



Georgia Health Law Developments

A Publication of the Health Law Section of the State Bar of Georgia

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PLUS OCTOBER 17th SEMINAR AND ANNUAL MEETING

NOTICE

The articles which are published in *Georgia Health Law Developments* are sole responsibility of their respective authors, and do not represent any views or opinions of the State Bar of Georgia or of the Health Law Section.

MESSAGE FROM THE CHAIR

We hope you will be able to join us for our annual meeting which will be held during the luncheon of the Advanced Health Care Law seminar on October 17, 2008. At that time, we will discuss Section business and elect Section officers for the coming year.

The Executive Committee assembled a great panel of speakers for the Advanced Health Care Law seminar who will address topics such as the practical effects of the 2009 IPPS changes to the Stark regulations, updating us on the new CON law and regulations, revisiting Tort Reform to review developments in the law since passage, looking forward to the Medicare Recovery Audit Contractor (RAC) process as it will impact Georgia, discussing the movement toward “pay-for-performance” methodologies by Medicare and other payors and learning about the recent revisions to the Form 990 as it impacts hospitals and health care organizations. (The agenda is included below and walk-ins are welcome).

In 2008, the Section also served as sponsor of the Fundamentals of Health Care Law seminar, which also will be offered again in early 2009. I want to thank Rod Meadows for his service to the Section as Chair of the Fundamentals Seminar.

We would also like to thank Stan Jones and Helen Sloat for providing us with a comprehensive Legislative Summary, which reviews the 2008 Legislative session. This is a great supplement and preview to the other information to be presented on specific topics at the Advanced Health Law seminar.

Thank you for allowing me to serve as the Chair of the Health Law Section. I look forward to seeing you on October 17th.

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THE 2008 GEORGIA HEALTH LAW UPDATE
FOR
HEALTH LAW SECTION
STATE BAR OF GEORGIA

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The 2008 Health Law Update

The Georgia General Assembly focused on water planning, transportation, and tax reform efforts, in an acrimonious atmosphere intertwining the Governor, Speaker, and Lieutenant Governor. By the end of the 2008 Session, tax reform, trauma care funding and transportation diversification fell victim to this debate and the political struggle to succeed Governor Perdue.

Although a four year certificate of need battle ended in new legislation, care management organizations were reigned in and some provider rate increases occurred, many health care proposals failed, such as numerous Grady Hospital oversight measures and longer term funding for a trauma network from an increase in license tag fees. The budget increases for providers have by and large been delayed a year because of the serious decline in state tax revenues as the recession has sunk in.

After a long debate on certificate of need ("CON") reform, deregulation on physician activity, and intra industry territorial fights over new services, the Governor's office, Senator Tommy Williams, House Appropriations' Department of Community Health Subcommittee Chair Mickey Channel (R-Greensboro) and House Health and Human Services Committee Chair Sharon Cooper (R-Marietta) marshaled an elaborate compromise on CON. New CON exemptions are established for general surgeons who wish to develop surgery centers in their practice groups, with an additional exemption for the development of those surgery centers in joint ventures with hospital partners. A simplified "no-need" process was enacted for the Cancer Treatment Centers of America specialty destination hospital. Diagnostic cath labs in hospitals were also exempted; angioplasty (or therapeutic cath) services in hospitals with diagnostic cath labs were simplified; and permission for a "no-need" basic perinatal service CON application were included in the new Bill, SB 433. These provisions are likely to have the effect of allowing all hospitals to have basic cath and obstetric services if they wish. The provision of outpatient imaging services also was loosened in urban areas for hospitals and physician practices. Numerous other procedural changes streamlined the Department of Community Health's CON review process and judicial appeal of administrative decisions. The contest of major decisions will probably be shortened eventually by one year.

There were seven proposals on Grady Hospital management, oversight and funding. These initiatives were offered by Sen. Shafer (R-Duluth) and Rep. Jacobs (R-Atlanta), but all failed as the Hospital Authority of Fulton County voted to lease the hospital to a new non profit corporation. An "oversight committee" was proposed to review Grady Health System and bills to enact the "Public

Hospital Integrity Act" to prohibit individuals from serving on a hospital board or on nonprofit organizations managing a hospital on behalf of a hospital authority. Another proposal would have required the hospital authority to contract with nonprofit corporations and those in non-compliance would not receive trauma care funding. These proposals all failed.

Trauma care funding received numerous financing proposals as well. Some ideas were to fund initiative by fines from "super speeders." Other proposals would have trauma care funded through assessed fees from traffic-control signal monitoring devices, fees on cell phones; fees on coin-operated amusement machines; a wire transfer assessment of 2% when \$10,000 was wired; and a fee on automobiles at the time of registration. There were other initiatives to amend the Georgia Trauma Care Network Commission and its duties, including distribution of funds as well as a proposal to enact a Level I Trauma Care and Hospital Oversight Committee (which really was more targeted towards Grady). As mentioned, all of these ideas failed.

Three tort "reforms" were offered and each of those failed passage. SB 286, by Sen. Harp (R-Midland), proposed changing the standard of care from "gross negligence" to "ordinary negligence" in lawsuits arising out of care provided in hospital emergency departments. SB 305, by Sen. Shafer (R-Duluth), proposed enactment of the "Corporate Good Samaritan Act" in order to extend a limitation from liability for those persons working in private for-profit or not-for-profit entities when they were carrying out their role during a state of emergency declared by the Governor and acting in a volunteer capacity. Finally, Rep. Mumford (R-Conyers) proposed enactment of the Medical Malpractice Insurance Reform Act in HB 378 which would have required the reporting of all claims, claim amounts, settlement information and other data.

Several pharmacy-related proposals tested the waters. At the end, only the *Senate Prior Approval Prescription Drugs Study Committee*, biotechnology-economic development initiative, and dangerous drug update ideas passed. Proposals to prohibit or limit drug substitution, the Georgia Prescription Monitoring Program Act, licensure of pharmacy benefit managers, and State health plan changes to pharmacy reimbursements all died.

This Report lists the measures important to the health industry that passed in 2008 and discusses in depth some measures that failed. Each paragraph contains a brief summary and the effective date of passed bills. In the budget discussion, enhancements that have been delayed are noted.

Care of Minors (Juveniles) and Child Support

SB 88 – Sen. Unterman's (R-Buford) "Care of a Grandchild Act" in Chapter 9 of Title 19, passed on April 4, 2008. It includes the Power of Attorney for the Care of a Minor Child and permits the parent the ability to delegate to any grandparent residing in Georgia "caregiving authority" when hardship (such as mental illness, terminal illness, incarceration, etc.) prevents the parent from caring for the child. The Bill enumerates that the grandparent can enroll the child in school and extracurricular activities; enroll the child in a health insurance program; arrange for and consent to medical, dental, and mental health treatment for the child, etc. There are also additional changes in existing law regarding adoption proceedings, termination of parental rights, and legitimation of a child. One additional specific provision is that the power over a child born out of wedlock resides with the mother and she will have custody over that child unless the father legitimates the child. See O.C.G.A. § 19-7-25. **Act No. 580**, May 13, 2008, effective on July 1, 2008.

HB 1040 – Rep. Lindsey (R-Atlanta) amended O.C.G.A. § 15-11-30.1 to grant jurisdiction to juvenile courts for the appointment of a permanent guardian for a deprived child. The court must find "(i) that reasonable efforts to reunify the child with his or her parent would be detrimental to the child or find that the living parents or parent of the child have consented to the permanent guardianship; (ii) that termination of parental rights and adoption or placement with a fit and willing relative, is not in the best interest of the child; (iii) that the proposed permanent guardian can provide a safe and permanent home for the child; (iv) that the appointment of a permanent guardian is in the best interest of the child and that the individual chosen as the child's permanent guardian is the individual most appropriate to be the child's permanent guardian; and (v) If the child is 14 years of age or older, that the appointment of a permanent guardian is in the best interest of the child and that the individual chosen by such child as the child's permanent guardian is the individual most appropriate to be the child's permanent guardian taking into consideration the best interest of the child." **Act No. 795**, May 14, 2008, effective on July 1, 2008.

HB 1051 – Rep. Willard (R-Sandy Springs) authored O.C.G.A. § 19-15-3(o) to no longer require the transmittal by the local review committee on child abuse by July 15 of each year a report to the Judiciary Committees of the House and Senate. Rather, O.C.G.A. § 19-15-4(i) requires the Georgia Child Fatality Review Panel to submit a report not only to the Governor, Lt. Governor and Speaker of the House, but also to the Judiciary Committees of the Senate and House of Representatives depicting the prevalence and circumstances of child fatalities along with recommendations on reducing these fatalities caused by other than natural causes. **Act No. 430**, May 6, 2008, effective on July 1, 2008.

HB 1054 – Rep. Cooper (R-Marietta) authored the enactment of the "Children and Family Services Strengthening Act of 2008." This Bill, pushed by Governor Perdue, had a rocky passage. It consolidated Georgia's child welfare system, and

- Requires the Office of Child Advocate for the Protection of Children in O.C.G.A. § 15-11-173(3) to coordinate and supervise the work of the Georgia Child Fatality Review Panel;
- Transfers the State Children's Trust Fund Commission to the Governor's Office for Children and Families in O.C.G.A. § 19-14-1;
- Creates the Governor's Office for Children and Families in O.C.G.A. § 49-5-132 and outlines its duties and responsibilities;
- Creates a fifteen person Advisory Board to the Governor's Office for Children and Families; and
- Replaces the Children and Youth Coordinating Council with the Governor's Office of Children and Families in O.C.G.A. § 35-6A-3.

Act No. 562, May 12, 2008, effective on July 1, 2008.

Certificate of Need

In total, there were sixteen Bills dealing with CON-related issues. Some attempted to alter the definition of "new institutional health service;" some proposed specialty hospital exemptions; some proposed only to address allowing general surgeons equal footing as other specialties; some tried to reform the entire process; and others tried to repeal the process altogether. In the end, comprehensive reform won through the passage of SB 433.

