

1 House Bill 850

2 By: Representatives Martin of the 47th, Harbin of the 118th, Jones of the
3 46th, Roberts of the 154th, Butler of the 18th, and others

4

5

A BILL TO BE ENTITLED AN ACT

6

7 To amend Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia
8 Annotated, relating to regulation of hospitals and related institutions, so as
9 to provide definitions; to provide for regulation and licensing of assisted
10 living communities; to provide for procedures and criteria for the admission
11 and retention of residents of such communities; to provide for the special
12 care of certain persons with cognitive impairments; to provide for certain
13 notices; to provide for agreements regarding the care of residents; to
14 provide for an advisory committee and the composition thereof; to provide
15 for inspections and investigations; to provide for procedures for waivers,
16 variances, and exemptions; to provide for related matters; to repeal
17 conflicting laws; and for other purposes.

18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20

21 **SECTION 1.**

22 Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
23 relating to regulation of hospitals and related institutions, is amended by
24 revising paragraph (4) of Code Section 31-7-1, relating to definitions, as
25 follows:

26 "(4) 'Institution' means:

27 (A) Any building, facility, or place in which are provided two or more beds
28 and other facilities and services that are used for persons received for
29 examination, diagnosis, treatment, surgery, maternity care, nursing care,
30 assisted living care, or personal care for periods continuing for 24 hours or
31 longer and which is classified by the department, as provided for in this
32 chapter, as either a hospital, nursing home, assisted living community, or
33 personal care home;

34 (B) Any health facility wherein abortion procedures under subsections (b)
35 and (c) of Code Section 16-12-141 are performed or are to be performed;

36 (C) Any building or facility, not under the operation or control of a hospital,
37 which is primarily devoted to the provision of surgical treatment to patients
38 not requiring hospitalization and which is classified by the department as
39 an ambulatory surgical treatment center;

40 (D) Any fixed or mobile specimen collection center or health testing facility
41 where specimens are taken from the human body for delivery to and
42 examination in a licensed clinical laboratory or where certain
43 measurements such as height and weight determination, limited audio and
44 visual tests, and electrocardiograms are made, excluding public health
45 services operated by the state, its counties, or municipalities;

46 (E) Any building or facility where human births occur on a regular and
47 ongoing basis and which is classified by the department as a birthing
48 center;

49 (F) Any building or facility which is devoted to the provision of treatment
50 and rehabilitative care for periods continuing for 24 hours or longer for
51 persons who have traumatic brain injury, as defined in Code Section 37-3-
52 1; or

53 (G) Any freestanding imaging center where magnetic resonance imaging,
54 computed tomography (CT) scanning, positron emission tomography
55 (PET) scanning, positron emission tomography/computed tomography,
56 and other advanced imaging services as defined by the department by
57 rule, but not including X-rays, fluoroscopy, or ultrasound services, are
58 conducted in a location or setting not affiliated or attached to a hospital or
59 in the offices of an individual private physician or single group practice of
60 physicians and conducted exclusively for patients of that physician or
61 group practice.

62 The term 'institution' shall exclude all physicians' and dentists' private
63 offices and treatment rooms in which such physicians or dentists primarily
64 see, consult with, and treat patients."

65

66 **SECTION 2.**

67 Said article is further amended by adding a new Code section to read as
68 follows:

69 "31-7-12.2.

70 (a) As used in this Code section, the term:

71 (1) 'Administrator' means an individual who is charged with the general
72 administration of an assisted living community, whether or not such
73 individual has an ownership interest in such assisted living community or
74 the duties and functions of such individual are shared with other
75 individuals.

76 (2) 'Age in place' or 'aging in place' means receiving care and services at a
77 licensed assisted living community to accommodate changing needs and
78 preferences **to allow the resident to remain in the community as long**
79 **as the community is able and authorized to accomodate the**

80 resident's current and changing needs. Services provided to enable
81 a resident to "age in place" should include but not be limited to
82 services that would be available to a private citizen in his own or her
83 own home.

84 (3) 'Assisted living care services' means the care or services provided to
85 an assisted living resident, including but not limited to assistance with
86 activities of daily living, and supplemental health care pursuant to an
87 assisted living license.

