that such notification is late. Such fine shall be paid into the state treasury.

259 (b) The department may limit the time periods during which it will accept applications for  
260 skilled nursing facilities to only such times after the department has determined there is an  
261 unmet need for such facilities. The department shall make a determination as to whether  
262 or not there is an unmet need for such facility at least every six months and shall notify  
263 those requesting such notification of that determination.

264 (c) The department may require that any applicant for a certificate of need agree to provide  
265 a specified amount of clinical health services to indigent patients as a condition for the  
266 grant of a certificate of need. A grantee or successor in interest of a certificate of need or  
267 an authorization to operate under this chapter which violates such an agreement or violates  
268 any conditions imposed by the department relating to such services, whether made before  
269 or after July 1, 2008, shall be liable to the department for a monetary penalty in the amount  
270 of the difference between the amount of services so agreed to be provided and the amount  
271 actually provided and may be subject to revocation of its certificate of need, in whole or  
272 in part, by the department pursuant to Code Section 31-6-48. Any penalty so recovered  
273 shall be paid into the state treasury.

274 (d) Penalties authorized under this Code section shall be subject to the same notices and  
275 hearing for the levy of fines under Code Section 31-6-48.

276 31-6-42.

277 (a) A certificate of need shall be valid only for the defined scope, location, cost, service  
278 area, and person named in an application, as it may be amended, and as such scope,  
279 location, service area, cost, and person are approved by the department, unless such  
280 certificate of need owned by an existing skilled nursing facility is transferred to a person  
281 who acquires such existing facility. In such case, the certificate of need shall be valid for  
282 the person who acquires such a facility and for the scope, location, cost, and service area  
283 approved by the department. However, in reviewing an application to relocate all or a  
284 portion of an existing skilled nursing facility, the department may allow such facility to  
285 divide into two or more such facilities if the department determines that the proposed  
286 division is financially feasible and would be consistent with quality patient care.

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

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

298 31-6-43.

299 (a) The written findings of fact and decision, with respect to the department's grant or  
300 denial of a certificate of need, shall be based on the applicable considerations specified in  
301 this Code section and reasonable rules promulgated by the department interpretive thereof.  
302 The department shall issue a certificate of need to each applicant whose application is  
303 consistent with the following considerations and such rules deemed applicable to a project,  
304 except as specified in subsection (f) of Code Section 31-6-45:

305 (1) The proposed new institutional health service is reasonably consistent with the  
306 relevant general goals and objectives of the state health plan;

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

309 (3) Existing alternatives for providing services in the same service area as the new  
310 institutional health service proposed are neither currently available, implemented,  
311 similarly utilized, nor capable of providing a less costly alternative, or no certificate of  
312 need to provide such alternative services has been issued by the department and is  
313 currently valid;

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

316 (5) The effects of new skilled nursing facility service on payors for health services,  
317 including governmental payers, are not unreasonable;

318 (6) The costs and methods of a proposed construction project, including the costs and  
319 methods of energy provision and conservation, are reasonable and adequate for quality  
320 healthcare;

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

323 (8) The proposed new institutional health service has a positive relationship to the  
324 existing healthcare delivery system in the service area;

- 325 (9) The proposed new institutional health service encourages more efficient utilization  
326 of the skilled nursing facility proposing such service;
- 327 (10) The proposed new institutional health service provides, or would provide, a  
328 substantial portion of its services to individuals not residing in its defined service area or  
329 the adjacent service area;
- 330 (11) The proposed new institutional health service conducts biomedical or behavioral  
331 research projects or new service development which is designed to meet a national,  
332 regional, or state-wide need;
- 333 (12) The proposed new institutional health service meets the clinical needs of health  
334 professional training programs which request assistance;
- 335 (13) The proposed new institutional health service fosters improvements or innovations  
336 in the financing or delivery of health services, promotes healthcare quality assurance or  
337 cost effectiveness, or fosters competition that is shown to result in lower patient costs  
338 without a loss of the quality of care;
- 339 (14) The proposed new institutional health service meets the department's minimum  
340 quality standards, including, but not limited to, standards relating to accreditation,  
341 minimum volumes, quality improvements, assurance practices, and utilization review  
342 procedures; and
- 343 (15) The proposed new institutional health service can obtain the necessary resources,  
344 including healthcare personnel and management personnel.
- 345 (b) For the purposes of the considerations contained in this Code section and in the  
346 department's applicable rules, relevant data which were unavailable or omitted when the  
347 state health plan or rules were prepared or revised may be considered in the evaluation of  
348 a project.
- 349 (c) The department shall specify in its written findings of fact and decision which of the  
350 considerations contained in this Code section and the department's rules are applicable to

351 an application and its reasoning as to and evidentiary support for its evaluation of each such  
352 applicable consideration and rule.

353 31-6-44.

354 No applicant for a new certificate of need, a modification to an existing certificate of need,  
355 or a conversion of a certificate of need that has any outstanding amounts owed to the state  
356 including fines, penalties, fees, or other payments for noncompliance with any  
357 requirements contained in Code Section 31-6-41, 31-6-50, 31-7-280, or 31-8-179.2 shall  
358 be eligible to receive a new certificate of need or a modification to an existing certificate  
359 of need unless such applicant pays such outstanding amounts to the state. Any such fines,  
360 penalties, fees, or other payments for noncompliance shall be subject to the same notices  
361 and hearing for the levy of fines under Code Section 31-6-48.

362 31-6-45.

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

368 (b) Each application for a certificate of need shall be received by the department, and the  
369 department shall declare the application complete for review, shall accept and date the  
370 application, and shall notify the applicant of the timetable for its review. The department  
371 shall also notify a newspaper of general circulation in the county in which the project shall  
372 be developed that the application is complete for review. The department shall also notify  
373 the appropriate regional commission and the chief elected official of the county and  
374 municipal governments, if any, in whose boundaries the proposed project will be located  
375 that the application is complete for review. If the application does not comply with the

376 rules governing the preparation and submission of applications, the department shall notify  
377 the applicant in writing and provide a list of all deficiencies. The applicant shall be  
378 afforded an opportunity to correct such deficiencies, and upon such correction, the  
379 application shall then be declared complete for review within ten days of the correction of  
380 such deficiencies, and notice given to a newspaper of general circulation in the county in  
381 which the project shall be developed that the application has been so declared. The  
382 department shall also notify the appropriate regional commission and the chief elected  
383 official of the county and municipal governments, if any, in whose boundaries the proposed  
384 project will be located that the application is complete for review or when in the  
385 determination of the department a significant amendment is filed.

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

389 (d)(1) There shall be a time limit of 120 days for review of a project, beginning on the  
390 day the department receives the application. The department may adopt rules for  
391 determining when it is not practicable to complete a review in 120 days and may extend  
392 the review period upon written notice to the applicant but only for an extended period of  
393 not longer than an additional 30 days. The department shall adopt rules governing the  
394 submission of additional information by the applicant and for opposing an application;  
395 provided, however, that such rules shall provide that any party permitted to oppose an  
396 application shall submit a notice of opposition no later than 30 days of receipt by the  
397 department of such application.

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

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

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

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

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

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

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

419 Following joinder of the first application with subsequent applications, none of the  
420 subsequent applications so joined may be considered as a first application for the purposes  
421 of future joinder. The department shall notify the applicant to whose application a joinder  
422 is ordered and all other applicants previously joined to such application of the fact of each  
423 joinder pursuant to this subsection. In the event one or more applications have been joined  
424 pursuant to this subsection, the time limits for department action for all of the applicants  
425 shall run from the latest date that any one of the joined applications was declared complete  
426 for review. In the event of the consideration of one or more applications joined pursuant  
427 to this subsection, the department may award no certificate of need or one or more  
428 certificates of need to the applicant or applicants, if any, which are consistent with the

429 considerations contained in Code Section 31-6-43, the department's applicable rules, and  
430 the award of which will best satisfy the purposes of this chapter.

431 (g) The department shall review the application and all written information submitted by  
432 the applicant in support of the application and all information submitted in opposition to  
433 the application to determine the extent to which the proposed project is consistent with the  
434 applicable considerations stated in Code Section 31-6-43 and in the department's applicable  
435 rules. During the course of the review, the department staff may request additional  
436 information from the applicant as deemed appropriate. Pursuant to rules adopted by the  
437 department, a public hearing on applications covered by those regulations may be held  
438 prior to the date of the department's decision thereon. Such rules shall provide that when  
439 good cause has been shown, a public hearing shall be held by the department. Any  
440 interested person may submit information to the department concerning an application, and  
441 an applicant shall be entitled to notice of and to respond to any such submission.

442 (h) The department shall within 30 days of receipt of the application provide the applicant  
443 an opportunity to meet with the department to discuss such application and to provide the  
444 applicant an opportunity to submit additional information. Such additional information  
445 shall be submitted within the time limits adopted by the department. The department shall  
446 also provide an opportunity for any party that is permitted to oppose an application  
447 pursuant to paragraph (2) of subsection (d) of this Code section to meet with the  
448 department and to provide additional information to the department. In order for any such  
449 opposing party to have standing to appeal an adverse decision pursuant to Code  
450 Section 31-6-46, such party must attend and participate in an opposition meeting.

