

HB247 INTRODUCED



1 HB247
2 C599JQQ-1
3 By Representative Harrison
4 RFD: State Government
5 First Read: 27-Feb-24



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SYNOPSIS:

Under existing law, health care facilities and providers, with some exceptions, are required to apply for and obtain a certificate of need before they may construct new facilities or offer new or expanded services.

This bill would repeal the certificate of need program and abolish the state agencies, councils, and boards that either collect data in support of or operate the certificate of need program.

This bill would further update code sections to remove references both to the certificate of need program and those agencies, councils, and boards, and make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Certificate of Need Program; to amend Sections 16-17A-17, 16-17A-21, 22-12A-3, 22-21-336, 22-21-341, and 31-5A-11, Code of Alabama 1975; to repeal Article 1, commencing with Section 22-4-1 of Chapter 4 of Title 22, Code



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29 of Alabama 1975, creating the State Health Planning and
30 Development Agency; to repeal Article 2, commencing with
31 Section 22-4-30 of Chapter 4 of Title 22, Code of Alabama
32 1975, the Alabama Health Planning Facilitation Act; to repeal
33 Article 9, commencing with Section 22-21-260 of Chapter 21 of
34 Title 22, Code of Alabama 1975, relating to review of certain
35 new health care facilities and services; to eliminate the
36 certificate of need program for health care facilities and
37 services; to abolish the Certificate of Need Review Board, the
38 State Health Planning and Development Agency, the Statewide
39 Health Coordinating Council, and the Health Care Information
40 and Data Advisory Council; and to update related code sections
41 to remove references both to the certificate of need program
42 and to the authority, responsibilities, and powers of the
43 Certificate of Need Review Board, the State Health Planning
44 and Development Agency, the Statewide Health Coordinating
45 Council, and the Health Care Information and Data Advisory
46 Council; and to make nonsubstantive, technical revisions to
47 update the existing code language to current style.

48 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

49 Section 1. Sections 16-17A-17, 16-17A-21, 22-12A-3,
50 22-21-336, 22-21-341, and 31-5A-11, Code of Alabama 1975, are
51 amended to read as follows:

52 "§16-17A-17

53 (a) The state, any university, any governmental entity,
54 and any public corporation is hereby authorized to give,
55 transfer, convey, or sell to any authority or a university
56 affiliate, with or without consideration:



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57 (1) Any of its health care facilities and other
58 properties, real or personal, and any funds and assets,
59 tangible or intangible, relative to the ownership or operation
60 of any such health care facilities, ~~including any certificates~~
61 ~~of need, assurances of need, or other similar~~ and any rights
62 appertaining or ancillary thereto, irrespective of whether
63 they have been exercised.

64 (2) Any taxes, revenues, or funds owned or controlled
65 by it.

66 ~~(3) Nothing in this chapter shall be construed as~~
67 ~~allowing an authority or university affiliate to be exempt~~
68 ~~from compliance with all applicable laws and regulations of~~
69 ~~the State Certificate of Need program and the Alabama State~~
70 ~~Health Planning and Development Agency.~~

71 (b) The state, any governmental entity, any university,
72 or any public corporation may pledge its full faith and credit
73 to or for the benefit of an authority or a university
74 affiliate or may pledge any revenues that it is legally
75 entitled to pledge to or for the benefit of an authority or
76 university affiliate.

77 (c) An authority or university affiliate shall
78 constitute a hospital corporation as that term is used in
79 Title 22, Chapter 21, Article 4, Division 2, and any county
80 otherwise authorized to do so may designate any authority or
81 university affiliate as the agency of that county to acquire,
82 construct, equip, operate, and maintain public hospital
83 facilities in that county. The authority ~~shall~~, if so
84 designated, shall receive the proceeds from any special public



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85 hospital tax available in that county."

86 "§16-17A-21

87 (a) Any public corporation that meets the criteria
88 specified in subsection (b) may reincorporate as an authority
89 under this chapter, and become subject to and governed by this
90 chapter, as provided in this section.

