

House Bill 482

By: Representatives Willard of the 51st, Smith of the 70th, Hatchett of the 150th, Peake of the 141st, Stephens of the 164th, and others

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 the requirements for a destination cancer
3 hospital for purposes of certificate of need; to amend other provisions for purposes of
4 conformity; to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**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 revising paragraph (13) of Code Section 31-6-2,
9 relating to definitions, as follows:

10 "(13) 'Destination cancer hospital' means an institution with a licensed in-patient bed
11 capacity of 50 or less which provides diagnostic, therapeutic, treatment, and rehabilitative
12 care services to cancer inpatients and outpatients, by or under the supervision of
13 physicians, and whose proposed annual patient base is composed of a minimum of 65
14 percent of patients who reside outside of the State of Georgia."

15 style="text-align:center">**SECTION 2.**

16 Said chapter is further amended by revising subsection (d) of Code Section 31-6-40, relating
17 to the requirement of a certificate of need for new institutional health services, as follows:

18 "(d) A certificate of need issued to a destination cancer hospital shall authorize the beds
19 and all new institutional health services of such destination cancer hospital. As used in this
20 subsection, the term 'new institutional health service' shall have the same meaning provided
21 for in subsection (a) of this Code section. A certificate of need shall only be issued to a
22 destination cancer hospital that locates itself and all affiliated facilities within 25 miles of
23 a commercial airport in this state with five or more runways. Such destination cancer
24 hospital shall not be required to apply for or obtain additional certificates of need for new
25 institutional health services related to the treatment of cancer patients, and such new

26 institutional health services related to the treatment of cancer patients offered by the
27 destination cancer hospital shall not be reviewed under any service-specific need
28 methodology or rules except for those promulgated by the department for destination
29 cancer hospitals. After commencing operations, in order to add an additional new
30 institutional health service, a destination cancer hospital shall apply for and obtain an
31 additional certificate of need under the applicable statutory provisions and any rules
32 promulgated by the department for destination cancer hospitals, ~~and such applications shall~~
33 ~~only be granted if the patient base of such destination cancer hospital is composed of at~~
34 ~~least 65 percent of out-of-state patients for two consecutive years.~~ The department may
35 apply rules for a destination cancer hospital only for those services that the department
36 determines are to be used by the destination cancer hospital in connection with the
37 treatment of cancer. In no case shall destination cancer hospital specific rules be used in
38 the case of an application for open heart surgery, perinatal services, cardiac catheterization,
39 and other services deemed by the department to be not reasonably related to the diagnosis
40 and treatment of cancer; provided, however, that the department shall apply the destination
41 cancer hospital specific rules if a destination cancer hospital applies for services and
42 equipment required for it to meet federal or state laws applicable to a hospital. ~~If such~~
43 ~~destination cancer hospital cannot show a patient base of a minimum of 65 percent from~~
44 ~~outside of this state, then its application for any new institutional health service shall be~~
45 ~~evaluated under the specific statutes and rules applicable to that particular service.~~ If such
46 destination cancer hospital applies for a certificate of need to add an additional new
47 institutional health service before commencing operations or completing two consecutive
48 years of operation, such applicant may rely on historical data from its affiliated entities, as
49 set forth in paragraph (2) of subsection (b.1) of Code Section 31-6-42. ~~Because destination~~
50 ~~cancer hospitals provide services primarily to out-of-state residents, the~~ The number of
51 beds, services, and equipment destination cancer hospitals use shall not be counted as part
52 of the department's inventory when determining the need for those items by other
53 providers. No person shall be issued more than one certificate of need for a destination
54 cancer hospital. Nothing in this Code section shall in any way require a destination cancer
55 hospital to obtain a certificate of need for any purpose that is otherwise exempt from the
56 certificate of need requirement. Beginning January 1, 2010, the department shall not
57 accept any application for a certificate of need for a new destination cancer hospital;
58 provided, however, that all other provisions regarding the upgrading, replacing, or
59 purchasing of diagnostic or therapeutic equipment shall be applicable to an existing
60 destination cancer hospital."

61 **SECTION 3.**

62 Said chapter is further amended in Code Section 31-6-40.1, relating to acquisition of health
 63 care facilities; penalty for failure to notify the department; limitation on applications;
 64 agreement to care for indigent patients; requirements for destination cancer hospitals; and
 65 notice and hearing provisions for penalties, by repealing subsection (c.1).

