

House Bill 1339

By: Representatives Parrish of the 158<sup>th</sup>, Burns of the 159<sup>th</sup>, Hawkins of the 27<sup>th</sup>, Beverly of the 143<sup>rd</sup>, and Taylor of the 173<sup>rd</sup>

A BILL TO BE ENTITLED

AN ACT

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

H. B. 1339

- 1 -

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
21 paragraph (14) of Code Section 31-6-2, relating to definitions relative to state health planning  
22 and development, as follows:

23 ~~"(14) 'Develop,' with reference to a project, means constructing, remodeling, installing,~~  
24 ~~or proceeding with a project, or any part of a project, or a capital expenditure project, the~~  
25 ~~cost estimate for which exceeds \$10 million. Notwithstanding the provisions of this~~  
26 ~~paragraph, the expenditure or commitment or incurring an obligation for the expenditure~~  
27 ~~of funds to develop certificate of need applications, studies, reports, schematics,~~  
28 ~~preliminary plans and specifications, or working drawings or to acquire, develop, or~~  
29 ~~prepare sites shall not be considered to be the developing of a project. Reserved."~~

30 **SECTION 2.**

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

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

42 **SECTION 3.**

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

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

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

52 ~~(2) Any expenditure by or on behalf of a health care facility in excess of \$10 million~~  
53 ~~which, under generally accepted accounting principles consistently applied, is a capital~~  
54 ~~expenditure, except expenditures for acquisition of an existing health care facility. The~~  
55 ~~dollar amounts specified in this paragraph and in paragraph (14) of Code Section 31-6-2~~  
56 ~~shall be adjusted annually by an amount calculated by multiplying such dollar amounts~~  
57 ~~(as adjusted for the preceding year) by the annual percentage of change in the composite~~  
58 ~~index of construction material prices, or its successor or appropriate replacement index,~~  
59 ~~if any, published by the United States Department of Commerce for the preceding~~  
60 ~~calendar year, commencing on July 1, 2019, and on each anniversary thereafter of~~  
61 ~~publication of the index. The department shall immediately institute rule-making~~  
62 ~~procedures to adopt such adjusted dollar amounts. In calculating the dollar amounts of~~  
63 ~~a proposed project for purposes of this paragraph and paragraph (14) of Code Section~~  
64 ~~31-6-2, the costs of all items subject to review by this chapter and items not subject to~~  
65 ~~review by this chapter associated with and simultaneously developed or proposed with~~  
66 ~~the project shall be counted, except for the expenditure or commitment of or incurring an~~  
67 ~~obligation for the expenditure of funds to develop certificate of need applications, studies,~~

68 ~~reports, schematics, preliminary plans and specifications or working drawings, or to~~  
69 ~~acquire sites; Reserved;~~

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

73 (4) Any increase in the bed capacity of a health care facility except as provided in Code  
74 Section 31-6-47;

75 (5) Clinical health services which are offered in or through a health care facility, which  
76 were not offered on a regular basis in or through such health care facility within the 12  
77 month period prior to the time such services would be offered;

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

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

85 (A) Radiation therapy;

86 (B) Biliary lithotripsy;

87 (C) Surgery in an operating room environment, including but not limited to ambulatory  
88 surgery; and

89 (D) Cardiac catheterization; and

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

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

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

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

103 (A) Provide annual reports in the same manner and in accordance with Code Section  
104 31-6-70; and

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

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

114 (I) Makes a capital expenditure associated with ~~the construction, development,~~  
115 ~~expansion, or other establishment of a clinical health service~~ or the acquisition or  
116 replacement of diagnostic or therapeutic equipment with a value in excess of  
117 \$800,000.00 over a two-year period;

118 (II) Builds a new operating room; or

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

120 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
121 in the amount of the difference between the services which the center is required to