SB 433 – Sen. Williams (R-Lyons) authored this Bill which originally created a simplified and modified "no-need" process for a single cancer specialty hospital, primarily for out-of-state patients. Once this specialty hospital issue cleared the Senate, the Governor's Office and House Health Committee Leadership wanted to adopt the CON Commission's procedural changes along with some reduction in routine activities that did not need the Department of Community Health's CON review. The four-year dispute between physicians and hospitals over the extent of CON exempt surgery centers resulted in a compromise tilted towards the physician interests, but also presented an opportunity to compromise other intra-hospital disagreements and respond to some nursing home and long-term care industry frustrations. Highlights of the Bill include:

- New exemptions:
 - General surgeons may establish CON-exempt surgery centers, with some indigent care obligations

- Surgeons and hospitals may exempt jointly owned joint venture surgery centers up to \$5 million
- A destination cancer specialty hospital
- Diagnostic cath labs for any hospital
- Therapeutic cath labs in limited circumstances for facilities who meet the "C-Port" criteria
- Relocation of nursing homes in the same county and division of a nursing home license into smaller bed components
- More latitude for continuing care retirement communities to use their nursing home beds for non-resident patients
- Replacement, renovation and non-clinical projects by hospitals
- Higher thresholds for review of equipment and non-clinical projects
- Basic perinatal services have a "no-need" formula application process
- State mental health facilities
- Process changes:
 - Review process extended to 120 days with a 30-day extension
 - Application opponents have tighter requirements to state their objections by times certain but a right to meet with agencies
 - New review considerations accent whether there is adequate staffing resources for new health care services and whether adverse effects are too severe for existing services
 - Administrative appeals' process shortened to a single *de novo* hearing (rather than two) that precedes a final administrative decision now to be made by Department of Community Health Commissioner
 - Appeal rights for opponents on determination letters
 - Specific time deadlines for scheduling and decisions by superior courts, with penalties for frivolous appeals

facilities "operated by, on behalf of, or under contract with the Department of Corrections or the Department of Juvenile Justice for the sole and exclusive purpose of providing health care services in a secure environment to prisoners within a penal institution, penitentiary, prison, detention center, or other secure correctional institution." This exemption includes correctional institutions operated by private entities housing inmates under the Department of Corrections or the Department of Juvenile Justice. **Act No. 390**, April 9, 2008, effective on July 1, 2008.

Corporate Code

SB 436 – Sen. Cowsert (R-Athens) introduced amendments to Chapters 2 and 3 of Title 14 for businesses and non-profit corporations. Fee changes were made for filing documents with the Secretary of State, including a \$25.00 penalty for the late filing of an annual registration in O.C.G.A. § 14-2-122. Highlights included:

- Amendments to O.C.G.A. § 14-2-728 permitting the bylaws to be used to fix a greater voting requirement for the election of directors (in addition to the articles of incorporation);
- Adds in O.C.G.A. § 14-2-807(c) that a resignation of a director that is conditioned upon the happening of an event may provide that it is irrevocable;
- Amendments to O.C.G.A. § 14-2-1020(b) so that a corporation's shareholders may also amend or repeal the corporation's bylaws or adopt new bylaws in most circumstances;
- Reinstatements following administrative dissolutions were amended for profit and nonprofit corporations in O.C.G.A. § 14-2-1422 and O.C.G.A. § 14-3-1422 permitting the entity to reapply for reinstatement within five years after the effective date of its dissolution; and
- Adds in O.C.G.A. § 14-11-603(6) that the Secretary of State will be required to reserve the name of a limited liability company, administratively dissolved, for a period of five years after the effective date of its dissolution or until it is reinstated.

Act No. 452, May 6, 2008, effective on July 1, 2008.

Department of Human Resources

One of the largest issues was the reorganization of the Department of Human Resources. Reps. Butler and Stephens both had ideas on how to reorganize this Department's work. In the end, the Governor appointed a Task Force which released a Report on August 15, 2008 on how this Department should be organized. It proposes moving Public Health to DCH and establishing a new Department of Behavioral Health.

SB 433 passed by a House Rules Committee Substitute with a Floor Amendment addressing applications for basic perinatal services where there is only one civilian healthcare facility or health system currently providing basic perinatal services and there are not at least three different healthcare facilities in a contiguous county providing basic perinatal services. The Senate agreed with the House changes in the waning moments of the Session. **Act No. 392**, April 9, 2008, effective on July 1, 2008.

HB 967 – Rep. Martin (R-Alpharetta) introduced a change to O.C.G.A. § 31-6-47(a) to provide for an exemption from Georgia's Certificate of Need provisions for infirmaries or

SB 341 – Sen. Hawkins (R-Gainesville) authored this set of changes to the Council on Aging adding a new Code Section at O.C.G.A. § 49-6-21.1 to require that the Council provide a written report entitled "Project 2020: Georgia for a Lifetime" to the Governor and General Assembly no later than December 15, 2010. The Council is directed to make recommendations on ten areas, such as the increases in numbers of aging population and their impact on health, protection, safety, housing, transportation, employment, caregiving, education, the economy, access to services, volunteerism, legal and financial preparedness, and social and recreational resources. An interim progress report is due no later than December 15, 2009. **Act No. 523**, May 12, 2008, effective July 1, 2008. \$50,000 was provided for in the FY 2009 Budget for this purpose.

HB 715 – Rep. Scott (R-Tifton) changed appointments of local county directors of family and children services so that, rather than the Commissioner obtaining a list of qualified applicants from the State Merit System of Personnel Administration, each county board of family and children services must recommend to the Commissioner one or more persons for appointment to the position of county director. **Act No. 498**, May 12, 2008, effective on July 1, 2008.

Disaster/Terrorism Preparedness

SB 33 – Sen. Harbison (D-Columbus) authored a new Article 9 in Chapter 3 of Title 38 to better prepare for disasters, criminal acts and acts of terrorism and specifically to create a statewide first responder "building mapping information system" for police and firefighters. This system would be created by the Georgia Emergency Management Agency, subject to available funds, and would include schools, courthouses and other larger public structures used by State/local employees or private citizens at the discretion of State and local agencies. No money was included in HB 990, the FY 2009 Budget, for this purpose. **Act No. 560**, May 12, 2008, effective on July 1, 2008.

Guns/Firearms

HB 89 – Referred to as the "gun bill," this initiative was authored by Rep. Bearden (R-Villa Rica). The National Rifle Association played a huge role in this legislation, while the Georgia Chamber of Commerce tried to modify the Bill's provisions regarding property rights of business owners. The Bill expands the permission of an individual to carry a concealed weapon in State parks, historic sites and recreational areas as well as wildlife management areas. Further, it permits individuals to carry a firearm into a restaurant and it does prohibit a person licensed or permitted to carry a firearm from consuming alcoholic beverages while carrying that firearm. It also permits constables the ability to carry weapons within school safety zones, at school functions, or on school property in O.C.G.A. § 16-11-127.1(18). It

permits the probate court judge to direct law enforcement to request fingerprint checks from the Georgia Crime Information Center and FBI. A new Code Section at O.C.G.A. § 16-11-135 permits employees to bring guns onto the grounds of an employer but the employer may search locked, private vehicles of those employees or invited guests of the employer. There are some exemptions (such as if the parking area is for a penal institution, correctional institution, detention facility, power plant, military base, etc.) Language was inserted that no employer, property owner, or property owner's agent will be held liable in any criminal or civil action for damages resulting from or arising out of an occurrence involving the transportation, storage, possession or use of a firearm, including but not limited to, the theft of a firearm from an employee's automobile unless such employer commits a criminal act involving the use of a firearm or unless the employer knew that the person using that firearm would commit such criminal act on the employer's premises. The Bill further addresses "employment at will." A final change in O.C.G.A. § 51-1-29.2 (tort law) added civil liability protection to "good Samaritans" for individuals and associations, including nonprofits, religious and charitable organizations, who participate in a Governor-declared emergency such as in the event of a natural disaster, pandemic or act of terrorism. It further adds that nothing in this revised Code Section will be "construed to abrogate the sovereign immunity of this state as to all actions executed by any party under this Code Section." **Act No. 802**, May 14, 2008, effective on July 1, 2008.

Handicapped/Persons with Disabilities

HB 961 - Rep. Sims (R-Ambrose) amended O.C.G.A. § 40-2-74.1 to require that the Department issue parking permits for persons with disabilities and may delegate to county tag agents the responsibility for such permits. The Department is required to receive applications for and issue parking permits by mail to specific persons with disabilities upon presentation of an affidavit. Currently, this affidavit is made by a practitioner of the "healing arts", but the Bill requires the affidavit to be issued by a licensed doctor of medicine, osteopathy, or podiatric medicine, licensed optometrist, or licensed chiropractor. The affidavit must include the specific disability that limits or impairs the person's ability to walk, and that he or she is a person with disabilities as specified in O.C.G.A. § 40-6-221(5). Other changes were proposed, including the colors for these permits. However, in the final version, as sent to the Governor, the proposal included a requirement to laminate these permits as well as language permitting the issuance of temporary permits accompanied by an affidavit by a licensed doctor of medicine, licensed doctor of osteopathic medicine, licensed doctor of podiatric medicine, licensed optometrist, or licensed chiropractor. **Act No. 422**, May 6, 2008, effective on July 1, 2008.

Healthcare Generally

Anatomical Gifts

SB 405 – Sen. Balfour (R-Snellville) amended Georgia's current law regarding anatomical gifts in O.C.G.A. § 44-5-140 et seq., renamed the "Georgia Revised Uniform Anatomical Gift Act". The Department of Driver Services will be required to make available to organ procurement organizations or secure data centers of procurement organizations, the name, license number, date of birth, gender, and most recent address of any person who obtains an organ donor's license (subject to sufficient funding by the procurement organization, information to be used for the purpose of establishing a statewide organ donor registry accessible to organ tissue and eye banks). It prohibits the selling of anatomical parts. **Act No. 545**, May 12, 2008, effective on July 1, 2008.

Diseases/Injuries

SB 549 – Sen. Thomas (R-Dalton) authored the "Coverdell-Murphy Act" in Chapter 11 of Title 31, establishing a two-level system of certified stroke centers in honor of the late Congressman Paul D. Coverdell and the late Speaker of the House, Thomas B. Murphy. The Department of Human Resources (which currently is the Department or agency which regulates emergency medical services personnel and providers) will oversee this unless DHR is re-organized. There will be two levels of hospitals meeting criteria as either "primary" or "remote" treatment stroke centers as determined by DHR. Primary stroke centers must also be certified by the Joint Commission on Accreditation of Healthcare Organizations. Remote treatment stroke centers must be certified and identified by the Department through an application process. The primary stroke centers are to coordinate through agreement with the remote treatment stroke centers. The legislation outlines a written "coordinating stroke care agreement": 1) transfer agreements for the transport and acceptance of all stroke patients seen by the remote treatment stroke center for stroke treatment therapies which the remote treatment stroke center is not capable of providing; and 2) communication criteria and protocols with the remote treatment stroke centers. The Department also is required to adopt/develop a sample stroke triage assessment tool. Each of these centers will be required to annually report data to the Department (such as number of patients, lengths of stay, morbidity, etc.). **Act No. 772**, May 14, 2008 effective on July 1, 2008.

