

Senate Bill 400

By: Senator Williams of the 27th

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 the Certificate of Need program; to amend other provisions in various titles of the
3 Official Code of Georgia Annotated for purposes of conformity; to provide for legislative
4 findings and intent; to amend Article 1 of Chapter 7 of Title 31 of the Official Code of
5 Georgia Annotated, relating to regulation of hospitals and related institutions, so as to
6 provide that certain requirements relating to charity and indigent care previously imposed as
7 a condition for a certificate of need are imposed as a condition of licensure; to provide for
8 related matters; to provide for effective dates; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 PART I
12 SECTION 1-1.

13 The General Assembly finds that the free market allows for the best means of providing the
14 highest quality health care at the lowest possible cost. For this reason, it is the intention of
15 the General Assembly that the Certificate of Need program be repealed effective
16 December 31, 2018.

17 SECTION 1-2.

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

21 SECTION 1-3.

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

24 "(c) The department shall succeed to all rules, regulations, policies, procedures, and
 25 administrative orders of the predecessor agency or unit which were in effect on June 30,
 26 2009, or scheduled to go into effect on or after July 1, 2009, and which relate to the
 27 functions transferred to the department by this chapter. Such rules, regulations, policies,
 28 procedures, and administrative orders shall remain in effect until amended, repealed,
 29 superseded, or nullified by proper authority or as otherwise provided by law. Rules of the
 30 department shall be adopted, promulgated, and implemented as provided in Chapter 13 of
 31 Title 50, the 'Georgia Administrative Procedure Act,' ~~except that only rules promulgated~~
 32 ~~pursuant to Chapter 6 of this title shall be subject to the provisions of Code Section~~
 33 ~~31-6-21.1."~~

34

SECTION 1-4.

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

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

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

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

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

56 (4) Waivers or variances which affect an entire class of facilities may only be approved
 57 by the Board of Community Health and shall be for a time certain, as determined by the
 58 board. A notice of the proposed variance or waiver affecting an entire class of facilities

59 shall be made in accordance with the requirements for notice of rule making in Chapter
 60 13 of Title 50, the 'Georgia Administrative Procedure Act'; or
 61 (5) Variances or waivers which affect only one facility in a class may be approved or
 62 denied by the department and shall be for a time certain, as determined by the
 63 department. The department shall maintain a record of such action and shall make this
 64 information available to the board and all other persons who request it.
 65 ~~This subsection shall not apply to rules adopted by the department pursuant to Code~~
 66 ~~Section 31-6-21.1."~~

67 SECTION 1-5.

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

70 "(a) Any person or persons responsible for the operation of any institution, or who may
 71 hereafter propose to establish and operate an institution and to provide specified clinical
 72 services, shall submit an application to the department for a permit to operate the institution
 73 and provide such services, with such application to be made on forms prescribed by the
 74 department. No institution shall be operated in this state without such a permit, which shall
 75 be displayed in a conspicuous place on the premises. No clinical services shall be provided
 76 by an institution except as approved by the department in accordance with the rules and
 77 regulations established pursuant to Code Section 31-7-2.1. Failure or refusal to file an
 78 application for a permit shall constitute a violation of this chapter and shall be dealt with
 79 as provided for in Article 1 of Chapter 5 of this title. Following inspection and
 80 classification of the institution for which a permit is applied for, the department may issue
 81 or refuse to issue a permit or a provisional permit. Permits issued shall remain in force and
 82 effect until revoked or suspended; provisional permits issued shall remain in force and
 83 effect for such limited period of time as may be specified by the department. Upon
 84 conclusion of the Atlantic Cardiovascular Patient Outcomes Research Team (C-PORT)
 85 Study, the department shall consider and analyze the data and conclusions of the study and
 86 promulgate rules pursuant to Code Section 31-7-2.1 to regulate the quality of care for
 87 therapeutic cardiac catheterization. All hospitals that participated in the study and ~~are~~ were
 88 exempt from obtaining a certificate of need based on paragraph (22) of subsection (a) of
 89 former Code Section 31-6-47 as it existed on December 31, 2018, shall apply for a permit
 90 to continue providing therapeutic cardiac catheterization services once the department
 91 promulgates the rules required by this Code section."