122 provide and the amount actually provided and may be subject to revocation of its  
123 exemption status by the department for repeated failure to pay any fees or moneys due  
124 to the department or for repeated failure to produce data as required by Code Section  
125 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of  
126 Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount specified in this  
127 paragraph shall be adjusted annually by an amount calculated by multiplying such dollar  
128 amount (as adjusted for the preceding year) by the annual percentage of change in the  
129 consumer price index, or its successor or appropriate replacement index, if any, published  
130 by the United States Department of Labor for the preceding calendar year, commencing  
131 on July 1, 2009. In calculating the dollar amounts of a proposed project for the purposes  
132 of this paragraph, the costs of all items subject to review by this chapter and items not  
133 subject to review by this chapter associated with and simultaneously ~~developed or~~  
134 proposed with the project shall be counted, except for the expenditure or commitment of  
135 or incurring an obligation for the expenditure of funds to develop certificate of need  
136 applications, studies, reports, schematics, preliminary plans and specifications or working  
137 drawings, or to acquire sites. Subparagraph (B) of this paragraph shall not apply to  
138 facilities offering ophthalmic ambulatory surgery pursuant to the exclusion designated  
139 on June 30, 2008, as division (14)(G)(iii) of Code Section 31-6-2 that are owned by  
140 physicians in the practice of ophthalmology."

141 **SECTION 4.**

142 Said title is further amended in Code Section 31-6-42, relating to qualifications for issuance  
143 of certificate, by revising subsection (b) as follows:

144 "(b) In the case of applications for the development or offering of a new institutional health  
145 service ~~or health care facility~~ for osteopathic medicine, the need for such service ~~or facility~~  
146 shall be determined on the basis of the need and availability in the community for  
147 osteopathic services ~~and facilities~~ in addition to the considerations in subsection (a) of this

148 Code section. Nothing in this chapter shall, however, be construed as otherwise  
149 recognizing any distinction between allopathic and osteopathic medicine."

150 **SECTION 5.**

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

153 "31-6-43.

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

159 (b) Each application for a certificate of need shall be ~~reviewed~~ received by the department,  
160 ~~and within ten working days after the date of its receipt a determination shall be made as~~  
161 ~~to whether the application complies with the rules governing the preparation and~~  
162 ~~submission of applications. If the application complies with the rules governing the~~  
163 ~~preparation and submission of applications,~~ and the department shall declare the  
164 application complete for review, shall accept and date the application, and shall notify the  
165 applicant of the timetable for its review. The department shall also notify a newspaper of  
166 general circulation in the county in which the project shall be developed that the  
167 application has been deemed complete. The department shall also notify the appropriate  
168 regional commission and the chief elected official of the county and municipal  
169 governments, if any, in whose boundaries the proposed project will be located that the  
170 application is complete for review. If the application does not comply with the rules  
171 governing the preparation and submission of applications, the department shall notify the  
172 applicant in writing and provide a list of all deficiencies. The applicant shall be afforded  
173 an opportunity to correct such deficiencies, and upon such correction, the application shall

174 then be declared complete for review within ten days of the correction of such deficiencies,  
175 and notice given to a newspaper of general circulation in the county in which the project  
176 shall be developed that the application has been so declared. The department shall also  
177 notify the appropriate regional commission and the chief elected official of the county and  
178 municipal governments, if any, in whose boundaries the proposed project will be located  
179 that the application is complete for review or when in the determination of the department  
180 a significant amendment is filed.

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

184 (d)(1) There shall be a time limit of 120 days for review of a project, beginning on the  
185 day the department ~~declares the application complete for review or in the case of~~  
186 ~~applications joined for comparative review, beginning on the day the department declares~~  
187 ~~the final application complete~~ receives the application. The department may adopt rules  
188 for determining when it is not practicable to complete a review in 120 days and may  
189 extend the review period upon written notice to the applicant but only for an extended  
190 period of not longer than an additional 30 days. The department shall adopt rules  
191 governing the submission of additional information by the applicant and for opposing an  
192 application; provided, however, that such rules shall provide that any party permitted to  
193 oppose an application shall submit a notice of opposition no later than 30 days of receipt  
194 by the department of such application.

