

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

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

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

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

15 "31-7-22.

16 (a) As used in this Code section, the term 'hospital' means a nonprofit hospital, a hospital
17 owned or operated by a hospital authority, or a nonprofit corporation formed, created, or
18 operated by or on behalf of a hospital authority.

19 (b) Beginning October 1, 2019, each hospital in this state shall post a link in a prominent
20 location on the main page of its website to the most recent version of the following
21 documents:

22 (1) Federal related disclosures:

23 (A) Copies of audited financial statements that are general purpose financial
24 statements, which express the unqualified opinion of an independent certified public
25 accounting firm for the most recently completed fiscal year for the hospital; each of its

26 affiliates, except those affiliates that were inactive or that had an immaterial amount of
27 total assets; and the hospital's parent corporation that include the following:

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

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

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

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

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

47 (2) Georgia supplemental disclosures:

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

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

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

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

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

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

61 (G) A report that identifies by purpose, the ending fund balances of the net assets of
62 the hospital and each affiliate as of the close of the most recently completed fiscal year,

- 63 distinguishing between donor permanently restricted, donor temporarily restricted,
 64 board restricted and unrestricted fund balances. The hospital's interest in its foundation
 65 shall be deducted from the foundation's total fund balance;
 66 (H) Copy of all going concern statements regarding the hospital;
 67 (I) The most recent legal chart of corporate structure, including the hospital, each of
 68 its affiliates and subsidiaries, and its parent corporation, duly dated;
 69 (J) Report listing the salaries and fringe benefits for the ten highest paid administrative
 70 positions in the hospital. Each position shall be identified by its complete,
 71 unabbreviated title. Fringe benefits shall include all forms of compensation, whether
 72 actual or deferred, made to or on behalf of the employee, whether full or part-time;
 73 (K) Evidence of accreditation by accrediting bodies, including, but not limited to, the
 74 Joint Commission and DNV; and
 75 (L) Copy of the hospital's policies regarding the provision of charity care and reduced
 76 cost services to the indigent, excluding medical assistance recipients, and its debt
 77 collection practices.
- 78 (c) Each hospital shall update the documents in the links posted pursuant to subsection (b)
 79 of this Code section on July 1 of each year or more frequently at its discretion. Noncurrent
 80 documents shall remain posted and accessible on the hospital's website indefinitely.
- 81 (d) All documents listed in subsection (b) of this Code section shall be prepared in
 82 accordance with generally accepted accounting principles, as applicable.
- 83 (e) The department shall also post a link in a prominent location on its website to the
 84 documents listed in subsection (b) of this Code section for each hospital in this state.
- 85 (f) Any hospital that fails to post the documents required pursuant to subsection (b) of this
 86 Code section within 30 days of the dates required in this Code section shall be suspended
 87 from receiving any state funds or any donations pursuant to Code Section 48-7-29.20;
 88 provided, however, that the department shall provide a hospital notice of any deficiency
 89 and opportunity to correct such deficiency prior to any suspension of funds pursuant to this
 90 subsection.
- 91 (g) The department shall have jurisdiction to enforce this Code section and to promulgate
 92 rules and regulations required to administer this Code section.
- 93 (h) Any person who knowingly and willfully includes false, fictitious, or fraudulent
 94 information in any documents required to be posted pursuant to this Code section shall be
 95 subject to a violation of Code Section 16-10-20."

96 SECTION 2.

97 Said title is further amended by adding a new Code section to Article 4 of Chapter 7, relating
 98 to hospital authorities, to read as follows:

99 "31-7-74.4.
 100 Members on the board of a hospital authority at the time of a sale or lease of a hospital
 101 owned by such hospital authority shall be deemed directors and subject to the provisions
 102 of Part 6 of Article 8 of Chapter 3 of Title 14, relating to conflicting interest transactions
 103 with respect to the proceeds of such sale or lease."

104 **SECTION 3.**

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

107 "31-8-9.1.

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

109 (1) 'Critical access hospital' means a hospital that meets the requirements of the federal
 110 Centers for Medicare and Medicaid Services to be designated as a critical access hospital
 111 and that is recognized by the department as a critical access hospital for purposes of
 112 Medicaid.

113 (2) 'Rural county' means a county having a population of less than 50,000 according to
 114 the United States decennial census of 2010 or any future such census; provided, however,
 115 that for counties which contain a military base or installation, the military personnel and
 116 their dependents living in such county shall be excluded from the total population of such
 117 county for purposes of this definition.

118 (3) 'Rural hospital organization' means an acute care hospital licensed by the department
 119 pursuant to Article 1 of Chapter 7 of this title that:

120 (A) Provides inpatient hospital services at a facility located in a rural county or is a
 121 critical access hospital;

122 (B) Participates in both Medicaid and medicare and accepts both Medicaid and
 123 medicare patients;

124 (C) Provides health care services to indigent patients;

125 (D) Has at least 10 percent of its annual net revenue categorized as indigent care,
 126 charity care, or bad debt;

127 (E) Annually files IRS Form 990, Return of Organization Exempt From Income Tax,
 128 with the department, or for any hospital not required to file IRS Form 990, the
 129 department will provide a form that collects the same information to be submitted to the
 130 department on an annual basis;

131 (F) Is operated by a county or municipal authority pursuant to Article 4 of Chapter 7
 132 of this title or is designated as a tax-exempt organization under Section 501(c)(3) of the
 133 Internal Revenue Code; ~~and~~

134 (G) Is current with all audits and reports required by law; and

135 (H) Has a three-year average patient margin, as a percent of expense, less than one
 136 standard deviation above the state-wide three-year average of organizations defined in
 137 subparagraphs (A) through (G) of this paragraph, as calculated by the department. For
 138 purposes of this subparagraph, the term 'patient margin' means gross patient revenues
 139 less contractual adjustments, bad debt, indigent and charity care, other uncompensated
 140 care, and total expenses.