92 **SECTION 1-6.**

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

95 "(24) To provide management, consulting, and operating services including, but not
96 limited to, administrative, operational, personnel, and maintenance services to another
97 hospital authority, hospital, health care facility, ~~as said term is defined in Chapter 6 of this~~
98 ~~title~~, person, firm, corporation, or any other entity or any group or groups of the
99 foregoing; to enter into contracts alone or in conjunction with others to provide such
100 services without regard to the location of the parties to such transactions; to receive
101 management, consulting, and operating services including, but not limited to,
102 administrative, operational, personnel, and maintenance services from another such
103 hospital authority, hospital, health care facility, person, firm, corporation, or any other
104 entity or any group or groups of the foregoing; and to enter into contracts alone or in
105 conjunction with others to receive such services without regard to the location of the
106 parties to such transactions;"

107 **SECTION 1-7.**

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

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

116 **SECTION 1-8.**

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

121 "(i) No bonds or bond anticipation notes except refunding bonds shall be issued by an
122 authority under this article unless its board of directors ~~shall adopt~~ adopts a resolution
123 finding that the project for which such bonds or notes are to be issued will promote the
124 objectives stated in subsection (b) of Code Section 31-7-111 and will increase or maintain
125 employment in the territorial area of such authority. Nothing contained in this Code
126 section shall be construed as permitting any authority created under this article or any

127 qualified sponsor to finance, construct, or operate any project without obtaining any
 128 ~~certificate of need or other~~ approval, permit, or license which, under the laws of this state,
 129 is required in connection therewith."

130 **SECTION 1-9.**

131 Said title is further amended by revising Code Section 31-7-155, relating to certificates of
 132 need for new service or extending service area and exemption from certificate, as follows:

133 "31-7-155.

134 ~~(a) No home health agency initiating service or extending the range of its service area shall~~
 135 ~~be licensed unless the department determines, in accordance with Article 3 of Chapter 6~~
 136 ~~of this title and regulations pursuant thereto, that there is a need for said services within the~~
 137 ~~area to be served. All home health agencies which were delivering services prior to July~~
 138 ~~1, 1979, and were certified for participation in either Title XVIII or Title XIX of the federal~~
 139 ~~Social Security Act prior to such date shall be exempt from a certificate of need, except in~~
 140 ~~those instances where expansion of services or service areas is requested by such home~~
 141 ~~health agencies. Such exemption from a certificate of need shall extend to all areas in~~
 142 ~~which a home health agency was licensed by the department to provide services on or~~
 143 ~~before December 31, 1989, except as provided in subsection (b) of this Code section.~~

144 ~~(b) Concerning an exemption from a certificate of need pursuant to subsection (a) of this~~
 145 ~~Code section, service areas which were the subject of litigation pending in any court of~~
 146 ~~competent jurisdiction, whether by way of appeal, remand, stay, or otherwise, as of~~
 147 ~~December 31, 1989, shall not be so exempt except as set forth in the final unappealed~~
 148 ~~administrative or judicial decision rendered in such litigation.~~

149 ~~(c) Except with respect to a home health agency's service areas which were the subject of~~
 150 ~~litigation pending in any court of competent jurisdiction as of December 31, 1989, the~~
 151 ~~department shall not consider any request for or issue a determination of an exemption~~
 152 ~~from a certificate of need pursuant to this Code section after December 31, 1989.~~

153 Reserved."

154 **SECTION 1-10.**

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

157 **SECTION 1-11.**

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

160 "31-7-307.

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

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

169 **SECTION 1-12.**

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

172 "31-8-153.1.