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

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



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

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

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

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

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

216 Following joinder of the first application with subsequent applications, none of the  
217 subsequent applications so joined may be considered as a first application for the purposes  
218 of future joinder. The department shall notify the applicant to whose application a joinder  
219 is ordered and all other applicants previously joined to such application of the fact of each  
220 joinder pursuant to this subsection. In the event one or more applications have been joined  
221 pursuant to this subsection, the time limits for department action for all of the applicants  
222 shall run from the latest date that any one of the joined applications was declared complete  
223 for review. In the event of the consideration of one or more applications joined pursuant  
224 to this subsection, the department may award no certificate of need or one or more  
225 certificates of need to the application or applications, if any, which are consistent with the

226 considerations contained in Code Section 31-6-42, the department's applicable rules, and  
227 the award of which will best satisfy the purposes of this chapter.

228 (g) The department shall review the application and all written information submitted by  
229 the applicant in support of the application and all information submitted in opposition to  
230 the application to determine the extent to which the proposed project is consistent with the  
231 applicable considerations stated in Code Section 31-6-42 and in the department's applicable  
232 rules. During the course of the review, the department staff may request additional  
233 information from the applicant as deemed appropriate. Pursuant to rules adopted by the  
234 department, a public hearing on applications covered by those regulations may be held  
235 prior to the date of the department's decision thereon. Such rules shall provide that when  
236 good cause has been shown, a public hearing shall be held by the department. Any  
237 interested person may submit information to the department concerning an application, and  
238 an applicant shall be entitled to notice of and to respond to any such submission.

239 (h) The department shall within 30 days of receipt of the application provide the applicant  
240 an opportunity to meet with the department to discuss ~~the~~ such application and to provide  
241 the applicant an opportunity to submit additional information. Such additional information  
242 shall be submitted within the time limits adopted by the department. The department shall  
243 also provide an opportunity for any party that is permitted to oppose an application  
244 pursuant to paragraph (2) of subsection (d) of this Code section to meet with the  
245 department and to provide additional information to the department. In order for any such  
246 opposing party to have standing to appeal an adverse decision pursuant to Code Section  
247 31-6-44, such party must attend and participate in an opposition meeting.

248 (i) Unless extended by the department for an additional period of up to 30 days pursuant  
249 to subsection (d) of this Code section, the department shall, no later than 120 days after an  
250 application is determined to be complete for review, or, in the event of joined applications,  
251 120 days after the last application is declared complete for review, provide written  
252 notification to an applicant of the department's decision to issue or to deny issuance of a

253 certificate of need for the proposed project. Such notice shall contain the department's  
254 written findings of fact and decision as to each applicable consideration or rule and a  
255 detailed statement of the reasons and evidentiary support for issuing or denying a certificate  
256 of need for the action proposed by each applicant. The department shall also mail such  
257 notification to the appropriate regional commission and the chief elected official of the  
258 county and municipal governments, if any, in whose boundaries the proposed project will  
259 be located. In the event such decision is to issue a certificate of need, the certificate of  
260 need shall be effective on the day of the decision unless the decision is appealed to the  
261 Certificate of Need Appeal Panel in accordance with this chapter. Within seven days of  
262 the decision, the department shall publish notice of its decision to grant or deny an  
263 application in the same manner as it publishes notice of the filing of an application.

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

269 (k) Notwithstanding other provisions of this article, when the Governor has declared a  
270 state of emergency in a region of the state, existing health care facilities in the affected  
271 region may seek emergency approval from the department ~~to make expenditures in excess~~  
272 ~~of the capital expenditure threshold~~ or to offer services that may otherwise require a  
273 certificate of need. The department shall give special expedited consideration to such  
274 requests and may authorize such requests for good cause. Once the state of emergency has  
275 been lifted, any services offered by an affected health care facility under this subsection  
276 shall cease to be offered until such time as the health care facility that received the  
277 emergency authorization has requested and received a certificate of need. For purposes of  
278 this subsection, the term 'good cause' means that authorization of the request shall directly  
279 resolve a situation posing an immediate threat to the health and safety of the public. The

280 department shall establish, by rule, procedures whereby requirements for the process of  
281 review and issuance of a certificate of need may be modified and expedited as a result of  
282 emergency situations."

283 **SECTION 6.**

284 Said title is further amended in Code Section 31-6-45, relating to revocation of certificate of  
285 need, enforcement of chapter, and regulatory investigations and examinations, by revising  
286 subsections (b) and (c) as follows:

287 "(b) Any health care facility offering a new institutional health service without having  
288 obtained a certificate of need ~~and which has not been previously licensed as a health care~~  
289 ~~facility~~ shall be denied a license to operate.

