



## New Laws from Georgia's 2015 Legislative Session Impacting Healthcare Providers and Consumers

H. Carol Saul

The following provides a quick snapshot of the bills impacting healthcare providers and consumers that were introduced during the 2015 Legislative Session. The list contains both bills that passed and bills that did not pass but that remain viable into the next Legislative Session.

### House Bills That Passed

#### HB 1 ("Haleigh's Hope Act")

HB 1 permits the use of medical marijuana in Georgia for the first time. It allows for the possession of 20 fluid ounces or less of low THC oil if: (1) the substance is properly labeled; (2) the person in possession carries a valid permit; and (3) the person is either registered with the Department of Health or involved in a clinical research program being conducted by the Board of Regents of the University System of Georgia.

To keep track of registered individuals, the bill establishes within the Department of Public Health the Low THC Oil Patient Registry. Individuals and caregivers will receive registration cards when an individual has been certified by his or her physician as being diagnosed with one of the listed conditions and authorized by the physician to use low THC oil as treatment. The listed conditions include, for example, end-stage cancer, Crohn's Disease, and seizure disorders. The physician must be treating the individual for the condition requiring the use of low THC oil.

The bill also provides civil liability immunity for healthcare facilities and practitioners that allow a patient to self-administer low THC oil products while on facility premises, provided that the possession of such substance is in accordance with the laws of Georgia. See O.C.G.A. §§ 16-12-190, 16-12-191, 31-2A-18, 31-50-1 to 31-50-5, 31-51-1 to 31-51-10, 51-1-29.6.

#### HB 76 (the 2016 General Budget)

The 2016 General Budget provides for the following funding:

- An additional \$71 million for a rate increase for certain procedure codes to support primary care and OB/GYN services.
- \$8 million (reflecting new Hospital Provider Payment Program revenue) to offset hospital Upper Payment Limit (UPL) funds that are currently being used to support operations of the Morehouse School of Medicine. As a result, additional funding will be available to hospitals for graduate medical education residency program payments, regular UPL payments, and Tier 2 Hospital Medicaid Financing Program payments.
- Additional funding for Affordable Care Act requirements, including: (1) a Hospital Presumptive Eligibility Program (\$19 million) which allows hospital staff to sign patients up for Medicaid that are presumed eligible based on state criteria; and (2) 12-month Continuous Medicaid eligibility (\$116 million), in which Medicaid eligibility is re-determined every 12 months instead of every 6 months.
- \$3 million to support the recommendations of the Rural Hospital Stabilization Committee.

**HB 268 (child abuse reporting)**

HB 268 amended O.C.G.A. § 19-7-5, relating to the mandatory reporting of child abuse. Healthcare personnel, including hospital and medical personnel and physicians, are required to report to the person in charge of the hospital within 24 hours when they have reasonable cause to believe that suspected child abuse has occurred. (Note the previous language changed from “reasonable cause to believe that a child has been abused.”)

**HB 409 (insurance coverage for burn treatment)**

No health benefit policy issued, delivered, or renewed in Georgia—that, as a provision of hospital, medical, or surgical services, directly or indirectly covers the treatment and management of burns—shall limit or exclude coverage for such treatment on the basis that the use of cryopreserved cadaver derived skin tissue is an experimental or investigational medical treatment. See § O.C.G.A. 33-24-59.18.

**HB 416 (“Consumer Information and Awareness Act” aka the “Badge Bill”)**

The “Badge Bill” aims to provide patients with a certain level of understanding as to practitioners’ education by requiring practitioners to display specific information on their name badges. The requirements include identifiers such as name and licensure or educational degree. Facilities that already require name badges are exempt (i.e., they will not be required to replace existing badges to conform to the bill’s requirements). See § O.C.G.A. 43-1-33.

**HB 429 (insurance coverage for terminal conditions, autism)**

No health benefit plan shall restrict coverage for treatment of a terminal condition when such treatment has been prescribed by a physician as medically appropriate. This includes any drug or device, so long as the end of life care is consistent with best practices for the treatment of the terminal condition. See O.C.G.A. § 33-24-59.18. The act also provides for certain insurance coverage of autism spectrum disorders for individuals under six years of age. See O.C.G.A. § 33-24-59.10.

