

## **A RESOLUTION**

### **Division of Health Planning Proposed Certificate of Need Rule § 111-2-2-.40 Service Specific Considerations for Ambulatory Surgical Services – Request to General Assembly of the State of Georgia**

**WHEREAS**, the Department of Community Health, Division of Health Planning (the Department), pursuant to O.C.G.A. § 31-5A-1 et seq. and O.C.G.A. § 31-6-1 et seq., administers the Georgia Certificate of Need (CON) program; and

**WHEREAS**, the Department has published for public comment, with the approval of the Board of Community Health (the Board), a proposed change to CON Rule § 111-2-2-.40(2)(j), the definition of “multi-specialty ambulatory surgery service”; and

**WHEREAS**, said proposed rule change would expressly include general surgery as a single surgical specialty and not as a defined multi-specialty ambulatory surgery service; and

**WHEREAS**, O.C.G.A. § 31-6-2(14)(G)(iii) provides a statutory exemption from CON review for physician owned, single specialty, office based ambulatory surgery centers; and

**WHEREAS**, the intent of the proposed CON rule change is to allow general surgery physicians or group practices to request a Letter of Nonreviewability (LNR) authorizing the establishment of a statutorily exempt ambulatory surgery center; and

**WHEREAS**, the Department, pursuant to O.C.G.A. § 31-6-40.1(c) is authorized to require any applicant for a CON to provide a specified amount of clinical health services to indigent patients as a condition for the grant of a CON; and

**WHEREAS**, the Department, pursuant to O.C.G.A. § 31-6-42(a)(7) and CON Rule § 111-2-2-.40(3)(n)(3) is authorized to require a CON applicant for the establishment or expansion of an ambulatory surgery center to document a demonstrated performance of providing services to Medicaid patients and indigent patients unable to pay for ambulatory surgery services; and

**WHEREAS**, the Department is not authorized to require exempt ambulatory surgery centers who receive an LNR pursuant to the above-cited statutory exemption to provide ambulatory surgery services to Medicaid and indigent patients; and

**WHEREAS**, after the required public comment period and rule-making process, governed by O.C.G.A. § 31-6-21.1 et seq., this Board has, on the date set forth below, voted to approve the proposed CON rule change cited above; and

**WHEREAS**, this Board strongly asserts that exempt ambulatory surgery centers who receive an LNR should participate in the total community burden of providing clinical health services, more specifically, ambulatory surgery services, to Medicaid patients and indigent patients unable to pay for these services.

**NOW THEREFORE, BE IT RESOLVED**, this Board respectfully requests the 2008 General Assembly of the State of Georgia to entertain legislation to require and incentivize CON-exempt ambulatory surgery centers to make significant and meaningful commitments to treat Georgia's citizens who are Medicaid eligible, are indigent and unable to pay for ambulatory surgical care and, optimally, a combination of both.

**RESOLVED**, this 13<sup>th</sup> day of December, 2007, in public session.

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Richard L. Holmes, Chairman

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Secretary to Board