451 (i) Unless extended by the department for an additional period of up to 30 days pursuant  
452 to subsection (d) of this Code section, the department shall, no later than 120 days after an  
453 application is determined to be complete for review, or, in the event of joined applications,  
454 120 days after the last application is declared complete for review, provide written  
455 notification to an applicant of the department's decision to issue or to deny issuance of a

456 certificate of need for the proposed project. Such notice shall contain the department's  
457 written findings of fact and decision as to each applicable consideration or rule and a  
458 detailed statement of the reasons and evidentiary support for issuing or denying a certificate  
459 of need for the action proposed by each applicant. The department shall also mail such  
460 notification to the appropriate regional commission and the chief elected official of the  
461 county and municipal governments, if any, in whose boundaries the proposed project will  
462 be located. In the event such decision is to issue a certificate of need, the certificate of  
463 need shall be effective on the day of the decision unless the decision is appealed to the  
464 Certificate of Need Appeal Panel in accordance with this chapter. Within seven days of  
465 the decision, the department shall publish notice of its decision to grant or deny an  
466 application in the same manner as it publishes notice of the filing of an application.  
467 (j) Should the department fail to provide written notification of the decision within the  
468 time limitations set forth in this Code section, an application shall be deemed to have been  
469 approved as of the one hundred twenty first day following notice from the department that  
470 an application, or the last of any applications joined pursuant to subsection (f) of this Code  
471 section, is declared complete for review.  
472 (k) Notwithstanding other provisions of this article, when the Governor has declared a  
473 state of emergency in a region of the state, existing healthcare facilities in the affected  
474 region may seek emergency approval from the department to offer services that may  
475 otherwise require a certificate of need. The department shall give special expedited  
476 consideration to such requests and may authorize such requests for good cause. Once the  
477 state of emergency has been lifted, any services offered by an affected skilled nursing  
478 facility under this subsection shall cease to be offered until such time as the skilled nursing  
479 facility that received the emergency authorization has requested and received a certificate  
480 of need. As used in this subsection, the term 'good cause' means that authorization of the  
481 request shall directly resolve a situation posing an immediate threat to the health and safety  
482 of the public. The department shall establish, by rule, procedures whereby requirements

483 for the process of review and issuance of a certificate of need may be modified and  
484 expedited as a result of emergency situations.

485 31-6-46.

486 (a) There is recreated the Certificate of Need Appeal Panel, which shall be an agency  
487 separate and apart from the department and shall consist of a panel of independent hearing  
488 officers. The purpose of the appeal panel shall be to serve as a panel of independent  
489 hearing officers to review the department's initial decision to grant or deny a certificate of  
490 need application. The Certificate of Need Appeal Panel in existence on June 30, 2026,  
491 shall be reconstituted and each member of such appeal panel shall be reconstituted as a  
492 member of such reconstituted appeal panel, effective July 1, 2026.

493 (b) The appeal panel shall be composed of five members appointed by the Governor for  
494 a term of up to four years each. The Governor shall appoint to the appeal panel attorneys  
495 who practice law in this state and who are familiar with the healthcare industry but who do  
496 not have a financial interest in or represent or have any compensation arrangement with  
497 any skilled nursing facility. Each member of the appeal panel shall be an active member  
498 of the State Bar of Georgia in good standing, and each attorney shall have maintained such  
499 active status for the five years immediately preceding such person's appointment. The  
500 Governor shall name from among such members a chairperson and a vice chairperson of  
501 the appeal panel. The vice chairperson shall have the same authority as the chairperson;  
502 provided, however, that the vice chairperson shall not exercise such authority unless  
503 expressly delegated by the chairperson or in the event the chairperson becomes  
504 incapacitated, as determined by the Governor. Vacancies on the appeal panel caused by  
505 resignation, death, or any other cause shall be filled for the unexpired term in the same  
506 manner as the original appointment. No person required to register with the Secretary of  
507 State as a lobbyist or registered agent shall be eligible for appointment by the Governor to  
508 the appeal panel.

509 (c) The appeal panel shall promulgate reasonable rules for its operation and rules of  
510 procedure for the conduct of initial administrative appeal hearings held by the appointed  
511 hearing officers, including an appropriate fee schedule for filing such appeals. Members  
512 of the appeal panel shall serve as hearing officers for appeals that are assigned to them on  
513 a random basis by the chairperson of the appeal panel. The members of the appeal panel  
514 shall receive no salary but shall be reimbursed for their expenses in attending meetings and  
515 for transportation costs as authorized by Code Section 45-7-21, which provides for  
516 compensation and allowances of certain state officials; provided, however, that the  
517 chairperson and vice chairperson of the appeal panel shall also be compensated for their  
518 services rendered to the appeal panel outside of attendance at an appeal panel meeting, such  
519 as for time spent assigning hearing officers, the amount of which compensation shall be  
520 determined according to regulations of the Department of Administrative Services. Appeal  
521 panel members shall receive compensation for the administration of the cases assigned to  
522 them, including prehearing, hearing, and posthearing work, in an amount determined to be  
523 appropriate and reasonable by the Department of Administrative Services. Such  
524 compensation to the members of the appeal panel shall be made by the Department of  
525 Administrative Services.

526 (d) Any party that is permitted to oppose an application pursuant to paragraph (2) of  
527 subsection (d) of Code Section 31-6-45 that has notified the department prior to its decision  
528 that such party is opposed to the application before the department shall have the right to  
529 an initial administrative appeal hearing before an appeal panel hearing officer or to  
530 intervene in such hearing. Such request for hearing or intervention shall be filed with the  
531 chairperson of the appeal panel within 30 days of the date of the decision made pursuant  
532 to Code Section 31-6-45. In the event an appeal is filed by a party that is permitted to  
533 oppose an application pursuant to paragraph (2) of subsection (d) of Code Section 31-6-45,  
534 the appeal shall be accompanied by payment of such fee as is established by the appeal  
535 panel. In the event an appeal is requested, the chairperson of the appeal panel shall appoint

536 a hearing officer for each such hearing within 30 days after the date the appeal is received.  
537 Within 14 days after the appointment of the hearing officer, such hearing officer shall  
538 confer with the parties and set the date or dates for the hearing, provided that no hearing  
539 shall be scheduled less than 60 days nor more than 120 days after the filing of the request  
540 for a hearing, unless the applicant consents or, in the case of competing applicants, all  
541 applicants consent to an extension of this time period to a specified date. Unless the  
542 applicant consents or, in the case of competing applicants, all applicants consent to an  
543 extension of said 120 day period, any hearing officer who regularly fails to commence a  
544 hearing within the required time period shall not be eligible for continued service as a  
545 hearing officer for the purposes of this Code section. The hearing officer shall have the  
546 authority to dispose of all motions made by any party before the issuance of the hearing  
547 officer's decision and shall make such rulings as may be required for the conduct of the  
548 hearing.

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

558 (f) In addition to evidence submitted to the department, a party may present any additional  
559 relevant evidence to the appeal panel hearing officer reviewing the decision of the  
560 department if the evidence was not reasonably available to the party presenting the  
561 evidence at the time of the department's review. The burden of proof as to whether the  
562 evidence was reasonably available shall be on the party attempting to introduce the new

563 evidence. The issue for the decision by the hearing officer shall be whether, and the  
564 hearing officer shall order the issuance of a certificate of need if, in the hearing officer's  
565 judgment, the application is consistent with the considerations as set forth in Code  
566 Section 31-6-43 and the department's rules, as the hearing officer deems such  
567 considerations and rules applicable to the review of the project. The appeal hearing  
568 conducted by the appeal panel hearing officer shall be a de novo review of the decision of  
569 the department. The hearing officer shall also consider:

570 (1) Whether the department committed prejudicial procedural error in its consideration  
571 of the application;

572 (2) Whether the appeal lacks substantial justification; and

573 (3) Whether such appeal was undertaken primarily for the purpose of delay or  
574 harassment.

575 The burden of proof shall be on the appellant. Appellants or applicants shall proceed first  
576 with their cases before the hearing officer in the order determined by the hearing officer,  
577 and the department, if a party, shall proceed last. In the event of a consolidated hearing on  
578 applications which were joined for comparative review pursuant to subsection (f) of Code  
579 Section 31-6-45, the hearing officer shall have the same powers specified for the  
580 department in subsection (f) of Code Section 31-6-45 to order the issuance of no certificate  
581 of need or one or more certificates of need.