173 After June 30, 1993, any hospital authority, county, municipality, or other state or local
 174 public or governmental entity is authorized to transfer moneys to the trust fund. Transfer
 175 of funds under the control of a hospital authority, county, municipality, or other state or
 176 local public or governmental entity shall be a valid public purpose for which those funds
 177 may be expended. ~~The department is authorized to transfer to the trust fund moneys paid~~
 178 ~~to the state by a health care facility as a monetary penalty for the violation of an agreement~~
 179 ~~to provide a specified amount of clinical health services to indigent patients pursuant to a~~
 180 ~~certificate of need held by such facility.~~ Such transfers shall be irrevocable and shall be
 181 used only for the purposes contained in Code Section 31-8-154."

182 **SECTION 1-13.**

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

185 "31-8-181.

186 This article shall not apply to the following:

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

194 (2) A hospital. However, to the extent that a hospital's nursing home, personal care
 195 home as defined by Code Section ~~31-6-2~~ 31-7-12, hospice as defined by Code Section
 196 31-7-172, respite care service as defined by Code Section 49-6-72, adult day program,
 197 or home health agency holds itself out as providing care, treatment, or therapeutic
 198 activities for persons with Alzheimer's disease or Alzheimer's related dementia as part of
 199 a specialty unit, such nursing home, personal care home, hospice, respite care service,
 200 adult day program, or home health agency shall be subject to the provisions of this
 201 article."

202 **SECTION 1-14.**

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

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

211 **SECTION 1-15.**

212 Code Section 33-45-1 of the Official Code of Georgia Annotated, relating to definitions
 213 relative to continuing care providers and facilities, is amended by revising paragraphs (1),
 214 (6), and (13) as follows:

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

216 (A) Lodging that is not:

217 (i) In a skilled nursing facility, ~~as such term is defined in paragraph (34) of Code~~
 218 ~~Section 31-6-2;~~

219 (ii) An intermediate care facility, ~~as such term is defined in paragraph (22) of Code~~
 220 ~~Section 31-6-2;~~

221 (iii) An assisted living community, as such term is defined in Code Section
 222 31-7-12.2; or

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

224 (B) Food; and

225 (C) Nursing care provided in a facility or in another setting designated by the
 226 agreement for continuing care to an individual not related by consanguinity or affinity
 227 to the provider furnishing such care upon payment of an entrance fee including skilled
 228 or intermediate nursing services and, at the discretion of the continuing care provider,

229 personal care services including, without limitation, assisted living care services
 230 designated by the continuing care agreement, including such services being provided
 231 pursuant to a contract to ensure the availability of such services to an individual not
 232 related by consanguinity or affinity to the provider furnishing such care upon payment
 233 of an entrance fee.

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

235 "(6) 'Limited continuing care' means furnishing pursuant to a continuing care agreement:

236 (A) Lodging that is not:

237 (i) In a skilled nursing facility, ~~as such term is defined in paragraph (34) of Code~~
 238 ~~Section 31-6-2;~~

239 (ii) An intermediate care facility, ~~as such term is defined in paragraph (22) of Code~~
 240 ~~Section 31-6-2;~~

241 (iii) An assisted living community, as such term is defined in Code Section
 242 31-7-12.2; or

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

244 (B) Food; and

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

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

251 "(13) 'Residential unit' means a residence or apartment in which a resident lives that is
 252 not a skilled nursing facility ~~as defined in paragraph (34) of Code Section 31-6-2~~, an
 253 intermediate care facility ~~as defined in paragraph (22) of Code Section 31-6-2~~, an assisted
 254 living community as defined in Code Section 31-7-12.2, or a personal care home as
 255 defined in Code Section 31-7-12."

256 SECTION 1-16.

257 Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificate of
 258 authority required for operation of continuing care facilities, is amended by revising
 259 subsection (b) as follows:

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

261 ~~(1) Provisions of Article 3 of Chapter 6 of Title 31 and any rules and regulations~~
 262 ~~promulgated by the Department of Community Health pursuant to such article relating~~
 263 ~~to certificates of need for continuing care retirement communities or home health~~
 264 ~~agencies, as such terms are defined in Code Section 31-6-2; or~~

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

270 **SECTION 1-17.**

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

274 "33-45-7.1.

