

The Senate Committee on Regulated Industries and Utilities offered the following substitute to SB 162:

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

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14

PART I

15

SECTION 1-1.

16 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by
17 repealing Chapter 6, relating to state health planning and development, and by designating
18 such chapter as reserved.

19

PART II

20

SECTION 2-1.

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

22

"CHAPTER 6A23 31-6A-1.24 As used in this chapter, the term:

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

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

- 36 (3) 'Board' means the Board of Community Health.
- 37 (4) 'Clinical health services' means diagnostic, treatment, or rehabilitative services
38 provided in a health care facility and includes, but is not limited to, the following:
39 radiology and diagnostic imaging, such as magnetic resonance imaging and positron
40 emission tomography (PET); radiation therapy; biliary lithotripsy; surgery; intensive care;
41 coronary care; pediatrics; gynecology; obstetrics; general medical care; medical-surgical
42 care; inpatient nursing care, whether intermediate, skilled, or extended care; cardiac
43 catheterization; open heart surgery; inpatient rehabilitation; and alcohol, drug abuse, and
44 mental health services.
- 45 (5) 'Commissioner' means the commissioner of community health.
- 46 (6) 'Department' means the Department of Community Health established under Chapter
47 2 of this title.
- 48 (7) 'Develop,' with reference to a project, means constructing, remodeling, installing, or
49 proceeding with a project, or any part of a project, or a capital expenditure project, the
50 cost estimate for which exceeds \$10 million. Notwithstanding the provisions of this
51 paragraph, the expenditure or commitment or incurring an obligation for the expenditure
52 of funds to develop certificate of need applications, studies, reports, schematics,
53 preliminary plans and specifications, or working drawings or to acquire, develop, or
54 prepare sites shall not be considered to be the developing of a project.
- 55 (8) 'Diagnostic imaging' means magnetic resonance imaging, computed tomography
56 (CT) scanning, positron emission tomography (PET), positron emission
57 tomography/computed tomography, X-rays, fluoroscopy, or ultrasound services, and
58 other imaging services as defined by the department by rule.
- 59 (9) 'Diagnostic, treatment, or rehabilitation center' means any professional or business
60 undertaking, whether for profit or not for profit, which offers or proposes to offer any
61 clinical health service in a setting which is not part of a hospital; provided, however, that
62 any such diagnostic, treatment, or rehabilitation center that offers or proposes to offer

63 surgery in an operating room environment and to allow patients to remain more than 23
64 hours shall be considered a hospital for purposes of this chapter.

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

68 (11) 'General cancer hospital' means an institution which was an existing and approved
69 destination cancer hospital as of January 1, 2019; has obtained final certificate of need
70 approval for conversion from a destination cancer hospital to a general cancer hospital
71 in accordance with the former provisions of Code Section 31-6-40.3, as they existed on
72 December 31, 2023; and offers inpatient and outpatient diagnostic, therapeutic, treatment,
73 and rehabilitative cancer care services or other services to diagnose or treat co-morbid
74 medical conditions or diseases of cancer patients so long as such services do not result
75 in the offering of any new or expanded clinical health service that would require a
76 certificate of need under this chapter unless a certificate of need or letter of determination
77 has been obtained for such new or expanded services.

78 (12) 'Health care facility' means a hospital, specialty hospital, freestanding emergency
79 department not located on a hospital's primary campus, single specialty ambulatory
80 surgical center, skilled nursing facility; intermediate care facility, personal care home,
81 and home health agency.

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

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

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

91 (C) Provides physicians' services primarily:

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

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

96 (14) 'Home health agency' means a public agency or private organization, or a
97 subdivision of such an agency or organization, which is primarily engaged in providing
98 to individuals who are under a written plan of care of a physician, on a visiting basis in
99 the places of residence used as such individuals' homes, part-time or intermittent nursing
100 care provided by or under the supervision of a registered professional nurse, and one or
101 more of the following services:

102 (A) Physical therapy;

103 (B) Occupational therapy;

104 (C) Speech therapy;

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

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

107 (15) 'Hospital' means an institution which is primarily engaged in providing to inpatients,
108 by or under the supervision of physicians, diagnostic services and therapeutic services for
109 medical diagnosis, treatment, and care of injured, disabled, or sick persons or
110 rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such
111 term includes public, private, psychiatric, rehabilitative, geriatric, osteopathic,
112 micro-hospitals, general cancer hospitals, and other specialty hospitals.

113 (16) 'Intermediate care facility' means an institution which provides, on a regular basis,
114 health related care and services to individuals who do not require the degree of care and

115 treatment which a hospital or skilled nursing facility is designed to provide but who,
116 because of their mental or physical condition, require health related care and services
117 beyond the provision of room and board.

118 (17) 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical
119 center that is jointly owned by a hospital in the same county as the center or a hospital in
120 a contiguous county if there is no hospital in the same county as the center and a single
121 group of physicians practicing in the center and that provides surgery or where
122 cardiologists perform procedures in a single specialty as defined by the department;
123 provided, however, that general surgery, a group practice which includes one or more
124 physiatrists who perform services that are reasonably related to the surgical procedures
125 performed in the center, and a group practice in orthopedics which includes plastic hand
126 surgeons with a certificate of added qualifications in Surgery of the Hand from the
127 American Board of Plastic and Reconstructive Surgery shall be considered a single
128 specialty. The ownership interest of the hospital shall be no less than 30 percent and the
129 collective ownership of the physicians or group of physicians shall be no less than 30
130 percent.

131 (18) 'Life plan community' means an organization, whether operated for profit or not,
132 whose owner or operator undertakes to provide shelter, food, and either nursing care or
133 personal services, whether such nursing care or personal services are provided in the
134 facility or in another setting, and other services, as designated by agreement, to an
135 individual not related by consanguinity or affinity to such owner or operator providing
136 such care pursuant to an agreement for a fixed or variable fee, or for any other
137 remuneration of any type, whether fixed or variable, for the period of care, payable in a
138 lump sum, lump sum and monthly maintenance charges or in installments. Agreements
139 to provide continuing care include agreements to provide care for any duration, including
140 agreements that are terminable by either party.

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

144 (20) 'Multi-specialty ambulatory surgical center' means a multi-specialty physician group
145 owning, operating, and utilizing no more than three specialty ambulatory surgical centers
146 located in the same or different counties in which the group has provided medical
147 services in a clinical office for at least five years and which limits each center to a single
148 specialty which may be different single specialties; provided, however, that the specialty
149 ambulatory surgical centers may be colocated.