Facilities and Providers

SB 363 – Sen. Hawkins (R-Gainesville) proposed changes in Chapter 11 of Title 43 to provide for advanced dental education programs and amend the current law regarding qualifications for a teacher's or instructor's license. Some of the changes made in O.C.G.A. § 43-11-1 include amendments

to the definition of "accredited dental college" and a new definition for the term "accredited advanced dental education program". The changes also revise O.C.G.A. § 43-11-42 regarding the reciprocity with other states for a teacher's or instructor's license at an accredited dental college, advanced dental education program, or training clinic. Individuals with doctoral degrees in dentistry from an unaccredited dental school must show (1) successful completion of at least two one-year advanced dental education programs in general dentistry at an accredited dental school or college, or (2) successful completion of a one-year program in operative dentistry at a dental school or college and a one-year advanced dental education program in general dentistry at an accredited dental school or college. **Act No. 550**, May 12, 2008, effective on July 1, 2008.

SB 469 – Sen. Harp (R-Midland) revised the definition of "personal care home" in O.C.G.A. § 31-7-12 to mean:

any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. This term shall not include host homes, as defined in paragraph (16) of subsection (b) of Code Section 37-1-20 (adding the "host home" exclusion).

Guidelines for and oversight of "host homes" will be provided by the Division of Mental Health/Developmental Disabilities/Addictive Diseases within the Department of Human Resources. "Host homes" are defined as "private residences in a residential area in which the occupant owner or lessee provides housing and provides or arranges for the provision of food, one or more personal services, supports, care, or treatment exclusively for one or two persons who are not related to the occupant owner or lessee by blood or marriage. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider which provides the host home services by contract with the division. The division shall enter agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served nor the agent in such person's advance directive for health care. **Act No. 454**, May 6, 2008, effective on July 1, 2008.

HB 984 – Rep. Cox (R-Lawrenceville) added a new definition for "children's transition centers" in Title 49 and proposed their licensure and inspection to be conducted by DHR. These centers provide a temporary, home-like environment for medically fragile children, technology-dependent children, and children with special healthcare needs up to age 21 who are deemed clinically stable by a physician but who are dependent on life-sustaining medications, treatments, and equipment.

Such centers are designated sites that provide child placing services and nursing care, clinical support services, and therapies for short-term stays of one to 14 days and for longer stays up to 90 days. Extended stays of up to twelve (12) months may be approved by the Department by waiver. These centers will not serve more than six children per residence or sixteen per campus at any one time. **Act No. 781**, May 14, 2008, effective on July 1, 2008.

HB 1044 – Rep. Walker (R-Loganville) amended O.C.G.A. § 49-6-82 to provide that respite care services programs not be considered "adult day centers" for the purposes of licensure. The initiative defines "respite care services programs" as "a program for aging adults who can function in a group setting and who can feed and toilet themselves, with or without the assistance of a personal aide, which: (A) is operated by a nonprofit organization; (B) provides no more than 25 hours of services per week; (C) is managed by a director who has completed an adult day care services training and orientation program approved by the department; (D) is staffed primarily by volunteers; and (E) has as its sole purpose to provide primary caregivers of aging adults with relief from normal caregiving duties and responsibilities." **Act No. 553**, May 12, 2008, effective on July 1, 2008.

HB 1105 – Rep. Sheldon (R-Dacula) added a new Code Section at O.C.G.A. § 31-7-17 to require that hospitals offer to inpatients ages 65 and older, between October 1 and March 1, the vaccine for the influenza virus and pneumococcal disease. There is an immunity provision from liability for the hospital and/or health care provider acting in good faith and in accordance with generally accepted health care standards. **Act No. 546**, May 12, 2008, effective on July 1, 2008.

HB 1222 – Rep. Channell (R-Greensboro) amends the Health Share Volunteers in Medicine Act found in Chapter 8 of Title 31. The Act was originally passed in 2005 to help address the significant proportion of Georgia residents who are uninsured or are Medicaid recipients who have difficulties accessing healthcare because healthcare providers fear the increased risk of a suit for medical negligence. This Act was to improve access to medical care by providing governmental sovereign immunity to healthcare providers who offer free quality medical services to the underserved populations in Georgia. This year's specific revisions include:

- Permitting in O.C.G.A. § 31-8-192(3) "disciplinary action" by a licensing board for inappropriate or impermissible behavior.
- Adding additional healthcare professionals under the definition of "healthcare provider" or "provider" to also include a speech language pathologist, optometrist, professional counselor, social worker, marriage and family therapist, occupational therapist, psychologist, dietician, and pharmacist.

- Adding stipulations in O.C.G.A. § 31-8-193 to require that the "department, in its discretion, shall determine if a past restriction, sanction, or disciplinary action imposed by the applicable licensing board is of such a grave and offensive nature with respect to patient safety concerns as to warrant refusal to enter into a contract with such health care provider pursuant to this subsection."
- Amending O.C.G.A. § 43-1-28 to add more specialties under the definition of health care practitioner (pharmacist, speech-language pathologist, audiologist, psychologist and dietician).
- Amending O.C.G.A. § 43-34-45.1 to require that the Board issue a special license to physicians for the free clinics if they have an unrestricted license and are in good standing.

Act No. 503, May 12, 2008, effective on July 1, 2008.

Grady Hospital Initiatives

SB 353 – Sen. Shafer (R-Duluth) authored the enactment of the "Public Hospital Integrity Act" in an effort to prohibit certain individuals from serving on hospital authority boards or on nonprofit organizations managing a hospital on behalf of a hospital authority in O.C.G.A. § 31-7-75.4. This idea was similar to the Bill by Rep. Jacobs (R-Atlanta), HB 1299, and stalled in the House Governmental Oversight Committee.

SR 722 – Sen. Shafer (R-Duluth) also proposed creation of the Grady Oversight Committee which was adopted by the Senate but remained in the House Committee.

SR 748 – Sen. Shafer (R-Duluth) authored this Resolution, which the Senate adopted, urging Grady Hospital, Fulton and Dekalb Counties, to adopt changes to its employee health benefits plan in order to require or encourage its employees to utilize the Grady Health System for primary health care. The Resolution also urged that Grady end its "closed staff model and open credentialing to community doctors" so that other insurance-covered individuals would use Grady's services.

HB 1062 – Rep. Jacobs (R-Atlanta) introduced a prohibition of a member of the board of a hospital authority from concurrently serving as its executive officer or employee. While this Bill was aimed directly at Grady Hospital and Pamela Stephenson, it never cleared the House Health and Human Services Committee.

HB 1231 – Rep. Jacobs (R-Atlanta) offered his version of how to oversee Grady Hospital with this Bill proposing enactment of the "Public Hospital Integrity Act" in O.C.G.A. § 31-7-75.4. It specified only Grady and also proposed that no individual would be eligible to serve in a governing capacity of a public hospital if that individual is an employee or contractor of the public hospital or an employee, director, or

contractor of a major vendor of the public hospital. The initiative also strikes out at Rep. Pam Stephenson (D-Atlanta) who also serves as CEO of Grady Hospital. The initiative remained in the House Health and Human Services Committee.

HB 1256 – Rep. Jacobs (R-Atlanta) initiated changes in Chapter 7 of Title 31 as another "Grady Hospital fix," requiring certain hospital authorities to contract with nonprofit corporations. Further, it proposed that a hospital authority not in compliance would not receive trauma funding. The Bill remained in the House Health and Human Services Committee.

HR 1303 – Rep. Jacobs (R-Atlanta) proposed the creation of a Grady Oversight Committee composed of three members from the Senate and three members from the House of Representatives to periodically inquire into and review the operations, contracts, safety, financing, organization, and structure of the Fulton-DeKalb Hospital Authority and its operation of the Grady Health System and Henry W. Grady Memorial Hospital. This Resolution remained in the House Health and Human Services Committee.

Indigent and Charity Care

SB 479 – Sen. Mullis (R-Chickamauga) authored a change in O.C.G.A. § 31-8-159, amending the uses of the funds for the Indigent Care Trust Fund. The final bill required that the Department of Community Health report annually to the General Assembly on its uses of trust funds appropriated to DCH, which will now include: the amount of ambulance service license fees received; the amount of federal matching funds for these ambulance license fees; and the total amount of funds disbursed to emergency ambulance services from the Indigent Care Trust Fund. **Act No. 455**, May 6, 2008, effective on July 1, 2008.

Mental Health

HB 535 – Rep. Butler (R-Carrollton) authored amendments to Title 37 relating to the State's ombudsman and community ombudsmen for mental health, mental retardation, and substance abuse, repealing Georgia's 2000 law entirely. The Bill creates the Office of Disability Services Ombudsman assigned to the Office of the Governor for administrative purposes. The Governor will appoint a nominating committee to nominate at least three qualified persons to serve as ombudsman. The ombudsman will serve a term of five years and until his or her successor is appointed and qualified. The ombudsman's duties include: (1) establish priorities, policies and procedures for receiving, investigating, referring and attempting to resolve complaints made by or on behalf of consumers concerning any act, omission to act, practice, policy or procedure of a services provider that may adversely affect the safety, well-being, and rights of consumers and any

policies and procedures necessary to implement the new law; (2) establish a uniform statewide complaint process and; (3) promote the interests of consumers before governmental agencies. There are requirements of the ombudsman following any investigation report of findings and/or recommendations. The Bill prohibits any retaliation against any consumer, a consumer's relative, guardian, or healthcare agent of the consumer, any employee of a services provider or other in the making of a complaint or providing information to the ombudsman. The Governor is also to appoint a medical review group to conduct medical reviews of all consumer deaths in State hospitals or State-operated community residential services. The Bill is subject to appropriations; HB 990 did contain \$250,000 for an increase for the Office of Mental Health Ombudsman (no money was set aside for developmental disabilities or addictive diseases). **Act No. 418**, May 6, 2008, effective on July 1, 2008.