91 (b) A public corporation may reincorporate under this
92 section if it satisfies both of the following:

93 (1) The public corporation is a health care authority
94 incorporated or reincorporated under Title 22, Chapter 21,
95 Articles 11 and 11A.

96 (2) The public corporation was incorporated with the
97 approval of a university.

98 (c) In order to reincorporate a qualifying public
99 corporation as an authority, the following steps shall be
100 completed:

101 (1) The board of directors of the qualifying public
102 corporation shall first adopt a resolution proposing articles
103 of reincorporation.

104 (2) After the adoption by the board of a resolution
105 approving articles of reincorporation, the qualifying public
106 corporation shall file with the sponsoring university a
107 written request for adoption of a resolution approving the
108 proposed reincorporation.

109 (3) As promptly as may be practicable after the receipt
110 of the application from the qualifying public corporation, the
111 university that formed the qualifying public corporation shall
112 review the application and shall adopt a resolution either



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113 approving or denying the articles of reincorporation as
114 proposed by the authority.

115 (d) Within 30 days following the approval of the
116 articles of reincorporation by the university that formed the
117 qualifying public corporation, the president or vice president
118 of the authority shall sign and file for record in the office
119 of the Secretary of State all of the following items:

120 (1) The original articles of reincorporation.

121 (2) A certified copy of each resolution approving the
122 articles of reincorporation.

123 (3) A certificate of the Secretary of State confirming
124 that the name proposed for the authority is not identical to
125 that of any other corporation organized under state law or so
126 nearly similar thereto as to lead to confusion and
127 uncertainty.

128 (e) Upon the filing for record of the articles of
129 reincorporation and the documents required by subsection (d),
130 the articles of reincorporation shall become effective and the
131 authority shall immediately be vested with all powers and
132 privileges of this chapter. The Secretary of State shall
133 thereupon record the articles of reincorporation in an
134 appropriate book in his or her office.

135 (f) A university may not reincorporate a public
136 corporation without the consent of the board of directors of
137 the public corporation.

138 (g) The articles of reincorporation of an authority may
139 amend and restate the articles of incorporation of the
140 qualifying public corporation if approved in accordance with



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141 this section.

142 (h) Reincorporation of a qualifying public corporation
143 as an authority shall not impair the rights of creditors nor
144 impair the provisions of any contract of a reincorporated
145 public corporation. Upon reincorporation, all assets,
146 liabilities, ~~certificates of need~~, permits, licenses, or
147 governmental approvals shall immediately transfer from the
148 reincorporated public corporation and vest in the authority.
149 Upon notice of reincorporation, all state regulatory bodies
150 shall cooperate with the authority in order to transfer all
151 ~~certificates of need~~, permits, licenses, or governmental
152 approvals from the reincorporated public corporation to the
153 authority."

154 "§22-12A-3

155 (a) The Bureau of Maternal and Child Health under the
156 direction of the State Board of Health shall, in coordination
157 with ~~the State Health Planning and Development Agency, the~~
158 ~~State Health Coordinating Council~~, the Alabama Council on
159 Maternal and Infant Health and the regional and State
160 Perinatal Advisory Committees, annually prepare a plan,
161 consistent with the legislative intent of Section 22-12A-2, to
162 reduce infant mortality and handicapping conditions to be
163 presented to legislative health and finance committees prior
164 to each regular session of the Legislature. ~~Such a~~This plan
165 shall include all of the following:

166 (1) ~~primary~~Primary care, hospital care, and prenatal
167 care.

168 (2) ~~secondary~~Secondary and tertiary levels of care,



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169 both in ~~hospital~~hospitals and on an ~~out-patient~~outpatient
170 basis~~†~~.

171 (3) ~~transportation~~Transportation of patients for
172 medical services and care.

173 (4) ~~and follow-up~~Follow-up and evaluation of infants
174 through the first year of life~~†~~.

175 (5) ~~and optional~~Optional, age-appropriate educational
176 programs, ~~including pupils in schools at appropriate ages, for~~
177 ~~good~~ that present perinatal care ~~covered pursuant to the~~
178 ~~provisions of this chapter.~~

179 (b) All recommendations for expenditure of funds shall
180 be in accord with provisions of this plan."

