

# 2008 Georgia General Assembly Legislative Summary

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The Georgia General Assembly convened the 2008 legislative session on January 14<sup>th</sup>. As stipulated by Georgia's constitution, the legislative session can meet for 40 legislative days. The legislature met all forty days, adjourning just minutes before midnight on Friday, April 4<sup>th</sup>.

As with most election year sessions, many politically charged issues were debated and election year bills were introduced. As expected typical bills dealing with education and tax reform were considered. This year was slightly different as legislators also tackled development of a statewide water plan, the funding of a statewide trauma network, and for the fourth year and second consecutive session, they debated CON reform.

Many of the big issues of the session will be big issues in upcoming November election. As you

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know, all 236 members of the legislature are up for re-election, first in primaries in July and then the general election in November. Only a handful of legislators bid their colleagues farewell, indicating they will not seek re-election. The constitutional office holders are not up for election this year, those offices will be up for grabs in 2010.

From CON reform to high deductible health savings accounts, from prompt pay legislation to several last minute attempts of allied health providers seeking scope expansions, healthcare was a big issue and was debated heavily throughout the session. As you might guess, CON reform was the largest and most controversial of the healthcare issues – it was to say the least, a wild ride to the very end.

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## **Certificate of Need / Ambulatory Surgery Centers: Success!**

A year ago, during the 2007 session, the Special House Committee on CON held more than 50 hours of hearings on a range of CON bills. The Senate held only a few hours of hearings during both sessions combined. At the end of the 2007 session, proposals were still being offered up by the Governor's office. This continued throughout the summer, the fall and the days leading up to the 2008 session. While some parts of each proposal were at least palatable, all of them contained elements that were viewed as harmful to the ASC industry. When no

compromise could be reached and the hospitals appeared to be stalling the effort, no CON comprehensive reform bill was ready to move as the session got underway in January. Senator Tommie Williams forged ahead with his Cancer Treatment Centers of America (destination hospital) bill early in the session and moved his bill through the Senate quickly. Before the bill moved out of the Senate efforts were made once again to broker a compromise deal to include broader CON reform provision, but a deal could not be reached. His narrow "stand alone" bill

passed the Senate, by a slim margin of 31 to 23, and moved to the House Special Committee on CON. In the final weeks of the session an amendment was drafted that incorporated many of the reform efforts we have worked towards for the last two years and included provisions that would benefit the hospital community as well. The bill resolves the general surgery issue and allows for CTCA to file for a CON under

very narrow circumstances. While the bill is not perfect, it is by far the most agreeable language that we have seen in over two years of negotiations. It is fair to say that it resolves many issues and is a win for patients.

### ***The Legislation***

SB 433 sponsored by Sen. Tommie Williams creates a CON category for **destination hospitals** (65% of their patients must come from outside Georgia and it must be located within 25 miles of Hartsfield

Jackson International Airport) and includes comprehensive CON reform measures in the underlying bill. Among other provisions, it includes general surgery as a single specialty and raises the cap for LNR centers.

### **Requirements for ASCs Developed after July 1, 2008:**

- Requires an indigent care commitment of 2% for Medicaid providers and 4% for non-providers.
- Allows joint ventures of single specialty centers with a hospital as long as one entity owns a minimum of 30%. Partners can include a private physician group or hospital employed physicians.
- Raises the capital threshold to \$2.5 million for single specialty centers and \$5 million for single specialty centers in joint ventures with hospitals.
- Exempts centers from CON that are the only single specialty ambulatory surgical centers owned by a single group practice in the county and have two or fewer operating rooms; however centers using this exemption shall be required to obtain a certificate of need in order to add any additional operating rooms in the future.
- Requires all centers to provide annual reports in the same manner that CON centers are currently required to report.
- Defines single specialty to include general surgery, group practices which include one or more physiatrists who perform services that are reasonably related to the surgical procedures performed in the center, and orthopaedic practices that include hand surgeons with a certificate of added qualifications in Surgery of the Hand from the American Board of Plastic and Reconstructive Surgery.
- Exempts existing and future ophthalmic ASCs from participation in the indigent care requirements.

## **Requirements for Existing LNR ASCs**

- Existing LNR ASCs will be exempt from an indigent care requirement unless they spend more than \$800,000 over a two year period on equipment or add an operating room (& thereby exceed the new cap of two ORs), or relocate. If they do any one of those three things they have to comply with the 2% or 4% indigent care commitment.
  - All centers will be required to provide annual reports to DCH in the same manner that CON centers are currently required to report.
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## **SB 433 Signed Into Law by Governor Perdue on April 9, 2008. Goes Into Effect on July 1, 2008**

The CON reform bill passed the House 138 to 17, and passed the Senate 44 to 6. It took 4 years to pass meaningful CON reform, including hours of hearings held by the 2005 CON Commission and nearly 60 hours of hearings in the General Assembly. In reviewing the bill that passed overwhelmingly, it is evident that our issues were taken into account and our voices were heard. Many of these issues were resolved completely.

To all the physicians, staff members, patients and everyone who took time to engage in the effort for CON reform – **it paid off!** This becomes evident when you consider the amount of money, political capital, and support amassed by the hospital community over the last two sessions -- 87 lobbyists, numerous attorneys full time on this issue, and two PR firms. All of these people were working toward the hospitals' goal of maintaining the status quo!

To view the bill go to

[http://www.legis.state.ga.us/legis/2007\\_08/fulltext/sb433.htm](http://www.legis.state.ga.us/legis/2007_08/fulltext/sb433.htm)