Public Health

HB 887 – Rep. Butler (R-Carrollton) proposed a new Code Section at O.C.G.A. § 10-13-5, creating the Master Settlement Agreement's Advisory Committee on Tobacco Use Prevention and Control Program. This fifteen-member "Advisory Committee" will be under DHR. This group would develop and implement the State's tobacco control strategy with a broad spectrum on input. Governor Perdue **vetoed** this Bill on May 14, 2008 as Veto No. 7: "The Advisory Committee duplicates the duties of the Executive and the Legislative branches in representing the voices of Georgians."

HB 1043 – Rep. Cooper (R-Marietta) proposed amendments to the Childhood Lead Exposure Control Act and definitions in O.C.G.A. § 31-41-12 for "confirmed lead poisoning" and "lead hazard abatement." Additionally, the Bill contained changes relating to "notice" of lead poisoning hazard and abatement of lead poisoning hazard. These changes apply to owners of residential rental property and landlords who accept compensation for the use of residential property by another. **Act No. 719**, May 14, 2008, effective on July 1, 2008.

Vital Records (Birth and Death Certificates)

SB 381 – Sen. Weber (R-Dunwoody) introduced the "No Heartbeat Act" in Chapter 10 of Title 31. The Bill amends current law in O.C.G.A. § 31-10-1 relating to "vital records" to add a new definition for the term "stillbirth or stillborn": an "unintended, intrauterine fetal death after a gestational age of not less than 20 completed weeks or of a fetus with a weight of 350 grams or more." A new Code Section at O.C.G.A. § 31-10-33 requires that the State Office of Vital Records must issue, within 60 days of a request by a parent named on a fetal death certificate or other eligible person, a certificate of birth resulting in stillbirth. **Act No. 565**, May 12, 2008, effective on July 1, 2008.

HB 111 – Rep. Scott (R-Tifton) amended O.C.G.A. § 31-10-12 to permit petitions for delayed birth certificates to be filed in the probate court, as well as superior court, in the county of residence of the person for whom a delayed certificate of birth is sought. **Act No. 410**, May 6, 2008, effective on July 1, 2008.

See also: *Medicaid and State Funded Health Plans* Section below.

Health Insurance

SB 383 – Sen. Hill (R-Marietta) authored this initiative, creating a new Chapter 51 in Title 33, to provide that the Commissioner of Insurance adopt necessary policies to "promote, approve, and encourage" health savings account eligible, high deductible health plans. It provided additional exemptions from unfair trade practices for insurers that offer wellness and condition/disease management programs. The Bill also has language to provide for health reimbursement arrangement only plans that encourage employer financial support of health insurance or health-related expenses. **Act No. 462**, May 7, 2008, effective immediately.

HB 977 – Rep. Knox (R-Cumming) introduced this Bill, basically mirroring HB 976. However, it was amended in the process to provide an exemption from insurance premium taxes for certain insurance products (the high deductible health plans sold with health savings accounts). It further provided exemptions from certain unfair trade practices for wellness and health promotion programs, condition or disease management programs, health risk appraisal programs, and other similar ideas. Once the Bill came to the Senate, it was apprehended as a vehicle for SB 404, Lt. Governor Cagle's Georgia Health Marketplace Act. However, the version "passed" did not contain Lt. Governor Cagle's language but did include the new Chapter 51 in Title 33, the "Georgia Affordable HSA Eligible High Deductible Health Plan," permitting these flexible guidelines to be developed by the Commissioner of Insurance for these types of products. There is also a series of changes in Title 48 permitting a taxpayer an income tax credit against the tax imposed by either O.C.G.A. § 48-7-20 or O.C.G.A. § 48-7-21 for "qualified health insurance expenses" in an amount of \$250 for each employee enrolled for twelve consecutive months in a qualified health insurance plan if that qualified health insurance is made available to all the company's employees/compensated individuals (the tax credit cannot exceed the taxpayer's income tax liability or be against any prior years' tax liability). **Act No. 463**, May 7, 2008, effective on signature, as to tax exemption, but will expire on January 1, 2015 (unless extended by the General Assembly). The other portions of this Bill become effective on January 1, 2009 and are applicable to tax years beginning on and after January 1, 2009.

Insurance

SB 113 – Sen. Shafer (R-Duluth) also offered this proposal to provide for background checks of insurance agents before being licensed. SB 113 passed the Senate in 2007 and was before the House in 2008, clearing the full House on April 4. It provides for a definition for the term "limited subagent" in O.C.G.A. § 33-23-1(a)(10.1) to mean "an individual licensed on behalf of a licensed agent pursuant to Code Section 33-23-12." The changes also incorporate in O.C.G.A. § 33-23-19(b) that when a license is placed on inactive status, then the agent will be prohibited from selling, soliciting, or negotiating insurance (under current law, when a license placed on inactive status for two consecutive years without a certificate of authority having been filed and accepted by the Commissioner, then that license can be revoked without further notice or hearing). The changes also require criminal background checks and fingerprinting of applicants for applications as licensed agents in O.C.G.A. § 33-23-5.1. **Act No. 767**, May 14, 2008, effective on July 1, 2008.

SB 348 – Sen. Hudgens (R-Hull) authored a revision to O.C.G.A. § 33-8-8.2(e) which states it would be a contravention of public policy for any imposition of fees or taxes for services by a county or municipality as to motor vehicle accidents (when those counties or municipalities provide those services and the counties and municipalities receive the benefit of insurance premium taxes). There are three exceptions: (1) where coverage is expressly provided by an insurance company to the insured and the services are lawfully billed to the insured; (2) where emergency medical services are provided to the insured by the county or municipal corporation, whenever the insured's medical insurance covers the services provided and the insured assigns the right to collect to the service provider; or (3) where other services are provided to the insured by the county or municipal corporation which are expressly authorized by State or federal law to be billed directly to an insurance company. The Bill was to address situations that occurred in Albany where the city was billing for cleanups after accidents. **Act No. 541**, May 12, 2008, effective upon approval of the Governor.

SB 471 – Sen. Hudgens (R-Hull) introduced changes to Chapter 2 of Title 33 in an effort to provide that domestic insurers would undergo regular financial examinations by the Commissioner of Insurance every five years rather than every three years. The legislation also addressed confidentiality of this examination's work papers and also provided the contracted examiner immunity from liability. The House added additional provisions to enact the Property and Casualty Actuarial Opinion Law in O.C.G.A. § 33-62-1 et seq. (requiring that every property and casualty company in Georgia which is domiciled here must submit a statement of actuarial opinion on an annual basis). **Act No. 769**, May 14, 2008. The Property and Casualty Actuarial Opinion Law

portion of the Bill takes effect on January 1, 2010; the remaining portions take effect on July 1, 2008.

Judicial Powers, Services and Benefits; Courts; Juror Service

SB 508 – Sen. Meyer von Bremen (D-Albany) authored revisions in Titles 15, 29, and 53 updating and changing provisions affecting Georgia's probate courts. The primary change relating to health care is in O.C.G.A. § 10-6-36. A written power of attorney will not be terminated by the incompetency or incapacity of the principal. O.C.G.A. § 29-3-3 (relating to the definition of "gross settlement, compromise of a claim, and finality of settlement" regarding a minor) limits any total distribution to \$15,000 prior to the minor reaching the age of majority. O.C.G.A. § 29-9-18 clarifies the sealing of any records pertaining to guardianship or conservatorship so that it is clear that such records are for both minors as well as adults. **Act No. 685**, May 14, 2008, effective on July 1, 2008.

HB 188 - Rep. Rynders (R-Albany) amended O.C.G.A. § 15-12-1(a)(5), providing an exemption for a primary caregiver of a person aged six or older with physical or cognitive limitations from jury duty. This exemption will require the submission of an affidavit and a statement from a physician (or other medical provider) supporting the affidavit's statements relating to the medical condition of the person with the physical/cognitive limitations. **Act No. 496**, May 12, 2008, effective on July 1, 2008.

HB 958 – Rep. Rice (R-Norcross) introduced amendments to Chapter 10 of Title 15 to clarify the appellate procedure for magistrate court judgments so that no appeal shall lie from a default judgment or from a dismissal for want of prosecution after a non-appearance of a plaintiff for trial. Further, any voluntary dismissal by the plaintiff or by order of the court for want of prosecution is required to be without prejudice except that the filing of a second such dismissal operates as an adjudication upon the merits. Review, including review of a denial of a post-judgment motion to vacate a judgment, is to be by certiorari to the state or superior court of that county. There also are revisions to the requirements of statements of claims (such as the inclusion of a "brief" statement of the claim giving the defendant reasonable notice of the basis for each claim contained in the statement of claim) and use of post-judgment interrogatories (so that these may be filed with the Clerk at any time, stripping away the 30 days' requirement in current law). **Act No. 720**, May 14, 2008, effective on July 1, 2008.

Labor and Employment

HB 1186 – Rep. Coan (R-Lawrenceville) amended the Subsequent Injury Trust Fund law. O.C.G.A. § 34-9-358(a) requires that, prior to January 1, 2010, each insurer and self-

insurer is required to make payments to the Fund in an amount equal to that proportion of 175% of the total disbursement made from the Fund during the preceding calendar year less the amount of the net assets in the Fund as of December 31 of the preceding calendar year which the total workers' compensation claims paid by the insurer or self-insurer bears to the total workers' compensation claims paid by all insurers and self-insurers during the preceding calendar year. The Bill also addresses what payments are to be made after January 1, 2010 up to \$100 million with the Fund's administrator creating a reserve of surplus moneys as deemed necessary by the Fund's Board of Trustees to ensure sufficient money is available for payment of claims. Further, changes are made in the reduction and suspension of assessments and what is to be done with a Fund balance using pro rata refunds of assessments previously collected. **Act No. 501**, May 12, 2008, effective on July 1, 2008.

Licensure of Professionals

HB 241 – Rep. Chambers (R-Atlanta) passed amendments in O.C.G.A. § 43-29-7 concerning licensure requirements for dispensing opticians. It specifies that the necessary practical training and experience of an applicant as an apprentice is a 3,000 hour minimum with certain specified instruction. Further, before beginning an apprenticeship, the optician applicant must register with the board, identifying the supervising licensed physician, licensed optometrist, or licensed dispensing optician and the mailing address and telephone number of the primary location where the apprenticeship training will occur. At the end of the training, the supervisor must certify the completion to the board. It further provides credit for applicants who have received practical training and experience in the trade or occupation of dispensing optician prior to July 1, 2008 if they register with the board no later than August 31, 2008. **Act No. 412**, May 6, 2008, effective on July 1, 2008.