**HB 436 (“Georgia HIV/Syphilis Pregnancy Screening Act of 2015”)**

In addition to testing for HIV, every physician and health care provider who assumes responsibility for the prenatal care of a pregnant woman during gestation and at delivery must now also test for syphilis, except in cases where the woman refuses the testing. Additionally, the act requires that physicians and health care providers offer HIV and syphilis testing of pregnant women in their third trimester of pregnancy, either during the first examination or as soon as possible thereafter, regardless of whether such testing was performed during the first two trimesters. See O.C.G.A. § 31-17-4.2

**HB 504 (vaccine protocol agreements)**

HB 504 expanded O.C.G.A. § 43-34-26.1, relating to influenza vaccine protocol agreements, to include vaccines for pneumococcal disease, shingles, and meningitis. Vaccine protocol agreements between a physician and a pharmacist or between a physician and a nurse shall require that the pharmacist or nurse take a complete case history and provide the vaccine recipient with certain written information, including a personal immunization card. The agreement shall also require the pharmacist or nurse to maintain individual liability insurance coverage—or be individually covered by his or her employer’s liability insurance coverage—in an amount not less than \$250,000 to cover claims arising from the administration of vaccines pursuant to such vaccine protocol agreements. The vaccine protocol agreement should be posted in a conspicuous location within the setting in which the vaccine is being administered.

**Senate Bills That Passed****SB 51 (biological product prescriptions)**

SB 51 allows pharmacists to substitute certain prescriptions for biological products for a generic form of the drug (called “biosimilar” or “biologically interchangeable”) if available. It highlights protocols for notifying prescribing physicians within 48 hours once a change has been made. Protocols for labeling the product, however, apply only to hospital retail pharmacies and to biological products dispensed by a hospital for a patient’s use or administration at home (and *not* to medication dispensed for inpatient and outpatient hospital services). See O.C.G.A. §§ 26-4-5, 26-4-81. The House companion bill, HB 195, did not pass both chambers this Legislative Session.

**SB 109 (Physician Orders for Life Sustaining Treatment)**

Physician Orders for Life Sustaining Treatment (POLST) forms are used by patients to provide physicians with directions regarding their end-of life care. SB 109 aims to clarify the purpose of a POLST and provides immunity to providers who do not comply with this order for various reasons. Similarly, health care providers that rely in good faith on such POLST forms will be protected from civil and criminal liability.

The bill directs the Department of Public Health to develop and produce the POLST form, providing an opportunity for provider input. POLST forms will be portable with the patient across care settings and valid in any facility in which the patient is being treated. Attending physicians who have issued such orders are required to inform the receiving physicians and health care facilities in the event of a patient transfer. See O.C.G.A. § 31-1-14.

**Bills That Did NOT Pass but That Remain Viable into the Next Legislative Session****HB 482 (Cancer Treatment Centers of America requirements)**

In 2008, Cancer Treatment Centers of America (CTCA) was granted a special CON exemption to build a “destination cancer facility” in Georgia under the requirement that 65% of its patient base must come from outside the State of Georgia. HB 482 aims to lift certain requirements for CTCA by eliminating the 50-bed cap and out-of-state patient requirement. (The Georgia Hospital Association, the Georgia Alliance of Community Hospitals, and other member hospitals lobbied against this bill.)

**HB 805 (CON Study Committee)**

HB 805 aims to create a House Study Committee on the Certificate of Need Program. The committee would include members from the Georgia Hospital Association, the Medical Association of Georgia, the Georgia Alliance of Community Hospitals, HomeTown Health, and a “cancer destination hospital.” The committee’s duties would include conducting a comprehensive review of Georgia’s CON program and considering the experiences of states that have abolished their CON programs.

*Note: The following three bills by Rep. David Stover (R-Newnan) all relate to CON exemptions or to the repeal of CON requirements. None of the bills received committee hearings.*

**HB 247 (private mental health facilities)**

This bill aims to allow for a CON exemption for private mental health facilities. Currently, the exemption applies only to state-owned mental health facilities.

**HB 248 (short-term mental health facilities)**

HB 248 would lift any CON requirement for “short-term mental health facilities,” requiring instead that the licensure and regulation of such facilities be managed by the Department of Behavioral Health and Developmental Disabilities.

**HB 249 (repeal of Georgia’s CON program)**

HB 249 requires a complete repeal of the state’s CON program. The proposed bill strikes all relevant CON-related language in Title 31 of the O.C.G.A.

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