181 "§22-21-336

182 (a) Any municipality, county, or educational
183 institution, any public hospital corporation and any other
184 public agency, authority or body is ~~hereby~~ authorized to
185 transfer and convey to any authority, with or without
186 consideration:

187 (1) Any health care facilities and other properties,
188 real or personal, and all funds and assets, tangible or
189 intangible, relative to the ownership or operation of any such
190 health care facilities that may be owned by such municipality,
191 county, educational institution, public hospital corporation
192 or other public agency, authority, or body, ~~as the case may~~
193 ~~be~~, or that may be jointly owned by any two or more of the
194 foregoing entities ~~thereof, including, without limiting the~~
195 ~~generality of the foregoing, any certificates of need,~~
196 ~~assurances of need or other similar rights appertaining or~~



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197 ~~ancillary thereto, irrespective of whether they have been~~
198 ~~exercised; and.~~

199 (2) Any funds owned or controlled by ~~such~~any
200 municipality, county, educational institution, public hospital
201 corporation or other public agency, authority,, or body,~~as the~~
202 ~~case may be,~~ or jointly by any two or more of the foregoing
203 entities ~~thereof,~~ that may have been raised or allocated for
204 any of the purposes for which ~~such~~the authority ~~shall have~~
205 ~~been~~ was organized, whether or not ~~such~~the property is
206 considered necessary for the conduct of the governmental or
207 public functions ~~, (if any),~~ of ~~such~~the municipality, county,
208 educational institution, public hospital corporation or other
209 public agency, authority,, or body.

210 (b) (1) ~~Such~~Any transfer or conveyance under this
211 section shall be authorized by an ordinance or resolution ~~duly~~
212 adopted by the governing body of ~~such~~the municipality, county,
213 or educational institution or by the board of directors or
214 other governing body of ~~such~~the public hospital corporation or
215 other public agency, authority,, or body,~~as the case may be,~~
216 ~~and it shall not be necessary, any provision of law to the~~
217 ~~contrary notwithstanding, to obtain any certificate of need,~~
218 ~~assurance of need or other similar permit for any such~~
219 ~~transfer or conveyance.~~

220 (2) In the event of the transfer of any health care
221 facilities to the authority, any hospital tax proceeds, other
222 tax proceeds,, and other revenues apportioned or allocated to
223 or for the benefit of the prior owner or operator of ~~such~~the
224 health care facilities or for patient care at ~~such~~the health



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225 care facilities shall thereafter be paid to the authority."

226 "§22-21-341

227 (a) Any public hospital corporation may be
228 reincorporated under this article, ~~and~~ and avail itself of all
229 rights, powers, and privileges, and become subject to all
230 duties, obligations, and responsibilities conferred or imposed
231 by this article, in the following manner:

232 (1) The board of directors or other governing body of
233 ~~such~~the public hospital corporation shall adopt a resolution
234 that includes both of the following:

235 a. ~~stating~~A statement that it proposes and applies for
236 permission to reincorporate ~~hereunder~~under this article.

237 b. ~~and containing a form of~~A proposed certificate of
238 reincorporation, which ~~such certificate of reincorporation~~
239 shall include, with the necessary changes in detail, the
240 information required to be included in a certificate of
241 incorporation described in Section 22-21-314, ~~other than~~
242 ~~that~~excluding the information referred to in subdivision (b)
243 (1) thereof.

244 (2) ~~Such~~The public hospital corporation shall ~~as~~
245 ~~promptly as practicable thereafter~~promptly file a certified
246 copy of ~~such~~the resolution with the governing body of each
247 county or municipality that authorized the formation of
248 ~~such~~the public hospital corporation. ~~(and, with respect to~~
249 ~~any~~If the public hospital corporation was organized under ~~the~~
250 ~~provisions of~~ Article 6 of this chapter, the public hospital
251 corporation shall also file a certified copy of the resolution
252 with the governing body of any other municipality that is ~~then~~



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253 a ~~"member" thereof); and each such~~ a member of the public
254 hospital corporation. Each member county and municipality
255 shall be deemed an "authorizing subdivision" with respect to
256 any ~~such~~ public hospital corporation reincorporated
257 ~~hereunder~~ under this article.