HB 1041 – Rep. Cooper (R-Marietta) amended the Georgia Registered Professional Nurse Practice Act in Chapter 26 of Title 43 to include changes (1) stripping out the use of "graduate nurse" permit; (2) requiring a fingerprint check through the Georgia Crime Information Center and FBI prior to licensure with satisfactory results; and (3) amending the reinstatement process for a nurse who previously held a valid license, including have a satisfactory result on a fingerprinting check. **Act No. 527**, May 12, 2008, effective on July 1, 2008.

HB 1055 – Rep. Williams (R-Dalton) offered Title 43 changes for "clean up" to various professional business licenses including massage therapists and physical therapists. An overall change regarding the duties of the division director overseeing professions and businesses also was made so that any order or process must be signed and attested by the division director or his or her designee in the name of the particular professional licensing board, with the seal of such

board attached. It repeals the current law permitting the reciprocity of a license issued to a massage therapist, inserting in its place "license by endorsement" so that if that massage therapist is currently licensed in another jurisdiction, state, or territory of the United States or foreign country which requires standards for licensure considered by the board to be equivalent to the requirements for licensure will be licensed. Further, it rewrites the reciprocity provisions used for physical therapists, providing that the board has the discretion to grant a person, licensed outside of Georgia, a license to practice here if that individual has qualifications deemed by the board as substantially equivalent to Georgia's. **Act No. 775**, May 14, 2008. Changes in current law relating to certified public accountants take effect on July 1, 2009; the remaining changes became effective on July 1, 2008.

Medicaid and State-funded Health Plans

SB 507 – Sen. Moody (R-Alpharetta) authored the 2008 version of the guidelines for basic therapy services for children with disabilities. Last year HB 549, which also attempted to establish these basic therapy services, was **vetoed**. Changes made in O.C.G.A. § 49-4-169 et seq. are intended to ensure that children (age 21 and younger) with disabilities receive the medically necessary therapy services (occupational therapy, speech therapy, physical therapy, or other services) to which they are entitled under the Medicaid Early Periodic Screening, Diagnostic, and Treatment Program ("EPSDT") and that categorically needy and medically fragile children have available to them the same scope, duration, and amount of services. The language defines "correct or ameliorate" as well as "medically necessary services." It also requires the Department of Community Health to develop and implement for itself, the care management organizations, and its utilization review vendors consistent requirements, paperwork, and procedures for utilization review and prior approval of physical, occupational, or speech language pathologist services prescribed for children. Prior approval for therapy services are for a period of up to six months as consistent with the needs of the individual recipient. **Act No. 695**, May 14, 2008, effective upon signature.

HB 1234 – Rep. Channell (R-Greensboro) authored this initiative in Titles 31, 33 and 49 to address numerous provider and patient complaints regarding Care Management Organizations ("CMOs"). The provisions include:

- A requirement for CMOs to have a Certificate of Authority issued by the Commissioner of Insurance (bringing these types of health plans under the State's HMO laws).
- CMOs must treat and pay for emergency health services as defined in the Bill.
- Protections for Critical Access Hospitals.
- Clarification of enrollment in a CMO of a newborn with its mother or under Medicaid fee-for service.

- Resolution of appeals and provider complaints:
 - Permission for use of administrative review or binding arbitration
 - Requires a CMO to follow Georgia's prompt payment of claims law in O.C.G.A. § 33-24-59.5 (payment within 15 days of the date the claim was submitted or otherwise be subjected to an interest penalty)
 - Requires a CMO to maintain an electronic website for providers to process and receive claims electronically
 - Requires a CMO to maintain an electronic website for all providers enrolled
 - Prohibits a CMO, as a condition of contracting with a provider, from requiring that provider to participate in or accept other plans or products offered by the CMO
 - Prohibits a health care provider from, as a condition of contracting with a CMO, requiring that the CMO contract with or not contract with another health care provider
- Prohibits a CMO or its agent from denying any dentist participation in the Medicaid and PeachCare dental program.
- The responsibility of the CMO for the payment of claims if the provider has verified the eligibility of the patient.
- Permission for a hospital provider to access, upon the hospital's request to the CMO, the "Hospital Statistical and Reimbursement Report."

Act No. 585, May 13, 2008.

HB 1328 – Rep. Peake (R-Macon) eliminated in O.C.G.A. § 33-20A-9.1, the requirement to offer to State Health Benefit Plan members the "Consumer Choice Option" managed care plan. This proposal was sponsored by the Department of Community Health in an effort to further its strategic plan for the State Health Benefit Plan. **Act No. 768**, May 14, 2008, effective on July 1, 2008.

Motor Vehicles

SB 369 – Sen. Douglas (R-Social Circle) proposed an amendment to O.C.G.A. § 40-2-74.1(h) clarifying what type of affidavit the Department of Revenue must accept in order to issue a special decal for persons with disabilities. The Bill expanded current law on what type of physician may submit such an affidavit to permit an active duty military physician to sign the form for persons in active military service or retired from it. **Act No. 524**, May 12, 2008, effective on July 1, 2008.

SB 517 – Sen. Hill (R-Marietta) authored changes to O.C.G.A. § 40-2-74 to provide for the issuance of special license plates for persons with disabilities to certain business vehicles used

by disabled employees of such businesses. If the disabled employee leaves the company, the company must surrender the plate within 60 days. **Act No. 459**, May 6, 2008, effective on July 1, 2008.

Nonprofits' Governance

HB 972 – Rep. Tumlin (R-Marietta) authored the Uniform Prudent Management of Institutional Funds Act in Chapter 15 of Title 44 to provide new national standards for charities to use in managing investments and spending from endowments that the Uniform Law Commissioner have recommended (to modernize investment policies). **Act No. 423**, May 6, 2008, effective on July 1, 2008.

Pharmaceutical Initiatives

HB 180 – Touted as a means of economic development for drug manufacturers, this Bill by Rep. Rogers (R-Gainesville) proposes to provide that the Department of Community Health must expedite a review of certain prescription drugs or other health care products produced by Georgia biotechnology, biopharmaceutical, or pharmaceutical companies for inclusion on the preferred drug list under the State Health Benefit Plan, the State's Medicaid program, the PeachCare for Kids program, or any other health benefit plan or policy administered by or on behalf of Georgia. The company asking for this expedited review must have a \$60 million economic impact and must have invested \$100 million in the State where it employs 200 Georgians. **Act No. 411**, May 6, 2008, effective upon signature of the Governor.

Public Safety

HB 1201 – Rep. Day (R-Tybee Island) authored the "Georgia Emergency Agency Nomenclature Act of 2008" in Chapter 3 of Title 38. The Bill requires written permission from the Director in order to use the terms: Georgia Emergency Management Agency; Emergency Management Agency; or GEMA when referring to Georgia's Emergency Management Agency (this would apply to such uses in print (media), television, books, pamphlets, advertisements, etc.). Violations of this law are considered to be misdemeanors and subject to fine and/or imprisonment upon conviction. **Act No. 556**, May 12, 2008, effective on that date.

Sex Offender Laws and Evidence Used in Those Cases

SB 1 – Sen. Johnson (R-Savannah) originally proposed in this Bill to add language in Title 16 that "it shall be unlawful for persons required to register as sexual offenders to photograph a minor." Further amendments were made once the Bill reached the House Rules Committee changing restrictions on where sexual offenders and sexually dangerous predators may reside, work, volunteer or loiter. One specific change made is

found in O.C.G.A. § 42-1-12(a)(3) which defines the phrase "area where minors congregate" to mean "all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, public libraries, and public and community swimming pools." Current Georgia law does not include "public libraries." The Bill also adds in O.C.G.A. § 42-1-15(f)(2) that, if an individual owning real property and residing on such property or being employed within 1,000 feet of a prohibited location, then that individual will not be guilty of a violation of this Code Section, if such individual had established such property ownership or employment prior to July 1, 2006. **Act No. 582**, May 13, 2008, effective on July 1, 2008.

HB 1020 – Rep. Golick (R-Smyrna) proposed changes regarding the public disclosure of evidence in cases involving child sexual abuse or involving child sexual offenders. Specifically, it prohibits, in any civil action based upon evidence obtained from a criminal case involving a child sex related matter, that parties will not be permitted to copy any books, papers, documents, photographs, tangible objects, audio and visual tapes, films and recordings, or copies or portions thereof. Ten days prior to a trial, records in control by the State or prosecution may be inspected by the defendant but may not be copied. Further, it adds language in O.C.G.A. § 50-18-71.1 that any exhibit in a criminal or civil trial will not be open to public inspection without the approval of the judge assigned to the case or the approval of the chief judge or the most senior judge on that court. The judge is required to designate in writing where the evidence may be inspected (which must be owned or operated by an agency of the State or local government). If inspection is permitted, no copies, reproductions, or photographs of that evidence may be taken. Violations will be felony offenses punishable by imprisonment of not less than one or more than 20 years and by a fine of not more than \$100,000.00 or both. **Act No. 722**, May 14, 2008, effective on July 1, 2008.

State Purchasing and Governance Oversight

SB 175 – Sen. Grant (R-Milledgeville) authored changes in Titles 45, 46, and 50 regarding the State's purchasing practices, including:

- O.C.G.A. § 45-9-1 permits the purchase of liability insurance or contracts of indemnity or the formulation of sound programs of self-insurance utilizing funds available to an agency insuring or indemnifying its officers, officials, or employees to the extent that they are not immune from liability against personal liability for damages arising out of the performance of their duties.
- Amendments to the bidding procedure provided in O.C.G.A. § 50-5-67(d) addressing the publication, prior to award or letting of the contracts, of notice of the Department of Administrative Services' intent to

award a contract to the successful bidder or offeror on public display in a conspicuous place, on the Georgia Procurement Registry or both to be easily seen by the public. It also states that for every bid or proposal which conforms to the advertising terms, then the successful bidder or offeror must, within one day after issuance of the Department's public notice of intent to award, be subject to public inspection, upon request. Also, within one day of the award or letting of the contract, the Department is also to display in a conspicuous place in the Department's office or on the Georgia Procurement Registry the award (including the price/amount of the contract and the covered commodities). It also addresses records related to the competitive bidding and proposal process, which, if disclosed prior to the issuance of the public notice of intent to award, would undermine the public purpose of obtaining the best value for Georgia and those will not be subject to public disclosure until after the issuance of the public notice of intent to award a contract to the successful bidder or offeror. This includes records such as cost estimates, bids, proposals, evaluation criteria, vendor evaluations, negotiation documents, offers and counter-offers, and records revealing preparation for the procurement.

