

SENATE SUBSTITUTE TO HB 992:

**AS PASSED SENATE**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Article 1 of Chapter 1 of Title 31 of the Official Code of Georgia Annotated,  
 2 relating to general provisions regarding health, so as to recommend that health clubs and  
 3 rehabilitation facilities have at least one functional automated external defibrillator on site  
 4 at all times for use during emergencies; to provide for definitions; to provide for  
 5 recommendations; to provide for study and reconsiderations; to amend Code  
 6 Section 51-1-29.3 of the Official Code of Georgia Annotated, relating to immunity for  
 7 operators of external defibrillators, so as to provide tort immunity for individuals using a  
 8 defibrillator at a health club; to amend Chapter 11 of Title 31 of the Official Code of Georgia  
 9 Annotated, relating to emergency medical services, so as to eliminate certain requirements  
 10 relating to the use of automated external defibrillators; to eliminate obsolete language  
 11 relating to base station facilities; to amend Chapter 2 of Title 31 of the Official Code of  
 12 Georgia Annotated, relating to the Department of Community Health, so as to provide that  
 13 at least two members of the board shall also be members of the state health benefit plan; to  
 14 provide that two members shall be members of certain retirement systems; to provide for  
 15 duties of the Board of Community Health; to create the State Health Benefit Plan Customer  
 16 Advisory Council; to provide for membership; to provide for duties of the commissioner of  
 17 community health; to provide for duties of the council; to provide for an effective date; to  
 18 provide for related matters; to repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **PART I**

21 **SECTION 1-1.**

22 Article 1 of Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to  
 23 general provisions regarding health, is amended by adding a new Code section to read as  
 24 follows:

25 "31-1-16.

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

27 (1) 'Automated external defibrillator' shall have the same meaning as provided for in  
 28 Code Section in 31-11-53.1.

29 (2)(A) 'Health club' means any commercial enterprise with 500 or more clients that  
 30 provides, as its primary purpose, services or facilities for the preservation, maintenance,  
 31 encouragement, or development of physical fitness or well-being.

32 (B) 'Rehabilitation facility' shall have the same meaning as provided for in subsection  
 33 (b) of Code Section 31-7-51.

34 (C) The terms health club and rehabilitation facility shall not include a hospital, health  
 35 care facility, or hotel or motel, unless the hotel or motel allows membership by  
 36 individuals who are not guests of the hotel or motel, or an apartment, condominium, or  
 37 town home or similar neighborhood facility.

38 (b) It is recommended that by no later than July 1, 2019, each health club and  
 39 rehabilitation facility operated in this state have at least one functional automated external  
 40 defibrillator on site at such facility at all times which is easily accessible during business  
 41 hours, for use during emergencies.

42 (c) Each health club and rehabilitation facility shall consider the following  
 43 recommendations when procuring and implementing the usage of the automated external  
 44 defibrillator:

45 (1) Ensure that persons employed and authorized by the health club and rehabilitation  
 46 facility to use the automated external defibrillator complete training in cardiopulmonary  
 47 resuscitation and automated external defibrillator use from a nationally recognized  
 48 course;

49 (2) Ensure that the automated external defibrillator is maintained and tested according  
 50 to the manufacturer's operational guidelines; and

51 (3) Ensure that designated personnel activate the emergency medical services system as  
 52 soon as reasonably possible after any person renders emergency care or treatment to a  
 53 person in cardiac arrest by using an automated external defibrillator.

54 (d)(1) The Department of Public Health is authorized and empowered to study and look  
 55 into the need for health clubs, rehabilitation facilities, and other underutilized locations  
 56 that should be recommended for the placement of automated external defibrillators.

57 (2) The General Assembly shall reconsider any recommendations for legislative action  
 58 after December 31, 2019, to encourage and require the placement of automated external  
 59 defibrillators in health clubs and rehabilitation facilities."