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

153 (22) 'Operating room environment' means an environment which meets the minimum
154 physical plant and operational standards specified in the rules of the department which
155 shall consider and use the design and construction specifications as set forth in the
156 *Guidelines for Design and Construction of Health Care Facilities* published by the
157 American Institute of Architects.

158 (23) 'Person' means any individual, trust or estate, partnership, limited liability company
159 or partnership, corporation (including associations, joint-stock companies, and insurance
160 companies), state, political subdivision, hospital authority, or instrumentality (including
161 a municipal corporation) of a state as defined in the laws of this state. This term shall
162 include all related parties, including individuals, business corporations, general
163 partnerships, limited partnerships, limited liability companies, limited liability
164 partnerships, joint ventures, nonprofit corporations, or any other for profit or not for profit
165 entity that owns or controls, is owned or controlled by, or operates under common
166 ownership or control with a person.

167 (24) 'Personal care home' means a residential facility that is certified as a provider of
168 medical assistance for Medicaid purposes pursuant to Article 7 of Chapter 4 of Title 49
169 having at least 25 beds and providing, for compensation, protective care and oversight
170 of ambulatory, nonrelated persons who need a monitored environment but who do not
171 have injuries or disabilities which require chronic or convalescent care, including
172 medical, nursing, or intermediate care. Personal care homes include those facilities
173 which monitor daily residents' functioning and location, have the capability for crisis
174 intervention, and provide supervision in areas of nutrition, medication, and provision of
175 transient medical care. Such term does not include:

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

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

180 (25) 'Primary campus' means the building at which the majority of a hospital's or a
181 remote location of a hospital's licensed and operational inpatient hospital beds are
182 located, and includes the health care facilities of such hospital within 1,000 yards of such
183 building. Any health care facility operated under a hospital's license prior to July 1, 2019,
184 but not on the hospital's primary campus shall remain part of such hospital but shall not
185 constitute such hospital's primary campus unless otherwise meeting the requirements of
186 this paragraph.

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

191 (27) 'Remote location of a hospital' means a hospital facility or organization that is
192 either created by, or acquired by, a hospital that is the main provider for the purpose of

193 furnishing inpatient hospital services under the name, ownership, and financial and
194 administrative control of the main provider.

195 (28) 'Rural county' means a county having a population of less than 50,000 according to
196 the United States decennial census of 2020 or any future such census.

197 (29) 'Single specialty ambulatory surgical center' means an ambulatory surgical center
198 where surgery is performed in the offices of an individual private physician or single
199 group practice of private physicians if such surgery is performed in a facility that is
200 owned, operated, and utilized by such physicians who also are of a single specialty;
201 provided, however, that general surgery, a group practice which includes one or more
202 physiatrists who perform services that are reasonably related to the surgical procedures
203 performed in the center, and a group practice in orthopedics which includes plastic hand
204 surgeons with a certificate of added qualifications in Surgery of the Hand from the
205 American Board of Plastic and Reconstructive Surgery shall be considered a single
206 specialty.

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

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

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

217 (33) 'Uncompensated indigent or charity care' means the dollar amount of 'net
218 uncompensated indigent or charity care after direct and indirect (all) compensation' as

219 defined by, and calculated in accordance with, the department's Hospital Financial Survey
220 and related instructions.

221 (34) 'Urban county' means a county having a population equal to or greater than 50,000
222 according to the United States decennial census of 2020 or any future such census.

223 31-6A-2.

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

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

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

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

234 (3) The fees for applying for and maintaining a special health care services license in
235 order to fully offset the cost to the department, including consultant fees and other related
236 expenses necessary to process the application, and for any ongoing expenses to the
237 department for maintaining a special health care services license; and

238 (4) The procedure and criteria for requesting and approving an exception
239 acknowledgment.

240 31-6A-3.

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

242 (1) The construction of a new health care facility;

- 243 (2) The construction of a replacement health care facility, if the bed capacity is increased
244 by ten beds or 20 percent of bed capacity, whichever is greater; and
- 245 (3) Conversion of a single specialty ambulatory surgical center to a multi-specialty
246 venture ambulatory surgical center; provided the single specialty ambulatory surgical
247 center demonstrates indigent and charity care services of 5 percent of revenue per year
248 for the three years preceding the date of the application; and if the application for a
249 conversion license is granted, the multi-specialty venture ambulatory surgical center shall
250 provide indigent and charity care services totaling 2.5 percent of revenue per year and
251 failure to do so shall be cause for immediate revocation of the license.
- 252 (b) A special health care services license shall not be required for:
- 253 (1) Adding new clinical health services;
- 254 (2) A health care facility established on or after January 1, 2024, in a rural county, as
255 defined in Code Section 31-8-9.1, that:
- 256 (A) Provides inpatient hospital services;
- 257 (B) Participates in both Medicaid and Medicare and accepts both Medicaid and
258 Medicare patients;
- 259 (C) Provides health care services to indigent patients;
- 260 (D) Has at least 10 percent of its annual net revenue categorized as indigent care,
261 charity care, or bad debt;
- 262 (E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax,
263 with the department, or for any hospital not required to file IRS Form 990, the
264 department will provide a form that collects the same information to be submitted to the
265 department on an annual basis;
- 266 (F) Is current with all audits and reports required by law; and
- 267 (G) Has a three-year average patient margin, as a percent of expense, less than one
268 standard deviation above the state-wide three-year average of organizations defined in
269 subparagraphs (A) through (F) of this paragraph, as calculated by the department. For

270 purposes of this subparagraph, the term 'patient margin' means gross patient revenues
271 less contractual adjustments, bad debt, indigent and charity care, other uncompensated
272 care, and total expenses.

273 In the event that the county in which a health care facility established in accordance with
274 this paragraph is located no longer meets the definition of a rural county after such health
275 care facility has commenced operations, the health care facility shall be deemed to
276 continue to meet the requirements of this paragraph for as long as such health care facility
277 continues to operate.