Act No. 444, May 6, 2008, effective on July 1, 2008.

SB 300 – Sen. Rogers (R-Woodstock) authored Title 50 changes to Georgia's audits and examinations of its books and records. The Bill requires that audits may be done now of any books, records, accounts, vouchers, warrants, bills, and other papers, records, financial transactions, and management of not only any department, institution, agency, commission, bureau, or office of the State, but also any authority. It further creates the "Transparency in Government Act" in O.C.G.A. § 50-6-32 and requires the creation of a "searchable" website by January 1, 2009 so that the public may have access to State expenditure information which will contain: the State of Georgia Comprehensive Annual Financial Report; annual Budgetary Compliance Report; annual State of Georgia Single Audit Report; salaries and expenses of full-time and part-time employees and board members; list of consultant expenses and other professional services expenses; State Budget in Brief; and performance audits conducted by the Department for the preceding five years. By 2010, this website will have to have a report of certain grant and contract payments made/due to vendors by agencies reporting through the State's general financial accounting and information system and all payments made through economic and incentive programs operated by the Departments of Economic Development, Labor, Community Affairs, Agriculture, and Georgia Lottery Corporation. **Act No. 548**, May 12, 2008, effective on July 1, 2008.

Taxes

Sales and Use

HB 957 – Rep. Stephens (R-Savannah) amended O.C.G.A. § 48-8-3 to provide for an exemption from State sales and use taxes for a period of time commencing on July 1, 2008 and ending on June 30, 2010 for sales of tangible personal property to nonprofit health centers (established under the authority of and receiving funds pursuant to, the United States Public Health Service Act, 42 U.S.C. Section 254b if such health clinic obtains an exemption determination letter from the Commissioner). It further adds in O.C.G.A. § 48-8-3(7.3) an exemption from sales and use taxes for sales of tangible personal property and services to nonprofit volunteer health clinics which primarily treat indigent persons (with incomes below 200% of the federal poverty level) when that property and services are used exclusively by the volunteer health clinic in performing a general treatment function and when the volunteer health clinic is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the Commissioner. **Act No. 692**, May 14, 2008, effective on July 1, 2008.

HB 1078 – Rep. O'Neal (R-Bonaire) simplified the sales and use tax exemption for sales of durable medical equipment or prosthetic devices in O.C.G.A. § 48-8-3 so that the exemption is permitted for this equipment or device if it is prescribed by a physician. Current law requires that the exemption apply to equipment "as defined under Titles XVIII and XIX of the federal Social Security Act which is paid for directly by funds of the State of Georgia or the United States under the Medicare or Medicaid programs where state or federal law or regulation authorizing such payment prohibits the payment of sales and use tax in connection therewith." **Act No. 698**, May 14, 2008, effective on July 1, 2008.

Income

HB 1151 – Rep. Knight (R-Griffin) passed his revisions in Titles 16 and 48 relating to nonprofit bingo and raffle operations. Specifically, at O.C.G.A. § 16-12-51(3.1), it amends the definition of "nonprofit, tax-exempt organization" (under the definitions section relating to "bingo"), eliminating the reference that such organization "has been determined by the Georgia Department of Revenue" to be such type organization and exempt from the income tax laws of Georgia. There are numerous revisions to withholding of taxes or distributions to partnerships, Subchapter S corporations, and limited liability companies. **Act No. 746**, May 14, 2008, effective on signature and for tax years after January 1, 2008.

HB 1159 – Rep. Lunsford (R-McDonough) amended O.C.G.A. § 48-7-29.13 to provide a State income tax credit for the adoption of a "qualified foster child" (a foster child under the age of 18 and in a foster home or otherwise in the foster

care system under the Division of Family and Children Services of the Department of Human Resources) in the amount of \$2,000.00 per qualified foster child per taxable year commencing with the year in which the adoption becomes final and ending when the child attains the age of 18. **Act 751**, May 14, 2008, effective on signature, applicable to all tax years beginning on or after January 1, 2008.

HB 1273 – Rep. Fleming (R-Harlem) offered a change to O.C.G.A. § 48-7-40.1 amending the current law on income tax credits for businesses creating new jobs in less developed areas. The criteria for determination of what constitutes a "less developed area" changed (any area which is within or adjacent to one or more contiguous census block groups with a poverty rate of 15 percent or greater as determined from data in the most current United States decennial census, where the area is also included within a state enterprise zone pursuant to Chapter 88 of Title 36 or where a redevelopment plan has been adopted pursuant to Chapter 61 of Title 36 and which, in the opinion of the commissioner of community affairs, displays pervasive poverty, underdevelopment, general distress, and blight). Further, the Bill amends the provisions relating to the number of new jobs created as a criterion for eligibility for the credits. **Act No. 786**, May 14, 2008, applicable to all tax years beginning on or after January 1, 2008.

Water

SB 342 – Sen. Pearson (R-Dawsonville) proposed amendments in Titles 12, 27, 48, and 50 to create the "Water Conservation and Drought Relief Act and Public Water Supply Reservoirs." Among its many inclusions are changing the powers and duties of the State Soil and Water Conservation Commission; the powers of the Environmental Protection Division and federal acts and receipt and of federal and state appropriations; and changes to the issuance of permits, certifications and other documents relating to the construction of new public water supply reservoirs by local government entities. There are also sales tax exemptions for efficient water or energy products. Governor Perdue signed this Bill on May 13, 2008 as **Act No. 578**. Part I ("Water Conservation and Drought Relief Act") of this Act takes effect on July 1, 2008 and will apply to all applications pending on or after that date; Part II ("Georgia Water Supply Act of 2008") of this Act also takes effect on July 1, 2008. Parts III (State sales and use tax exemption for energy and water efficient products) and IV (regulations regarding water conservation plans) are effective upon approval of the Governor.

The State's Budget

HB 990 – The State's FY 2009 Budget, a \$21 billion dollar proposal, became **Act No. 705** for FY 2009. In total, the Governor **vetoed** \$14.2 million in line items.

State employees and teachers will still receive a pay increase of 2.5%; however, their healthcare coverage will cost them more in the coming fiscal year. These have now been withheld because of declining State revenue. Teachers will again receive their \$100 gift cards for school supplies to be used during Georgia's "Sales-Tax Holiday." Relevant highlights for the coming fiscal year are:

Department of Corrections

This coming fiscal year, its Budget contains approximately \$1.15 billion in State funds and, with federal funds, exceeds \$1.22 billion. \$18.2 million is included towards increasing the State's prison capacity. In terms of health, \$11.6 million in State funds was added for a 4% inflationary increase for inmate healthcare to cover the Medical College of Georgia contract and for physical healthcare due to increase in direct care claims.

Department of Community Health

While the budget included much needed provider rate increases, as described below, these budget enhancements generally have been delayed until July 1, 2009, except for the increased rate cap for "psychiatric residential treatment centers." These delays are the DCH response to the decline in state revenues. There may be a special legislative session after the election to address the budget amendments. The recession will also affect the number of beneficiaries so other changes may well occur. More than \$2.5 billion in State funds will be used to provide healthcare to millions of Georgians through its Medicaid, PeachCare, and State Health Benefit Plan programs. In total, this Department will have an approximately \$12.3 billion budget for the coming fiscal year. Hospital, ambulance, and other healthcare Medicaid providers will receive \$39.6 million more in reimbursement.

Administration

- No money was reinserted for funding the "Health Information Exchange" pilot program (the Governor originally proposed \$750,000 in State funds for this)

Aged, Blind, and Disabled Medicaid

- Conferees agreed to a greater reduction in Medicaid benefits to "reflect" projected expenditures of \$20 million in State funds rather than the \$9 million proposed by the Governor (with federal funds, this will be a reduction of more than \$55.7 million)
- Conferees came up with a new proposal, using the same amount of State funds of \$3.4 million, to provide more reimbursement rates for various provider groups. Under the final report, the Conferees chose to "update the maximum allowable

reimbursement to 80% of the Atlanta area for participating Medicare providers.” Medicaid providers subject to this change include physicians, physician assistants, nurse midwives, advanced nurse practitioners, podiatrists, oral maxillofacial surgeons, providers of children's intervention services and children's intervention school services, psychologists, optometrists, and providers of family planning. This will not apply to providers billing the following CPT codes: 99296; 99294; 99299; 99300; 99431; 99298; 99436; 99433; 92586; 99440; 31500; 76811; 76820; 99238; 99293; 59409; 76819; 59515; and 59514. These codes will not receive a rate change along with speech therapy and dialysis.

- Conferees made no changes to the proposal to increase cost coverage for inpatient hospital services from 95.1% to 98.6% of costs for designated trauma hospitals Levels I-III and increased cost coverage from 90.1% to 92.6% of cost for all other hospitals (this will be a cost of \$6.6 million in State funds).
- Conferees stated that the Department would continue to use Medicaid-specific cost-to-charge ratios to determine cost and increase the percent of cost coverage for services subject to cost settlement from 85.6% of cost to 90.7% of cost for designated trauma hospitals Levels I-III, and 88.3% of cost for all other non-state, non-critical access hospitals for outpatient services; increase the cap on outpatient services based on increases in inpatient hospital reimbursement; and increase the triage fee for non-emergency use of the Emergency Room from \$50 to \$60 with approximately \$2.1 million in State funds.
- Increase for home health services to cap of \$90 per visit or 100% of the costs, according to the FY 2006 cost reports.
- Healthcheck services will receive an increase of 2.5% for a cost of \$50,924 in State funds.
- An additional 1% add-on to per diem rates for nursing facilities meeting the requirements of the quality incentive program at a cost of \$1.79 million in State funds (a total of more than \$4.99 million with federal funding). They also agreed to fund the \$49.2 million in total funds proposal for the nursing home per diem rate, aligning the property value with current fair rental value so that facilities may make upgrades.
- Dental rates will receive a 2.5% increase for a cost of \$90,553 in State funds.
- Elimination of the \$1.9 million to fund a tobacco cessation therapy medication for all members of the Medicaid population who are tobacco users.
- Increased ambulance reimbursement rates (86% of the 2007 Medicare schedule for a cost of more than \$1.4 million in State funds).

- Increased "ICWP" rates of 3% for "personal support" in the amount of \$354,680 in State funds (rather than 5% as proposed by the Senate and 2.5% by the House).