60

## SECTION 1-2.

61 Code Section 51-1-29.3 of the Official Code of Georgia Annotated, relating to immunity for  
 62 operators of external defibrillators, is amended by revising subsection (a) as follows:

63 "(a) The persons described in this Code section shall be immune from civil liability for any  
 64 act or omission to act related to the provision of emergency care or treatment by the use of  
 65 or provision of an automated external defibrillator, as described in Code Sections 31-1-16,  
 66 31-11-53.1, and 31-11-53.2, except that such immunity shall not apply to an act of willful  
 67 or wanton misconduct and shall not apply to a person acting within the scope of a licensed  
 68 profession if such person acts with gross negligence. The immunity provided for in this  
 69 Code section shall extend to:

- 70 (1) Any person who gratuitously and in good faith renders emergency care or treatment  
 71 by the use of or provision of an automated external defibrillator without objection of the  
 72 person to whom care or treatment is rendered;
- 73 (2) The owner or operator of any premises or conveyance who installs or provides  
 74 automated external defibrillator equipment in or on such premises or conveyance;
- 75 (3) Any physician or other medical professional who authorizes, directs, or supervises  
 76 the installation or provision of automated external defibrillator equipment in or on any  
 77 premises or conveyance other than any medical facility as defined in paragraph (5) of  
 78 Code Section 31-7-1; and
- 79 (4) Any person who provides training in the use of automated external defibrillator  
 80 equipment as required by subparagraph (b)(1)(A) of Code Section 31-11-53.2, whether  
 81 compensated or not. This Code section is not applicable to any training or instructions  
 82 provided by the manufacturer of the automated external defibrillator or to any claim for  
 83 failure to warn on the part of the manufacturer."

## 84 **PART II**

### 85 **SECTION 2-1.**

86 Chapter 11 of Title 31 of the Official Code of Georgia Annotated, relating to emergency  
 87 medical services, is amended by revising Code Section 31-11-53.1, relating to automated  
 88 external defibrillator program, as follows:

89 "31-11-53.1.

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

91 (1) 'Automated external defibrillator' means a defibrillator which:

92 (A) Is capable of cardiac rhythm analysis;

93 (B) Will charge and be capable of being activated to deliver a countershock after  
 94 electrically detecting the presence of certain cardiac dysrhythmias; and

95 (C) Is capable of continuous recording of the cardiac dysrhythmia at the scene with a  
 96 mechanism for transfer and storage or for printing for review subsequent to use.

97 (2) 'Defibrillation' means to terminate ventricular fibrillation.

98 (3) 'First responder' means any person or agency who provides on-site care until the  
 99 arrival of a duly licensed ambulance service. This shall include, but not be limited to,  
 100 persons who routinely respond to calls for assistance through an affiliation with law  
 101 enforcement agencies, fire suppression agencies, rescue agencies, and others.

102 (b) It is the intent of the General Assembly that an automated external defibrillator may  
 103 be used by any person for the purpose of saving the life of another person in cardiac arrest.

104 ~~In order to ensure public health and safety:~~

105 ~~(1) It is recommended that all persons who have access to or use an automated external~~  
 106 ~~defibrillator obtain appropriate training as set forth in the rules and regulations of the~~  
 107 ~~Department of Public Health. It is further recommended that such training include at a~~  
 108 ~~minimum the successful completion of:~~

109 ~~(A) A nationally recognized health care provider/professional rescuer level~~  
 110 ~~cardiopulmonary resuscitation course; and~~

111 ~~(B) A department established or approved course which includes demonstrated~~  
 112 ~~proficiency in the use of an automated external defibrillator;~~

113 ~~(2) All persons and agencies possessing and maintaining an automated external~~  
 114 ~~defibrillator shall notify the appropriate emergency medical services system of the~~  
 115 ~~existence and location of the automated external defibrillator prior to said defibrillator~~  
 116 ~~being placed in use;~~

117 ~~(3) It is further the intent of the General Assembly that all persons who use an~~  
 118 ~~automated external defibrillator shall activate the emergency medical services system as~~  
 119 ~~soon as reasonably possible by calling 9-1-1 or the appropriate emergency telephone~~  
 120 ~~number upon use of the automated external defibrillator; and~~