278 (3) Infirmaries operated by educational institutions for the sole and exclusive benefit of
279 students, faculty members, officers, or employees thereof;

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

283 (5) Institutions operated exclusively by the federal government or by any of its agencies;

284 (6) Offices of private physicians or dentists whether for individual or group practice;

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

287 (8) Site acquisitions for health care facilities or preparation or development costs for
288 such sites prior to the decision to file an application for a special health care services
289 license;

290 (9) Expenditures related to adequate preparation and development of an application for
291 a special health care services license;

292 (10) The commitment of funds conditioned upon the obtaining of a special health care
293 services license;

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

296 (12) The purchase of a closing hospital or of a hospital that has been closed for no more
297 than 12 months by a hospital in a contiguous county to repurpose the facility as a
298 micro-hospital;

299 (13) Expenditures for the purchase, lease, replacement, upgrade, or repair of diagnostic
300 imaging equipment, diagnostic or therapeutic equipment, or medical equipment or the
301 provision of diagnostic imaging services;

302 (14) Expenditures for nonclinical projects, including parking lots, parking decks, and
303 other parking facilities; computer systems, software, and other information technology;
304 medical office buildings; administrative office space; conference rooms; education
305 facilities; lobbies; common spaces; clinical staff lounges and sleep areas; waiting rooms;
306 bathrooms; cafeterias; hallways; engineering facilities; mechanical systems; roofs;
307 grounds; signage; family meeting or lounge areas; other nonclinical physical plant
308 renovations or upgrades that do not result in new or expanded clinical health services; and
309 state mental health facilities;

310 (15) Capital expenditures otherwise covered by this chapter required solely to eliminate
311 or prevent safety hazards as defined by federal, state, or local fire, building,
312 environmental, occupational health, or life safety codes or regulations, to comply with
313 licensing requirements of the department, or to comply with accreditation standards of
314 a nationally recognized health care accreditation body;

315 (16) Cost overruns whose percentage of the cost of a project is equal to or less than the
316 cumulative annual rate of increase in the composite construction index, published by the
317 federal Bureau of the Census of the Department of Commerce, calculated from the date
318 of approval of the project;

319 (17) Transfers from one health care facility to another such facility of major medical
320 equipment previously approved under or exempted from special health care services
321 license review, except where such transfer results in the institution of a new clinical

322 health service for which a special health care services license is required in the facility
323 acquiring said equipment;

324 (18) New special health care services provided by or on behalf of health maintenance
325 organizations or related health care facilities in circumstances defined by the department
326 pursuant to federal law;

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

331 (20) Expenditures for the minor or major repair of a health care facility or a facility that
332 is exempt from the requirements of this chapter or parts thereof or services provided
333 therein;

334 (21) Life plan communities, provided that the skilled nursing component of the facility
335 is for the exclusive use of residents of the life plan community and that a written
336 exemption is obtained from the department; provided, however, that new sheltered
337 nursing home beds may be used on a limited basis by persons who are not residents of
338 the life plan community for a period up to five years after the date of issuance of the
339 initial nursing home license, but such beds shall not be eligible for Medicaid
340 reimbursement. For the first year, the life plan community sheltered nursing facility may
341 utilize not more than 50 percent of its licensed beds for patients who are not residents of
342 the life plan community. In the second year of operation, the life plan community shall
343 allow not more than 40 percent of its licensed beds for new patients who are not residents
344 of the life plan community. In the third year of operation, the life plan community shall
345 allow not more than 30 percent of its licensed beds for new patients who are not residents
346 of the life plan community. In the fourth year of operation, the life plan community shall
347 allow not more than 20 percent of its licensed beds for new patients who are not residents
348 of the life plan community. In the fifth year of operation, the life plan community shall

349 allow not more than 10 percent of its licensed beds for new patients who are not residents
350 of the life plan community. At no time during the first five years shall the life plan
351 community sheltered nursing facility occupy more than 50 percent of its licensed beds
352 with patients who are not residents under contract with the life plan community. At the
353 end of the five-year period, the life plan community sheltered nursing facility shall be
354 utilized exclusively by residents of the life plan community, and at no time shall a
355 resident of a life plan community be denied access to the sheltered nursing facility. At
356 no time shall any existing patient be forced to leave the life plan community to comply
357 with this paragraph. The department is authorized to promulgate rules and regulations
358 regarding the use and definition of 'sheltered nursing facility' in a manner consistent with
359 this Code section. Agreements to provide continuing care include agreements to provide
360 care for any duration, including agreements that are terminable by either party;

361 (22) Any specialty ambulatory surgical center that:

362 (A) Has a hospital affiliation agreement with a hospital within a reasonable distance
363 from the facility or the medical staff at the center has admitting privileges or other
364 acceptable documented arrangements with such hospital to ensure the necessary backup
365 for the center for medical complications. The center shall have the capability to transfer
366 a patient immediately to a hospital within a reasonable distance from the facility with
367 adequate emergency room services. Hospitals shall not unreasonably deny a transfer
368 agreement or affiliation agreement to the center;

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

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

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

390 (23) Any joint venture ambulatory surgical center that:

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

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

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

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

410 (24) Diagnostic cardiac catheterization in a hospital setting on patients 15 years of age
411 and older;

412 (25) Therapeutic cardiac catheterization in hospitals selected by the department prior to
413 July 1, 2008, to participate in the Atlantic Cardiovascular Patient Outcomes Research
414 Team (C-PORT) Study and therapeutic cardiac catheterization in hospitals that, as
415 determined by the department on an annual basis, meet the criteria to participate in the
416 C-PORT Study but have not been selected for participation; provided, however, that if
417 the criteria requires a transfer agreement to another hospital, no hospital shall
418 unreasonably deny a transfer agreement to another hospital;

419 (26) Infirmaries or facilities operated by, on behalf of, or under contract with the
420 Department of Corrections or the Department of Juvenile Justice for the sole and
421 exclusive purpose of providing health care services in a secure environment to prisoners
422 within a penal institution, penitentiary, prison, detention center, or other secure
423 correctional institution, including correctional institutions operated by private entities in
424 this state which house inmates under the Department of Corrections or the Department
425 of Juvenile Justice;

426 (27) The relocation of any micro-hospital within the same county, any other health care
427 facility in a rural county within the same county, and any other health care facility in an

428 urban county within a three-mile radius of the existing facility so long as the facility does
429 not propose to offer any new or expanded clinical health services at the new location;

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

433 (29) Capital expenditures for a project otherwise requiring a special health care services
434 license if those expenditures are for a project to remodel, renovate, replace, or any
435 combination thereof, a medical-surgical hospital and:

436 (A) That hospital:

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

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

439 (iii) Has at any time been designated as a disproportionate share hospital by the
440 department; and

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

443 (B) That project:

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

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

446 (II) Any increase in bed capacity;

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

448 (IV) Any increase in capacity of existing clinical health services;

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

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

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

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

457 (B) Any increase in inpatient bed capacity;

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

459 (D) A capital expenditure exceeding the threshold contained in paragraph (7) of Code
460 Section 31-6A-1;

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

464 (A) A hospital; or

465 (B) An individual private physician or single group practice of physicians exclusively
466 for use on patients of such private physician or single group practice of physicians and
467 such private physician or member of such single group practice of physicians is
468 physically present at the practice location where the diagnostic or other imaging
469 equipment is located at least 75 percent of the time that the equipment is in use.