88 (4) 'Assisted living community' means any dwelling, whether operated for
89 profit or not, which undertakes through its ownership or management to
90 provide or arrange for the provision of housing, food service, and one or
91 more ~~personal care or~~ assisted living care services and supplemental
92 health care services to allow residents the opportunity to age in
93 place, for two or more adults who are not related to the owner or
94 administrator by blood or marriage. The term shall not include host homes,
95 as defined in paragraph (16) of subsection (b) of Code Section 37-1-20 or
96 personal care homes as defined in 290-5-35.

97 (5) 'Assisted living license' means a license issued by the department that
98 authorizes an assisted living community to provide aging in place by
99 retaining residents who desire to continue to age in place.

100 (6) 'Assisted living resident' means a resident of an assisted living
101 community who receives assisted living care services and supplemental
102 health care services.

103 (7) 'Chronic debilitating condition' means a condition that could
104 benefit from intermittent nursing, medical care, treatment or
105 oversight.

106 ~~(7)~~(8) 'Informed consent agreement' means a formal, mutually agreed
107 upon, written understanding that:

108 (A) Results after thorough discussion among assisted living community
109 staff, an assisted living resident, and any individuals that the assisted living
110 resident wants to be involved; and

111 (B) Identifies how to balance the assisted living community's
112 responsibilities to the individuals it serves with an assisted living resident's
113 choices and capabilities with the possibility that those choices may place
114 such assisted living resident ~~or other assisted living residents~~ at risk of
115 harm.

116 ~~(8)~~(9) '~~Personal~~ **Assisted living** services' include, but are not limited to,
117 individual assistance with or supervision of self-administered medication
118 and essential activities of daily living, such as eating, bathing, grooming,
119 dressng, and toileting.

120 ~~(9)~~ 'Special care **needs** designation' means a licensed assisted living
121 community or a distinct part of the community that is specifically
122 designated by the department as capable of providing cognitive support
123 services to assisted living residents with severe cognitive impairments,
124 including, but not limited to, dementia or Alzheimer's disease, in the least
125 restrictive manner to ensure the safety of the assisted living resident and
126 others in the assisted living community while maintaining the assisted
127 living resident's ability to age in place.

128 ~~(10)~~ '**Special needs assisted living certificate**' means a certificate
129 issued by the Department which authorizes an assisted living
130 residence to serve persons with Alzheimer's and related cognitive
131 impairments in accordance with a special needs plan approved by
132 the Department pursuant to the requirements of this Part.

133 ~~(10)~~ (11) 'Supplemental health care services' means the provision by any
134 assisted living community of any type of health care services, **which the**
135 **person is licensed to provide** either directly or through contractors,
136 subcontractors, agents, or designated providers, except for any service
137 that is required by law to be provided by a health care facility as defined by
138 law.

139 In addition to any marketing materials and with the residency
140 agreement, the assisted living provider shall disclose to (a) any
141 individual who expresses an interest in residing in the assisted living
142 community, and to his or her designated representative and his or
143 her legal representative, if any upon request or prior to admission,
144 whichever occurs first, and (b) any current resident and to his or her
145 designated representative and his or her legal representative, if any,
146 if such information has not been previously disclosed to them a
147 statement listing the assisted living community's licensure status
148 and if it has a current special needs certificate, a statement that
149 residents have the right to choose their own health care providers, a
150 statement regarding the availability of public funds, the department's
151 toll free number for reporting of complaints regarding services
152 provided by the assisted living community provider, and a statement
153 regarding the availability of the long term care ombudsman services
154 and the telephone number of the local and state long term care
155 ombudsman.

156
157 Every operator shall execute with each resident a written residency
158 agreement. Such agreement shall be signed by the operator , the
159 resident, the resident's representative, and resident's legal
160 representative, if any, and any other party to be charged under this
161 agreement. The agreement shall include, at a minimum: name,
162 telephone number, street address, and mailing address of the
163 residence, a statement describing the licensure or certification status
164 of the assisted living community provider, description of services to
165 be provided, rate or fee schedule, a description of the process
166 through which the agreement may be modified, amended, or
167 terminated, and setting forth the terms and time frames under which
168 the agreement may terminated, a copy of the resident's rights for the
169 resident's review and signature, and a description of the complaint
170 resolution process available to residents.