121 ~~(4) Within a reasonable period of time, all persons who use an automated external~~  
 122 ~~defibrillator shall make available a printed or electronically stored report to the licensed~~  
 123 ~~emergency medical services provider which transports the patient.~~

124 ~~(c) All persons who provide instruction to others in the use of the automated external~~  
 125 ~~defibrillator shall have completed an instructor course established or approved by the~~  
 126 ~~department.~~

127 ~~(d) The department shall establish an automated external defibrillator program for use by~~  
 128 ~~emergency medical technicians. Such program shall be subject to the direct supervision~~  
 129 ~~of a medical adviser approved under Code Section 31-11-50. No emergency medical~~  
 130 ~~technician shall be authorized to use an automated external defibrillator to defibrillate a~~  
 131 ~~person unless that defibrillator is a properly maintained automated external defibrillator and~~  
 132 ~~that emergency medical technician:~~

133 ~~(1) Submits to and has approved by the department an application for such use, and in~~  
 134 ~~considering that application the department may obtain and use the recommendation of~~

135 the local coordinating entity for the health district in which the applicant will use such  
136 defibrillator;

137 ~~(2) Successfully completes an automated external defibrillator training program~~  
138 ~~established or approved by the department;~~

139 ~~(3) Is subject to protocols requiring that both the emergency physician who receives a~~  
140 ~~patient defibrillated by that emergency medical technician and the medical adviser for the~~  
141 ~~defibrillator program review the department required prehospital care report and any~~  
142 ~~other documentation of the defibrillation of any person by that emergency medical~~  
143 ~~technician and send a written report of such review to the district EMS medical director~~  
144 ~~of the health district in which the defibrillation occurred; and~~

145 ~~(4) Obtains a passing score on an annual automated external defibrillator proficiency~~  
146 ~~exam given in connection with that program.~~

147 ~~(e) It shall not be necessary for a licensed emergency medical service, licensed neonatal~~  
148 ~~transport service, or other services licensed by the department which provide care~~  
149 ~~administered by cardiac technicians or paramedics to obtain department approval for the~~  
150 ~~use of an automated external defibrillator on licensed vehicles.~~

151 ~~(f) Any emergency medical technician who violates the provisions of this Code section~~  
152 ~~shall be subject to having revoked by the department that person's authority to use an~~  
153 ~~automated external defibrillator. Such a violation shall also be grounds for any entity~~  
154 ~~which issues a license or certificate authorizing such emergency medical technician to~~  
155 ~~perform emergency medical services to take disciplinary action against such person,~~  
156 ~~including but not limited to suspension or revocation of that license or certificate. Such a~~  
157 ~~violation shall also be grounds for the employer of such emergency medical technician to~~  
158 ~~impose any sanction available thereto, including but not limited to dismissal.~~

159 ~~(g)~~(c) Any first responder who gratuitously and in good faith renders emergency care or  
160 treatment by the use of or provision of an automated external defibrillator, without  
161 objection of the injured victim or victims thereof, shall not be held liable for any civil  
162 damages as a result of such care or treatment or as a result of any act or failure to act in  
163 providing or arranging further medical treatment where the person acts without gross  
164 negligence or intent to harm or as an ordinary reasonably prudent person would have acted  
165 under the same or similar circumstances, even if such individual does so without benefit  
166 of the appropriate training. This provision includes paid persons who extend care or  
167 treatment without expectation of remuneration from the patient or victim for receiving the  
168 defibrillation care or treatment."

**SECTION 2-2.**

Said chapter is further amended by revising Code Section 31-11-60.1, relating to program for physician control over emergency medical services to nonhospital patients, as follows:  
"31-11-60.1.

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

(1) 'Ambulance service medical director' means a physician licensed to practice in this state and subject to the approval of the local coordinating entity and the department who has agreed, in writing, to provide medical direction to a specific ambulance service.