470 The amount specified in this paragraph shall not include build-out costs, as defined by the
471 department, but shall include all functionally related equipment, software, and any
472 warranty and services contract costs for the first five years. The acquisition of one or more
473 items of functionally related diagnostic or therapeutic equipment shall be considered as one
474 project. The dollar amount specified in this paragraph and in paragraph (10) of this
475 subsection shall be adjusted annually by an amount calculated by multiplying such dollar
476 amounts (as adjusted for the preceding year) by the annual percentage of change in the
477 consumer price index, or its successor or appropriate replacement index, if any, published
478 by the United States Department of Labor for the preceding calendar year, commencing on
479 July 1, 2010; and

480 (32) A capital expenditure by a hospital at such hospital's primary campus for:

- 481 (A) The expansion or addition of the following clinical health services: operating
482 rooms, other than dedicated outpatient operating rooms; medical-surgical services;
483 gynecology; procedure rooms; intensive care; pharmaceutical services; pediatrics;
484 cardiac care; or other general hospital services; provided, however, that such
485 expenditure does not include the expansion or addition of inpatient beds or the
486 conversion of one type of inpatient bed to another type of inpatient bed; or
487 (B) The movement of clinical health services from one location on the hospital's
488 primary campus to another location on such hospital's primary campus.

489 31-6A-4.

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

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

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

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

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

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

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

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

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

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

514 (d) No application for a special health care services license shall be considered if the
515 applicant or any affiliate organization of the applicant has closed a health care facility
516 under their ownership or reduced or ceased to provide health care services by more than
517 25 percent at a facility under their or an affiliate organization's ownership within the
518 previous ten years.

519 31-6A-5.

520 (a) A written objection to an application for a special health care services license may be
521 submitted within 30 days of the filing of such application with the department, on the
522 grounds that the application is not in the public interest of the community, only by an
523 existing facility that:

524 (1) Is located within a 35 mile radius of the applicant's proposed new facility; and

525 (2) Has not closed a health care facility under their or an affiliate organization's
526 ownership or reduced or ceased to provide health care services by more than 25 percent
527 at a facility under their or an affiliate organization's ownership within the previous ten
528 years.

529 (b) No later than 30 days of receipt of a timely written objection pursuant to subsection (a)
530 of this Code section, the commissioner shall conduct a public interest review and make a
531 written determination as to whether the application is in the public interest of the
532 community, taking into consideration any material adverse impact on the objecting party

533 or parties, unique health care needs of the community (not based on a numerical need
534 formula), atypical barriers or factors, whether the new special health care services would
535 foster competition or make services less costly or more accessible, and whether the
536 applicant performs or proposes to perform activities outside of inpatient or outpatient care
537 in the community for underserved populations. The commissioner may not deny an
538 application based on an objection unless the objecting party shows by clear and convincing
539 evidence that the project does not meet the criteria set forth in this subsection.

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

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

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

549 31-6A-6.

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

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

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

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

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

561 (b) A grantee or successor in interest for a special health care services license or an
562 authorization to operate under this chapter which violates such an agreement or violates
563 any conditions imposed by the department relating to such services shall be liable to the
564 department for a monetary penalty in the amount of 1 percent of its net revenue for every
565 0.5 percent of uncompensated indigent and charity care not provided and may be subject
566 to revocation of its special health care services license, in whole or in part, by the
567 department pursuant to Code Section 31-6A-8. Any penalty so recovered shall be
568 dedicated and deposited by the department into the Indigent Care Trust Fund created
569 pursuant to Code Section 31-8-152 for the purposes set out in Code Section 31-8-154,
570 including expanding Medicaid eligibility and services; programs to support rural and other
571 health care providers, primarily hospitals, who serve the medically indigent; and for
572 primary health care programs for medically indigent citizens and children of this state.

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

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

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

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

588 31-6A-7.

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

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

596 (1) Total gross revenues;

597 (2) Bad debts;

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

599 (4) Contractual adjustments;

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

601 (6) Amounts of charity care provided to indigent persons;

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

605 (8) For cases involving indigent persons:

606 (A) The number of persons treated;

607 (B) The number of inpatients and outpatients;

608 (C) Total patient days;

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

610 (E) The indigent care costs incurred by the health care facility by county of residence.
611 As used in this subsection, the term 'indigent persons' means persons having as a maximum
612 allowable income level an amount corresponding to 125 percent of the federal poverty
613 guideline.

614 (c) The department shall provide a form for the report required by this Code section and
615 may provide in said form for further categorical divisions of the information listed in
616 subsection (b) of this Code section.

617 (d)(1) In the event the department does not receive an annual report from an institution,
618 on or before the date such report was due or receives a timely but incomplete report, the
619 department shall notify the institution regarding the deficiencies and shall be authorized
620 to fine such institution an amount not to exceed \$500.00 per day for every day up to 30
621 days and \$1,000.00 per day for every day over 30 days of such untimely or deficient
622 report. Any fine so recovered shall be dedicated and deposited by the department into the
623 Indigent Care Trust Fund created pursuant to Code Section 31-8-152 for the purposes set
624 out in Code Section 31-8-154, including expanding Medicaid eligibility and services;
625 programs to support rural and other health care providers, primarily hospitals, who serve
626 the medically indigent; and for primary health care programs for medically indigent
627 citizens and children of this state.

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

632 31-6A-8.