290 (c) In the event that a new institutional health service is knowingly offered or developed  
291 without having obtained a certificate of need as required by this chapter, or the certificate  
292 of need for such service is revoked according to the provisions of this Code section, a  
293 facility or applicant may be fined an amount of \$5,000.00 per day up to 30 days,  
294 \$10,000.00 per day from 31 days through 60 days, and \$25,000.00 per day after 60 days  
295 for each day that the violation of this chapter has existed and knowingly and willingly  
296 continues; provided, however, that the expenditure or commitment of or incurring an  
297 obligation for the expenditure of funds to take or perform actions not subject to this chapter  
298 ~~or to acquire, develop, or prepare a health care facility site for which a certificate of need~~  
299 ~~application is denied~~ shall not be a violation of this chapter and shall not be subject to such  
300 a fine. The commissioner shall determine, after notice and a hearing, whether the fines  
301 provided in this Code section shall be levied."

302 **SECTION 7.**

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

305 "31-6-47.

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

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

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

312 (3) Institutions operated exclusively by the federal government or by any of its agencies;

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

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

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

320 (7) Expenditures related to adequate preparation and development of an application for  
321 a certificate of need;

322 (8) The commitment of funds conditioned upon the obtaining of a certificate of need;

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

325 (9.1) The purchase of a closing hospital or of a hospital that has been closed for no more  
326 than ~~12~~ 24 months by a hospital in a contiguous county to repurpose the facility as a  
327 micro-hospital;

328 (10) Expenditures of ~~less than \$870,000.00~~ for any minor or major repair or replacement  
329 of equipment by a health care facility that is not owned by a group practice of physicians  
330 or a hospital and that provides diagnostic imaging services if such facility received a

331 letter of nonreviewability from the department prior to July 1, 2008. This paragraph shall  
332 not apply to such facilities in rural counties;

333 (10.1) Except as provided in paragraph (10) of this subsection, an expenditure for the  
334 minor or major repair of a health care facility or a facility that is exempt from the  
335 requirements of this chapter, parts thereof, or services provided or equipment used  
336 therein; or the replacement of equipment, including but not limited to CT scanners,  
337 magnetic resonance imaging, positron emission tomography (PET), and positron  
338 emission tomography/computed tomography previously approved for a certificate of  
339 need;

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

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

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

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

358 (15) Increases in the bed capacity of a hospital up to ten beds or ~~10~~ 20 percent of  
359 capacity, whichever is greater, in any consecutive ~~two-year~~ three-year period, in a  
360 hospital that has maintained an overall occupancy rate greater than ~~75~~ 60 percent for the  
361 previous 12 month period;

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

370 (17) Life plan communities, provided that the skilled nursing component of the facility  
371 is for the exclusive use of residents of the life plan community and that a written  
372 exemption is obtained from the department; provided, however, that new sheltered  
373 nursing home beds may be used on a limited basis by persons who are not residents of  
374 the life plan community for a period up to five years after the date of issuance of the  
375 initial nursing home license, but such beds shall not be eligible for Medicaid  
376 reimbursement. For the first year, the life plan community sheltered nursing facility may  
377 utilize not more than 50 percent of its licensed beds for patients who are not residents of  
378 the life plan community. In the second year of operation, the life plan community shall  
379 allow not more than 40 percent of its licensed beds for new patients who are not residents  
380 of the life plan community. In the third year of operation, the life plan community shall  
381 allow not more than 30 percent of its licensed beds for new patients who are not residents  
382 of the life plan community. In the fourth year of operation, the life plan community shall  
383 allow not more than 20 percent of its licensed beds for new patients who are not residents  
384 of the life plan community. In the fifth year of operation, the life plan community shall