582 (g) All evidence shall be presented at the initial administrative appeal hearing conducted  
583 by the appointed hearing officer. A party or intervenor may present any relevant evidence  
584 on all issues raised by the hearing officer or any party to the hearing or revealed during  
585 discovery and shall not be limited to evidence or information presented to the department  
586 prior to its decision, except that an applicant may not present a new need study or analysis  
587 responsive to the general need consideration or service-specific need formula as provided  
588 in the applicable rules that is substantially different from any such study or analysis  
589 submitted to the department prior to its decision and that could have reasonably been

590 available for submission. The hearing officer may consider the latest data available,  
591 including updates of studies previously submitted, in deciding whether an application is  
592 consistent with the applicable considerations or rules. The hearing officer shall consider  
593 the applicable considerations and rules in effect on the date the appeal is filed, even if the  
594 provisions of those considerations or rules were changed after the department's decision.  
595 The hearing officer may remand a matter to the department if the hearing officer  
596 determines that it would be beneficial for the department to consider new data, studies, or  
597 analyses that were not available before the decision or changes to the provisions of the  
598 applicable considerations or rules made after the department's decision. The hearing officer  
599 shall establish the time deadlines for completion of the remand and shall retain jurisdiction  
600 of the matter throughout the completion of the remand.

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

606 (i) Within 30 days after the conclusion of the hearing, the hearing officer shall make  
607 written findings of fact and conclusions of law as to each consideration as set forth in Code  
608 Section 31-6-43 and the department's rules, including a detailed statement of the reasons  
609 for the decision of the hearing officer. If any party has alleged that an appeal lacks  
610 substantial justification or was undertaken primarily for the purpose of delay or harassment,  
611 the decision of the hearing officer shall make findings of fact addressing the merits of the  
612 allegation. The hearing officer shall file such decision with the chairperson of the appeal  
613 panel who shall serve such decision upon all parties, and shall transmit the administrative  
614 record to the department.

615 (j) The decision of the appeal panel hearing officer shall constitute the final decision of the  
616 department. Such final decision shall be the final department decision for purposes of

617 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The appeals process  
618 provided by this Code section shall be the administrative remedy only for decisions made  
619 by the department pursuant to Code Section 31-6-45 which involve the approval or denial  
620 of applications for certificates of need.

621 (k) All matters of the appeal panel that relate to facilities other than skilled nursing  
622 facilities that are pending as of the day prior to the effective date of this Act shall be  
623 dismissed without prejudice by operation of law as of the effective date of this Act.

624 31-6-47.

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

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

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

635 (3) Made upon unlawful procedures;

636 (4) Affected by other error of law;

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

641 (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted  
642 exercise of discretion.

643 (b) In the event a party seeks judicial review, the proceedings for such review shall be  
644 governed by Chapter 3 of Title 5 except as provided otherwise in this Code section. If a  
645 party seeks judicial review, the department shall, within 30 days after being served with a  
646 copy of the petition for review filed in the superior court, transmit certified copies of all  
647 documents and papers in its file together with a transcript of the testimony taken and its  
648 findings of fact and decision to the clerk of the superior court to which the case has been  
649 appealed. The case so appealed may then be brought by either party upon ten days' written  
650 notice to the other before the superior court for a hearing upon such record, subject to an  
651 assignment of the case for hearing by the court; provided, however, that, if the court does  
652 not hear the case within 120 days of the date of docketing in the superior court, the decision  
653 of the department shall be considered affirmed by operation of law unless a hearing  
654 originally scheduled to be heard within the 120 days has been continued to a date certain  
655 by order of the court. In the event a hearing is held later than 90 days after the date of  
656 docketing in the superior court because same has been continued to a date certain by order  
657 of the court, the decision of the department shall be considered affirmed by operation of  
658 law if no order of the court disposing of the issues on appeal has been entered within 30  
659 days after the date of the continued hearing. If a case is heard within 120 days from the  
660 date of docketing in the superior court, the decision of the department shall be considered  
661 affirmed by operation of law if no order of the court disposing of the issues on appeal has  
662 been entered within 30 days of the date of the hearing.

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

670 31-6-48.

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

674 (1) Failure to comply with the provisions of Code Section 31-6-42;

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

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

678 (4) Failure to maintain minimum quality of care standards that may be established by the  
679 department; or

680 (5) Failure to participate as a provider of medical assistance for Medicaid purposes  
681 pursuant to Code Section 31-6-50 or any other applicable Code section.

682 The department may not, however, revoke a certificate of need if the applicant changes the  
683 defined location of the project within the same county to a location less than three miles  
684 from the location specified in the certificate of need for financial reasons or other reasons  
685 beyond its control, including, but not limited to, failure to obtain any required approval  
686 from zoning or other governmental agencies or entities, provided that such change in  
687 location is otherwise consistent with the considerations and rules applied in the evaluation  
688 of the project.

689 (b) The department may revoke a certificate of need, in whole or in part, after notice to the  
690 holder of the certificate and a fair hearing pursuant to Chapter 13 of Title 50, the 'Georgia  
691 Administrative Procedure Act,' if the services or units of services for which the certificate  
692 of need was issued are not implemented in a timely manner, as established by the  
693 department in its rules.

694 (c) Any skilled nursing facility offering a new institutional health service without having  
695 obtained a certificate of need and which has not been previously licensed as a skilled  
696 nursing facility shall be denied a license to operate.

697 (d) In the event that a new institutional health service is knowingly offered or developed  
698 without having obtained a certificate of need as required by this chapter, or the certificate  
699 of need for such service is revoked according to the provisions of this Code section, a  
700 facility or applicant may be fined an amount of \$5,000.00 per day up to 30 days,  
701 \$10,000.00 per day from 31 days through 60 days, and \$25,000.00 per day after 60 days  
702 for each day that the violation of this chapter has existed and knowingly and willingly  
703 continues; provided, however, that the expenditure or commitment of or incurring an  
704 obligation for the expenditure of funds to take or perform actions not subject to this chapter  
705 or to acquire, develop, or prepare a skilled nursing facility site for which a certificate of  
706 need application is denied shall not be a violation of this chapter and shall not be subject  
707 to such a fine. The commissioner shall determine, after notice and a hearing, whether the  
708 finer provided in this Code section shall be levied.

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

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

722 31-6-49.

723 (a) A skilled nursing facility which has a certificate of need or is otherwise authorized to  
724 operate pursuant to this chapter shall have such certificate of need or authority to operate  
725 automatically revoked by operation of law without any action by the department when that  
726 facility's permit to operate pursuant to Code Section 31-7-4 is finally revoked by order of  
727 the department. For purposes of this subsection, the date of such final revocation shall be  
728 as follows:

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

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

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

740 31-6-50.

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

744 (b) Any proposed or existing skilled nursing facility which obtains a certificate of need on  
745 or after July 1, 2026, based in part upon assurances that it will participate as a provider of  
746 medical assistance, as defined in paragraph (6) of Code Section 49-4-141, and which  
747 terminates its participation as a provider of medical assistance or violates any conditions

748 imposed by the department relating to such participation, shall be subject to a monetary  
749 penalty in the amount of the difference between the Medicaid covered services which the  
750 facility agreed to provide in its certificate of need application and the amount actually  
751 provided and may be subject to revocation of its certificate of need by the department  
752 pursuant to Code Section 31-6-48; provided, however, that this Code section shall not  
753 apply if:

754 (1) Such facility's participation as a provider of medical assistance is terminated by the  
755 state or federal government; or

756 (2) Such facility establishes good cause for terminating its participation as a provider of  
757 medical assistance. As used in this Code section, the term 'good cause' means:

758 (A) Changes in the adequacy of medical assistance payments, as defined in  
759 paragraph (5) of Code Section 49-4-141, provided that at least 10 percent of the  
760 facility's utilization during the preceding 12 month period was attributable to services  
761 to recipients of medical assistance, as defined in paragraph (7) of Code  
762 Section 49-4-141. Medical assistance payments to a facility shall be presumed  
763 adequate unless the revenues received by the facility from all sources are less than the  
764 total costs set forth in the cost report for the preceding full 12 month period filed by  
765 such facility pursuant to the state plan as defined in paragraph (8) of Code  
766 Section 49-4-141 which are allowed under the state plan for purposes of determining  
767 such facility's reimbursement rate for medical assistance and the aggregate amount of  
768 such facility's medical assistance payments (including any amounts received by the  
769 facility from recipients of medical assistance) during the preceding full 12 month cost  
770 reporting period is less than 85 percent of such facility's Medicaid costs for such period.  
771 Medicaid costs shall be determined by multiplying the allowable costs set forth in the  
772 cost report, less any audit adjustments, by the percentage of the facility's utilization  
773 during the cost reporting period which was attributable to recipients of medical  
774 assistance;

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

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

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

787 (d) The imposition of the monetary penalty provided in this Code section shall commence  
788 upon the date that said facility has terminated its participation as a provider of medical  
789 assistance, as determined by the commissioner. The monetary penalty shall be levied and  
790 collected by the department on an annual basis for every year in which the facility fails to  
791 participate as a provider of medical assistance. Penalties authorized under this Code  
792 section shall be subject to the same notices and hearings as provided for levy of fines under  
793 Code Section 31-6-48.

794 31-6-51.