171

172 The Department Of Community Health shall promulgate rules to
173 establish minimum medication administration standards for assisted
174 living communities. The rules shall include the minimum staffing and
175 training requirements for medication aides and standards for
176 professional supervision of assisted living communities' medication
177 controls. The requirements shall be designed to minimize medication
178 error rates in assisted living communities. The requirements shall
179 include, but need not be limited to, all of the following:

180 (a) Training for medication aides, including periodic refresher
181 training.

182 (b) Standards for management of complex medication regimens.

183 (c) Oversight by licensed professionals.

184 (d) Measures to ensure proper storage of medication.

185 (b)(1) In order for an assisted living resident to **move into and** age in
186 place, the assisted living community shall be able to provide care and
187 services consistent with the scope of services set forth in the **Individual**
188 **Service Plan and** informed consent agreement. An assisted living resident
189 may **move in and** remain in the assisted living community as long as the
190 assisted living community is able and authorized to accommodate such
191 assisted living resident's current and changing needs. No assisted living
192 resident shall be permitted to continue to age in place under the terms of
193 an assisted living license unless the assisted living resident or the assisted
194 living resident's family, the administrator, and the assisted living resident's
195 physician agree that the additional needs of the assisted living resident can
196 be safely and appropriately met at the assisted living community. An
197 assisted living resident eligible for assisted living care services or his or her

198 personal representative shall submit to the assisted living community a
199 written report from a physician which report shall state that:

200 (A) The physician has physically examined the assisted living resident
201 within the last month; and

202 (B) The assisted living resident is not in need of 24 hour skilled nursing
203 care or medical care which would require placement in a hospital or skilled
204 nursing facility.

205 (2) If an assisted living resident **from a functional status** reaches the
206 point where **due to a chronic debilitating condition versus an acute**
207 **medical condition cannot ambulate, is a fall risk or has some**
208 **condition that could benefit from intermittent nursing or medical care**
209 **and oversight to allow the condition to show reasonable and**
210 **predictable improvement in status, that resident can remain at the**
211 **community if the following conditions are met:** ~~he or she is in need of~~
212 ~~24 hour skilled nursing care or medical care, then such assisted living~~
213 ~~resident shall be discharged from the assisted living community, and the~~
214 ~~administrator shall initiate proceedings for the termination of the residency~~
215 ~~agreement of such assisted living resident in accordance to law; provided,~~
216 ~~however, that an assisted living resident may remain at the assisted living~~
217 ~~community if each of the following conditions are met:~~

218 **a. the assisted living community develops an Individualized Service**
219 **Plan that describes the resident's care and services, when the care**
220 **will be provided and by whom, to meet the residents needs.**

221 ~~(A) The assisted living resident in need of 24 hour skilled nursing care or~~
222 ~~medical care hires appropriate nursing, medical, or hospice staff to care for~~
223 ~~his or her increased needs;~~

224 **b. resident enters into an informed consent agreement if requested**
225 **by the provider.**

226 ~~(B) The assisted living resident's physician and assisted living provider~~
227 ~~both determine and document that, with the provisions of such additional~~
228 ~~nursing, medical, or hospice care, the assisted living resident can be safely~~
229 ~~cared for in the assisted living community and would not require placement~~
230 ~~in a hospital, nursing home, or other licensed setting;~~

231 **c. resident agrees to palliative/hospice care by a licensed provider**

232 **(B) The assisted living resident, resident's family, resident's**
233 **physicians and assisted living provider both all determine and**
234 **document that, with the provisions of such additional nursing,**
235 **medical, or hospice care, the assisted living resident can be safely**
236 **cared for in the assisted living community and would not require**
237 **placement in a hospital, nursing home, or other licensed setting;**

238 **(C) The administrator agrees to allow the resident to move in and**
239 **retain the assisted living resident and to provide the additional care**
240 **directly or to coordinate the care provided by the assisted living**
241 **community and the additional nursing, medical, or hospice staff; and**