Health Care Access and Improvement

- No funding will be provided for the Health Insurance Partnership, as proposed by the Governor originally, in the amount of \$16.9 million.
- \$950,000 remained in State funding for increased monies for grants to assist with the creation and enhancement of Safety Net Clinics across the State.
- \$1 million remained in funding the Georgia Health Marketing Trust Fund per SB 404; however SB 404 did not pass and it is unclear at the present moment if any of the vehicles which included language from that initiative was adopted by both bodies. An additional \$300,000 was proposed for Operation of Georgia Health Marketplace Authority (also included in SB 404) and \$700,000 was included for the design of the Georgia Health Marketplace website (per SB 404).
- \$500,000 for grant funds for the Southeastern Firefighter's Burn Foundation to assist in the care of indigent burn victims.
- "Earmark" \$1 million in State funds for the Georgia Association of Primary Health Care by instructing the Department to enter into a contract with the Association and to pay the contractor in three allotments upon the performance of certain tasks, and directing funding to Centers in Montgomery, Jones, Clarke, and Effingham Counties. Governor Perdue noted that "pursuant to general law powers of the Department, the Department is authorized to utilize appropriate procurement and vendor management procedures to ensure that program services intended by the General Assembly are provided in a fair, equitable, efficient and effective manner. The named contractor in this earmark is not prohibited from participating the Department's procurement process."
- Earmark an additional \$1 million in State general funds for the Georgia association of Primary Health Care by instructing the Department to enter into a contract with the Association. Additional language instructs the Department to "pay the contractor in three allotments, upon the performance of certain tasks and directing funding to four named centers." The Governor noted that "pursuant to the general law powers of the Department, the Department is authorized to utilize appropriate procurement and vendor management procedures to ensure that program services intended by the General Assembly are provided in a fair, equitable, efficient, and effective manner. The named contractor in this

earmark is not prohibited from participating in the Department's procurement process."

Low-Income Medicaid

- Reduction in CMO fees to reflect projected revenue due to lower program enrollment. This amount was a reduction of more than \$26.5 million in State funds (CMO provider fees); in total this will be more than a \$74 million reduction.
- Increase codes for "global maternity delivery rates" by 5% at a cost of more than \$1.24 million in State funds.
- \$9 million reduction (in State funds) for Medicaid benefits to reflect the projected expenditures.
- CMOs, effective July 1, 2008, will be required to apply provider rate increases where applied to Critical Access Hospitals which are to be paid at the Medicare Critical Access rate of 101%.
- Children in Foster Care will be provided Medicaid coverage up to the age of 21 at a cost of \$1.1 million in State funds.
- Implement by "July 1, 2008 an increase in per diem rates for psychiatric residential treatment centers consistent with other states and sufficient to reimburse all covered medical and behavioral health." No money was attached to this item. In his Budget remarks, Governor Perdue noted "as the Centers for Medicare and Medicaid Services ("CMS") must approve a rate increase before federal matching funds may be received, the Department is authorized to pursue CMS authorization of a rate update based on the 2006 cost report and according to CMS payment guidelines."

PeachCare

- More than \$17 million in State funds to cover the projected benefits expenditures in this program.

State Health Benefit Plan

- In an effort to address funding for "Other Post-Employment Benefits" ("OPEB"), Conferees indicated that the Department was to reduce the employer contribution rate from 22.843% to 22.165% due to insufficient level of reserves. This would be a reduction of more than \$16.7 million.
- The General Assembly proposed addressing the way independent pharmacies were paid. However, in Governor Perdue's "Non-Binding Information Language to Disregard" regarding the pharmacy benefit manager reimbursement rates, independent pharmacies were to pay a dispensing fee using Average Wholesale Price - 13% + \$3.41 per script.

Governor Perdue noted that "the language circumvents the Department's effort to negotiate competitive rates in accordance with benefit plan management policies. The Department is authorized to maintain reimbursement rates in accordance with the purpose of the program and the Department's general law powers."

Georgia Board for Physician Workforce, Graduate Medical Education

- Increase the Family Medicine Residency Capitation rate from \$19,319.50 to \$22,000 for all 202 slots for a total of \$541,461 in State funds.
- Increase the residency capitation (all specialties) from \$2,353.68 to \$3,353.68 for all 825 slots for a total of \$825,000 in State funds.
- Provide State funding for the 297 residency slots at the Medical College of Georgia (\$996,043).
- \$1.75 million added to support the class size expansion at Morehouse School of Medicine.

Department of Human Resources

Approximately \$1.7 billion in State funds will be used to provide services to Georgians through the Department's Budget for FY 2009, with its total Budget exceeding \$3.8 billion. As signed, this Budget includes an additional \$31.3 million to upgrade Georgia's mental health facilities and its community mental health system. DHR projected cuts in numerous programs to meet reduced revenue expectations. Office and Planning and Budget has not yet selected cuts it deems necessary. DHR has protected from cuts many enhancements for mental health programs because of the federal Department of Justice investigation of state hospital overcrowding and resulting deaths or abuses.

Adult Developmental Disabilities Services

- \$5.18 million in new State funds to fund 500 waiver slots for consumers on the Mental Retardation Waiver Program waiting list.
- Increase funds for a 3% (rather than a 7% as originally proposed by the Governor) rate increase for Developmental Disabilities providers at a cost of \$716,892 in State funds.
- \$50,000 in State funds to expand services for the Oral Health Resources for Special Needs populations Inc. to provide preventative oral healthcare for those with developmental disabilities.

Adult Essential Health Treatment Services

- \$240,000 in State funds for the start-up of the Georgia Commission to Save the Cure (Cancer State Aid).

Adult Forensic Services

- \$2.5 million in State funds to improve hospital operations and quality of care.
- \$225,000 in State funds for five Forensic Diversion Coordinators to assist in diverting non-violent mentally ill consumers from State hospital custody.

Adult Mental Health Services

- \$11 million in State funds to provide funding for crisis services in the community.

Child and Adolescent Developmental Disabilities

- \$1 million in State funds to fund 500 waiver slots for consumers on the Mental Retardation Waiver Program waiting list.
- A 3% increase for providers' reimbursement rate.
- \$500,000 to help the Marcus Institute.
- \$200,000 for the Matthew Reardon Center.

Direct Care Support Services

- \$731,691 in State funds for a special salary adjustment for mental health nurses paid less than 75% of market.

Elder Abuse Investigations and Prevention

- \$4.1 million to ensure the continued protection and care is provided for elderly victims of neglect and abuse.

Elder Community Living Services

- \$1.35 million to provide for a 3% increase for Community Care Services Providers.

Elder Support Services

- \$1,045,000 for Georgia's Nutrition Services Incentive Program awards for Meals on Wheels and congregate meals for at-risk seniors.

Infectious Disease Control

- \$741,235 to provide for a special salary adjustment for Public Health nurses paid less than 75% of market.

Out-of-Home Care

- \$39 million from TANF funds was transferred to the Out-of-Home Care Program.
- Conferees agreed with Senate language to implement by July 1, 2008 an increase in per diem rates for psychiatric residential treatment centers consistent with other states and sufficient to reimburse all covered medical and behavioral health (Note: an entry which mirrors this language is made in the Department of Community Health's Low-Income Medicaid Program for these facilities as they receive Medicaid funding.) Governor Perdue noted that "the Department is authorized to adjust the cap on the per diem rate based on the 2006 cost report in accordance with its general law powers and not to exceed budgeted State funds."

Brain and Spinal Injury Trust Fund

- \$16,004 to cover an increase in operating expenses. (However, these moneys were **vetoed** by Governor Perdue. "The Trust Fund operates efficiently from annual DUI fines. State general fund support for this program is not justified.")

Council on Aging

- \$50,000 for the preparation of a report for Project 2020 (Georgia's retiree population).

The Budget includes some bonds to help for repairs at Central State Hospital in Milledgeville, using \$6.9 million at the State's largest mental health hospital.

Department of Labor

While the Governor, House and Senate all proposed using more than \$56 million in State funds to fund this Department's work, Conferees decided to use only \$55.7 million in State funds.

Vocational Rehabilitation Program

- Conferees moved the Helen Keller National Center – Southeastern Region to the Department of Human Resources.
- \$30,000 in State funds was added for Statewide Assistive Technology.

- \$167,000 in State funds was added for the Georgia Council on the Hearing Impaired.
- \$25,000 in State funds was added for the Georgia Games.
- \$48,661 in State funds was added for SHARE DEAR.

General Obligation Debt Sinking Fund

Conferees agreed to use more than \$1 billion in State funds for "bonds." The Governor had proposed more than \$17 million for funding Capital Outlay Program (regular and exception growth) for local school construction. The House, Senate and the Conferees all agreed not to use money for these purposes. Under the Department of Human Resources, one bond agreed to by Conferees was the issuance of \$945,000 in five-year bonds for a cost of \$218,295 in State funds for capital projects at Central State Hospital and Northwest Regional Hospital.

Interim Health Study Committees

HR 1701 – Rep. Ashe (D-Atlanta) proposed this Resolution to look at the *Protection of Abused and Neglected Children*. The Study Committee is to specifically look at such areas as: (1) Termination of parental rights where a parent or custodian has exhibited a pattern of misbehavior; (2) Authorizing DNA testing of a male parent in a termination of parental rights proceeding; (3) Providing for appeals to the superior court from a juvenile court decision in certain cases involving the termination of parental rights; (4) Authorizing foster parents to attend termination of parental rights hearings; (5) Mandating drug and alcohol testing for custodians of abused children under investigation upon certain conditions that permit a finding that drug and alcohol use relates to the abuse or neglect of the child; and etc. Additionally, the Study Committee will undertake to study and evaluate current law and government policies and practices related to the sexual exploitation of children. Speaker Richardson appointed the following to this Study Committee: Rep. Hill (C-Chair)(R-Canton); Rep. Ashe (D-Atlanta); Rep. Benfield (D-Atlanta); Rep. Jones (R-Alpharetta); Rep. Talton (R-Warner Robins); and Rep. Walker (R-Loganville).

SR 1093 – Sen. Butler (D-Stone Mountain) offered this Resolution to create the *Study Committee for the Creation of the Georgia MethCheck Data Base*. Appointments to this Study Committee include: Sen. Butler (Chair); Sen. Grant (R-Milledgeville); Sen. Hamrick (R-Carrollton); Sen. Murphy (R-Cumming); and Sen. Seay (D-Riverdale).