795 The department shall prepare and submit an annual report to the board and to the Senate  
796 Health and Human Services Committee and the House Committee on Health and Human  
797 Services about its operations and decisions for the preceding 12 month period, not later  
798 than 30 days prior to each convening of the General Assembly in regular session. Either  
799 committee may request any additional reports or information, including decisions, from the  
800 department at any time, including a period in which the General Assembly is not in regular

801 session. The annual report shall include information and updates relating to the state health  
802 plan and the certificate of need program and an annual analysis of proactive and  
803 prospective approaches to need methodologies and access to skilled nursing facility  
804 services. The annual report shall include information for Georgia's congressional  
805 delegation which highlights issues regarding federal laws and regulations influencing  
806 Medicaid and Medicare, insurance and related tax laws, and long-term healthcare.

807 31-6-52.

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

809 (1) Institutions operated exclusively by the federal government or by any of its agencies;

810 (2) Religious, nonmedical healthcare institutions as defined in 42 U.S.C.

811 Section 1395x(ss)(1), listed and certified by a national accrediting organization;

812 (3) Site acquisitions for skilled nursing facilities or preparation or development costs for  
813 such sites prior to the decision to file a certificate of need application;

814 (4) Expenditures related to adequate preparation and development of an application for  
815 a certificate of need;

816 (5) The commitment of funds conditioned upon the obtaining of a certificate of need;

817 (6) Expenditures for the restructuring or acquisition of existing skilled nursing facilities  
818 by stock or asset purchase, merger, consolidation, or other lawful means;

819 (7) An expenditure for the minor or major repair of a skilled nursing facility;

820 (8) Capital expenditures otherwise covered by this chapter required solely to eliminate  
821 or prevent safety hazards as defined by federal, state, or local fire, building,  
822 environmental, occupational health, or life safety codes or regulations, to comply with  
823 licensing requirements of the department, or to comply with accreditation standards of  
824 a nationally recognized healthcare accreditation body;

825 (9) Cost overruns whose percentage of the cost of a project is equal to or less than the  
826 cumulative annual rate of increase in the composite construction index, published by the

827 United States Bureau of the Census of the Department of Commerce, calculated from the  
828 date of approval of the project;

829 (10) Transfers from one skilled nursing facility to another such facility of major medical  
830 equipment previously approved under or exempted from certificate of need review,  
831 except where such transfer results in the institution of a new clinical health service for  
832 which a certificate of need is required in the facility acquiring such equipment, provided  
833 that such transfers are recorded at net book value of the medical equipment as recorded  
834 on the books of the transferring facility;

835 (11) New institutional health services provided by or on behalf of skilled nursing  
836 facilities in circumstances defined by the department pursuant to federal law;

837 (12) Expenditures for nonclinical projects, including parking lots, parking decks, and  
838 other parking facilities; computer systems, software, and other information technology;  
839 administrative office space; conference rooms; education facilities; lobbies; common  
840 spaces; clinical staff lounges and sleep areas; waiting rooms; bathrooms; cafeterias;  
841 hallways; engineering facilities; mechanical systems; roofs; grounds; signage; family  
842 meeting or lounge areas; other nonclinical physical plant renovations or upgrades that do  
843 not result in new or expanded clinical health services;

844 (13) Facilities operated by, on behalf of, or under contract with the Department of  
845 Corrections or the Department of Juvenile Justice for the sole and exclusive purpose of  
846 providing healthcare services in a secure environment to prisoners within a penal  
847 institution, penitentiary, prison, detention center, or other secure correctional institution,  
848 including correctional institutions operated by private entities in this state which house  
849 inmates under the Department of Corrections or the Department of Juvenile Justice;

850 (14) The relocation of any skilled nursing facility within the same county; or

851 (15) The renovation, remodeling, refurbishment, or upgrading of a skilled nursing  
852 facility, so long as the project does not result in the offering of any new or expanded  
853 clinical health services.

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

857 31-6-53.

858 The review and appeal considerations and procedures set forth in Code Sections 31-6-43  
859 through 31-6-46, respectively, shall apply to and govern the review of capital expenditures  
860 under the Section 1122 program of the federal Social Security Act of 1935, as amended,  
861 including, but not limited to, any application for approval under Section 1122 which is  
862 under consideration by the department or on appeal before the Certificate of Need Appeal  
863 Panel."

864

## PART II

865

### *Conforming changes*

866

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

867 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
868 amended by revising paragraph (8) of Code Section 16-11-62, relating to eavesdropping,  
869 surveillance, or intercepting communication which invades privacy of another and divulging  
870 private message, as follows:

871 "(8) Any person to intentionally and in a clandestine manner place, or direct someone  
872 else to place, a global positioning system monitoring device, or any other electronic  
873 monitoring device, on a motor vehicle owned or leased by another person without the  
874 consent of such person when such person has a protective order pursuant to Code  
875 Section 17-17-16, 19-13-4, or 19-13A-4, or a protective order from another jurisdiction,  
876 against the person who places, or directs another to place, the global positioning system  
877 monitoring device or other electronic device. Nothing in this paragraph shall be

878 construed to limit electronic monitoring as provided in Code Sections 31-7-12; or  
879 31-7-12.1, ~~and 31-6-2~~; or "

880 **SECTION 2-2.**

881 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in  
882 Chapter 2, relating to Department of Community Health, by revising paragraph (12) of  
883 subsection (d) of Code Section 31-2-4, relating to powers, duties, functions, and  
884 responsibilities, divisions, directors, and contracts for health benefits, as follows:

885 "(12) Shall request federal approval for and facilitate the ~~application of certificates of~~  
886 ~~need for~~ licensure of facilities capable of providing long-term care services, with  
887 Medicaid as the primary funding source, to inmates who are eligible for such services and  
888 funding upon his or her release from a public institution, as such term is defined in Code  
889 Section 49-4-31."

890 **SECTION 2-3.**

891 Said title is further amended in said chapter by replacing "Code Section 31-6-21.1" with  
892 "Code Section 31-6-21" wherever the former term occurs in:

893 (1) Code Section 31-2-5, relating to transfer of personnel, functions, rights, duties,  
894 regulations, agreements, and property; and

895 (2) Code Section 31-2-7, relating to rules and regulations, variances, waivers, and  
896 exemptions.

897 **SECTION 2-4.**

898 Said title is further amended in Chapter 7, relating to regulation and construction of hospitals  
899 and other health care facilities, by revising paragraph (4) of and adding a new paragraph to  
900 Code Section 31-7-1, relating to definitions, to read as follows:

901 "(4) 'Institution' means:

- 902 (A) Any building, facility, or place in which are provided two or more beds and other  
903 facilities and services that are used for persons received for examination, diagnosis,  
904 treatment, surgery, maternity care, nursing care, assisted living care, or personal care  
905 for periods continuing for 24 hours or longer and which is classified by the department,  
906 as provided for in this chapter, as either a hospital, nursing home, assisted living  
907 community, intermediate care facility, or personal care home;
- 908 (B) Any health facility wherein abortion procedures under subsections (b) and (c) of  
909 Code Section 16-12-141 are performed or are to be performed;
- 910 (C) Any building or facility, not under the operation or control of a hospital, which is  
911 primarily devoted to the provision of surgical treatment to patients not requiring  
912 hospitalization and which is classified by the department as an ambulatory surgical  
913 treatment center;
- 914 (D) Any fixed or mobile specimen collection center or health testing facility where  
915 specimens are taken from the human body for delivery to and examination in a licensed  
916 clinical laboratory or where certain measurements such as height and weight  
917 determination, limited audio and visual tests, and electrocardiograms are made,  
918 excluding public health services operated by the state, its counties, or municipalities;
- 919 (E) Any building or facility where human births occur on a regular and ongoing basis  
920 and which is classified by the department as a birthing center;
- 921 (F) Any building or facility which is devoted to the provision of treatment and  
922 rehabilitative care for periods continuing for 24 hours or longer for persons who have  
923 traumatic brain injury, as defined in Code Section 37-3-1; or
- 924 (G) Any freestanding imaging center where magnetic resonance imaging, computed  
925 tomography (CT) scanning, positron emission tomography (PET) scanning, positron  
926 emission tomography/computed tomography, and other advanced imaging services as  
927 defined by the department by rule, but not including X-rays, fluoroscopy, or ultrasound  
928 services, are conducted in a location or setting not affiliated or attached to a hospital or

929 in the offices of an individual private physician or single group practice of physicians  
 930 and conducted exclusively for patients of that physician or group practice.

931 (4.1) 'Intermediate care facility' means an institution which provides, on a regular basis,  
 932 health related care and services to individuals who do not require the degree of care and  
 933 treatment which a hospital or skilled nursing facility is designed to provide but who,  
 934 because of their mental or physical condition, require health related care and services  
 935 beyond the provision of room and board."