~~(2) 'Base station facility' means any facility responsible for providing direct physician control of emergency medical services.~~

~~(3)~~(2) 'District emergency medical services medical director' means a person who is:

(A) A physician licensed to practice medicine in this state;

(B) Familiar with the design and operation of prehospital emergency services systems;

(C) Experienced in the prehospital emergency care of acutely ill or injured patients;

and

(D) Experienced in the administrative processes affecting regional and state prehospital emergency medical services systems.

~~(4)~~(3) 'Emergency medical services personnel' means any emergency medical technician, paramedic, cardiac technician, or designated first responder who is certified under this article.

(b) The department and the district emergency medical services medical directors shall develop and implement a program to ensure appropriate physician control over the rendering of emergency medical services by emergency medical services personnel to patients who are not in a hospital, which program shall include but not be limited to the following:

(1) Medical protocols regarding permissible and appropriate emergency medical services which may be rendered by emergency medical services personnel to a patient not in a hospital;

(2) Communication protocols regarding which medical situations require direct voice communication between emergency medical services personnel and a physician or a nurse or a paramedic or a physician assistant in direct communication with a physician prior to those emergency medical services personnel's rendering specified emergency medical services to a patient not in a hospital; and

(3) Record-keeping and accountability requirements for emergency medical services personnel ~~and base station facility personnel~~ in order to monitor compliance with this subsection; ~~and~~

~~(4) Base station facility standards.~~

206 (c) The ambulance service medical director shall serve as the medical authority for the  
 207 ambulance service, performing liaison activities with the medical community, medical  
 208 facilities, and governmental agencies. The ambulance service medical director shall be  
 209 responsible for the provision of medical direction and training for the emergency medical  
 210 services personnel within the ambulance service for which he or she is responsible in  
 211 conformance with acceptable emergency medical practices and procedures. These  
 212 responsibilities shall include the duties set forth in the department's rules and regulations  
 213 for ambulance services.

214 (d) The district emergency medical services medical director shall not override those  
 215 policies or protocols of the ambulance service medical director if that ambulance service  
 216 medical director is documenting compliance with the department's rules and regulations  
 217 for ambulance services.

218 ~~(e) Every base station facility shall comply with the policies, protocols, requirements, and~~  
 219 ~~standards provided for in subsection (b) of this Code section.~~

220 ~~(f)~~(e) All emergency medical services personnel shall comply with appropriate policies,  
 221 protocols, requirements, and standards of the ambulance service medical director for that  
 222 service or the policies, protocols, requirements, and standards provided for in subsection  
 223 (b) of this Code section.

224 ~~(g)~~(f) Conduct which would otherwise constitute a violation of subsection ~~(f)~~(e) of this  
 225 Code section shall not be such a violation if such conduct was carried out by any  
 226 emergency medical services personnel pursuant to an order from a physician, the  
 227 ambulance service medical director for such person, or the protocol of that ambulance  
 228 service as approved by the ambulance service medical director for such person.

229 ~~(h) Violation by any base station facility of subsection (e) of this Code section may be~~  
 230 ~~grounds for the removal of that base station facility's designation by the department.~~

231 ~~(i) Enforcement of subsections (g) and (h) of this Code section shall commence no earlier~~  
 232 ~~than 12 months after July 1, 1989."~~

### 233 PART III

#### 234 SECTION 3-1.

235 Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department  
 236 of Community Health, is amended in Code Section 31-2-3, relating to the Board of  
 237 Community Health, by revising subsections (a) and (b) as follows:

238 "(a) ~~There is reconstituted the~~ The Board of Community Health, ~~as of July 1, 2009, which~~  
 239 shall establish the general policy to be followed by the Department of Community Health.  
 240 ~~The powers, functions, and duties of the Board of Community Health as they existed on~~  
 241 ~~June 30, 2009, are transferred to the reconstituted Board of Community Health effective~~

242 ~~July 1, 2009.~~ The board shall consist of nine members appointed by the Governor and  
 243 confirmed by the Senate; provided, however, that at least two members of the board shall  
 244 be active participants in the state health benefit plan, at least one of whom shall be a  
 245 member of the Employees' Retirement System of Georgia and one of whom shall be a  
 246 member of the Teachers Retirement System of Georgia; and provided, further, that of those  
 247 two members, one shall be a retired member and one shall be an active member of the  
 248 respective retirement system. For purposes of this subsection, the term 'state health benefit  
 249 plan' shall have the same meaning provided by Code Section 31-2-2.