633 (a) The department may revoke a special health care services license, in whole or in part,
634 after notice to the holder of the special health care services license and a fair hearing

635 pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' for the
636 following reasons:

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

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

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

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

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

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

647 (b) In the event that a new special health care service is knowingly offered or developed
648 without having obtained a special health care services license as required by this chapter,
649 or the special health care services license for such service is revoked according to the
650 provisions of this Code section, a facility or applicant may be fined an amount of \$5,000.00
651 per day up to 30 days, \$10,000.00 per day from 31 days through 60 days, and \$25,000.00
652 per day after 60 days for each day that the violation of this chapter has existed and
653 knowingly and willingly continues; provided, however, that the expenditure or
654 commitment of or incurring an obligation for the expenditure of funds to take or perform
655 actions not subject to this chapter or to acquire, develop, or prepare a health care facility
656 site for which a special health care services license application is denied shall not be a
657 violation of this chapter and shall not be subject to such a fine. The commissioner shall
658 determine, after notice and a hearing, whether the fines provided in this Code section shall
659 be levied. Any fine so recovered shall be dedicated and deposited by the department into
660 the Indigent Care Trust Fund created pursuant to Code Section 31-8-152 for the purposes
661 set out in Code Section 31-8-154, including expanding Medicaid eligibility and services;

662 programs to support rural and other health care providers, primarily hospitals, who serve
663 the medically indigent; and for primary health care programs for medically indigent
664 citizens and children of this state.

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

669 (d) The department shall have the authority to make public or private investigations or
670 examinations inside or outside of this state to determine whether any provisions of this
671 chapter or any other law, rule, regulation, or formal order relating to the provision of
672 special health care services has been violated. Such investigations may be initiated at any
673 time in the discretion of the department and may continue during the pendency of any
674 action initiated by the department pursuant to this Code section. For the purpose of
675 conducting any investigation or inspection pursuant to this subsection, the department shall
676 have the authority, upon providing reasonable notice, to require the production of any
677 books, records, papers, or other information related to any special health care services
678 license issue.

679 31-6A-9.

680 Any person who acquires a health care facility by stock or asset purchase, merger,
681 consolidation, or other lawful means shall notify the department of such acquisition, the
682 date thereof, and the name and address of the acquiring person. Such notification shall be
683 made in writing to the department within 45 days following the acquisition and the
684 acquiring person may be fined by the department in the amount of \$500.00 for each day
685 that such notification is late. Such fine shall be paid into the state treasury. Any fine so
686 recovered shall be dedicated and deposited by the department into the Indigent Care Trust
687 Fund created pursuant to Code Section 31-8-152 for the purposes set out in Code

688 Section 31-8-154, including expanding Medicaid eligibility and services; programs to
689 support rural and other health care providers, primarily hospitals, who serve the medically
690 indigent; and for primary health care programs for medically indigent citizens and children
691 of this state.

692 31-6A-10.

693 (a) Except as provided in subsection (c) of this Code section, on and after January 1, 2024,
694 health care facilities, as defined in Code Section 31-6A-1, shall not be subject to the former
695 provisions of Chapter 6 of this title, as such existed on December 31, 2023, and shall not
696 be required to obtain or retain a certificate of need in order to operate, but all such valid
697 certificates of need in existence on December 31, 2023, shall be converted by operation of
698 law to special health care services licenses and all such license holders shall be subject to
699 the provisions of this chapter on and after such date; provided, however, that such health
700 care facilities shall not be subject to the requirements of Code Section 31-6A-6 but shall
701 instead be subject to any conditions previously imposed by the department relating to
702 indigent or charity care and participation as a Medicaid provider that were in effect on
703 December 31, 2023, pursuant to the former provisions of Chapter 6 of this title, as such
704 existed on December 31, 2023. The department may withhold all or any portion of
705 disproportionate share hospital funds to any hospital exempt pursuant to this subsection
706 that fails to meet any conditions previously imposed by the department relating to indigent
707 and charity care for two consecutive years. In the event a health care facility operating
708 pursuant to this subsection receives any modification of its special health care services
709 license, it shall immediately become subject to the requirements contained in Code Section
710 31-6A-6 in lieu of the conditions previously imposed by the department relating to indigent
711 or charity care and participation as a Medicaid provider or PeachCare for Kids Program
712 provider that were in effect on December 31, 2023.

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

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

727 (c)(1) On and after January 1, 2024, a destination cancer hospital that was granted a
728 certificate of need pursuant to the former provisions of Chapter 6 of this title, as such
729 existed on December 31, 2023, may convert to a hospital by notifying the department in
730 writing as to the date of conversion. Upon such conversion, the hospital may continue
731 to provide all institutional health services and other services it provided as of the date of
732 such conversion, including, but not limited to, inpatient beds, outpatient services, surgery,
733 radiation therapy, imaging, and positron emission tomography (PET) scanning, without
734 any further approval from the department; provided, however, that upon such conversion,
735 such hospital shall immediately become subject to the requirements of Code
736 Section 31-6A-6. On and after the date of conversion, the hospital shall be classified as
737 a hospital under this chapter and shall be subject to all requirements and conditions for
738 any new special health care services license requirements, exemptions, and for all other
739 purposes, except as otherwise provided herein.

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

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

747 31-6A-11.

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

750

PART III

751

SECTION 3-1.

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

756 "31-7-24.

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

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

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

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

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

766 **SECTION 3-2.**

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

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

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

780 (2) 'Public record' means all documents, papers, letters, maps, books, tapes, photographs,
781 computer based or generated information, data, data fields, or similar material prepared
782 and maintained or received by an agency or by a private person or entity in the
783 performance of a service or function for or on behalf of an agency or when such
784 documents have been transferred to a private person or entity by an agency for storage
785 or future governmental use, including, but not limited to, any such material in the
786 possession or control of a nonprofit organization to which is leased and transferred
787 hospital assets of a hospital authority through a corporate restructuring which are related
788 to the operation of the hospital and other leased facilities in the performance of services
789 on behalf of the hospital authority."

PART IV

SECTION 4-1.

792 Code Section 16-11-62 of the Official Code of Georgia Annotated, relating to eavesdropping,
 793 surveillance, or intercepting communication which invades privacy of another, and divulging
 794 private message, is amended by revising paragraph (8) as follows:

795 "(8) Any person to intentionally and in a clandestine manner place, or direct someone
 796 else to place, a global positioning system monitoring device, or any other electronic
 797 monitoring device, on a motor vehicle owned or leased by another person without the
 798 consent of such person when such person has a protective order pursuant to Code Section
 799 17-17-16, 19-13-4, or 19-13A-4, or a protective order from another jurisdiction, against
 800 the person who places, or directs another to place, the global positioning system
 801 monitoring device or other electronic device. Nothing in this paragraph shall be
 802 construed to limit electronic monitoring as provided in Code Sections 31-7-12 and
 803 31-7-12.1, ~~and 31-6-2~~; or"

SECTION 4-2.