275 A provider which has obtained a certificate of authority pursuant to Code Section 33-45-5
 276 and the written approval of the commissioner is authorized to offer, as a part of the
 277 continuing care agreement, continuing care at home or continuing care in which the
 278 resident purchases a resident owned living unit, subject to the provisions of ~~Chapters 6 and~~
 279 Chapter 7 of Title 31 and rules and regulations promulgated by the Department of
 280 Community Health pursuant to such chapters relating to certificate of need and licensure
 281 requirements."

282 **SECTION 1-18.**

283 Code Section 37-1-29 of the Official Code of Georgia Annotated, relating to crisis
 284 stabilization units, is amended as follows:

285 "37-1-29.

286 (a) As used in this Code section, the term 'crisis stabilization unit' means a short-term
 287 residential program operated for the purpose of providing psychiatric stabilization and
 288 detoxification services that complies with applicable department standards and that
 289 provides brief, intensive crisis services 24 hours a day, seven days a week.

290 (b) The department shall be authorized to certify crisis stabilization units pursuant to this
 291 Code section for the purpose of providing psychiatric stabilization and detoxification
 292 services in a community based setting rather than inpatient hospitalization and other higher
 293 levels of care.

294 (c) The department shall establish minimum standards and requirements for the
 295 certification of crisis stabilization units in its policies and procedures. Following any
 296 changes to such policies and procedures pertaining to crisis stabilization units, notification
 297 of such changes shall be posted on the department's website within 45 days and shall
 298 remain posted on the website for at least six months. Such policies and procedures shall
 299 include, but not be limited to, the following:

- 300 (1) The capacity to carry out emergency receiving and evaluating functions;
301 (2) Voluntary and involuntary admission criteria;
302 (3) The prohibition to hold itself out as a hospital, or bill for hospital or inpatient
303 services;
304 (4) The unit is operated by an accredited and licensed, if applicable, health care
305 authority;
306 (5) The unit has operating agreements with private and public inpatient hospitals and
307 treatment facilities;
308 (6) The unit operates within the guidelines of the federal Emergency Medical Treatment
309 and Active Labor Act with respect to stabilization and transfer of clients;
310 (7) Length of stay;
311 (8) Designation of transitional beds;
312 (9) Billing;
313 (10) Physician and registered professional nurse oversight;
314 (11) Staff to client ratios;
315 (12) Patient restraint or seclusion;
316 (13) Safety and emergency protocols;
317 (14) Pharmacy services;
318 (15) Medication administration; and
319 (16) Reporting requirements.
- 320 (d) A crisis stabilization unit shall be designated as an emergency receiving facility under
321 Code Sections 37-3-40 and 37-7-40 and an evaluation facility under Code Sections 37-3-60
322 and 37-7-60, but shall not be designated as a treatment facility under Code Section 37-3-80
323 or 37-7-80. Crisis stabilization units may admit individuals on a voluntary basis.
324 Individuals may be provided 24 hour observation, detoxification and stabilization services,
325 medication prescribed by a physician, and other appropriate treatment or services.
- 326 (e) No entity shall operate as a crisis stabilization unit without having a valid certificate
327 issued pursuant to this Code section.
- 328 (f) Application for a certificate to operate a crisis stabilization unit shall be submitted to
329 the department in the manner prescribed by the department's policies and procedures.
- 330 (g) The department shall issue a certificate to an applicant who meets all the standards and
331 requirements as set forth in the department's policies and procedures for the certification
332 of crisis stabilization units. The certificate shall be nontransferable for a change of location
333 or governing body.
- 334 (h) Each certified crisis stabilization unit shall permit authorized department
335 representatives to enter upon and inspect any and all premises for which a certificate has
336 been granted or applied for.

