



*Thursday, May 10, 2012*

## **2012 Legislative Summary** **151<sup>st</sup> General Assembly, 2<sup>nd</sup> Session**

### **A. Departmental Legislation**

- **SB 407 / Act 749 – Senator Renee Unterman - Health; repeal creation of the Health Strategies Council, Clinical Laboratory, Blood Bank, and Tissue Bank Committee**
  - This bill abolishes two (2) defunct advisory committees within Healthcare Facilities Regulation programs.
    - Health Strategies Council; an advisory board within the Certificate of Need program
    - Clinical Laboratory, Blood Bank, and Tissue Bank Advisory Committee; advisory panel for pathology facility regulation
  - Department Impact: HFRD, effective July 1, 2012
- **HB 1110 / Act 617 – Representative Sharon Cooper – Health; penalties relative to owning or operating of unlicensed personal care homes; revise provisions**
  - Allows the Healthcare Facilities Regulation Division to take immediate action regarding unlicensed operators of personal care homes.
  - Empowers the Board of Community Health to adopt by rule additional criminal offenses which preclude an individual from owning or operating a personal care home, community living arrangement, or assisted living community.
  - Extends jurisdictional authority over cases of elder abuse to the Georgia Bureau of Investigation.
  - Clarifies the definition of 'neglect' within the Elder Abuse statute.
  - Department Impact: HFRD, effective July 1, 2012

### **B. Enacted Legislation**

- **HB 183 / Act 646 – Representative Howard Maxwell – General Assembly members; members of Georgia Legislative Retirement System; provisions**
  - Modifies how members of the General Assembly make election to participate in the Legislative Retirement System. This will allow members to make election at the outset of each biennium, rather than at their initial inauguration.
  - Department Impact: No direct impact; effective July 01, 2012 if "it is determined to have been concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the "Public Retirement Systems Standards Law".
- **HB 397 / Act 605 – Representative Jay Powell – State government; open meetings and records; revise provisions**
  - Extensively revises the Georgia Open Records and Meetings Law.
    - Requires notice of regularly scheduled meetings to be posted one week in advance, and non-regular meetings twenty-four (24) hours in advance.

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- Requires minutes be kept of executive sessions for judicial review and specifies circumstances and allowable procedure during executive sessions.
  - Establishes penalties for non-compliance.
  - Substantially broadens the definition of 'public record' to include database fields or records held by an agent of the Department.
    - Establishes criteria for records maintenance.
    - Sets a three (3) business day window for responding to requests for records.
    - Establishes reasonable fees for records.
  - Department Impact: Every Division and Enterprise Office; effective April 17, 2012
- **HB 434 / Act 613 – Representative Katie Dempsey – Social workers, requirements for licensure, revise provisions**
  - Amends the definition of 'social work' and the scope of licensed clinical social work to include "diagnose the nature of an individual's mental, cognitive, emotional, behavioral, and interpersonal problems or conditions".
  - Department Impact: No direct impact; effective July 01, 2012
- **HB 741 / Act 406 – Speaker David Ralston – AFY 2012 Appropriations Act**
- **HB 742 / Act 775 – Speaker David Ralston – FY 2013 Appropriations Act**
- **HB 785 / Act 614 – Representative Allen Peake – Insurance, limitations on licensure requirements for certain health care providers, provide**
  - Establishes the Georgia Composite Medical Board and the Georgia Board of Dentistry as solely responsible for the state licensure of those respective professions.
  - Prohibits conditional licensure predicated upon participation in "any public or private health insurance plan, public health care system, public service initiative, or emergency room coverage".
  - Department Impact: Attached agency – Composite Medical Board; effective July 01, 2012
- **HB 822 / Act 591 – Representative Edward Lindsey – Georgia Taxpayer Protection False Claims Act**
  - Extensively revises the State False Claims Act.
  - Revises the State Medicaid False Claims Act by redefining 'false and fraudulent claims' and enforcement authority.
    - Redirects recoveries to the Medicaid program rather than the Indigent Care Trust Fund.
  - Department Impact: Medicaid, Office of Inspector General, General Counsel; effective July 01, 2012
- **HB 861 / Act 583 – Representative Michael Harden – Law enforcement officers, report drug related arrests to Department of Human Services, require**
  - Requires the Department of Human Services to establish a program to screen certain applicants for Temporary Assistance for Needy Families (TANF) benefits for illegal drugs.
  - This legislation was substituted from SB 292, the Social Welfare Responsibility and Accountability Act.