805 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
 806 Section 31-2-4, relating to the powers, duties, functions, and responsibilities of the
 807 Department of Community Health, by revising paragraph (13) of subsection (d) as follows:

808 "(13) Shall request any necessary federal approval ~~for and facilitate the application of~~
 809 ~~certificates of need~~ for facilities capable of providing long-term care services, with
 810 Medicaid as the primary funding source, to inmates who are eligible for such services and
 811 funding upon ~~his or her~~ their release from a public institution, as such term is defined in
 812 Code Section 49-4-31."

813 **SECTION 4-3.**

814 Said title is further amended in Code Section 31-2-5, relating to the transfer of personnel and
815 functions to the Department of Community Health, by revising subsection (c) as follows:

816 "(c) The department shall succeed to all rules, regulations, policies, procedures, and
817 administrative orders of the predecessor agency or unit which were in effect on June 30,
818 2009, or scheduled to go into effect on or after July 1, 2009, and which relate to the
819 functions transferred to the department by this chapter. Such rules, regulations, policies,
820 procedures, and administrative orders shall remain in effect until amended, repealed,
821 superseded, or nullified by proper authority or as otherwise provided by law. Rules of the
822 department shall be adopted, promulgated, and implemented as provided in Chapter 13 of
823 Title 50, the 'Georgia Administrative Procedure Act,' ~~except that only rules promulgated~~
824 ~~pursuant to Chapter 6 of this title shall be subject to the provisions of Code Section~~
825 ~~31-6-21.1."~~

826 **SECTION 4-4.**

827 Said title is further amended in Code Section 31-2-7, relating to rules and regulations and
828 variances and waivers, by revising subsection (b) as follows:

829 "(b) The department upon application or petition may grant variances and waivers to
830 specific rules and regulations which establish standards for facilities or entities regulated
831 by the department as follows:

832 (1) The department may authorize departure from the literal requirements of a rule or
833 regulation by granting a variance upon a showing by the applicant or petitioner that the
834 particular rule or regulation that is the subject of the variance request should not be
835 applied as written because strict application would cause undue hardship. The applicant
836 or petitioner additionally must show that adequate standards affording protection of
837 health, safety, and care exist and will be met in lieu of the exact requirements of the rule
838 or regulation in question;

839 (2) The department may dispense entirely with the enforcement of a rule or regulation
840 by granting a waiver upon a showing by the applicant or petitioner that the purpose of the
841 rule or regulation is met through equivalent standards affording equivalent protection of
842 health, safety, and care;

843 (3) The department may grant waivers and variances to allow experimentation and
844 demonstration of new and innovative approaches to delivery of services upon a showing
845 by the applicant or petitioner that the intended protections afforded by the rule or
846 regulation which is the subject of the request are met and that the innovative approach has
847 the potential to improve service delivery;

848 (4) Waivers or variances which affect an entire class of facilities may only be approved
849 by the Board of Community Health and shall be for a time certain, as determined by the
850 board. A notice of the proposed variance or waiver affecting an entire class of facilities
851 shall be made in accordance with the requirements for notice of rule making in Chapter
852 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

853 (5) Variances or waivers which affect only one facility in a class may be approved or
854 denied by the department and shall be for a time certain, as determined by the
855 department. The department shall maintain a record of such action and shall make this
856 information available to the board and all other persons who request it.

857 ~~This subsection shall not apply to rules adopted by the department pursuant to Code~~
858 ~~Section 31-6-21.1."~~

859 **SECTION 4-5.**

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

862 "(a) Any person or persons responsible for the operation of any institution, or who may
863 hereafter propose to establish and operate an institution and to provide specified clinical
864 services, shall submit an application to the department for a permit to operate the institution

865 and provide such services, with such application to be made on forms prescribed by the
866 department. No institution shall be operated in this state without such a permit, which shall
867 be displayed in a conspicuous place on the premises. No clinical services shall be provided
868 by an institution except as approved by the department in accordance with the rules and
869 regulations established pursuant to Code Section 31-7-2.1. Failure or refusal to file an
870 application for a permit shall constitute a violation of this chapter and shall be dealt with
871 as provided for in Article 1 of Chapter 5 of this title. Following inspection and
872 classification of the institution for which a permit is applied for, the department may issue
873 or refuse to issue a permit or a provisional permit. Permits issued shall remain in force and
874 effect until revoked or suspended; provisional permits issued shall remain in force and
875 effect for such limited period of time as may be specified by the department. Upon
876 conclusion of the Atlantic Cardiovascular Patient Outcomes Research Team (C-PORT)
877 Study, the department shall consider and analyze the data and conclusions of the study and
878 promulgate rules pursuant to Code Section 31-7-2.1 to regulate the quality of care for
879 therapeutic cardiac catheterization. All hospitals that participated in the study and ~~are~~ were
880 exempt from obtaining a certificate of need based on paragraph (22) of subsection (a) of
881 former Code Section 31-6-47 as it existed on December 31, 2023, shall apply for a permit
882 to continue providing therapeutic cardiac catheterization services once the department
883 promulgates the rules required by this Code section."

884 **SECTION 4-6.**

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

887 "(24) To provide management, consulting, and operating services including, but not
888 limited to, administrative, operational, personnel, and maintenance services to another
889 hospital authority, hospital, health care facility, as said term is defined in ~~Chapter 6 of this~~
890 title Code Section 31-6A-1, person, firm, corporation, or any other entity or any group

891 or groups of the foregoing; to enter into contracts alone or in conjunction with others to
 892 provide such services without regard to the location of the parties to such transactions;
 893 to receive management, consulting, and operating services including, but not limited to,
 894 administrative, operational, personnel, and maintenance services from another such
 895 hospital authority, hospital, health care facility, person, firm, corporation, or any other
 896 entity or any group or groups of the foregoing; and to enter into contracts alone or in
 897 conjunction with others to receive such services without regard to the location of the
 898 parties to such transactions;"

899 **SECTION 4-7.**

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

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

908 **SECTION 4-8.**

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

913 "(i) No bonds or bond anticipation notes except refunding bonds shall be issued by an
 914 authority under this article unless its board of directors ~~shall adopt~~ adopts a resolution
 915 finding that the project for which such bonds or notes are to be issued will promote the

916 objectives stated in subsection (b) of Code Section 31-7-111 and will increase or maintain
 917 employment in the territorial area of such authority. Nothing contained in this Code
 918 section shall be construed as permitting any authority created under this article or any
 919 qualified sponsor to finance, construct, or operate any project without obtaining any
 920 ~~certificate of need or other~~ approval, permit, or license which, under the laws of this state,
 921 is required in connection therewith."