Senate Comprehensive Firearms Law Study Committee (reviewing Georgia's laws on carrying firearms by a five Senate Member Study to conclude with any findings and recommendations on or before January 31, 2009)

House Comprehensive Firearms Law Study Committee (looking at Georgia's laws which are felonies for the purpose of making consistent and equitable changes by a six House Member Study to be concluded on or before December 31, 2008 with any findings and recommendations)

HR 1632 – Rep. Butler (R-Carrollton) introduced this Resolution creating the *House Study Committee on Accessibility* to review the construction requirements and costs for homes to be accessible to persons with physical disabilities/mobility impairments. Rep. Butler will Chair this Study and others appointed to the Committee include: Rep. Cooper (R-Marietta); Rep. Dollar (R-Marietta); Rep. Hill (R-St. Mary's); Rep. Johnson (D-Marietta); and Rep. Morgan (D-Austell).

SR 767 – Sen. Hill (R-Marietta) proposed creation of the *Senate Study Committee on Health Care Transformation*. The following appointments have been made: Sen. Hill (Chair); Sen. Balfour (R-Snellville); Sen. Tate (D-Boulevard); and Sen. Thomas (R-Dalton). A "joint" Study Committee on this issue was also proposed by Sen. Hill, SR 355, but that idea stalled in the House Health and Human Services Committee.

SR 788 – Sen. Thomas (R-Dalton) proposed the creation of the *Senate Study Committee on Brain Injury Related Neurobehavioral Issues*. This Study would be conducted by five Senate Members as well as five non-legislative individuals (one person or the immediate family member of a person with neurobehavioral issues caused by brain injury, one provider of neurobehavioral services, one commission member of the Brain and Spinal Injury Trust Fund Commission, one member from the Department of Community Health, and one member from the Department of Labor). This Study would be conducted during this year with any findings and recommendations to be prepared by December 31, 2008.

HR 1625 – Rep. Lunsford (R-McDonough) introduced this Resolution which creates the *House Hospital Tax and Indigent Care Study*. The Members serving on this Committee are: Rep. Lunsford (Chair); Rep. Channell (R-Greensboro); Rep. Cheokas (D-Americus); Rep. Dempsey (R-Rome); Rep. Mosby (D-Atlanta); and Rep. Stephens (R-Savannah).

SR 1288 – Sen. Thompson (D-Tucker) authored this Resolution creating the *Senate Study Committee on the Organization of Mental Health, Developmental Disabilities, and Addictive Diseases Services*. This Study Committee review the delivery system created pursuant to House Bill 100 and whether the system provides the State with the most effective and efficient organizational structure for the delivery of public mental health, developmental disabilities, and addictive diseases services in the most cost efficient manner. While this Resolution was adopted by the Senate, no one has been appointed to serve on this Study Committee.

HR 1746 – Rep. Manning (R-Marietta) proposed this Resolution to create the *House Study Committee on Children's Mental Health in Georgia*. Speaker Richardson appointed the following Members to study these issues: Rep. Manning (Chair); Rep. Graves (R-Ranger); Rep. Sellier (R-Fort Valley); Rep. Sheldon (R-Dacula); Rep. Randall (D-Macon); and Rep. Scott (R-Tifton). A Senate Resolution on this issue was also adopted, SR 1187 by Sen. Thomas (R-Dalton), and Sens. Thomas, Unterman and Tate have been appointed.

HR 1517 – Rep. Sims (R-Ambrose) proposed the *House Study Committee on Funeral, Cemeterian, and Related Services* due to the recently adopted federal resource exclusion rule relating to Medicaid for prearranged funeral plans. Rep. Sims has been selected to Chair this Study; other House Members appointed to this Committee include: Rep. Terry Barnard (R-Glennville); Rep. Craig Gordon (D-Savannah); Rep. Martin Scott (R-Rossville); Rep. Barbara Sims (D-Albany); and Rep. Bob Smith (R-Watkinsville).

SR 1285 – Sen. Murphy (R-Cumming) introduced this Resolution creating the *Senate Prior Approval and Prescription Drugs Study Committee*. One of the areas in which this Study Committee will focus includes reviewing current law in Article 5 of Chapter 4 of Title 26 as it does not adequately address the issue of whether the practice of "prior approval" of physicians for certain prescription medications is a cost-effective, necessary, or equitable practice. The following persons will serve on this Study Committee: Sen. Murphy (Chair); Sen. Harbison (D-Columbus); Sen. Hawkins (R-Gainesville); Sen. Hudgens (R-Hull); and Sen. Jackson (R-Applying).

SR 445 – Sen. Unterman (R-Buford) proposed creation of the *Joint Commercial Sexual Exploitation of Minors Study Committee* to look at child prostitution, escort services, stripping, pornography and other forms of commercial sexual exploitation. Speaker Richardson made the House Appointments: Rep. Hill (Co-Chair)(R-Canton); Rep. Carter (D-Valdosta); and Rep. Ralston (R-Blue Ridge). The Governor and President of the Senate have not made their appointments to this Joint Committee which is to make any report on its findings and recommendations on or before December 31, 2008. The Committee will stand abolished on January 1, 2009.

SR 1167 – Sen. Rogers (R-Woodstock) authored this Resolution to create three *Committees: Senate Local Sales Tax Collection Study Committee (looking at the collection of these taxes); Local Sales Tax Collection Advisory Committee(which will advise the Senate Local Sales Tax Collection Study Committee); and the Senate Transferable Low-Income Housing Tax Credits Study Committee* (to study the conditions, needs, issues, and problems related to the availability of low-income housing and related tax ramifications). The only appointments to date are: Mayor Mike Bodker; Mayor Donnie Henriques; Commissioner Tom McMichael; Commissioner Lamar Paris.

SR 1188 - Sen. Orrock authored a Resolution to create the *Senate Alzheimer's Disease and Other Dementias Study Committee* which would be composed of five Senate Members and five stakeholders (all appointed by the President of the Senate) who would report back any findings and recommendations in a report on November 30, 2008, was adopted.

SR 1247 – Sen. Chapman (R-Brunswick) proposed this Resolution creating the *Senate Study Committee on Community Base Giving Tax Credits*. The goal is to look at programs operated by nonprofit organizations which decrease the demands for governmental services when those nonprofits provide health or social services otherwise provided by the State or local government. This Study Committee would look at ways to implement State income tax credits for charitable contributions made to such programs. No appointments to this Study Committee have been made as of this writing.

HR 1275 – Rep. Frazier (D-Hephzibah) proposed this Resolution to look at educating and testing individuals for sickle cell anemia is a lethal disease caused by a recessive gene in a carrier parent as there is currently no cure for the disease. The House adopted this Resolution and the Speaker has appointed the following persons to serve on a *House Sickle Cell Anemia Study Committee*: Rep. Frazier (Chair); Rep. Jon Burns (R-Newington); Rep. Randy Nix (R-LaGrange); Rep. "Coach" Williams (D-Avondale Estates); Rep. Tyrone Brooks (D-Atlanta); and Rep. Amos Amerson (R-Dahlonega).

If you have any questions regarding this Report, please contact Stanley S. Jones, Jr. or Helen Sloat.

ADVANCED HEALTH CARE LAW

FRIDAY, OCTOBER 17, 2008

PRESIDING: ROBERT L. PORTER, JR., CHAIR, HEALTH LAW SECTION, STATE BAR OF GEORGIA
COTTINGHAM & PORTER, P.C., DOUGLAS

8:00 a.m. **REGISTRATION**

8:55 a.m. **WELCOME AND PROGRAM OVERVIEW**

Robert L. Porter, Jr.

9:00 a.m. **STARK LAW UPDATE---EMPHASIS UPON PRACTICAL EFFECTS OF 2009 IPPS CHANGES, INCLUDING:**

- **Stand In The Shoes**
- **Under Arrangements**
- **Percentage And Per Unit Fees**

Robert M. Keenan, III, *King & Spalding LLP, Atlanta*
Sally Austin, *Assistant General Counsel, Children's Healthcare of Atlanta*
Daniel J. Mohan, *Morris, Manning & Martin, LLP, Atlanta*

10:15 a.m. **BREAK**

10:30 a.m. **CON UPDATE, INCLUDING:**

- **Senate Bill 433 and Implementing Regulations**
- **Other Regulatory Developments**
- **New Appeal Procedures, Standards and Regulations**

Kathlynn Butler Polvino, *McKenna Long & Aldridge LLP, Atlanta*
Clyde L. Reese III, *General Counsel, Georgia Department of Community Health*
Ellwood F. Oakley III, *Chair, CON Appeal Panel*

11:30 a.m. **LUNCHEON & ANNUAL BUSINESS MEETING**

Keynote Address Bill Hartman, *Sportscaster (Retired), Atlanta*

12:45 p.m. **TORT REFORM UPDATE: JUDICIAL AND LEGISLATIVE DEVELOPMENTS**

Rush S. Smith, Jr., *Hall Booth Smith & Slover, P.C., Atlanta*

1:30 p.m. **PREPARING FOR THE MEDICARE RECOVERY AUDIT CONTRACTOR (RAC) IN GEORGIA**

Tracy M. Field, *Arnall Golden Gregory LLP, Atlanta*

2:30 p.m. **BREAK**

2:45 p.m. **QUALITY—FROM TOP PRIORITY TO THE BOTTOM LINE:**

➤ **QUALITY INITIATIVES BY PAYORS**

- PAY FOR PERFORMANCE
- NEVER EVENTS

➤ **WHY IT MATTERS TO THE BOTTOM LINE**

➤ **WHAT FAILURE TO COMPLY WILL MEAN**

Richard H. Vincent, *Womble Carlyle Sandridge & Rice, PLLC, Atlanta*
Brooke Flaherty, *Director of Government Relations, Southeast Region, Aetna*
Dennis White, *Georgia Medical Care Foundation*
Donald J. Palmisano, Jr., *General Counsel, Medical Association of Georgia*

4:00 p.m. **TAX EXEMPT OVERSIGHT---FORM 990 UPDATE**

Eddie Phillips, Susan Clark, *Pershing Yoakley & Associates (PYA)*

4:30 p.m. **ADJOURN**

For More Information Go To: www.iclega.org

MESSAGE FROM THE EDITOR – CALL FOR AUTHORS

The Health Law Section of the State Bar of Georgia is pleased to provide a publication for its members to address current topics of interest. We encourage you to send us summaries of recent cases, legislation, and agency activities that may be of interest to health law attorneys who practice in Georgia and the Southeast. Suitable short feature articles on timely topics may also be accepted for publication. Please address inquiries, submissions, and suggestions to:

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