

House Bill 943 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27<sup>th</sup>, Smith of the 134<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, Cooper of the 43<sup>rd</sup>, Broadrick of the 4<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to  
2 general provisions relative to health, so as to enact the "Georgia Health Care Freedom Act";  
3 to provide a short title; to provide that neither the state nor any department, agency, bureau,  
4 authority, office, or other unit of the state nor any political subdivision of the state shall  
5 expend or use moneys, human resources, or assets of the State of Georgia to advocate or  
6 intended to influence the citizens of this state in support of the voluntary expansion by the  
7 state of eligibility for medical assistance in furtherance of the federal Patient Protection and  
8 Affordable Care Act; to provide for enforcement; to provide for applicability; to amend  
9 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general  
10 provisions regarding insurance, so as to provide that no department, agency, instrumentality,  
11 or political subdivision of this state shall establish any program; promulgate any rule, policy,  
12 guideline, or plan; or change any program, rule, policy, or guideline to implement, establish,  
13 create, administer, or otherwise operate an exchange, or apply for, accept, or expend federal  
14 moneys related to the creation, implementation, or operation of an exchange; to provide for  
15 an exception; to prohibit the state and its departments, agencies, bureaus, authorities, offices,  
16 or other units of the state and its political subdivisions from providing navigator programs;  
17 to provide for applicability; to amend Article 1 of Chapter 24 of Title 33 of the Official Code  
18 of Georgia Annotated, relating to general provisions regarding insurance generally, so as to  
19 require that a health benefit policy that provides coverage for intravenously administered or  
20 injected chemotherapy for the treatment of cancer shall provide coverage no less favorable  
21 for orally administered chemotherapy; to provide a short title; to provide for definitions; to  
22 prohibit certain actions; to provide for related matters; to provide for effective dates; to repeal  
23 conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 **PART I**

26 **SECTION 1-1.**

27 This Act shall be known and may be cited as the "Georgia Health Care Freedom Act."

28 **SECTION 1-2.**

29 Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to general  
30 provisions relative to health, is amended by adding a new article to read as follows:

31 "ARTICLE 3

32 31-1-40.

33 (a) Neither the state nor any department, agency, bureau, authority, office, or other unit of  
34 the state nor any political subdivision of the state shall expend or use moneys, human  
35 resources, or assets to advocate or intended to influence the citizens of this state in support  
36 of the voluntary expansion by the State of Georgia of eligibility for medical assistance in  
37 furtherance of the federal 'Patient Protection and Affordable Care Act,' Public Law  
38 111-148, beyond the eligibility criteria in effect on the effective date of this Code section  
39 under the provisions of 42 U.S.C. Section 1396a(a)(10)(A)(i)(VIII) of the federal Social  
40 Security Act, as amended.

41 (b) The Attorney General shall enforce the provisions of this Code section in accordance  
42 with Article V, Section III, Paragraph IV of the Constitution of the State of Georgia.

43 (c) Nothing in this Code section shall be construed to prevent an officer or employee of  
44 the State of Georgia or of any department, agency, bureau, authority, office, unit, or  
45 political subdivision thereof from advocating or attempting to influence public policy:

46 (1) As part of such person's official duties;

47 (2) When acting on personal time without using state resources; or

48 (3) When providing bona fide educational instruction about the federal Patient Protection  
49 and Affordable Care Act of 2010 in institutions of higher learning or otherwise.

50 (d) Nothing in this Code section shall be construed to preclude the state from participating  
51 in any MEDICAID program."

52 **SECTION 1-3.**

53 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general  
54 provisions regarding insurance, is amended by adding a new Code section to read as follows:

55 "33-1-23.