922 **SECTION 4-9.**

923 Said title is further amended by repealing and reserving Code Section 31-7-155, relating to
 924 certificates of need for new service or extending service area and exemption from certificate.

925 **SECTION 4-10.**

926 Said title is further amended by repealing in its entirety Code Section 31-7-179, relating to
 927 certificate of need not required for hospice care.

928 **SECTION 4-11.**

929 Said title is further amended by revising Code Section 31-7-307, relating to certificate of
 930 need not required of private home care provider licensees, as follows:

931 "31-7-307.

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

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

940 **SECTION 4-12.**

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

943 "31-8-153.1.

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

954 **SECTION 4-13.**

955 Said title is further amended by revising Code Section 31-8-181, relating to individuals and
956 hospitals excluded from application of article, as follows:

957 "31-8-181.

958 This article shall not apply to the following:

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

966 (2) A hospital. However, to the extent that a hospital's nursing home, personal care
 967 home as defined by Code Section ~~31-6-2~~ 31-6A-1, hospice as defined by Code Section
 968 31-7-172, respite care service as defined by Code Section 49-6-72, adult day program,
 969 or home health agency holds itself out as providing care, treatment, or therapeutic
 970 activities for persons with Alzheimer's disease or Alzheimer's related dementia as part of
 971 a specialty unit, such nursing home, personal care home, hospice, respite care service,
 972 adult day program, or home health agency shall be subject to the provisions of this
 973 article."

974 **SECTION 4-14.**

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

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

983 **SECTION 4-15.**

984 Code Section 33-45-1 of the Official Code of Georgia Annotated, relating to definitions
 985 relative to continuing care providers and facilities, is amended by revising paragraphs (1),
 986 (8), and (15) as follows:

987 "(1) 'Continuing care' means furnishing pursuant to a continuing care agreement:

988 (A) Lodging that is not:

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

- 991 (ii) An intermediate care facility, as such term is defined in ~~Code Section 31-6-2~~
 992 Code Section 31-6A-1;
- 993 (iii) An assisted living community, as such term is defined in Code Section
 994 31-7-12.2; or
- 995 (iv) A personal care home, as such term is defined in Code Section 31-7-12;
- 996 (B) Food; and
- 997 (C) Nursing care provided in a facility or in another setting designated by the
 998 agreement for continuing care to an individual not related by consanguinity or affinity
 999 to the provider furnishing such care upon payment of an entrance fee including skilled
 1000 or intermediate nursing services and, at the discretion of the continuing care provider,
 1001 personal care services including, without limitation, assisted living care services
 1002 designated by the continuing care agreement, including such services being provided
 1003 pursuant to a contract to ensure the availability of such services to an individual not
 1004 related by consanguinity or affinity to the provider furnishing such care upon payment
 1005 of an entrance fee.
- 1006 Such term shall not include continuing care at home."
- 1007 "(8) 'Limited continuing care' means furnishing pursuant to a continuing care agreement:
- 1008 (A) Lodging that is not:
- 1009 (i) In a skilled nursing facility, as such term is defined in ~~Code Section 31-6-2~~ Code
 1010 Section 31-6A-1;
- 1011 (ii) An intermediate care facility, as such term is defined in ~~Code Section 31-6-2~~
 1012 Code Section 31-6A-1;
- 1013 (iii) An assisted living community, as such term is defined in Code Section
 1014 31-7-12.2; or
- 1015 (iv) A personal care home, as such term is defined in Code Section 31-7-12;
- 1016 (B) Food; and

1017 (C) Personal services, whether such personal services are provided in a facility such
 1018 as a personal care home or an assisted living community or in another setting
 1019 designated by the continuing care agreement, to an individual not related by
 1020 consanguinity or affinity to the provider furnishing such care upon payment of an
 1021 entrance fee.

1022 Such term shall not include continuing care at home."

1023 "(15) 'Residential unit' means a residence or apartment in which a resident lives that is
 1024 not a skilled nursing facility as defined in ~~Code Section 31-6-2~~ Code Section 31-6A-1,
 1025 an intermediate care facility as defined in ~~Code Section 31-6-2~~ Code Section 31-6A-1,
 1026 an assisted living community as defined in Code Section 31-7-12.2, or a personal care
 1027 home as defined in Code Section 31-7-12."

1028 **SECTION 4-16.**

1029 Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificate of
 1030 authority required for operation of life plan facilities, is amended by revising subsections (b)
 1031 and (d) as follows:

1032 "(b) Nothing in this chapter shall be construed so as to modify or limit in any way:

1033 ~~(1) Provisions of Article 3 of Chapter 6 of Title 31 and any rules and regulations~~
 1034 ~~promulgated by the Department of Community Health pursuant to such article relating~~
 1035 ~~to certificates of need for life plan communities or home health agencies, as such terms~~
 1036 ~~are defined in Code Section 31-6-2; or~~

1037 ~~(2) Provisions~~ provisions of Chapter 7 of Title 31 relating to licensure or permit
 1038 requirements and any rules and regulations promulgated by the Department of
 1039 Community Health pursuant to such chapter, including, without limitation, licensure or
 1040 permit requirements for nursing home care, assisted living care, personal care home
 1041 services, home health services, and private home care services."

1042 "(d) A provider of continuing care at home may contract with a licensed home health
1043 agency to provide home health services to a resident. In order to provide home health
1044 services directly, a provider of continuing care at home shall obtain a certificate of need for
1045 a home health agency, as such term is defined in Code Section ~~31-6-2~~ 31-6A-1, pursuant
1046 to the same criteria and rules as are applicable to freestanding home health agencies that
1047 are not components of life plan communities."