66 **SECTION 4.**

67 Said chapter is further amended by revising subsection (b.1) of Code Section 31-6-42,
 68 relating to qualifications for issuance of a certificate of need, as follows:

69 "(b.1) In the case of applications for the construction, development, or establishment of a
 70 destination cancer hospital, the applicable considerations as to the need for such service
 71 shall not include paragraphs (1), (2), (3), (7), (8), (10), (11), and (14) of subsection (a) of
 72 this Code section but shall include:

73 (1) Paragraphs (4), (5), (6), (9), (12), (13), (15), (16), and (17) of subsection (a) of this
 74 Code section;

75 (2) ~~That the proposed new destination cancer hospital can demonstrate, based on~~
 76 ~~historical data from the applicant or its affiliated entities, that its annual patient base shall~~
 77 ~~be composed of a minimum of 65 percent of patients who reside outside of the State of~~
 78 ~~Georgia~~ Reserved;

79 (3) That the proposed new destination cancer hospital states its intent to provide
 80 uncompensated indigent or charity care which shall meet or exceed 3 percent of its
 81 adjusted gross revenues and provide care to Medicaid beneficiaries;

82 (4) That the proposed new destination cancer hospital shall conduct biomedical or
 83 behavioral research projects or service development which is designed to meet a national
 84 or regional need;

85 (5) That the proposed new destination cancer hospital shall be reasonably financially and
 86 physically accessible;

87 (6) That the proposed new destination cancer hospital shall have a positive relationship
 88 to the existing health care delivery system on a regional basis;

89 (6.1) That the proposed new destination cancer hospital shall enter into a hospital
 90 transfer agreement with one or more hospitals within a reasonable distance from the
 91 destination cancer hospital or the medical staff at the destination cancer hospital has
 92 admitting privileges or other acceptable documented arrangements with such hospital or
 93 hospitals to ensure the necessary backup for the destination cancer hospital for medical
 94 complications. The destination cancer hospital shall have the capability to transfer a
 95 patient immediately to a hospital within a reasonable distance from the destination cancer
 96 hospital with adequate emergency room services. Hospitals shall not unreasonably deny

97 a transfer agreement with the destination cancer hospital. In the event that a destination
 98 cancer hospital and another hospital cannot agree to the terms of a transfer agreement as
 99 required by this paragraph, the department shall mediate between such parties for a period
 100 of no more than 45 days. If an agreement is still not reached within such 45 day period,
 101 the parties shall enter into binding arbitration conducted by the department;

102 (7) That an applicant for a new destination cancer hospital shall document in its
 103 application that the new facility is not predicted to be detrimental to existing hospitals
 104 within the planning area. Such demonstration shall be made by providing an analysis in
 105 such application that compares current and projected changes in market share and payor
 106 mix for such applicant and such existing hospitals within the planning area. Impact on
 107 an existing hospital shall be determined to be adverse if, based on the utilization projected
 108 by the applicant, such existing hospital would have a total decrease of 10 percent or more
 109 in its average annual utilization, as measured by patient days for the two most recent and
 110 available preceding calendar years of data; and

111 (8) That the destination cancer hospital shall express its intent to participate in medical
 112 staffing work force development activities."

113 **SECTION 5.**

114 Said chapter is further amended by revising subsection (a) of Code Section 31-6-45, relating
 115 to revocation of certificate of need, enforcement of chapter, and regulatory investigations and
 116 examinations, as follows:

117 "(a) The department may revoke a certificate of need, in whole or in part, after notice to
 118 the holder of the certificate and a fair hearing pursuant to Chapter 13 of Title 50, the
 119 'Georgia Administrative Procedure Act,' for the following reasons:

120 (1) Failure to comply with the provisions of Code Section 31-6-41;

121 (2) The intentional provision of false information to the department by an applicant in
 122 that applicant's application;

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

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

126 (5) Failure to participate as a provider of medical assistance for Medicaid purposes
 127 pursuant to Code Section 31-6-45.2 or any other applicable Code section; or

128 (6) The failure to submit a timely or complete report within 180 days following the date
 129 the report is due pursuant to Code Section 31-6-70; or

130 ~~(7) Failure of a destination cancer hospital to meet an annual patient base composed of~~
 131 ~~a minimum of 65 percent of patients who reside outside this state for three calendar years~~
 132 ~~in any five-year period.~~

133 The department may not, however, revoke a certificate of need if the applicant changes the
134 defined location of the project within the same county less than three miles from the
135 location specified in the certificate of need for financial reasons or other reasons beyond
136 its control, including, but not limited to, failure to obtain any required approval from
137 zoning or other governmental agencies or entities, provided such change in location is
138 otherwise consistent with the considerations and rules applied in the evaluation of the
139 project."

140

SECTION 6.

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