242 ~~(D) The assisted living resident is otherwise eligible to reside at the~~
243 ~~assisted living community.~~

244 ~~(3) The assisted living community shall notify an assisted living resident~~
245 ~~that, while the assisted living community will make reasonable efforts to~~
246 ~~facilitate the assisted living resident's ability to age in place pursuant to an~~
247 ~~individualized service plan, there may be a point reached where the needs~~
248 ~~of the assisted living resident cannot be safely or appropriately met at the~~
249 ~~assisted living community, requiring the transfer of the assisted living~~
250 ~~resident to a more appropriate facility.~~

251 (4) The department shall create standards for transfer and discharge that
252 require the assisted living community to make a reasonable
253 accommodation for aging in place that may include services from outside
254 providers.

255 (5) Except as specifically referenced in this legislation, assisted
256 living communities shall not admit nor permit the continued stay:

257 (a) of a person who requires continuous nursing care. “continuous
258 nursing care” means round-the-clock, observation, assessment,
259 monitoring, supervision, or provision of nursing services that can
260 only be performed by a licensed nurse;. This provision shall not
261 apply to a person who needs or receives hospice and or palliative
262 care services;

263 (b) a person whose verbal and physical aggressive behavior poses
264 an imminent physical threat to himself or herself or herself or others,
265 based not on the person’s diagnosis, but on the behavior of the
266 person;

267 (c) a person requiring physical or chemical restraints, not including
268 psychotropic medications prescribed for a manageable mental
269 disorder or condition

270

271 ~~(c)(1) The department shall establish a special care needs certificate~~
272 ~~designation for assisted living communities and units that care for~~
273 ~~residents with Alzheimer’s or related cognitive impairments. require~~
274 ~~specialized staff training, service planning, activity programming, and~~
275 ~~security measures for assisted living residents receiving cognitive support~~
276 ~~services.~~

277 (2) For assisted living residents communities that hold itself out to the
278 public as providing assisted living care services for residents with
279 with Alzheimer's disease or dementia or where the assisted living
280 community holds itself out to the public as providing assisted living care
281 services or housing for assisted living residents with cognitive impairments,
282 the assisted living community shall provide cognitive support services,
283 including dementia specific activity programming. In addition, each
284 assisted living community that holds itself out to the public as providing
285 consumers cognitive support services shall disclose to consumers and
286 provide:

287 (A) The assisted living community's written statement of its philosophy and
288 mission which reflects the needs of assisted living residents with cognitive
289 impairments;

290 (B) A description of the assisted living community's physical environment
291 and design features to support the functioning of assisted living residents
292 with cognitive impairments;

293 (C) A description of the frequency and types of individual and group
294 activities designed specifically to meet the needs of assisted living
295 residents with cognitive impairments;

296 (D) A description of security measures provided by the assisted living
297 community;

298 (E) A description of training provided to staff regarding provision of care to
299 assisted living residents with cognitive impairments;

300 (F) A description of the availability of family support programs and family
301 involvement; and

302 (G) The process used for assessment and establishment of a plan of
303 services for the assisted living resident, including methods by which the

304 ~~plan of services will remain responsive to changes in the assisted living~~
305 ~~resident's condition.~~

306 (d) The department shall create standards for informed consent
307 agreements that promote aging in place which includes written
308 acknowledgment of the risks assisted living residents assume while
309 directing their own care and which releases the assisted living community
310 from liability for adverse outcomes resulting from actions consistent with
311 the terms of the informed consent agreement. Such informed consent
312 agreements shall only be entered into upon the mutual agreement of the
313 assisted living resident and the assisted living community.

314 (e) All assisted living communities shall be licensed as provided for in
315 Code Section 31-7-3, except that in lieu of licensure, the department may
316 require persons who operate assisted living communities with two or three
317 beds for nonfamily adults to comply with registration requirements
318 delineated by the department. Such registration **licensure** requirements
319 within this category shall authorize the department pursuant to Chapter 13
320 of Title 50, the 'Georgia Administrative Procedure Act,' to promulgate
321 reasonable standards to protect the health, safety, and welfare of the
322 occupants of such assisted living communities. To obtain an assisted living
323 license, the applicant shall submit a plan to the department setting forth
324 how the additional needs of assisted living residents will be safely and
325 appropriately met at such assisted living community. Such plan shall
326 include, but shall not be limited to, a written description of services,
327 average staffing levels, staff education and training, work experience, and
328 any environmental modifications that have been made or will be made to
329 protect the health, safety, and welfare of such assisted living residents in
330 the assisted living community.