385 allow not more than 10 percent of its licensed beds for new patients who are not residents  
386 of the life plan community. At no time during the first five years shall the life plan  
387 community sheltered nursing facility occupy more than 50 percent of its licensed beds  
388 with patients who are not residents under contract with the life plan community. At the  
389 end of the five-year period, the life plan community sheltered nursing facility shall be  
390 utilized exclusively by residents of the life plan community, and at no time shall a  
391 resident of a life plan community be denied access to the sheltered nursing facility. At  
392 no time shall any existing patient be forced to leave the life plan community to comply  
393 with this paragraph. The department is authorized to promulgate rules and regulations  
394 regarding the use and definition of the term 'sheltered nursing facility' in a manner  
395 consistent with this Code section. Agreements to provide continuing care include  
396 agreements to provide care for any duration, including agreements that are terminable by  
397 either party;

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

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

401 ~~or~~

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

406 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance  
407 from the facility or the medical staff at the center has admitting privileges or other  
408 acceptable documented arrangements with such hospital to ensure the necessary backup  
409 for the center for medical complications. The center shall have the capability to transfer  
410 a patient immediately to a hospital within a reasonable distance from the facility with



411 adequate emergency room services. Hospitals shall not unreasonably deny a transfer  
412 agreement or affiliation agreement to the center;

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

417 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,  
418 provides uncompensated care to Medicaid beneficiaries and, if the facility provides  
419 medical care and treatment to children, to PeachCare for Kids beneficiaries,  
420 uncompensated indigent and charity care, or both in an amount equal to or greater  
421 than 4 percent of its adjusted gross revenue;

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

425 (D) Provides annual reports in the same manner and in accordance with Code Section  
426 31-6-70.

427 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
428 in the amount of the difference between the services which the center is required to  
429 provide and the amount actually provided and may be subject to revocation of its  
430 exemption status by the department for repeated failure to pay any fines or moneys due  
431 to the department or for repeated failure to produce data as required by Code Section  
432 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of  
433 Title 50, the 'Georgia Administrative Procedure Act'; ~~The dollar amount specified in this~~  
434 ~~paragraph shall be adjusted annually by an amount calculated by multiplying such dollar~~  
435 ~~amount (as adjusted for the preceding year) by the annual percentage of change in the~~  
436 ~~composite index of construction material prices, or its successor or appropriate~~  
437 ~~replacement index, if any, published by the United States Department of Commerce for~~

438 ~~the preceding calendar year, commencing on July 1, 2009, and on each anniversary~~  
439 ~~thereafter of publication of the index. The department shall immediately institute~~  
440 ~~rule-making procedures to adopt such adjusted dollar amounts. In calculating the dollar~~  
441 ~~amounts of a proposed project for purposes of this paragraph, the costs of all items~~  
442 ~~subject to review by this chapter and items not subject to review by this chapter~~  
443 ~~associated with and simultaneously developed or proposed with the project shall be~~  
444 ~~counted, except for the expenditure or commitment of or incurring an obligation for the~~  
445 ~~expenditure of funds to develop certificate of need applications, studies, reports,~~  
446 ~~schematics, preliminary plans and specifications or working drawings, or to acquire sites;~~  
447 (19) Any joint venture ambulatory surgical center that:

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

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

454 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,  
455 provides uncompensated care to Medicaid beneficiaries and, if the facility provides  
456 medical care and treatment to children, to PeachCare for Kids beneficiaries,  
457 uncompensated indigent and charity care, or both in an amount equal to or greater  
458 than 4 percent of its adjusted gross revenue; and

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

461 Noncompliance with any condition of this paragraph shall result in a monetary penalty  
462 in the amount of the difference between the services which the center is required to  
463 provide and the amount actually provided and may be subject to revocation of its  
464 exemption status by the department for repeated failure to pay any fines or moneys due