936 **SECTION 2-5.**

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

939 "(a) Any person or persons responsible for the operation of any ~~institution~~ skilled nursing  
 940 facility, or who may hereafter propose to establish and operate ~~an institution~~ a skilled  
 941 nursing facility and to provide specified clinical services, shall submit an application to the  
 942 department for a permit to operate the ~~institution~~ skilled nursing facility and provide such  
 943 services, such application to be made on forms prescribed by the department. No  
 944 ~~institution~~ skilled nursing facility shall be operated in this state without such a permit,  
 945 which shall be displayed in a conspicuous place on the premises. No clinical services shall  
 946 be provided by ~~an institution~~ a skilled nursing facility except as approved by the  
 947 department in accordance with the rules and regulations established pursuant to Code  
 948 Section 31-7-2.1. Failure or refusal to file an application for a permit shall constitute a  
 949 violation of this chapter and shall be dealt with as provided for in Article 1 of Chapter 5 of  
 950 this title. Following inspection and classification of the ~~institution~~ skilled nursing facility  
 951 for which a permit is applied for, the department may issue or refuse to issue a permit or  
 952 a provisional permit. Permits issued shall remain in force and effect until revoked or  
 953 suspended; provisional permits issued shall remain in force and effect for such limited  
 954 period of time as may be specified by the department. Upon conclusion of the Atlantic

955 Cardiovascular Patient Outcomes Research Team (C-PORT) Study, the department shall  
956 consider and analyze the data and conclusions of the study and promulgate rules pursuant  
957 to Code Section 31-7-2.1 to regulate the quality of care for therapeutic cardiac  
958 catheterization. ~~All hospitals that participated in the study and are exempt from obtaining  
959 a certificate of need based on paragraph (22) of subsection (a) of Code Section 31-6-47  
960 shall apply for a permit to continue providing therapeutic cardiac catheterization services  
961 once the department promulgates the rules required by this Code section."~~

962

**SECTION 2-6.**

963 Said title is further amended in said chapter by revising paragraph (24) of Code  
964 Section 31-7-75, relating to functions and powers, as follows:

965 "(24) To provide management, consulting, and operating services including, but not  
966 limited to, administrative, operational, personnel, and maintenance services to another  
967 hospital authority, hospital, health care facility, as said term is defined in Chapter 6 of this  
968 title, healthcare facility, person, firm, corporation, or any other entity or any group or  
969 groups of the foregoing; to enter into contracts alone or in conjunction with others to  
970 provide such services without regard to the location of the parties to such transactions;  
971 to receive management, consulting, and operating services including, but not limited to,  
972 administrative, operational, personnel, and maintenance services from another such  
973 hospital authority, hospital, health care facility, person, firm, corporation, or any other  
974 entity or any group or groups of the foregoing; and to enter into contracts alone or in  
975 conjunction with others to receive such services without regard to the location of the  
976 parties to such transactions;"

977

**SECTION 2-7.**

978 Said title is further amended in said chapter by revising paragraph (1) of subsection (e) of  
979 Code Section 31-7-94.1, relating to rural hospital organization assistance, legislative  
980 findings, grant eligibility, and rules and regulations, as follows:

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

987

**SECTION 2-8.**

988 Said title is further amended in said chapter by revising subsection (i) of Code  
989 Section 31-7-116, relating to issuance of bonds and bond anticipation notes, obligations of  
990 authority, and limitations and conditions, as follows:

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

1000 **SECTION 2-9.**

1001 Said title is further amended in said chapter by repealing and reserving Code  
 1002 Section 31-7-155, relating to certificates of need for new service or extending service area  
 1003 and exemption from certificate.

1004 **SECTION 2-10.**

1005 Said title is further amended in said chapter by repealing Code Section 31-7-179, relating to  
 1006 certificate of need not required.

1007 **SECTION 2-11.**

1008 Said title is further amended in said chapter by revising Code Section 31-7-307, relating to  
 1009 certificate of need not required of licensees and operation of licensee as home health agency  
 1010 not authorized, as follows:

1011 "31-7-307.

1012 ~~(a) A certificate of need issued pursuant to Chapter 6 of this title is not required for any~~  
 1013 ~~person, business entity, corporation, or association, whether operated for profit or not for~~  
 1014 ~~profit, which is operating as a private home care provider as long as such operation does~~  
 1015 ~~not also constitute such person, entity, or organization operating as a home health agency~~  
 1016 ~~or personal care home under this chapter.~~

1017 (b) A license issued under this article shall not entitle the licensee to operate as a home  
 1018 health agency, as defined in Code Section 31-7-150, under ~~medicare~~ Medicare or Medicaid  
 1019 guidelines."

1020 **SECTION 2-12.**

1021 Said title is further amended in Chapter 8, relating to care and protection of indigent and  
 1022 elderly patients, by revising Code Section 31-8-181, relating to individuals and hospitals  
 1023 excluded from application of article, as follows:

1024 "31-8-181.

1025 This article shall not apply to the following:

1026 (1) An individual licensed to practice medicine under the provisions of Chapter 34 of  
1027 Title 43, and persons employed by such an individual, provided that any nursing home,  
1028 personal care home as defined by Code Section ~~31-6-2~~ 31-7-12, hospice as defined by  
1029 Code Section 31-7-172, respite care service as defined by Code Section 49-6-72, adult  
1030 day program, or home health agency owned, operated, managed, or controlled by a  
1031 person licensed to practice medicine under the provisions of Chapter 34 of Title 43 shall  
1032 be subject to the provisions of this article; or

1033 (2) A hospital. However, to the extent that a hospital's nursing home, personal care  
1034 home as defined by Code Section ~~31-6-2~~ 31-7-12, hospice as defined by Code  
1035 Section 31-7-172, respite care service as defined by Code Section 49-6-72, adult day  
1036 program, or home health agency holds itself out as providing care, treatment, or  
1037 therapeutic activities for persons with Alzheimer's disease or Alzheimer's related  
1038 dementia as part of a specialty unit, such nursing home, personal care home, hospice,  
1039 respite care service, adult day program, or home health agency shall be subject to the  
1040 provisions of this article."

1041

### **SECTION 2-13.**

1042 Said title is further amended in said chapter by revising Code Section 31-8-153.1, relating  
1043 to irrevocable transfer of funds to trust fund and provision for indigent patients, as follows:

1044 "31-8-153.1.

1045 After June 30, 1993, any hospital authority, county, municipality, or other state or local  
1046 public or governmental entity is authorized to transfer moneys to the trust fund. Transfer  
1047 of funds under the control of a hospital authority, county, municipality, or other state or  
1048 local public or governmental entity shall be a valid public purpose for which those funds  
1049 may be expended. The department is authorized to transfer to the trust fund moneys paid

1050 to the state by a ~~health care~~ healthcare facility as a monetary penalty for the violation of an  
1051 agreement to provide a specified amount of ~~clinical health services to indigent patients~~  
1052 uncompensated indigent or charity care pursuant to a ~~certificate of need~~ license held by  
1053 such facility. Such transfers shall be irrevocable and shall be used only for the purposes  
1054 contained in Code Section 31-8-154."

1055 **SECTION 2-14.**

1056 Said title is further amended in Chapter 11, relating to emergency medical services, by  
1057 revising paragraph (3) of Code Section 31-11-100, relating to Georgia Trauma Care Network  
1058 Commission, as follows:

1059 "(3) 'Trauma center' means a facility designated by the Department of Public Health as  
1060 a Level I, II, III, or IV or burn trauma center. ~~However, a burn trauma center shall not~~  
1061 ~~be considered or treated as a trauma center for purposes of certificate of need~~  
1062 ~~requirements under state law or regulations, including exceptions to need and adverse~~  
1063 ~~impact standards allowed by the department for trauma centers or for purposes of~~  
1064 ~~identifying safety net hospitals."~~

1065 **SECTION 2-15.**

1066 Said title is further amended in Chapter 54, relating to hospital peace officers, by revising  
1067 paragraph (1) of Code Section 31-54-1, relating to definitions, as follows:

1068 "~~(1) 'Hospital' shall have the same meaning as provided in Code Section 31-6-2~~ means  
1069 a facility that is permitted to operate as a hospital pursuant to Article 1 of Chapter 7 of  
1070 this title."

1071

**SECTION 2-16.**

1072 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in  
 1073 Chapter 45, relating to continuing care providers and facilities, by revising subparagraph (A)  
 1074 of paragraph (1) of Code Section 33-45-1, relating to definitions, as follows:

1075       “(A) Lodging that is not:

1076           (i) In a skilled nursing facility, as such term is defined in Code Section ~~31-6-2~~  
 1077           31-6-1;

1078           (ii) An intermediate care facility, as such term is defined in Code Section ~~31-6-2~~  
 1079           31-7-1;

1080           (iii) An assisted living community, as such term is defined in Code  
 1081           Section 31-7-12.2; or

1082           (iv) A personal care home, as such term is defined in Code Section 31-7-12;”

1083

**SECTION 2-17.**

1084 Said title is further amended in said chapter by revising subsections (b) and (d) of Code  
 1085 Section 33-45-3, relating to certificate of authority required for operation of life plan  
 1086 communities, as follows:

1087       “(b) Nothing in this chapter shall be construed so as to modify or limit in any way:

1088           ~~(1) Provisions of Article 3 of Chapter 6 of Title 31 and any rules and regulations~~  
 1089           ~~promulgated by the Department of Community Health pursuant to such article relating~~  
 1090           ~~to certificates of need for life plan communities or home health agencies, as such terms~~  
 1091           ~~are defined in Code Section 31-6-2; or~~

1092           (2) ~~Provisions~~ provisions of Chapter 7 of Title 31 relating to licensure or permit  
 1093           requirements and any rules and regulations promulgated by the Department of  
 1094           Community Health pursuant to such chapter, including, without limitation, licensure or  
 1095           permit requirements for nursing home care, assisted living care, personal care home  
 1096           services, home health services, and private home care services.”

