

House Bill 606

By: Representatives Cooper of the 45th, Hatchett of the 155th, Houston of the 170th, Cameron of the 1st, and Newton of the 127th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state
2 health planning and development, so as to revise definitions relative to certificate of need;
3 to revise exemptions from certificate of need requirements; to provide for related matters;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health
8 planning and development, is amended by adding a new paragraph and by revising
9 paragraphs (23) and (33) of Code Section 31-6-2, relating to definitions, as follows:

10 "(16.05) 'Dual-specialty ambulatory surgical center' means an ambulatory surgical center
11 where surgery is performed in a facility that is owned, operated, and utilized by
12 physicians who are part of a single group practice and provides no more than two
13 specialties and is located in an urban county. The collective ownership of the physicians
14 or group practice of physicians shall be no less than 30 percent. The physicians or group
15 practice of physicians may operate and manage the practice themselves or have a

16 management contract or other arrangement with an entity that provides management
17 services, administrative services, or both."

18 "(23) 'Joint venture ambulatory surgical center' means a freestanding ambulatory surgical
19 center that is jointly owned by a hospital in the same county as the center or a hospital in
20 a contiguous county if there is no hospital in the same county as the center and a single
21 group practice of physicians practicing in the center and that provides surgery in a single
22 specialty as defined by the department; provided, however, that general surgery;
23 cardiology, including, but not limited to, cardiac catheterization; a group practice which
24 includes one or more physiatrists who perform services that are reasonably related to the
25 surgical procedures performed in the center; and a group practice in orthopedics which
26 includes plastic hand surgeons with a certificate of added qualifications in Surgery of the
27 Hand from the American Board of Plastic and Reconstructive Surgery shall be considered
28 a single specialty. ~~The ownership interest of the hospital shall be no less than 30 percent~~
29 ~~and the collective ownership of the physicians or group practice~~ of physicians shall be no
30 less than 30 percent. The physicians or group practice of physicians may operate and
31 manage the practice themselves or have a management contract or other arrangement
32 with an entity that provides management services, administrative services, or both."

33 "(33) 'Single specialty ambulatory surgical center' means an ambulatory surgical center
34 where surgery is performed ~~in the offices of an individual private physician or single~~
35 ~~group practice of private physicians if such surgery is performed in a facility that is~~
36 owned, operated, and utilized by such a physician or physicians or one or more group
37 practices of physicians who also are of a single specialty; provided, however, that general
38 surgery; cardiology, including, but not limited to, cardiac catheterization; a group
39 practice which includes one or more physiatrists who perform services that are reasonably
40 related to the surgical procedures performed in the center; and a group practice in
41 orthopedics which includes plastic hand surgeons with a certificate of added
42 qualifications in Surgery of the Hand from the American Board of Plastic and

43 Reconstructive Surgery shall be considered a single specialty. The collective ownership
44 of the physicians or group practice of physicians shall be no less than 30 percent. Each
45 physician practice or group physician practice or practices may manage their respective
46 practices themselves or have a management contract or other arrangement with an entity
47 that provides management services, administrative services, or both."

48 **SECTION 2.**

49 Said chapter is further amended in Code Section 31-6-40, relating to certificate of need
50 required for new institutional health services, by revising paragraph (1) of subsection (c) as
51 follows:

52 "(c)(1) Any person who had a valid exemption granted or approved by the former Health
53 Planning Agency or the department prior to July 1, ~~2008~~ 2023, shall not be required to
54 obtain a certificate of need in order to continue to offer those previously offered services."

55 **SECTION 3.**

56 Said chapter is further amended in Code Section 31-6-47, relating to exemptions from
57 certificate of need requirements, by revising paragraphs (18) and (19) and by adding a new
58 paragraph to subsection (a) to read as follows:

59 "(18) Any single specialty ambulatory surgical center that:

60 (A)(i) Has capital expenditures associated with the construction, development, or
61 other establishment of the clinical health service which do not exceed ~~\$2.5~~ \$7 million;

62 or

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

67 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance
 68 from the facility or the medical staff at the center has admitting privileges or other
 69 acceptable documented arrangements with such hospital to ensure the necessary backup
 70 for the center for medical complications. The center shall have the capability to transfer
 71 a patient immediately to a hospital within a reasonable distance from the facility with
 72 adequate emergency room services. Hospitals shall not unreasonably deny a transfer
 73 agreement or affiliation agreement to the center;

74 (C)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical
 75 care and treatment to children, to PeachCare for Kids beneficiaries and provides
 76 uncompensated indigent and charity care in an amount equal to or greater than
 77 ~~2~~ 1 percent of its ~~adjusted gross revenue~~ net uncompensated indigent or charity care;
 78 or

79 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,
 80 provides uncompensated care to Medicaid beneficiaries and, if the facility provides
 81 medical care and treatment to children, to PeachCare for Kids beneficiaries,
 82 uncompensated indigent and charity care, or both in an amount equal to or greater
 83 than ~~4~~ 2 percent of its ~~adjusted gross revenue~~ net uncompensated indigent or charity
 84 care;

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

88 (D) Operates the center itself or has a management contract or other arrangement with
 89 an entity to provide management services, administrative services, or both for the
 90 center; and

91 ~~(D)~~(E) Provides annual reports in the same manner and in accordance with Code
 92 Section 31-6-70.