258 (3) The governing body of each authorizing subdivision
259 shall, ~~as promptly as may be practicable after the filing of~~
260 ~~said certified resolution,~~ review and act upon the ~~said~~
261 resolution and application in the manner, with the necessary
262 changes in detail, prescribed in Section 22-21-313.

263 (4) ~~The~~ Either the chairman ~~(or other principal officer)~~
264 and the secretary of ~~such~~ the public hospital corporation shall
265 ~~thereupon~~ sign and acknowledge a certificate of
266 reincorporation, in the form included in the resolution
267 referred to in subdivision (1) ~~of this section, and cause it~~
268 ~~to be filed,~~ and file it for record in the office specified in
269 Section 22-21-314.

270 (5) ~~Thereupon, such~~ When the certificate of
271 reincorporation ~~shall be filed and is~~ recorded by the judge of
272 probate as provided in Section 22-21-314, ~~and~~ the existence of
273 ~~such~~ the public hospital corporation as an authority under this
274 article shall commence ~~begin upon the filing of such~~
275 ~~certificate of reincorporation as provided for in this~~
276 ~~section.~~

277 (b) No ~~such~~ reincorporation shall ~~in any manner~~ affect
278 the rights of creditors or the rights or liabilities of the
279 public hospital corporation existing at the time of ~~such~~ the
280 reincorporation ~~or shall (any provision of law to the contrary~~



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281 ~~notwithstanding) necessitate the obtaining by such~~
282 ~~reincorporated public hospital corporation or the reissuance~~
283 ~~of any certificate of need, assurance of need or other similar~~
284 ~~permit~~. With respect to any public hospital corporation
285 reincorporated ~~hereunder~~under this article, any reference
286 herein to a certificate of incorporation thereof shall also
287 include and refer to its certificate of reincorporation."

288 "§31-5A-11

289 Any home in addition to the one located in Alexander
290 City, Alabama, or any proposed new service or proposed change
291 of service or any requirement then deemed applicable shall be
292 subject to ~~the certificate of need process~~, the Department of
293 Public Health Division of Licensure and Certification and any
294 and all review and approval processes, criteria, statutory,
295 and administrative rules ~~and regulations~~ then applicable to
296 any proposed privately-owned ~~and/or~~ operated nursing home
297 facility or health care provider seeking to operate in
298 Alabama. All state veterans' nursing homes, domiciliaries,
299 hospitals, or any other health related activities shall be
300 subject to all the rules ~~and regulations~~ governing ~~and~~
301 ~~controlling~~ the operation of a privately-owned facility or
302 provider of health services in the State of Alabama."

303 Section 2. (a) Article 1, commencing with Section
304 22-4-1 of Chapter 4 of Title 22, Code of Alabama 1975,
305 creating the State Health Planning and Development Agency, is
306 repealed.

307 (b) Article 2, commencing with Section 22-4-30 of
308 Chapter 4 of Title 22, Code of Alabama 1975, the Alabama



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309 Health Planning Facilitation Act, is repealed.

310 (c) Article 9, commencing with Section 22-21-260 of
311 Chapter 21 of Title 22, Code of Alabama 1975, relating to
312 review of certain new health care facilities and services, is
313 repealed.

314 Section 3. The Certificate of Need Review Board is
315 abolished, and any funds held by or for the operation of the
316 Certificate of Need Review Board shall revert to the State
317 General Fund.

318 Section 4. The State Health Planning and Development
319 Agency is abolished, and any funds held by or for the
320 operation of the State Health Planning and Development Agency
321 shall revert to the State General Fund.

322 Section 5. The Statewide Health Coordinating Council is
323 abolished, and any funds held by or for the operation of the
324 Statewide Health Coordinating Council shall revert to the
325 State General Fund.

326 Section 6. The Health Care Information and Data
327 Advisory Council is abolished, and any funds held by or for
328 the operation of the Health Care Information and Data Advisory
329 Council shall revert to the State General Fund.

330 Section 7. This act shall become effective on October
331 1, 2024.