337 (i) The department may deny any application for certification which does not meet all the
 338 standards and requirements set forth in the department's policies and procedures for the
 339 certification of crisis stabilization units and may suspend or revoke a certification which
 340 has been issued if an applicant or a certified crisis stabilization unit violates any such
 341 policies and procedures; provided, however, that before any order is entered denying a
 342 certification application or suspending or revoking a certification previously granted, the
 343 applicant or certificate holder, as the case may be, shall be afforded an opportunity for a
 344 hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 345 Act.'

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

349 (k) It is the intent of the General Assembly that this Code section provide a public benefit
 350 and comply with all safety net obligations in this title and that patients without private
 351 health care coverage receive priority consideration for crisis stabilization unit placement."

352 **SECTION 1-19.**

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

356 "(4)(A)(i) Meet continuing competency requirements as established by the board;
 357 ~~(B)(ii)~~ (ii) If the applicant entered a nontraditional nursing education program as a
 358 licensed practical nurse whose academic education as a licensed practical nurse
 359 included clinical training in pediatrics, obstetrics and gynecology, medical-surgical,
 360 and mental illness, have practiced nursing as a registered professional nurse in a
 361 health care facility for at least one year in the three years preceding the date of the
 362 application, and such practice is documented by the applicant and approved by the
 363 board; provided, however, that for an applicant who does not meet the experience
 364 requirement of this subparagraph, the board shall require the applicant to complete a
 365 320 hour postgraduate preceptorship arranged by the applicant under the oversight of
 366 a registered nurse where such applicant is transitioned into the role of a registered
 367 professional nurse. The preceptorship shall have prior approval of the board, and
 368 successful completion of the preceptorship shall be verified in writing by the
 369 preceptor; or
 370 ~~(C)(iii)~~ (iii) If the applicant entered a nontraditional nursing education program as
 371 anything other than a licensed practical nurse whose academic education as a licensed
 372 practical nurse included clinical training in pediatrics, obstetrics and gynecology,

373 medical-surgical, and mental illness, have graduated from such program and practiced
 374 nursing as a registered professional nurse in a health care facility for at least two years
 375 in the five years preceding the date of the application, and such practice is
 376 documented by the applicant and approved by the board; provided, however, that for
 377 an applicant who does not meet the experience requirement of this subparagraph, the
 378 board shall require the applicant to complete a postgraduate preceptorship of at least
 379 480 hours but not more than 640 hours, as determined by the board, arranged by the
 380 applicant under the oversight of a registered professional nurse where such applicant
 381 is transitioned into the role of a registered professional nurse. The preceptorship shall
 382 have prior approval of the board, and successful completion of the preceptorship shall
 383 be verified in writing by the preceptor.

384 (B) For purposes of this paragraph, the term 'health care facility' means an acute care
 385 inpatient facility, a long-term acute care facility, an ambulatory surgical center or
 386 obstetrical facility ~~as defined in Code Section 31-6-2~~, and a skilled nursing facility, so
 387 long as such skilled nursing facility has 100 beds or more and provides health care to
 388 patients with similar health care needs as those patients in a long-term acute care
 389 facility;"

390 **SECTION 1-20.**

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

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

402 **SECTION 1-21.**

403 Code Section 50-26-19 of the Official Code of Georgia Annotated, relating to financing
 404 acquisition, construction, and equipping of health care facilities, is amended by revising
 405 subsection (c) as follows:

406 ~~"(c) The authority may not finance a project for any participating provider unless the~~
 407 ~~Department of Community Health, or any successor thereof, has issued a certificate of need~~

408 ~~or comparable certification of approval to the participating provider for the project to be~~
 409 ~~financed by the authority if the acquisition of such project by the participating provider~~
 410 ~~would require a certificate of need or comparable certification of approval under Chapter~~
 411 ~~6 of Title 31."~~

412 PART II

413 SECTION 2-1.

414 Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
 415 regulation of hospitals and related institutions, is amended by revising Code Section 31-7-1,
 416 relating to definitions, as follows:

417 "31-7-1.