93 Noncompliance with any condition of this paragraph shall result in a monetary penalty
94 in the amount of the difference between the services which the center is required to
95 provide and the amount actually provided and may be subject to revocation of its
96 exemption status by the department for repeated failure to pay any fines or moneys due
97 to the department or for repeated failure to produce data as required by Code
98 Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to
99 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount
100 specified in this paragraph shall be adjusted annually by an amount calculated by
101 multiplying such dollar amount (as adjusted for the preceding year) by the annual
102 percentage of change in the composite index of construction material prices, or its
103 successor or appropriate replacement index, if any, published by the United States
104 Department of Commerce for the preceding calendar year, commencing on July 1, 2009,
105 and on each anniversary thereafter of publication of the index. The department shall
106 immediately institute rule-making procedures to adopt such adjusted dollar amounts. In
107 calculating the dollar amounts of a proposed project for purposes of this paragraph, the
108 costs of all items subject to review by this chapter and items not subject to review by this
109 chapter associated with and simultaneously developed or proposed with the project shall
110 be counted, except for the expenditure or commitment of or incurring an obligation for
111 the expenditure of funds to develop certificate of need applications, studies, reports,
112 schematics, preliminary plans and specifications or working drawings, or to acquire sites;
113 (19) Any joint venture ambulatory surgical center that:

114 (A) Has capital expenditures associated with the construction, development, or other
115 establishment of the clinical health service which do not exceed \$5 ~~\$9~~ million;

116 (B)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical
117 care and treatment to children, to PeachCare for Kids beneficiaries and provides
118 uncompensated indigent and charity care in an amount equal to or greater than

119 ~~2~~ 1 percent of its ~~adjusted gross revenue~~ net uncompensated indigent or charity care;
 120 or

121 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,
 122 provides uncompensated care to Medicaid beneficiaries and, if the facility provides
 123 medical care and treatment to children, to PeachCare for Kids beneficiaries,
 124 uncompensated indigent and charity care, or both in an amount equal to or greater
 125 than ~~4~~ 2 percent of its ~~adjusted gross revenue~~ net uncompensated indigent or charity
 126 care;

127 (C) Operates the center itself or has a management contract or other arrangement with
 128 an entity to provide management services, administrative services, or both for the
 129 center; and

130 ~~(E)~~(D) Provides annual reports in the same manner and in accordance with Code
 131 Section 31-6-70.

132 Noncompliance with any condition of this paragraph shall result in a monetary penalty
 133 in the amount of the difference between the services which the center is required to
 134 provide and the amount actually provided and may be subject to revocation of its
 135 exemption status by the department for repeated failure to pay any fines or moneys due
 136 to the department or for repeated failure to produce data as required by Code
 137 Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to
 138 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The dollar amount
 139 specified in this paragraph shall be adjusted annually by an amount calculated by
 140 multiplying such dollar amount (as adjusted for the preceding year) by the annual
 141 percentage of change in the composite index of construction material prices, or its
 142 successor or appropriate replacement index, if any, published by the United States
 143 Department of Commerce for the preceding calendar year, commencing on July 1, 2009,
 144 and on each anniversary thereafter of publication of the index. The department shall
 145 immediately institute rule-making procedures to adopt such adjusted dollar amounts. In

146 calculating the dollar amounts of a proposed project for purposes of this paragraph, the
147 costs of all items subject to review by this chapter and items not subject to review by this
148 chapter associated with and simultaneously developed or proposed with the project shall
149 be counted, except for the expenditure or commitment of or incurring an obligation for
150 the expenditure of funds to develop certificate of need applications, studies, reports,
151 schematics, preliminary plans and specifications or working drawings, or to acquire sites;

152 (19.1) Any dual-specialty ambulatory surgical center that:

153 (A)(i) Has capital expenditures associated with the construction, development, or
154 other establishment of the clinical health service which do not exceed \$8 million; or
155 (ii) Is the only dual-specialty ambulatory surgical center in the county owned by the
156 physicians and has two or fewer operating rooms; provided, however, that a center
157 exempt pursuant to this division shall be required to obtain a certificate of need in
158 order to add any additional operating rooms;

159 (B) Has a hospital affiliation agreement with a hospital within a reasonable distance
160 from the facility or the medical staff at the center has admitting privileges or other
161 acceptable documented arrangements with such hospital to ensure the necessary backup
162 for the center for medical complications. The center shall have the capability to transfer
163 a patient immediately to a hospital within a reasonable distance from the facility with
164 adequate emergency room services. Hospitals shall not unreasonably deny a transfer
165 agreement or affiliation agreement to the center;

166 (C)(i) Provides care to Medicaid beneficiaries and, if the facility provides medical
167 care and treatment to children, to PeachCare for Kids beneficiaries and provides
168 uncompensated indigent and charity care in an amount equal to or greater than
169 1 percent of its net uncompensated indigent or charity care; or

170 (ii) If the center is not a participant in Medicaid or the PeachCare for Kids Program,
171 provides uncompensated care to Medicaid beneficiaries and, if the facility provides
172 medical care and treatment to children, to PeachCare for Kids beneficiaries,

173 uncompensated indigent and charity care, or both in an amount equal to or greater
174 than 2 percent of its net uncompensated indigent or charity care;
175 (D) Operates the center itself or has a management contract or other arrangement with
176 an entity to provide management services, administrative services, or both for the
177 center; and
178 (E) Provides annual reports in the same manner and in accordance with Code
179 Section 31-6-70."

180 **SECTION 4.**

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