465 to the department or for repeated failure to produce data as required by Code  
466 Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to  
467 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'; ~~The dollar amount~~  
468 ~~specified in this paragraph shall be adjusted annually by an amount calculated by~~  
469 ~~multiplying such dollar amount (as adjusted for the preceding year) by the annual~~  
470 ~~percentage of change in the composite index of construction material prices, or its~~  
471 ~~successor or appropriate replacement index, if any, published by the United States~~  
472 ~~Department of Commerce for the preceding calendar year, commencing on July 1, 2009,~~  
473 ~~and on each anniversary thereafter of publication of the index. The department shall~~  
474 ~~immediately institute rule-making procedures to adopt such adjusted dollar amounts. In~~  
475 ~~calculating the dollar amounts of a proposed project for purposes of this paragraph, the~~  
476 ~~costs of all items subject to review by this chapter and items not subject to review by this~~  
477 ~~chapter associated with and simultaneously developed or proposed with the project shall~~  
478 ~~be counted, except for the expenditure or commitment of or incurring an obligation for~~  
479 ~~the expenditure of funds to develop certificate of need applications, studies, reports,~~  
480 ~~schematics, preliminary plans and specifications or working drawings, or to acquire sites;~~  
481 (20) Expansion of services by an imaging center based on a population needs  
482 methodology taking into consideration whether the population residing in the area served  
483 by the imaging center has a need for expanded services, as determined by the department  
484 in accordance with its rules and regulations, if such imaging center:

- 485 (A) Was in existence and operational in this state on January 1, 2008;
- 486 (B) Is owned by a hospital or by a physician or a group of physicians comprising at  
487 least 80 percent ownership who are currently board certified in radiology;
- 488 (C) Provides three or more diagnostic and other imaging services;
- 489 (D) Accepts all patients regardless of ability to pay; and
- 490 (E) Provides uncompensated indigent and charity care in an amount equal to or greater  
491 than the amount of such care provided by the geographically closest general acute care

492 hospital; provided, however, that this paragraph shall not apply to an imaging center in  
493 a rural county;

494 (21) Diagnostic cardiac catheterization in a hospital setting on patients 15 years of age  
495 and older;

496 (22) Therapeutic cardiac catheterization in hospitals selected by the department prior to  
497 July 1, 2008, to participate in the Atlantic Cardiovascular Patient Outcomes Research  
498 Team (C-PORT) Study and therapeutic cardiac catheterization in hospitals that, as  
499 determined by the department on an annual basis, meet the criteria to participate in the  
500 C-PORT Study but have not been selected for participation; provided, however, that if  
501 the criteria requires a transfer agreement to another hospital, no hospital shall  
502 unreasonably deny a transfer agreement to another hospital;

503 (23) Infirmaries or facilities operated by, on behalf of, or under contract with the  
504 Department of Corrections or the Department of Juvenile Justice for the sole and  
505 exclusive purpose of providing health care services in a secure environment to prisoners  
506 within a penal institution, penitentiary, prison, detention center, or other secure  
507 correctional institution, including correctional institutions operated by private entities in  
508 this state which house inmates under the Department of Corrections or the Department  
509 of Juvenile Justice;

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

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

518 (26) Capital expenditures for a project otherwise requiring a certificate of need if those  
 519 expenditures are for a project to remodel, renovate, replace, or any combination thereof,  
 520 a medical-surgical hospital and such project does not result in any of the following:

521 ~~(A) That hospital:~~

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

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

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

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

528 ~~(B) That project:~~

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

530 ~~(H)(A)~~ (A) The offering of any new clinical health services;

531 ~~(H)(B)~~ (B) Any increase in bed capacity;

532 ~~(H)(C)~~ (C) Any redistribution of existing beds among existing clinical health services;  
 533 or

534 ~~(H)(D)~~ (D) Any increase in capacity of existing clinical health services;

535 ~~(ii) Has at least 80 percent of its capital expenditures financed by the proceeds of a~~  
 536 ~~special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8~~  
 537 ~~of Title 48; and~~

538 ~~(iii) Is located within a three-mile radius of and within the same county as the~~  
 539 ~~hospital's existing facility;~~

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

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

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

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

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

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

550 (A) A hospital; or

551 (B) An individual private physician or single group practice of physicians exclusively  
 552 for use on patients of such private physician or single group practice of physicians and  
 553 such private physician or member of such single group practice of physicians is  
 554 physically present at the practice location where the diagnostic or other imaging  
 555 equipment is located at least 75 percent of the time that the equipment is in use.;

