House Bill 321 (AS PASSED HOUSE AND SENATE)
By: Representatives Lott of the 122nd, Reeves of the 34th, Rogers of the 10th, Powell of the 171st, and LaRiccia of the 169th

A BILL TO BE ENTITLED
AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to provide for the posting of certain documents on hospital websites; to provide for requirements; to provide for a definition; to provide for conflicting interest transactions for members of hospital authorities; to extend the sunset provision for the hospital Medicaid financing program; to amend Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits for contributions to rural health organizations, so as to provide for undesignated contributions, reporting, and an annual credit; to extend the sunset provision for the tax credit; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new Code section to Article 1 of Chapter 7, relating to regulation of hospitals and related institutions, to read as follows:

"31-7-22. (a) As used in this Code section, the term 'hospital' means a nonprofit hospital, a hospital owned or operated by a hospital authority, or a nonprofit corporation formed, created, or operated by or on behalf of a hospital authority.
(b) Beginning October 1, 2019, each hospital in this state shall post a link in a prominent location on the main page of its website to the most recent version of the following documents:
(1) Federal related disclosures:
(A) Copies of audited financial statements that are general purpose financial statements, which express the unqualified opinion of an independent certified public accounting firm for the most recently completed fiscal year for the hospital; each of its
affiliates, except those affiliates that were inactive or that had an immaterial amount of total assets; and the hospital's parent corporation that include the following:

(i) A PDF version of all audited financial statements;

(ii) A note in the hospital's audited financial statements that identifies individual amounts for such hospital's gross patient revenue, allowances, charity care, and net patient revenue;

(iii) Audited consolidated financial statements for hospitals with subsidiaries and consolidating financial statements that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the hospital's and each subsidiary's numbers with a report from independent accountants on other financial information; and

(iv) Audited consolidated financial statements for the hospital's parent corporation and consolidating financial statements that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the hospital's and each affiliate's numbers with a report from independent accountants on other financial information; and

(B) Copy of audited Internal Revenue Service Form 990, including Schedule H for hospitals and other applicable attachments; provided, however, that for any hospital not required to file IRS Form 990, the department shall establish and provide a form that collects the same information as is contained in Internal Revenue Service Form 990, including Schedule H for hospitals, as applicable; and

(2) Georgia supplemental disclosures:

(A) Copy of the hospital's completed annual hospital questionnaire, as required by the department;

(B) The community benefit report prepared pursuant to Code Section 31-7-90.1, if applicable;

(C) The disproportionate share hospital survey, if applicable;

(D) Listing of all real property holdings of the hospital, including the location and size, parcel ID number, purchase price, current use, and any improvements made to such property;

(E) Listing of any ownership or interest the nonprofit hospital has in any joint venture, partnership, subsidiary holding company, or captive insurance company; where any such entity is domiciled; and the value of any such ownership or interest;

(F) Listing of any bonded indebtedness, outstanding loans, and bond defaults, whether or not in forbearance; and any bond disclosure sites of the hospital;

(G) A report that identifies by purpose, the ending fund balances of the net assets of the hospital and each affiliate as of the close of the most recently completed fiscal year.
distinguishing between donor permanently restricted, donor temporarily restricted, board restricted and unrestricted fund balances. The hospital's interest in its foundation shall be deducted from the foundation's total fund balance;

(H) Copy of all going concern statements regarding the hospital;

(I) The most recent legal chart of corporate structure, including the hospital, each of its affiliates and subsidiaries, and its parent corporation, duly dated;

(J) Report listing the salaries and fringe benefits for the ten highest paid administrative positions in the hospital. Each position shall be identified by its complete, unabbreviated title. Fringe benefits shall include all forms of compensation, whether actual or deferred, made to or on behalf of the employee, whether full or part-time;

(K) Evidence of accreditation by accrediting bodies, including, but not limited to, the Joint Commission and DNV; and

(L) Copy of the hospital's policies regarding the provision of charity care and reduced cost services to the indigent, excluding medical assistance recipients, and its debt collection practices.

(c) Each hospital shall update the documents in the links posted pursuant to subsection (b) of this Code section on July 1 of each year or more frequently at its discretion. Noncurrent documents shall remain posted and accessible on the hospital's website indefinitely.

(d) All documents listed in subsection (b) of this Code section shall be prepared in accordance with generally accepted accounting principles, as applicable.