1048 **SECTION 4-17.**

1049 Code Section 33-45-7.1 of the Official Code of Georgia Annotated, relating to provider
1050 authorized to offer continuing care when resident purchases resident owned living unit, is
1051 amended as follows:

1052 "33-45-7.1.

1053 A provider which has obtained a certificate of authority pursuant to Code Section 33-45-5
1054 and the written approval of the Commissioner is authorized to offer, as a part of the
1055 continuing care agreement, continuing care at home or continuing care in which the
1056 resident purchases a resident owned living unit, subject to the provisions of Chapters ~~6~~ 6A
1057 and 7 of Title 31 and rules and regulations promulgated by the Department of Community
1058 Health pursuant to such ~~chapters~~ chapter relating to certificate of need and licensure
1059 requirements."

1060 **SECTION 4-18.**

1061 Code Section 37-1-29 of the Official Code of Georgia Annotated, relating to crisis
1062 stabilization units, is amended by revising subsection (j) as follows:

1063 "~~(j) Any program certified as a crisis stabilization unit pursuant to this Code section shall~~
1064 ~~be exempt from the requirements to obtain a certificate of need pursuant to Article 3 of~~
1065 ~~Chapter 6 of Title 31. Reserved.~~"

1066

SECTION 4-19.

1067 Code Section 43-26-7 of the Official Code of Georgia Annotated, relating to requirements
1068 for licensure as a registered professional nurse, is amended by revising paragraph (4) of
1069 subsection (c) as follows:

1070 “(4)(A)(i) Meet continuing competency requirements as established by the board;
1071 ~~(B)(ii)~~ If the applicant entered a nontraditional nursing education program as a
1072 licensed practical nurse whose academic education as a licensed practical nurse
1073 included clinical training in pediatrics, obstetrics and gynecology, medical-surgical,
1074 and mental illness, ~~have~~ has practiced nursing as a registered professional nurse in a
1075 health care facility for at least one year in the three years preceding the date of the
1076 application, and such practice is documented by the applicant and approved by the
1077 board; provided, however, that for an applicant who does not meet the experience
1078 requirement of this ~~subparagraph~~ division, the board shall require the applicant to
1079 complete a 320 hour postgraduate preceptorship arranged by the applicant under the
1080 oversight of a registered nurse where such applicant is transitioned into the role of a
1081 registered professional nurse. The preceptorship shall have prior approval of the
1082 board, and successful completion of the preceptorship shall be verified in writing by
1083 the preceptor; or

1084 ~~(C)(iii)~~ If the applicant entered a nontraditional nursing education program as
1085 anything other than a licensed practical nurse whose academic education as a licensed
1086 practical nurse included clinical training in pediatrics, obstetrics and gynecology,
1087 medical-surgical, and mental illness, ~~have~~ has graduated from such program and
1088 practiced nursing as a registered professional nurse in a health care facility for at least
1089 two years in the five years preceding the date of the application, and such practice is
1090 documented by the applicant and approved by the board; provided, however, that for
1091 an applicant who does not meet the experience requirement of this ~~subparagraph~~
1092 division, the board shall require the applicant to complete a postgraduate
1093 preceptorship of at least 480 hours but not more than 640 hours, as determined by the

1094 board, arranged by the applicant under the oversight of a registered professional nurse
 1095 where such applicant is transitioned into the role of a registered professional nurse.
 1096 The preceptorship shall have prior approval of the board, and successful completion
 1097 of the preceptorship shall be verified in writing by the preceptor.

1098 (B) For purposes of this paragraph, the term 'health care facility' means an acute care
 1099 inpatient facility, a long-term acute care facility, an ambulatory surgical center or
 1100 obstetrical facility as defined in Code Section ~~31-6-2~~ 31-6A-1, and a skilled nursing
 1101 facility, so long as such skilled nursing facility has 100 beds or more and provides
 1102 health care to patients with similar health care needs as those patients in a long-term
 1103 acute care facility;"

1104 **SECTION 4-20.**

1105 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to the
 1106 applicability of the Administrative Procedure Act, is amended by revising subsection (a) as
 1107 follows:

1108 "(a) In addition to those agencies expressly exempted from the operation of this chapter
 1109 under paragraph (1) of Code Section 50-13-2, this article shall not apply to the
 1110 Commissioner of Agriculture, the Public Service Commission, ~~the Certificate of Need~~
 1111 ~~Appeal Panel~~, or the Department of Community Health, unless specifically provided
 1112 otherwise for certain programs or in relation to specific laws, or to the Department of Labor
 1113 with respect to unemployment insurance benefit hearings conducted under the authority of
 1114 Chapter 8 of Title 34. Such exclusion does not prohibit such office or agencies from
 1115 contracting with the Office of State Administrative Hearings on a case-by-case basis."

1116 **SECTION 4-21.**

1117 Code Section 50-26-19 of the Official Code of Georgia Annotated, relating to financing
 1118 acquisition, construction, and equipping of health care facilities, is amended by repealing
 1119 subsection (c).

1120

SECTION 4-22.

1121 Code Section 51-16-1 of the Official Code of Georgia Annotated, relating to definitions
1122 relative to the COVID-19 Pandemic Business Safety Act, is amended by revising paragraph
1123 (5) as follows:

1124 "(5) 'Healthcare facility' shall have the same meaning as 'healthcare facility' as provided
1125 for in paragraph (17) of Code Section 31-6-2, as it existed on December 30, 2023, and
1126 all related parties; as 'institution' as provided for in subparagraphs (A) and (C) through
1127 (G) of paragraph (4) and paragraph (5) of Code Section 31-7-1 and all related parties; as
1128 'end stage renal disease' as provided for in paragraph (6) of Code Section 31-44-1 and all
1129 related parties; and shall mean the recipient of a contract as authorized in paragraph (5)
1130 of Code Section 37-1-20 and any clinical laboratory certified under the Clinical
1131 Laboratory Improvement Amendments in Section 353 of the Public Health Service Act,
1132 42 U.S.C. Section 263a. Such term shall not be construed to include premises."

1133

PART V

1134

SECTION 5-1.

1135 For purposes of rule-making, this Act shall become effective upon its approval by the
1136 Governor or upon its becoming law without such approval. For all other purposes, this Act
1137 shall become effective on January 1, 2024.

1138

SECTION 5-2.

1139 All laws and parts of laws in conflict with this Act are repealed.