556 ~~The amount specified in this paragraph shall not include build-out costs, as defined by~~  
 557 ~~the department, but shall include all functionally related equipment, software, and any~~  
 558 ~~warranty and services contract costs for the first five years. The acquisition of one or~~  
 559 ~~more items of functionally related diagnostic or therapeutic equipment shall be~~  
 560 ~~considered as one project. The dollar amount specified in this paragraph and in~~  
 561 ~~paragraph (10) of this subsection shall be adjusted annually by an amount calculated by~~  
 562 ~~multiplying such dollar amounts (as adjusted for the preceding year) by the annual~~  
 563 ~~percentage of change in the consumer price index, or its successor or appropriate~~  
 564 ~~replacement index, if any, published by the United States Department of Labor for the~~  
 565 ~~preceding calendar year, commencing on July 1, 2010, and~~

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

568 (A) The expansion or addition of the following clinical health services: operating  
 569 rooms, other than dedicated outpatient operating rooms; medical-surgical services;  
 570 gynecology; procedure rooms; intensive care; pharmaceutical services; pediatrics;  
 571 cardiac care or other general hospital services; provided, however, that such

572 expenditure does not include the expansion or addition of inpatient beds or the  
573 conversion of one type of inpatient bed to another type of inpatient bed; or  
574 (B) The movement of clinical health services from one location on the hospital's  
575 primary campus to another location on such hospital's primary campus;

576 (30) New or expanded psychiatric or substance abuse inpatient programs or contracted  
577 beds that serve Medicaid and uninsured patients; that are open 365 days per year, seven  
578 days per week, and 24 hours per day; and that have an agreement with a hospital within  
579 a reasonable distance to ensure the necessary backup for medical complications;

580 (31) A facility providing new or expanded basic hospital obstetric services that are  
581 available 365 days per year, seven days per week, and 24 hours per day and that has an  
582 agreement with a hospital within a reasonable distance to ensure the necessary backup  
583 for medical complications;

584 (32) A new acute care facility in a rural county that:

585 (A) Agrees to serve as a teaching hospital;  
586 (B) Agrees to participate as a trauma center and obtain and maintain verification as  
587 such by the American College of Surgeons;  
588 (C) Provides access to comprehensive behavioral health services;  
589 (D) Provides uncompensated indigent and charity care in an amount equal to or greater  
590 than 5 percent of its adjusted gross revenue; and  
591 (E) Provides adequate access to graduates of medical schools in this state for the  
592 purpose of training; and

593 (33) Transfer of existing beds or services from one hospital campus to another hospital  
594 campus within the same hospital system within a ten-mile radius of the original campus.

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

598

**SECTION 8.**

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

601 "31-6-51.

602 (a) The department, in conjunction with the Office of Legislative Counsel, shall review the  
603 statutory framework and provisions of this chapter and the certificate of need program  
604 generally and shall make recommendations relating to rewriting, reorganizing, and  
605 clarifying the provisions of this chapter. Such review shall also include recommendations  
606 to streamline the statutory procedures required to obtain a certificate of need or a letter of  
607 determination.

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

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

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

614

**SECTION 9.**

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

618 "(e)(1) In the event the department does not receive an annual report from a health care  
619 facility requiring a certificate of need or an ambulatory surgical center or imaging center,  
620 whether or not exempt from obtaining a certificate of need under this chapter, on or  
621 before the date such report was due or receives a timely but incomplete report, the  
622 department shall notify the health care facility or center regarding the deficiencies and  
623 shall be authorized to fine such health care facility or center an amount not to exceed



624 ~~\$500.00~~ \$2,000.00 per day for every day up to 30 days and ~~\$1,000.00~~ \$5,000.00 per day  
625 for every day over 30 days for every day of such untimely or deficient report.

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

631 **SECTION 10.**

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

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

637 "(k) This Code section shall stand automatically repealed on December 31, ~~2024~~ 2029."

638 **SECTION 11.**

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

641 "49-4-156.

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

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

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

649 (2) Four nonlegislative members to be appointed by the Speaker of the House of  
650 Representatives; and

651 (3) Four nonlegislative members to be appointed by the President of the Senate.

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

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

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

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

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

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

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

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

671 **SECTION 12.**

672 (a) Except as provided in subsection (b) of this Section, this Act shall become effective on  
673 July 1, 2024.

674 (b) Sections 1, 3, 4, 5, 6, 7, and 9 of this Act shall become effective on July 1, 2025.

675

**SECTION 13.**

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