1097 "(d) A provider of continuing care at home may contract with a licensed home health  
 1098 agency to provide home health services to a resident. ~~In order to provide home health~~  
 1099 ~~services directly, a provider of continuing care at home shall obtain a certificate of need for~~  
 1100 ~~a home health agency, as such term is defined in Code Section 31-6-2, pursuant to the same~~  
 1101 ~~criteria and rules as are applicable to freestanding home health agencies that are not~~  
 1102 ~~components of life plan communities."~~

1103 **SECTION 2-18.**

1104 Said title is further amended in said chapter by revising Code Section 33-45-7.1, relating to  
 1105 provider authorized to offer continuing care when resident purchases resident owned living  
 1106 unit, as follows:

1107 "33-45-7.1.

1108 A provider which has obtained a certificate of authority pursuant to Code Section 33-45-5  
 1109 and the written approval of the Commissioner is authorized to offer, as a part of the  
 1110 continuing care agreement, continuing care at home or continuing care in which the  
 1111 resident purchases a resident owned living unit, subject to the provisions of ~~Chapters 6 and~~  
 1112 Chapter 7 of Title 31 and rules and regulations promulgated by the Department of  
 1113 Community Health pursuant to such ~~chapters~~ chapter relating to ~~certificate of need and~~  
 1114 licensure requirements."

1115 **SECTION 2-19.**

1116 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
 1117 revising subsection (j) of Code Section 37-1-29, relating to crisis stabilization units, as  
 1118 follows:

1119 "~~(j) Any program certified as a crisis stabilization unit pursuant to this Code section shall~~  
 1120 ~~be exempt from the requirements to obtain a certificate of need pursuant to Article 3 of~~  
 1121 ~~Chapter 6 of Title 31. Reserved.~~"

1122

**SECTION 2-20.**

1123 Title 43 of the Official Code of Georgia Annotated, relating to profession and businesses, is  
1124 amended in Chapter 26, relating to nurses, by revising subparagraph (c)(4)(C) and the  
1125 undesignated text at the end of paragraph (4) of subsection (c) of Code Section 43-26-7,  
1126 relating to requirements for licensure as registered professional nurse and requirements for  
1127 nontraditional nursing education program, as follows:

1128       “(C) If the applicant entered a nontraditional nursing education program as anything  
1129       other than a licensed practical nurse whose academic education as a licensed practical  
1130       nurse included clinical training in pediatrics, obstetrics and gynecology,  
1131       medical-surgical, and mental illness, have graduated from such program and practiced  
1132       nursing as a registered professional nurse in a ~~health-care~~ healthcare facility for at least  
1133       two years in the five years preceding the date of the application, and such practice is  
1134       documented by the applicant and approved by the board; provided, however, that for  
1135       an applicant who does not meet the experience requirement of this subparagraph, the  
1136       board shall require the applicant to complete a postgraduate preceptorship of at least  
1137       480 hours but not more than 640 hours, as determined by the board, arranged by the  
1138       applicant under the oversight of a registered professional nurse where such applicant  
1139       is transitioned into the role of a registered professional nurse. The preceptorship shall  
1140       have prior approval of the board, and successful completion of the preceptorship shall  
1141       be verified in writing by the preceptor.

1142       For purposes of this paragraph, the term ~~health-care~~ healthcare facility' means an acute  
1143       care inpatient facility, a long-term acute care facility, an ambulatory surgical center or  
1144       obstetrical facility ~~as defined in Code Section 31-6-2~~, and a skilled nursing facility, so  
1145       long as such skilled nursing facility has 100 beds or more and provides ~~health-care~~  
1146       healthcare to patients with similar ~~health-care~~ healthcare needs as those patients in a  
1147       long-term acute care facility;”

1148

**SECTION 2-21.**

1149 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
 1150 in Chapter 26, relating to housing and finance authority, by revising subsection (c) of Code  
 1151 Section 50-26-19, relating to financing, acquisition, construction, and equipping of health  
 1152 care facilities, as follows:

1153 "(c) The authority may not finance a project for any participating provider unless the  
 1154 Department of Community Health, or any successor thereof, has issued a certificate of need  
 1155 or comparable certification of approval to the participating provider for the project to be  
 1156 financed by the authority if the acquisition of such project by the participating provider  
 1157 would require a certificate of need or comparable certification of approval ~~under Chapter 6~~  
 1158 ~~of Title 31.~~"

1159

**SECTION 2-22.**

1160 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended in  
 1161 Chapter 16, relating to COVID-19 pandemic business safety, by revising paragraph (5) of  
 1162 Code Section 51-16-1, relating to definitions, as follows:

1163 "(5) 'Healthcare facility' ~~shall have the same meaning as 'healthcare facility' as provided~~  
 1164 ~~for in paragraph (17) of Code Section 31-6-2~~ means hospitals; destination cancer  
 1165 hospitals; other special care units, including but not limited to podiatric facilities; skilled  
 1166 nursing facilities; intermediate care facilities; personal care homes; ambulatory surgical  
 1167 centers or obstetrical facilities; freestanding emergency departments or facilities not  
 1168 located on a hospital's primary campus; health maintenance organizations; home health  
 1169 agencies; and diagnostic, treatment, or rehabilitation centers and all related parties;. Such  
 1170 term shall have the same meaning as 'institution' as provided for in subparagraphs (A) and  
 1171 (C) through (G) of paragraph (4) ~~and paragraph (5)~~ of Code Section 31-7-1 and all related  
 1172 parties; as 'end stage renal disease facility' as provided for in paragraph (6) of Code  
 1173 Section 31-44-1 and all related parties; and shall mean the recipient of a contract as

1174 authorized in paragraph (5) of Code Section 37-1-20 and any clinical laboratory certified  
 1175 under the Clinical Laboratory Improvement Amendments in Section 353 of the Public  
 1176 Health Service Act, 42 U.S.C. Section 263a. Such term shall not be construed to include  
 1177 premises."

1178

### PART III

1179

#### *Rural hospital authorities and coordinated healthcare planning*

1180

#### **SECTION 3-1.**

1181 Title 31 is further amended in Article 4 of Chapter 7, relating to county and municipal  
 1182 hospital authorities, by revising paragraph (2) of Code Section 31-7-71, relating to  
 1183 definitions, as follows:

1184 "(2) 'Authority' or 'hospital authority' means any public corporation created by this  
 1185 article. Such term shall include rural hospital authority as defined in Code  
 1186 Section 31-7-100."

1187

#### **SECTION 3-2.**

1188 Said chapter is further amended in said article by revising subsection (e) of Code  
 1189 Section 31-7-72.1, relating to merger of hospital authorities, as follows:

1190 "(e) It is declared by the General Assembly of Georgia that in the exercise of the power  
 1191 specifically granted to them by this Code section, hospital authorities are acting pursuant  
 1192 to state policy and shall be immune from antitrust liability to the same degree and extent  
 1193 as enjoyed by the State of Georgia; provided, however, that any rural hospital authority  
 1194 exercising powers as authorized pursuant to Article 4A of this chapter shall be immune  
 1195 from antitrust liability as provided therein."

1196 **SECTION 3-3.**

1197 Said chapter is further amended by adding a new article to read as follows:

1198 "ARTICLE 4A1199 31-7-100.

1200 (a) It is the intent of the General Assembly to deem rural hospital authorities immune from  
1201 federal antitrust laws when acting as expressly authorized by this article and Article 4 of  
1202 this chapter. The express intent of the General Assembly is to avoid weakening antitrust  
1203 provisions applicable to: any group of hospitals that includes any hospital that is not a rural  
1204 hospital authority; any hospital authority that is not a rural hospital authority; or any group  
1205 of four or more rural hospital authorities.