- 56 (a) As used in this Code section, the term 'exchange' shall have the same meaning provided  
 57 for in paragraph (1) of Code Section 33-23-201.
- 58 (b) No department, agency, instrumentality, or political subdivision of this state shall:  
 59 (1) Establish any program; promulgate any rule, policy, guideline, or plan; or change any  
 60 program, rule, policy, or guideline to implement, establish, create, administer, or  
 61 otherwise operate an exchange; or  
 62 (2) Apply for, accept, or expend federal moneys related to the creation, implementation,  
 63 or operation of an exchange.
- 64 (c) Nothing in this Code section shall apply to the Commissioner of Insurance in the  
 65 implementation or enforcement of the provisions of Article 3 of Chapter 23 of this title.
- 66 (d) Neither the state nor any department, agency, bureau, authority, office, or other unit  
 67 of the state, including the University System of Georgia and its member institutions, nor  
 68 any political subdivision of the state shall establish, create, implement, or operate a  
 69 navigator program or its equivalent as defined in Code Section 33-23-201; provided,  
 70 however, that any grant regarding a navigator program in effect on the effective date of this  
 71 Code section shall be permitted to continue for the term of such grant but shall then  
 72 terminate upon the expiration of the term of such grant and shall not be renewed,  
 73 notwithstanding any provision contained within such grant allowing for automatic renewal  
 74 under certain circumstances.
- 75 (e) Nothing in this Code section shall be construed to preclude the state from participating  
 76 in any MEDICAID program."

77 **PART II**

78 **SECTION 2-1.**

79 This Act shall be known and may be cited as the "Cancer Treatment Fairness Act."

80 **SECTION 2-2.**

81 Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to  
 82 general provisions regarding insurance generally, is amended by adding a new Code section  
 83 to read as follows:

84 "33-24-56.5.

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

- 86 (1) 'Cost sharing requirements' includes co-payments, coinsurance, deductibles, and any  
 87 other amounts paid by the covered person for a prescription dispensed by a licensed retail  
 88 pharmacy.

89 (2) 'Health benefit policy' means any individual or group plan, policy, or contract for  
90 health care services issued, delivered, issued for delivery, executed, or renewed by an  
91 insurer in this state on or after January 1, 2015. The term 'health benefit policy' does not  
92 include the following limited benefit insurance policies: accident only, CHAMPUS  
93 supplement, dental, disability income, fixed indemnity, long-term care, Medicaid,  
94 medicare supplement, specified disease, vision, self-insured plans, and nonrenewable  
95 individual policies written for a period of less than six months.

96 (3) 'Insurer' means any person, corporation, or other entity authorized to provide health  
97 benefit policies under this title.

98 (b) A health benefit policy that provides coverage for intravenously administered or  
99 injected chemotherapy for the treatment of cancer shall provide coverage for orally  
100 administered chemotherapy for the treatment of cancer on a basis no less favorable than the  
101 intravenously administered or injected chemotherapy regardless of the formulation or  
102 benefit category determination by the insurer.

103 (c) An insurer providing a health benefit policy and any participating entity through which  
104 the insurer offers health services shall not:

105 (1) Vary the terms of any health benefit policy in effect on December 30, 2014, to avoid  
106 compliance with this Code section;

107 (2) Provide any incentive, including, but not limited to, a monetary incentive, or impose  
108 treatment limitations to encourage a covered person to accept less than the minimum  
109 protections available under this Code section;

110 (3) Penalize a health care practitioner or reduce or limit the compensation of a health  
111 care practitioner for recommending or providing services or care to a covered person as  
112 required under this Code section;

113 (4) Provide any incentive, including, but not limited to, a monetary incentive, to induce  
114 a health care practitioner to provide care or services that do not comply with this Code  
115 section; or

116 (5) Change the classification of any intravenously administered or injected chemotherapy  
117 treatment or increase the amount of cost sharing applicable to any intravenously  
118 administered or injected chemotherapy in effect on January 1, 2015, in order to achieve  
119 compliance with this Code section.

120 (d) An insurer that limits the total amount paid by a covered person through all cost  
121 sharing requirements to no more than \$200.00 per filled prescription for any orally  
122 administered chemotherapy shall be deemed to be in compliance with this Code section."

123

**PART III**

124

**SECTION 3-1.**

125 (a) Part I and Part III of this Act shall become effective upon its approval by the Governor

126 or upon its becoming law without such approval.

127 (b) Part II of this Act shall become effective on January 1, 2015.

128

**SECTION 3-2.**

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