(e) The department shall also post a link in a prominent location on its website to the documents listed in subsection (b) of this Code section for each hospital in this state.

(f) Any hospital that fails to post the documents required pursuant to subsection (b) of this Code section within 30 days of the dates required in this Code section shall be suspended from receiving any state funds or any donations pursuant to Code Section 48-7-29.20; provided, however, that the department shall provide a hospital notice of any deficiency and opportunity to correct such deficiency prior to any suspension of funds pursuant to this subsection.

(g) The department shall have jurisdiction to enforce this Code section and to promulgate rules and regulations required to administer this Code section.

(h) Any person who knowingly and willfully includes false, fictitious, or fraudulent information in any documents required to be posted pursuant to this Code section shall be subject to a violation of Code Section 16-10-20."

SECTION 2.

Said title is further amended by adding a new Code section to Article 4 of Chapter 7, relating to hospital authorities, to read as follows:
Members on the board of a hospital authority at the time of a sale or lease of a hospital owned by such hospital authority shall be deemed directors and subject to the provisions of Part 6 of Article 8 of Chapter 3 of Title 14, relating to conflicting interest transactions with respect to the proceeds of such sale or lease."

SECTION 3.

Said title is further amended by revising Code Section 31-8-9.1, relating to eligibility to receive tax credits and obligations of rural hospitals after receipt of funds, as follows:

"31-8-9.1.
(a) As used in this Code section, the term:
(1) ‘Critical access hospital’ means a hospital that meets the requirements of the federal Centers for Medicare and Medicaid Services to be designated as a critical access hospital and that is recognized by the department as a critical access hospital for purposes of Medicaid.
(2) ‘Rural county’ means a county having a population of less than 50,000 according to the United States decennial census of 2010 or any future such census; provided, however, that for counties which contain a military base or installation, the military personnel and their dependents living in such county shall be excluded from the total population of such county for purposes of this definition.
(3) ‘Rural hospital organization’ means an acute care hospital licensed by the department pursuant to Article 1 of Chapter 7 of this title that:
(A) Provides inpatient hospital services at a facility located in a rural county or is a critical access hospital;
(B) Participates in both Medicaid and medicare and accepts both Medicaid and medicare patients;
(C) Provides health care services to indigent patients;
(D) Has at least 10 percent of its annual net revenue categorized as indigent care, charity care, or bad debt;
(E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax, with the department, or for any hospital not required to file IRS Form 990, the department will provide a form that collects the same information to be submitted to the department on an annual basis;
(F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code; and
(G) Is current with all audits and reports required by law; and
(H) Has a three-year average patient margin, as a percent of expense, less than one standard deviation above the state-wide three-year average of organizations defined in subparagraphs (A) through (G) of this paragraph, as calculated by the department. For purposes of this subparagraph, the term 'patient margin' means gross patient revenues less contractual adjustments, bad debt, indigent and charity care, other uncompensated care, and total expenses.

(b)(1) By December 1 of each year, the department shall approve a list of rural hospital organizations eligible to receive contributions from the tax credit provided pursuant to Code Section 48-7-29.20 and transmit such list to the Department of Revenue.

(2) Before any rural hospital organization is included on the list as eligible to receive contributions from the tax credit provided pursuant to Code Section 48-7-29.20, it shall submit to the department a five-year plan detailing the financial viability and stability of the rural hospital organization. The criteria to be included in the five-year plan shall be established by the department.

(3) The department shall create an operations manual for identifying rural hospital organizations and ranking such rural hospital organizations in order of financial need. Such manual shall include:

(A) All deadlines for submitting required information to the department;

(B) The criteria to be included in the five-year plan submitted pursuant to paragraph (2) of this subsection; and

(C) The formula applied to rank the rural hospital organizations in order of financial need.

(c)(1) A rural hospital organization that receives donations pursuant to Code Section 48-7-29.20 shall:

(A) Utilize such donations for the provision of health care related services for residents of a rural county or for residents of the area served by a critical access hospital; and

(B) Report on a form provided by the department:

(i) All contributions received from individual and corporate donors pursuant to Code Section 48-7-29.20 detailing the manner in which the contributions received were expended by the rural hospital organization; and

(ii) Any payments made to a third party to solicit, administer, or manage the donations received by the rural hospital organization pursuant to this Code section or Code Section 48-7-29.20. In no event shall payments made to a third party to solicit, administer, or manage the donations received pursuant to this Code section exceed 3 percent of the total amount of the donations.
(2) The department shall annually prepare a report compiling the information received pursuant to paragraph (1) of this subsection for the chairpersons of the House Committee on Ways and Means and the Senate Health and Human Services Committee.