418 As used in this chapter, the term:

419 (1) 'Board' means the Board of Community Health.

420 (2) 'Commissioner' means the commissioner of community health.

421 (3) 'Department' means the Department of Community Health.

422 (3.1) 'Freestanding emergency department' means a facility that is structurally separate
 423 and distinct from a hospital that receives individuals for emergency care.

424 (4) 'Institution' means:

425 (A) Any building, facility, or place in which are provided two or more beds and other
 426 facilities and services that are used for persons received for examination, diagnosis,
 427 treatment, surgery, maternity care, nursing care, assisted living care, or personal care
 428 for periods continuing for 24 hours or longer and which is classified by the department,
 429 as provided for in this chapter, as either a hospital, nursing home, assisted living
 430 community, or personal care home;

431 (B) Any health facility wherein abortion procedures under subsections (b) and (c) of
 432 Code Section 16-12-141 are performed or are to be performed;

433 (C) Any building or facility, not under the operation or control of a hospital, which is
 434 primarily devoted to the provision of surgical treatment to patients not requiring
 435 hospitalization and which is classified by the department as an ambulatory surgical
 436 treatment center;

437 (D) Any fixed or mobile specimen collection center or health testing facility where
 438 specimens are taken from the human body for delivery to and examination in a licensed
 439 clinical laboratory or where certain measurements such as height and weight
 440 determination, limited audio and visual tests, and electrocardiograms are made,
 441 excluding public health services operated by the state, its counties, or municipalities;

442 (E) Any building or facility where human births occur on a regular and ongoing basis
 443 and which is classified by the department as a birthing center;

444 (F) Any building or facility which is devoted to the provision of treatment and
 445 rehabilitative care for periods continuing for 24 hours or longer for persons who have
 446 traumatic brain injury, as defined in Code Section 37-3-1; ~~or~~

447 (G) Any freestanding imaging center where magnetic resonance imaging, computed
 448 tomography (CT) scanning, positron emission tomography (PET) scanning, positron
 449 emission tomography/computed tomography, and other advanced imaging services as
 450 defined by the department by rule, but not including X-rays, fluoroscopy, or ultrasound
 451 services, are conducted in a location or setting not affiliated or attached to a hospital or
 452 in the offices of an individual private physician or single group practice of physicians
 453 and conducted exclusively for patients of that physician or group practice; or

454 (H) Any freestanding emergency department.

455 The term 'institution' shall exclude all physicians' and dentists' private offices and
 456 treatment rooms in which such physicians or dentists primarily see, consult with, and
 457 treat patients.

458 (5) 'Medical facility' means any licensed general hospital, destination cancer hospital, or
 459 specialty hospital, institutional infirmary, public health center, or diagnostic and
 460 treatment center.

461 (6) 'Permit' means a permit issued by the department upon compliance with the rules and
 462 regulations of the department.

463 (7) 'Provisional permit' means a permit issued on a conditional basis for one of the
 464 following reasons:

465 (A) To allow a newly established institution a reasonable but limited period of time to
 466 demonstrate that its operational procedures equal standards specified by the rules and
 467 regulations of the department; or

468 (B) To allow an existing institution a reasonable length of time to comply with rules
 469 and regulations, provided that the institution shall present a plan of improvement
 470 acceptable to the department.

471 (8) 'Specialty hospital' means a hospital that is primarily or exclusively engaged in the
 472 care and treatment of one of the following: patients with a cardiac condition, patients with
 473 an orthopedic condition, patients receiving a surgical procedure, or patients receiving any
 474 other specialized category of services defined by the department. Such term shall not
 475 include a destination cancer hospital or a psychiatric hospital."

476

SECTION 2-2.