331 Assisted living communities and ~~special needs assisted living~~
332 communities shall submit a letter from a professional engineer
333 certifying that the building meets all applicable codes, rules, and
334 regulations, and must comply with the following fire safety features:

- 335 a) an automatic sprinkler system through out the building
- 336 b) a supervised smoke detection system throughout the building
337 including all bedrooms
- 338 c) fire protection systems directly connected to the local fire
339 department or to a 24 hour attended central station

340 Proposals will be accepted that phase in modifications to permit a
341 facility to meet these standards over a specific period of time.

342

343 (f) Facilities licensed to provide assisted living care services shall be
344 exempt from the criteria for continued residency as set forth in rules
345 adopted under Code Section ~~31-7-12~~ 31-2-4. Assisted living communities
346 so licensed shall adopt their own requirements within guidelines for
347 continued residency set forth by rule. However, such facilities shall not
348 serve assisted living residents who require 24 hour nursing supervision
349 except as otherwise provided by law. Facilities licensed to provide assisted
350 living care services shall provide each assisted living resident with a
351 summary ~~written copy~~ of the assisted living community policies governing
352 admission and retention.

353 (g)(1) There is created the advisory committee on assisted living
354 communities which shall consist of ~~ten~~ fourteen appointed members. The
355 commissioner of ~~Human Resources~~ the Department of Community
356 Health shall appoint two staff members from the department to serve as
357 nonvoting advisory members. In appointing staff members under this

358 subsection, the commissioner shall appoint one member as a
359 representative of long-term care policy and one member as a
360 representative of long-term care regulation. The commissioner of Human
361 Resources the Department of Community Health shall appoint four
362 members to represent the interests of consumers; one member shall be a
363 family member of a resident in a community that will seek to be licensed as
364 an assisted living community, one shall be an advocacy organization
365 representing the interests of seniors. The Aging Services of Georgia,
366 the Assisted Living Association of Georgia, the Georgia-ALFA the
367 Georgia-Assisted Living Federation of America, and the Georgia
368 Association of Community Care Providers shall each appoint two
369 members to serve on the advisory committee, and the Georgia Association
370 of Homes and Services for the Aging shall appoint two members to serve
371 on the advisory committee. One member representing the interests of
372 providers shall represent a nonprofit facility.

373 (2) The committee shall elect a presiding officer from among its voting
374 members.

375 (3) The committee shall advise the department on standards for licensing
376 assisted living communities and on the implementation of this chapter.

377

378 (h) Upon the designation by the department and with the consent of county
379 boards of health, such boards may act as agents to the department in
380 performing inspections and other authorized functions regarding assisted
381 living communities licensed under this chapter. With approval of the
382 department, county boards of health may establish inspection fees to
383 defray part of the costs of inspections performed for the department. The
384 department shall have enforcement and licensure staff dedicated solely to

385 assisted living communities **to conduct**. All inspections of assisted living
386 communities and personal care homes shall be conducted by a team of
387 surveyors comprised of both personal care home and assisted living
388 community surveyors.

389 (i) The state ombudsman or community ombudsman, on that
390 ombudsman's initiative or in response to complaints made by or on behalf
391 of assisted living residents of a ~~registered or~~ licensed assisted living
392 community, may conduct investigations in matters within the ombudsman's
393 powers and duties.

394 (j) The department shall promulgate procedures to govern the waiver,
395 variance, and exemption process related to assisted living communities
396 pursuant to Chapter 2 of this title. Such procedures shall include published,
397 measurable criteria for the decision process, shall take into account the
398 need for protection of public and individual health care and safety, ~~and~~
399 shall afford an opportunity for public input into the process."

400

401 **SECTION 2.**

402 All laws and parts of laws in conflict with this Act are repealed.

403