(d) The department shall post the following information in a prominent location on its website:

(1) The list of rural hospital organizations eligible to receive contributions established pursuant to paragraph (1) of subsection (b) of this Code section;

(2) The operations manual created pursuant to paragraph (3) of subsection (b) of this Code section;

(3) The annual report prepared pursuant to paragraph (2) of subsection (c) of this Code section;

(4) The total amount received by each third party that participated in soliciting, administering, or managing donations; and

(5) A link to the Department of Revenue's website containing the information included in subsection (d) of Code Section 48-7-29.20.

SECTION 4.

Said title is further amended by revising Code Section 31-8-179.6, relating to the termination date of the hospital Medicaid financing program, as follows:

"31-8-179.6. This article shall stand repealed on June 30, 2025, unless reauthorized by the General Assembly prior to that date."

SECTION 5.

Code Section 48-7-29.20 of the Official Code of Georgia Annotated, relating to tax credits for contributions to rural hospital organizations, is amended as follows:

"48-7-29.20. (a) As used in this Code section, the term:

(1) 'Qualified rural hospital organization expense' means the contribution of funds by an individual or corporate taxpayer to a rural hospital organization for the direct benefit of such organization during the tax year for which a credit under this Code section is claimed.

(2) 'Rural hospital organization' means an organization that is approved by the Department of Community Health pursuant to Code Section 31-8-9.1.

(b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter for qualified rural hospital organization expenses as follows:

(1) In the case of a single individual or a head of household, the actual amount expended;
(2) In the case of a married couple filing a joint return, the actual amount expended; or
(3) In the case of an individual who is a member of a limited liability company duly
formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
partnership, the amount expended; provided, however, that tax credits pursuant to this
paragraph shall be allowed only for the portion of the income on which such tax was
actually paid by such individual.

(b.1) From January 1 to June 30 each taxable year, an individual taxpayer shall be limited
in its qualified rural hospital organization expenses allowable for credit under this Code
section, and the commissioner shall not approve qualified rural hospital organization
expenses incurred from January 1 to June 30 each taxable year, which exceed the following
limits:

(1) In the case of a single individual or a head of household, $5,000.00;
(2) In the case of a married couple filing a joint return, $10,000.00; or
(3) In the case of an individual who is a member of a limited liability company duly
formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
partnership, $10,000.00.

(c) A corporation or other entity shall be allowed a credit against the tax imposed by this
chapter for qualified rural hospital organization expenses in an amount not to exceed the
actual amount expended or 75 percent of the corporation's income tax liability, whichever
is less.

(d) In no event shall the total amount of the tax credit under this Code section for a taxable
year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
taxpayer against the succeeding five years' tax liability. No such credit shall be allowed
the taxpayer against prior years' tax liability.

(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
section exceed $60 million per taxable year.

(2)(A) No more than $4 million of the aggregate limit established by paragraph (1) of
this subsection shall be contributed to any individual rural hospital organization in any
taxable year. From January 1 to June 30 each taxable year, the commissioner shall only
preapprove contributions submitted by individual taxpayers in an amount not to exceed
$2 million, and from corporate donors in an amount not to exceed $2 million. From
July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1)
of this subsection and the individual rural hospital organization limit in this paragraph,
the commissioner shall approve contributions submitted by individual taxpayers and
corporations or other entities.

(B) In the event an individual or corporate donor desires to make a contribution to an
individual rural hospital organization that has received the maximum amount of

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contributions for that taxable year, the Department of Community Health shall provide
the individual or corporate donor with a list, ranked in order of financial need, as
determined by the Department of Community Health, of rural hospital organizations
still eligible to receive contributions for the taxable year.

(C) In the event that an individual or corporate donor desires to make a contribution
to an unspecified or undesignated rural hospital organization, either directly to the
department or through a third party that participates in soliciting, administering, or
managing donations, such donation shall be attributed to the rural hospital organization
ranked with the highest financial need that has not yet received the maximum amount
of contributions for that taxable year, regardless of whether a third party has a
contractual relationship or agreement with such rural hospital organization.