477 Said article is further amended by adding new subsections to Code Section 31-7-3, relating
478 to requirements for permits to operate institutions, to read as follows:

479 "(e) In addition to the permit requirements imposed by this chapter, on or before
480 December 31, 2018, every existing licensed general hospital, destination cancer hospital,
481 specialty hospital, freestanding emergency department, or diagnostic and treatment center
482 with a permit, and after January 1, 2019, every applicant for a new or renewed permit shall
483 foster an environment that assures access to individuals unable to pay, regardless of
484 payment source or circumstances, by demonstrating to the department each of the
485 following criteria:

486 (1) Written administrative policies that prohibit the exclusion of services to any patient
487 on the basis of age, race, sex, creed, religion, disability, or the patient's ability to pay;

488 (2) A written commitment to offer services for indigent and charity patients at a standard
489 that meets or exceeds 3 percent of annual adjusted gross revenues for the general hospital,
490 destination cancer hospital, specialty hospital, freestanding emergency department, or
491 diagnostic and treatment center;

492 (3) A written commitment to participate in the medicare, Medicaid, and PeachCare for
493 Kids programs;

494 (4) A written commitment to participate in any other state health benefits insurance
495 programs for which the hospital is eligible; and

496 (5) Documentation of the past record of performance of the applicant, and any facility
497 in Georgia owned or operated by the applicant's parent organization, of providing
498 services to medicare, Medicaid, and indigent and charity patients.

499 Failure to comply with the requirements of this subsection may be grounds for the
500 department to revoke, suspend, deny, or not renew the general hospital's, destination cancer
501 hospital's, specialty hospital's, freestanding emergency department's, diagnostic and
502 treatment center's, or applicant's permit.

503 (f)(1) In addition to the permit requirements imposed by this chapter, on or before
504 December 31, 2018, every existing ambulatory surgical treatment center and after
505 January 1, 2019, every person seeking to obtain or renew a permit to operate an
506 ambulatory surgical treatment center shall foster an environment that assures quality care
507 and access to individuals unable to pay, regardless of payment source or circumstances
508 by demonstrating to the department each of the following criteria:

509 (A) A hospital affiliation agreement with a hospital within a reasonable distance from
510 the center, or the medical staff at the center has admitting privileges or other acceptable
511 documented arrangements with such hospital to ensure the necessary backup for the
512 center in the event of medical complications. The ambulatory surgical treatment center

513 shall have the capability to transfer a patient immediately to a hospital within a
 514 reasonable distance from the center with adequate emergency room services. Hospitals
 515 shall not unreasonably deny a transfer agreement or affiliation agreement to the center;
 516 and

517 (B) A written commitment to:

518 (i) Provide care to Medicaid beneficiaries and, if the center provides medical care and
 519 treatment to children, to PeachCare for Kids beneficiaries, and provide
 520 uncompensated indigent and charity care in an amount equal to or greater than 2
 521 percent of its adjusted gross revenue; or

522 (ii) Provide uncompensated care to Medicaid beneficiaries if the center is not a
 523 Medicaid participant and, if the facility provides medical care and treatment to
 524 children, provide uncompensated care to PeachCare for Kids beneficiaries; provide
 525 uncompensated indigent and charity care; or provide both, in an amount equal to or
 526 greater than 4 percent of its adjusted gross revenue;

527 provided, however, that ambulatory surgical treatment centers that exclusively provide
 528 ophthalmologic care shall not be required to comply with this subparagraph.

529 (2) Failure to comply with the requirements of this subsection may be grounds for the
 530 department to revoke, suspend, deny, or not renew the ambulatory surgical treatment
 531 center or applicant's permit.

532 (g) No permit shall be issued for a freestanding emergency department that is not affiliated
 533 with a general acute care hospital.

534 (h) No permit shall be issued for a specialty hospital on or after December 1, 2018."

535 **PART III**

536 **SECTION 3-1.**

537 (a) Part I of this Act shall become effective on December 31, 2018.

538 (b) Parts II and III of this Act shall become effective on June 30, 2018.

539 **SECTION 3-2.**

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