1206 (b) The General Assembly finds that:

1207 (1) Rural hospital authorities are unique and have different interests from nonrural  
1208 hospital authorities or healthcare systems that include nonrural hospitals and nonrural  
1209 hospital authorities;

1210 (2) Rural hospital authorities perform essential public and governmental functions on  
1211 behalf of this state and the counties and municipalities that activate them by providing  
1212 healthcare services to the indigent sick, expanding access to healthcare, promoting public  
1213 health, supporting medical education and research, sustaining rural healthcare providers,  
1214 and maintaining healthcare infrastructure in communities throughout this state;

1215 (3) In today's healthcare marketplace, any difference between the levels of charity care  
1216 and care provided to the indigent sick by hospitals is not a consequence of being a  
1217 hospital authority or a hospital's tax status;

1218 (4) Hospitals of every kind, regardless of whether public or private or whether they pay  
1219 taxes, provide critical services, including those identified in paragraph (2) of this  
1220 subsection;

1221 (5) Healthcare delivery in rural counties that have a rural hospital authority, as well as  
1222 rural counties without a hospital but adjacent to a county with a rural hospital authority,  
1223 can be significantly enhanced through coordinated planning, joint operations, and  
1224 collaborative arrangements among rural hospital authorities. Accordingly, rural hospital  
1225 authorities may find it necessary to achieve efficiency, reduce costs, improve quality,  
1226 expand access to services, attract and retain healthcare professionals, maintain financial  
1227 viability of essential healthcare facilities, and respond effectively to public health  
1228 emergencies and evolving community health needs; and

1229 (6) The nature and scope of the powers conferred on rural hospital authorities operating  
1230 in rural counties pursuant to this article and Article 4 of this chapter may compel such an  
1231 authority, in the course of exercising its powers or by virtue of such exercise of powers,  
1232 to engage in activities itself or in collaboration with other rural hospital authorities, public  
1233 or private healthcare entities operating exclusively in rural counties, regardless of such  
1234 entities' tax status, and persons operating exclusively in rural counties, that may be  
1235 characterized as anticompetitive or may result in the acquisition or maintenance of market  
1236 power within the meaning of federal antitrust laws or may have the effect of displacing  
1237 competition in the provision of hospital, physician, or other healthcare related services.

1238 (c) Based on the findings provided in subsection (b) of this Code section, the General  
1239 Assembly hereby declares, as expressions of the public policy of this state with respect to  
1240 the displacement of competition in the field of healthcare in only those rural counties with  
1241 a rural hospital authority or with no hospital but adjacent to a rural county with a rural  
1242 hospital authority:

1243 (1) The powers granted to rural hospital authorities under this article are conferred for  
1244 the purpose of carrying out the state's public health mission in rural counties. The  
1245 exercise of such powers in accordance with this article constitutes implementation of the  
1246 express policy of this state, and such powers constitute a clearly articulated and  
1247 affirmatively expressed state policy to displace competition with regulation or monopoly

1248 public service in the field of healthcare delivery in rural counties where a rural hospital  
1249 authority is the only hospital and in rural counties without a hospital adjacent to a rural  
1250 county with a rural hospital authority; and

1251 (2) The potential anticompetitive effects of conduct of a rural hospital authority as  
1252 authorized by this article are a foreseeable result of the powers granted herein, and such  
1253 potential anticompetitive effects are consistent with the state's policy of promoting  
1254 coordinated healthcare delivery through rural hospital authorities in counties without a  
1255 hospital or where the rural hospital authority is the only hospital.

1256 (d) The provisions of this Code section shall be narrowly construed.

1257 31-7-101.

1258 As used in this article, the term:

1259 (1) 'Healthcare system' means a group of hospitals that are affiliated, share common  
1260 direct or indirect ownership, or do business under a common name. Such term also  
1261 means any physician group that is affiliated with such a group of hospitals.

1262 (2) 'Hospital authority' shall have the same meaning as set forth in Code Section 31-7-71.

1263 (3) 'Project' shall have the same meaning as set forth in Code Section 31-7-71.

1264 (4) 'Restructured rural hospital authority' means an entity that leases its operating assets  
1265 from a hospital authority organized and created by resolution that includes at least one  
1266 member of such hospital authority on the restructured governing board and operates a  
1267 project in a rural county.

1268 (5) 'Rural county' means any county in this state having a population of less than 50,000  
1269 according to the United States decennial census of 2020 or any future such census.

1270 (6) 'Rural hospital authority' means a hospital authority or a restructured rural hospital  
1271 authority that is located in a rural county or that is part of a rural hospital authority that  
1272 operates only in rural counties. Such authority shall not be affiliated with more than two  
1273 other rural hospital authorities. Such authority shall not be affiliated directly or indirectly

1274 with any hospital authority that operates directly or indirectly in a nonrural county, that  
1275 operates directly or indirectly more than two other hospitals of any kind located in a  
1276 nonrural county, or is part of a healthcare system that includes two or more other  
1277 affiliated hospitals of any kind located in a nonrural county.

1278 (7) 'Rural physician practice' means a group of physicians or physician practices that  
1279 perform medical care and treatment exclusively in a rural county or rural counties and are  
1280 not affiliated with any hospital, hospital authority, or healthcare system that is not a rural  
1281 hospital authority.

1282 31-7-102.

1283 (a) Rural hospital authorities may engage in conduct authorized pursuant to Article 4 of  
1284 this chapter and this article.

1285 (b) Based on the legislative findings and expression of public policy set forth in Code  
1286 Section 31-7-100, rural hospital authorities may engage in coordinated healthcare planning  
1287 and delivery for the provision of healthcare services in rural counties, including but not  
1288 limited to:

1289 (1) Mergers, acquisitions, consolidations, and affiliations with no more than two other  
1290 rural hospital authorities or rural physician practices per corporate restructuring;

1291 (2) Joint ventures, partnerships, and collaborative arrangements with no more than two  
1292 other rural hospital authorities or rural physician practices per strategic alliance;

1293 (3) Coordinated or joint negotiations with other rural hospital authorities or rural  
1294 physician practices and third-party payors, health insurers, and managed care  
1295 organizations, whether such negotiations result in separate or combined agreements,  
1296 provided that each such agreement is with no more than two other rural hospital  
1297 authorities;

1298 (4) Joint purchasing arrangements and shared services agreements with no more than two  
1299 rural hospital authorities or rural physician practices per arrangement or agreement;

- 1300 (5) Shared staffing to promote flexible staffing among rural hospital authorities or rural  
1301 physician practices;
- 1302 (6) Coordinated decisions among no more than two rural hospital authorities regarding  
1303 the allocation, expansion, reduction, or discontinuation of healthcare services and service  
1304 lines in rural counties;
- 1305 (7) Agreements between no more than two rural hospital authorities regarding pricing,  
1306 reimbursement rates, or the terms of contracts with third-party payors and other third  
1307 parties;
- 1308 (8) Information sharing with public or private entities and individuals; and
- 1309 (9) The creation or operation of or participation in delivery system networks, clinically  
1310 integrated networks, and accountable care organizations in a rural county or rural  
1311 counties for use of rural hospital authorities and rural physician practices.

1312 31-7-103.

1313 (a) Rural hospital authorities exercising any power granted under Article 4 of this chapter  
1314 or this article, including, but not limited to, the power to merge with other rural hospital  
1315 authorities, to consolidate operations, to affiliate with other rural hospital authorities or  
1316 rural physician practices, to coordinate healthcare planning and delivery with other rural  
1317 hospital authorities or rural physician practices, and to engage in the collaborative activities  
1318 described in Code Sections 31-7-75 and 31-7-102 with other rural hospital authorities or  
1319 rural physician practices, shall be immune from antitrust liability under any federal laws  
1320 to the same degree and extent as enjoyed by the state.

1321 (b) Without limiting the provisions of subsection (a) of this Code section, rural hospital  
1322 authorities exercising powers pursuant to Article 4 of this chapter or this article shall be  
1323 immune from liability under federal antitrust laws, including without limitation the federal  
1324 Sherman Act, 15 U.S.C. Section 1, et seq., the federal Clayton Act, 15 U.S.C. Section 12,  
1325 et seq., and the Federal Trade Commission Act, 15 U.S.C. Section 41, et seq., as well as

1326 any state law counterpart thereto or any other state or federal law prohibiting or regulating  
1327 anticompetitive conduct, monopolization, restraints of trade, or unfair methods of  
1328 competition; provided, however, such immunity shall not extend to any prohibition in the  
1329 Constitution of Georgia.

1330 (c) Each rural hospital authority exercising powers granted under Article 4 of this chapter  
1331 or this article:

1332 (1) Acts as an agency or instrumentality of the county or municipality that activated it  
1333 and as a public body corporate and politic. For purposes of any federal antitrust law,  
1334 including the application of the state action doctrine as developed in federal antitrust  
1335 jurisprudence, each rural hospital authority shall be deemed a political subdivision of this  
1336 state; and

1337 (2) Shall not be subject to active state supervision in order to enjoy immunity from the  
1338 application of any federal antitrust laws when the rural hospital authority collaborates  
1339 with any other rural hospital authority or rural physician practice. To the extent that any  
1340 court or regulatory body determines that active state supervision is required for any  
1341 person or entity to assert immunity under this subsection, the General Assembly hereby  
1342 designates the governing body of the rural county or municipality that activated the rural  
1343 hospital authority or, if activated by multiple governing bodies, the governing bodies  
1344 acting jointly as the state actor responsible for supervising the conduct of the rural  
1345 hospital authority, and such governing body or bodies are hereby authorized and directed  
1346 to review, approve, and supervise agreements and collaborative arrangements entered into  
1347 between any rural hospital authorities and rural physician practices pursuant to this  
1348 article.

1349 31-7-104.