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

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

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

151 Such manual shall include:

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

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

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

157 (c)(1) A rural hospital organization that receives donations pursuant to Code Section
 158 48-7-29.20 shall:

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

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

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

165 (ii) Any payments made to a third party to solicit, administer, or manage the
 166 donations received by the rural hospital organization pursuant to this Code section or
 167 Code Section 48-7-29.20. In no event shall payments made to a third party to solicit,
 168 administer, or manage the donations received pursuant to this Code section exceed 3
 169 percent of the total amount of the donations.

170 (2) The department shall annually prepare a report compiling the information received
 171 pursuant to paragraph (1) of this subsection for the chairpersons of the House Committee
 172 on Ways and Means and the Senate Health and Human Services Committee.

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

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

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

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

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

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

185 **SECTION 4.**

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

188 "31-8-179.6.

189 This article shall stand repealed on June 30, ~~2020~~ 2025, unless reauthorized by the General
 190 Assembly prior to that date."

191 **SECTION 5.**

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

194 "48-7-29.20.

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

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

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

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

204 (1) In the case of a single individual or a head of household, the actual amount expended;

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

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

216 (1) In the case of a single individual or a head of household, \$5,000.00;

217 (2) In the case of a married couple filing a joint return, \$10,000.00; or

218 (3) In the case of an individual who is a member of a limited liability company duly
219 formed under state law, a shareholder of a Subchapter 'S' corporation, or a partner in a
220 partnership, \$10,000.00.

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

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

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

231 (2)(A) No more than \$4 million of the aggregate limit established by paragraph (1) of
232 this subsection shall be contributed to any individual rural hospital organization in any
233 taxable year. From January 1 to June 30 each taxable year, the commissioner shall only
234 preapprove contributions submitted by individual taxpayers in an amount not to exceed
235 \$2 million, and from corporate donors in an amount not to exceed \$2 million. From
236 July 1 to December 31 each taxable year, subject to the aggregate limit in paragraph (1)
237 of this subsection and the individual rural hospital organization limit in this paragraph,
238 the commissioner shall approve contributions submitted by individual taxpayers and
239 corporations or other entities.

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

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

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

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

259 (3) For purposes of paragraphs (1) and (2) of this subsection, a rural hospital
260 organization shall notify a potential donor of the requirements of this Code section.
261 Before making a contribution to a rural hospital organization, the taxpayer shall
262 electronically notify the department, in a manner specified by the department, of the total
263 amount of contribution that the taxpayer intends to make to the rural hospital
264 organization. The commissioner shall preapprove or deny the requested amount within
265 30 days after receiving the request from the taxpayer and shall provide written notice to
266 the taxpayer and rural hospital organization of such preapproval or denial which shall not
267 require any signed release or notarized approval by the taxpayer. In order to receive a tax
268 credit under this Code section, the taxpayer shall make the contribution to the rural
269 hospital organization within 60 days after receiving notice from the department that the
270 requested amount was preapproved. If the taxpayer does not comply with this paragraph,
271 the commissioner shall not include this preapproved contribution amount when
272 calculating the limits prescribed in paragraphs (1) and (2) of this subsection.

273 (4)(A) Preapproval of contributions by the commissioner shall be based solely on the
274 availability of tax credits subject to the aggregate total limit established under
275 paragraph (1) of this subsection and the individual rural hospital organization limit
276 established under paragraph (2) of this subsection.

277 (B) Any taxpayer preapproved by the department pursuant to subsection (e) of this
278 Code section shall retain their approval in the event the credit percentage in subsection
279 (b) of this Code section is modified for the year in which the taxpayer was preapproved.

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

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

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

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

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

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

312 (1) All pertinent timelines relating to the tax credit, including, but not limited to:

- 313 (A) Beginning date when contributions can be submitted for preapproval by donors for
 314 the January 1 to June 30 period;
- 315 (B) Ending date when contributions can be submitted for preapproval by donors for the
 316 January 1 to June 30 period;
- 317 (C) Beginning date when contributions can be submitted for preapproval by donors for
 318 the July 1 to December 31 period;
- 319 (D) Ending date when contributions can be submitted for preapproval by donors for the
 320 July 1 to December 31 period; and
- 321 (E) Date by which preapproved contributions are required to be sent to the rural
 322 hospital organization;
- 323 (2) The list and ranking order of rural hospital organizations eligible to receive
 324 contributions established pursuant to paragraph (1) of subsection (b) of Code Section
 325 31-8-9.1;
- 326 (3) A monthly progress report including:
- 327 (A) Total preapproved contributions to date by rural hospital organization;
 328 (B) Total contributions received to date by rural hospital organization;
 329 (C) Total aggregate amount of preapproved contributions made to date; and
 330 (D) Aggregate amount of tax credits available;
- 331 (4) A list of all preapproved contributions that were made to an unspecified or
 332 undesignated rural hospital organization and the rural hospital organizations that received
 333 such contributions.
- 334 (j) The Department of Audits and Accounts shall annually conduct an audit of the tax
 335 credit program established under this Code section, including the amount and recipient
 336 rural hospital organization of all contributions made, all tax credits received by individual
 337 and corporate donors, and all amounts received by third parties that solicited, administered,
 338 or managed donations pertaining to this Code section and Code Section 31-8-9.1.
- 339 (i)(k) This Code section shall stand automatically repealed on December 31, 2021 2024."

340 **SECTION 6.**

341 This Act shall become effective upon its approval by the Governor or upon its becoming law
 342 without such approval.

343 **SECTION 7.**

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