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- Medicaid is referenced in the statute, but DCH programs and services are not covered in the drug screen mandate.
  - Department Impact: none; effective July 01, 2012
- **SB 33 / Act 716 – Senator David Shafer – Waste Reduction Act of 2011; Zero-Base Budgeting Act**
  - Beginning in 2013, the Budget Act shall require that the Governor and the Office of Planning and Budget (OPB) employ zero-base budgeting.
    - OPB shall determine a schedule whereby each budget unit or agency shall prepare a zero-base budget at an interval of 8-10 years.
  - Department Impact: Financial Services; effective May 02, 2012
- **SB 346 / Act 740 – Senator Don Balfour – State Board of Pharmacy; prescription drugs by mail/other common carriers; provisions**
  - Directs the State Board of Pharmacy to adopt rules and regulations to allow for the provision of ‘mail-order’ drug delivery for parcels originating within the state. Georgia was the sole state that prohibited mail-order pharmacy.
  - Also has provisions allowing for remote-order entry of a prescription for hospital pharmacists.
  - Department Impact: No direct program impact; effective July 01, 2012
- **SB 361 / Act 611 – Senator Butch Miller – Healthcare Facilities; expand provisions; nationally recognized health care accreditation body**
  - This bill substitutes the phrase “nationally recognized healthcare accreditation body” for “Joint Commission on Accreditation of Healthcare Organizations” throughout the code. This will allow health facilities to employ more than a single national credentialing organization for the purposes of satisfying licensure requirements.
  - Department Impact: HFRD, effective July 01, 2012
- **SB 428 / Act 638 – Senator Ross Tolleson – Administrative Procedure; provide for agency reports regarding federal government mandates and duplicate state/federal regulation**
  - Requires that “Each agency shall prepare annually a report that specifies with detail those federal government mandates that require agency promulgation of rules and regulations rather than enactment of law by the General Assembly. Such report shall also identify state and federal regulatory duplication. A copy of such report shall be submitted to the Governor, Secretary of State, President of the Senate, Speaker of the House of Representatives, Secretary of the Senate, Clerk of the House of Representatives, and legislative counsel.”
  - Department Impact: Medicaid, HFRD, OHITT, General Counsel; effective July 01, 2012

**C. Vetoed Legislation**

- **HB 456 / V4 – Representative Charlice Byrd – Georgia Government Accountability Act; enact**
  - Veto Message: This bill establishes a new Legislative Sunset Advisory Committee of 14 members that is authorized to review and evaluate every state entity of the executive branch with the purpose of determining which state agencies and entities should be abolished. Implementing HB 456 is estimated to cost between \$3 and \$7 million. Growing state government with a new committee and statutory authority to review state agencies and the related expenses is not an effective use of state resources. Currently, the General Assembly reviews and evaluates state agencies using the staff in Senate Budget and Evaluation Office, the House Budget and Research Office, and the Senate and House Appropriations committees. Additionally the Department of Audits Performance Audits Division conducts evaluations of state-funded programs and activities to improve state operations. The programs and agencies investigated by the Performance Audit Division are based on the recommendations of legislators and legislative committees. Final performance audits reports and special examinations are published on the Department of Audits website. I have signed SB 33, a bill requiring that all state programs and agencies be reviewed over the next eight to 10 years using Zero Based Budgeting. The ZBB review process is the most cost-effective and efficient way to accomplish the goal of reviewing agency expenditures, evaluating performance and ensuring that we are focused on delivering essential services. Through the budget and legislative process this session alone we have eliminated councils, committees (SB 407) and one state agency (HB 642). The first year of ZBB reviews resulted in elimination of the State Personnel Administration, agency consolidations and realignments, over \$9 million in savings, required no additional staff, was a collaborative process with agencies and the House and Senate budget offices and utilized the existing legislative process and House and Senate Appropriations Committees to make the final determinations on the ZBB recommendations. The FY 2013 ZBB Report is available at [www.opb.georgia.gov](http://www.opb.georgia.gov). The intent and desired outcomes of HB 456 are and will be achieved through SB 33 and ZBB review. No additional overhead is needed because legislative authority, committees, and staff to review state agencies and operations are already established in law and the General Assembly did not include funding to implement this legislation, **therefore I VETO HB 456.**
  
- **HB 1117 / V7 – Representative Valerie Clark - Local government; approval of bonded debt by election**
  - Veto Message: The original language of HB 1117 would maintain Fulton County as the only county in the state that is required to hold bond debt elections only on the date of the November general election. An amendment was added to HB 1117 that included an exemption of hospital authorities from OCGA 45-8-12 that requires that any bank or depository holding public funds guarantee the funds with a surety bond, FDIC insurance, or some other form of guarantee or collateral. This exemption would expose public funds to additional investment risk. Hospital Authorities are allowed to participate in the state investment pools which provide the possibility for a higher return on investment but maintain appropriate safeguards against losses. I recommend the author bring back the original legislation for consideration during the next session. This bill puts public funds at additional financial risk, therefore, **I VETO HB 1117.**

- **SB 470 / V2 – Senator Greg Goggans - Patient Self Referral; revise the definition of rural area**
  - Veto Message: Senate Bill 470 attempts to address concerns around Georgia’s Patient Self-Referral law, which prohibits health care providers from referring patients for the provision of designated health services to an entity in which the health care provider has an investment interest. The Georgia Patient Self Referral Act of 1993, as well as the Stark Law on the federal level, provides exemptions for rural areas because of the lack of access to adequate healthcare. On close review, this legislation would expand the definition of “rural area” to include “a county in which a military junior college is located, and area which is not an urban area.” This expansion would only apply to one county, Baldwin. The Georgia Patient Self Referral Act of 1993 was passed in response to the potential for abuse that is present when physicians are able to self-refer patients. I am vetoing this legislation because I believe SB 470 provides an unfair advantage to one county over other similarly populated counties around the state. I also find that this legislation would open the door for more counties to seek out the “rural” exemption in years to come. Accordingly, **I VETO SB 470.**