1350 (a) The immunity from antitrust liability under any federal laws established pursuant to  
1351 Code Section 31-7-103 extends only to the following persons:

- 1352 (1) A rural hospital authority or group of no more than three rural hospital authorities  
1353 exercising powers granted under Article 4 of this chapter or this article, with or without  
1354 a rural physician practice;
- 1355 (2) Any surviving, resulting, or successor rural hospital authority that continues to satisfy  
1356 the definition of a rural hospital authority following a merger, acquisition, consolidation,  
1357 or other combination authorized under this article;
- 1358 (3) Any members of the board of a rural hospital authority and any officers, employees,  
1359 or agents of a rural hospital authority acting within the scope of the rural hospital  
1360 authority only;
- 1361 (4) Any rural hospital authority, rural physician practice, or other person who  
1362 collaborates with a rural hospital authority in a manner expressly authorized by this  
1363 article; and
- 1364 (5) Any entity controlled by or under common control with a rural hospital authority,  
1365 including without limitation any nonprofit subsidiary, affiliate, joint venture, or other  
1366 entity in which a rural hospital authority has an ownership or membership interest.
- 1367 (b) The immunity from antitrust liability under any federal laws established pursuant to  
1368 Code Section 31-7-103 and as limited pursuant to subsection (a) of this Code section shall  
1369 apply to:
- 1370 (1) Any action, suit, or proceeding brought by the Federal Trade Commission, the United  
1371 States Department of Justice, or any other federal agency or instrumentality under federal  
1372 antitrust laws only;
- 1373 (2) Any action, suit, or proceeding brought by this state, the Attorney General, or any  
1374 other state agency or instrumentality for antitrust laws only;
- 1375 (3) Any action, suit, or proceeding brought by any county, municipality, or other political  
1376 subdivision of this state for antitrust laws only;
- 1377 (4) Any private action, suit, or proceeding, including without limitation any action for  
1378 damages, injunctive relief, or other remedy under federal or state antitrust laws; and

1379 (5) Any investigation, inquiry, civil investigative demand, subpoena, or other  
1380 compulsory process issued in connection with any antitrust law.

1381 (c) The provisions of this Code section shall be narrowly construed.

1382 31-7-105.

1383 (a) Nothing in this article shall be construed as:

1384 (1) Extending sovereign immunity to any hospital authority;

1385 (2) Applying to any hospital, hospital authority, or restructured hospital authority located  
1386 in any nonrural county;

1387 (3) Applying to any group of hospitals of any kind when any hospital in the group is not  
1388 a rural hospital authority;

1389 (4) Applying to any physician practice that is affiliated with any hospital or group of  
1390 hospitals that is not a rural hospital authority;

1391 (5) Applying to mergers, acquisitions, or other any other collaboration between a rural  
1392 hospital authority and hospital of any kind that is not a rural hospital authority or between  
1393 a rural hospital authority and a healthcare system that includes any hospital that is not a  
1394 rural hospital authority; or

1395 (6) Applying to a merger, acquisition, consolidation, or other combination between more  
1396 than three rural hospital authorities.

1397 (b) Nothing in this article shall be construed to authorize conduct that would violate any  
1398 other applicable state or federal law, rule, or regulation, other than the antitrust laws  
1399 addressed herein.

1400 (c) No immunity granted by this article shall apply any action arising under the  
1401 Constitution of the United States or the Constitution of Georgia, arising out of common  
1402 law, or based on a statute other than federal antitrust law.

1403 (d) Any ambiguity in the scope or application of this Code section shall be resolved  
1404 against the grant of immunity.

1405 31-7-106.

1406 (a) No rural hospital authority shall be able to assert the immunity to antitrust laws  
1407 provided in this article prior to satisfaction of the notice and review requirements as  
1408 follows:

1409 (1) The rural hospital authority shall provide written notice to the Governor, the Attorney  
1410 General, the President of the Senate, the Speaker of the House of Representatives, and  
1411 the chairpersons of the House Committees on Judiciary and Health and the Senate  
1412 Judiciary and Health and Human Services Committees of its intent to assert the immunity  
1413 to antitrust laws provided in this article;

1414 (2) Upon receiving such notice from a rural hospital authority, the Attorney General shall  
1415 post the notice on his or her official website and shall have not more than 180 days to  
1416 conduct a review to determine whether the rural hospital authority satisfies the statutory  
1417 criteria provided in this article;

1418 (3) During the review process, the rural hospital authority shall provide any requested  
1419 documents to the Attorney General within a reasonable amount of time, not to exceed  
1420 15 calendar days. If the rural hospital authority fails to provide any such requested  
1421 documents within such time, the Attorney General shall deny the rural hospital authority's  
1422 request to assert the immunity to antitrust laws provided in this article. If a rural hospital  
1423 authority claims that the request of the Attorney General is unlawful, it may seek a  
1424 remedy in the Superior Court of Fulton County;

1425 (4) The immunity to antitrust laws provided in this article to rural hospital authorities  
1426 shall not be effective until the Attorney General determines that the rural hospital  
1427 authority satisfies all the statutory criteria provided in this article and indicates the same  
1428 by written notice published on the Attorney General's website;

1429 (5) If the Attorney General determines that the rural hospital authority satisfies all the  
1430 statutory criteria provided in this article for such rural hospital authority to assert the  
1431 immunity to antitrust laws provided in this article, such rural hospital authority shall have

1432 ten days to notify in writing the United States Attorney General and the Chair of the  
1433 Federal Trade Commission of such determination. Any failure to comply with this  
1434 paragraph by the rural hospital authority will deprive such rural hospital authority the  
1435 ability to assert the immunity to antitrust laws provided in this article;

1436 (6) Any hospital or healthcare provider located in an adjacent county to or within 35  
1437 miles of the rural hospital authority that seeks to assert the immunity to antitrust laws  
1438 provided in this article may submit its objection to the Attorney General no later than 30  
1439 days after the notice is published pursuant to paragraph (2) of this subsection. The  
1440 Attorney General shall consider such objection before making the determination required  
1441 by paragraph (5) of this subsection;

1442 (7) Any person aggrieved by the Attorney General's determination under this subsection  
1443 may seek judicial review as set forth in Chapter 3 of Title 5, provided that such person  
1444 submitted objections to the Attorney General as set forth in paragraph (6) of this  
1445 subsection; and

1446 (8) The immunity to antitrust laws provided in this article to rural hospital authorities  
1447 shall not be effective for any action filed before the Attorney General determines that the  
1448 rural hospital authority satisfies the statutory criteria provided in this article. If the  
1449 Attorney General's determination is reversed by final order on judicial review, the grant  
1450 of such immunity shall be deemed null and void.

1451 (b) Notwithstanding any provision contained in Article 4 of Chapter 8 of Title 13, a rural  
1452 hospital authority that has successfully asserted the immunity to antitrust laws provided by  
1453 this article shall be ineligible to enter into a restrictive covenant in contract with any  
1454 physician, nurse, or other healthcare provider licensed under a provision of Title 43.

1455 (c) Any rural hospital authority that has asserted the immunity to antitrust law provided in  
1456 this article and satisfied statutory criteria as determined by the Attorney General shall be  
1457 deemed to be a private state actor pursuant to 42 U.S.C. Section 1983; provided, however,

1458 that such determination shall not establish that all actions of such rural hospital authority  
1459 are made under color of state law.

1460 (d) Any rural hospital authority that has asserted the immunity to antitrust law provided in  
1461 this article shall, no later than June 30 of each year, provide a sworn statement to the  
1462 Attorney General that it continues to meet the definition of a rural hospital authority. The  
1463 failure to timely provide such notice shall render such immunity to antitrust law no longer  
1464 valid as a matter of law. Any rural hospital authority that ceases to qualify for the  
1465 immunity to antitrust law provided in this article may seek to assert such immunity once  
1466 it qualifies or requalifies pursuant to review and determination by the Attorney General  
1467 pursuant to this Code Section.

1468 (e) A rural hospital authority that has asserted the immunity provided in this article may  
1469 request guidance from the Attorney General about whether a proposed transaction would  
1470 deprive the rural hospital authority of such immunity. The Attorney General shall have 90  
1471 days to respond to the request, but the Attorney General's response shall not be binding.

1472 (f) The Attorney General shall have the authority to ensure compliance with any and all  
1473 notices and obligations which are required to be made pursuant to this Code section. No  
1474 provision of this Code section shall derogate the common law or statutory authority of the  
1475 Attorney General.

1476 (g) The Department of Community Health, in consultation with the Attorney General, shall  
1477 annually and as necessary review conduct of rural hospital authorities to confirm  
1478 compliance with the provisions of this article; ensure that any displacement of competition  
1479 does not impair the public's access to quality and affordable healthcare services and the  
1480 state's duty to provide indigent care; and take necessary action against rural hospital  
1481 authorities."

1482

**PART IV**

1483

*Effective date and repealer*

1484

**SECTION 4-1.**

1485 This Act shall become effective upon its approval by the Governor or upon its becoming law  
1486 without such approval.

1487

**SECTION 4-2.**

1488 All laws and parts of laws in conflict with this Act are repealed.