(D) Any third party that participates in soliciting, advertising, or managing donations
shall provide the complete list of rural hospital organizations eligible to receive the tax
credit provided pursuant to this Code section including their ranking in order of
financial need as determined by the Department of Community Health pursuant to Code
Section 31-8-9.1, to any potential donor regardless of whether a third party has a
contractual relationship or agreement with such rural hospital organization.

(3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital
organization shall notify a potential donor of the requirements of this Code section.
Before making a contribution to a rural hospital organization, the taxpayer shall
electronically notify the department, in a manner specified by the department, of the total
amount of contribution that the taxpayer intends to make to the rural hospital
organization. The commissioner shall preapprove or deny the requested amount within
30 days after receiving the request from the taxpayer and shall provide written notice to
the taxpayer and rural hospital organization of such preapproval or denial which shall not
require any signed release or notarized approval by the taxpayer. In order to receive a tax
credit under this Code section, the taxpayer shall make the contribution to the rural
hospital organization within 60 days after receiving notice from the department that the
requested amount was preapproved. If the taxpayer does not comply with this paragraph,
the commissioner shall not include this preapproved contribution amount when
calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

(4)(A) Preapproval of contributions by the commissioner shall be based solely on the
availability of tax credits subject to the aggregate total limit established under
paragraph (1) of this subsection and the individual rural hospital organization limit
established under paragraph (2) of this subsection.
(B) Any taxpayer preapproved by the department pursuant to subsection (e) of this Code section shall retain their approval in the event the credit percentage in subsection (b) of this Code section is modified for the year in which the taxpayer was preapproved.

(C) Upon the rural hospital organization's confirmation of receipt of donations that have been preapproved by the department, any taxpayer preapproved by the department pursuant to subsection (c) of this Code section shall receive the full benefit of the income tax credit established by this Code section even though the rural hospital organization to which the taxpayer made a donation does not properly comply with the reports or filings required by this Code section.

(5) Notwithstanding any laws to the contrary, the department shall not take any adverse action against donors to rural hospital organizations if the commissioner preapproved a donation for a tax credit prior to the date the rural hospital organization is removed from the Department of Community Health list pursuant to Code Section 31-8-9.1, and all such donations shall remain as preapproved tax credits subject only to the donor's compliance with paragraph (3) of this subsection.

(f) In order for the taxpayer to claim the tax credit under this Code section, a letter of confirmation of donation issued by the rural hospital organization to which the contribution was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer files an electronic return, such confirmation shall only be required to be electronically attached to the return if the Internal Revenue Service allows such attachments when the return is transmitted to the department. In the event the taxpayer files an electronic return and such confirmation is not attached because the Internal Revenue Service does not, at the time of such electronic filing, allow electronic attachments to the Georgia return, such confirmation shall be maintained by the taxpayer and made available upon request by the commissioner. The letter of confirmation of donation shall contain the taxpayer's name, address, tax identification number, the amount of the contribution, the date of the contribution, and the amount of the credit.

(g) No credit shall be allowed under this Code section with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution to a bona fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue Code.

(h) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

(i) The department shall post the following information in a prominent location on its website:

(1) All pertinent timelines relating to the tax credit, including, but not limited to:
(A) Beginning date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;

(B) Ending date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;

(C) Beginning date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period;

(D) Ending date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period; and

(E) Date by which preapproved contributions are required to be sent to the rural hospital organization;

(2) The list and ranking order of rural hospital organizations eligible to receive contributions established pursuant to paragraph (1) of subsection (b) of Code Section 31-8-9.1;

(3) A monthly progress report including:

(A) Total preapproved contributions to date by rural hospital organization;

(B) Total contributions received to date by rural hospital organization;

(C) Total aggregate amount of preapproved contributions made to date; and

(D) Aggregate amount of tax credits available;

(4) A list of all preapproved contributions that were made to an unspecified or undesignated rural hospital organization and the rural hospital organizations that received such contributions.

(i) The Department of Audits and Accounts shall annually conduct an audit of the tax credit program established under this Code section, including the amount and recipient rural hospital organization of all contributions made, all tax credits received by individual and corporate donors, and all amounts received by third parties that solicited, administered, or managed donations pertaining to this Code section and Code Section 31-8-9.1.

(k) This Code section shall stand automatically repealed on December 31, 2024.