250 (b) ~~Board members in office on June 30, 2009, shall serve out the remainder of their~~  
 251 ~~respective terms and successors to these board seats shall be appointed in accordance with~~  
 252 ~~this Code section. Thereafter, all succeeding appointments~~ All appointments to the board  
 253 shall be for three-year terms from the expiration of the previous term."

### 254 SECTION 3-2.

255 Said chapter is further amended in Code Section 31-2-4, relating to the department's powers,  
 256 duties, functions, and responsibilities, divisions, directors, and contracts for health benefits,  
 257 by revising paragraph (1) of subsection (d) as follows:

258 "(1) Shall be the lead agency in coordinating and purchasing health care benefit plans for  
 259 state and public employees, dependents, and retirees and may also coordinate with the  
 260 board of regents for the purchase and administration of such health care benefit plans for  
 261 its members, employees, dependents, and retirees and shall seek the counsel of the State  
 262 Health Benefit Plan Customer Advisory Council created by Code Section 31-2-15 in  
 263 performing the duties imposed by this paragraph;"

### 264 SECTION 3-3.

265 Said chapter is further amended by adding a new Code section to read as follows:

266 "31-2-15.

267 (a) There is created the State Health Benefit Plan Customer Advisory Council to advise  
 268 the commissioner on components, provisions, elements, strategies, marketing, and  
 269 customer satisfaction of the state health benefit plan.

270 (b) The council shall be composed of 12 members, all of whom are participants in the state  
 271 health benefit plan and each of whom is an active or retired member of the Employees'  
 272 Retirement System of Georgia or the Teachers Retirement System of Georgia. At least  
 273 three members shall be retired members of the Teachers Retirement System of Georgia,  
 274 and at least two members shall be retired members of the Employees' Retirement System  
 275 of Georgia. Each member of the council shall be appointed by the commissioner from  
 276 nominations provided by nonprofit associations and state department human resource units

277 which represent at least 1,000 members of the state health benefit plan. The members shall  
 278 serve without compensation or reimbursement of expenses.

279 (c) The commissioner shall select a chairperson and a vice chairperson. The council shall  
 280 meet at least three times per year at the call of the commissioner or upon the call of the  
 281 chairperson. The council may accept the assistance of the commissioner in administrative  
 282 functions of the council.

283 (d) The commissioner shall meet with the council to solicit input and consult with its  
 284 members in the development of changes to the state health benefit plan prior to presenting  
 285 such changes to the board for approval.

286 (e) The commissioner shall present implementation strategies and logistics to the council  
 287 for advice prior to the adoption and implementation of such strategies and logistics.

288 (f) The commissioner may solicit councilmembers' organizations in informing and  
 289 educating active and retired state health benefit plan participants of changes in such plans  
 290 or other issues prior to the adoption of such changes by the board.

291 (g) The commissioner shall provide the council with all departmental state health benefit  
 292 plan recommendations to be made to the board and shall provide the council chairperson  
 293 the opportunity on behalf of the council to make comments to the board prior to the board  
 294 taking action on such recommendations."

295 **PART IV**

296 **SECTION 4-1.**

297 This Act shall become effective on July 1, 2018; provided, however, that nothing in this Act  
 298 shall affect the term of office of any member of the Board of Community Health in office on  
 299 July 1, 2018, who shall serve out the remainder of his or her respective term.

300 **SECTION 4-2.**

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