

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 Scope, Purpose, and Implementation.

20 (a) The purpose of this chapter is to ensure that assisted living
21 communities in this state deliver the highest possible quality of
22 care. This chapter and the rules adopted under this chapter
23 establish minimum acceptable levels of care, and a violation of
24 a minimum acceptable level of care established under this
25 chapter is a violation of law. For purposes of this chapter,
26 components of quality of care include:

27

(1) resident independence and self-determination;

- 28 (2) humane treatment;
- 29 (3) conservative intervention;
- 30 (4) access to care;
- 31 (5) continuity of care;
- 32 (6) coordination of services;
- 33 (7) safe surroundings;
- 34 (8) professionalism of service providers;
- 35 (9) participation in useful studies; and
- 36 (10) quality of life.

37 (b) The department shall protect residents of assisted living
38 communities by:

- 39 (1) adopting rules relating to quality of care and quality
40 of life;
- 41 (2) adopting rules relating to the assessment of the
42 condition and service needs of each resident;
- 43 (3) promoting policies that maximize the dignity,
44 autonomy, privacy, and independence, of each
45 resident;
- 46 (4) regulating the construction maintenance, and
47 operation of assisted living communities;
- 48 (5) strictly monitoring factors relating to health, safety,
49 welfare, and dignity of each resident;
- 50 (6) imposing prompt and effective remedies for
51 violations of this chapter and rules and standards
52 adopted under this chapter;

- 53 (7) providing a residential environment that allows
54 residents to maintain the highest possible degree
55 of independence and self-determination; and
56 (8) providing the public with helpful and
57 understandable information relating to the
58 operation of assisted living communities in this
59 state.
- 60 (c) Assisted living services are driven by a service philosophy that
61 emphasizes personal dignity, autonomy, independence, and
62 privacy. Assisted living services should enhance a person's
63 ability to age in place in a residential setting while receiving
64 increasing and decreasing levels of service as the person's
65 needs change.

66

67 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

68

69 **SECTION 1.**

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

74 "(4) 'Institution' means:

75 (A) Any building, facility, or place in which are provided two or more beds
76 and other facilities and services that are used for persons received for
77 examination, diagnosis, treatment, surgery, maternity care, nursing care,
78 assisted living care, or personal care for periods continuing for 24 hours or
79 longer and which is classified by the department, as provided for in this

80 chapter, as either a hospital, nursing home, assisted living community, or
81 personal care home;

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

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

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

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

97 (F) Any building or facility which is devoted to the provision of treatment
98 and rehabilitative care for periods continuing for 24 hours or longer for
99 persons who have traumatic brain injury, as defined in Code Section 37-3-
100 1; or

101 (G) Any freestanding imaging center where magnetic resonance imaging,
102 computed tomography (CT) scanning, positron emission tomography
103 (PET) scanning, positron emission tomography/computed tomography,
104 and other advanced imaging services as defined by the department by
105 rule, but not including X-rays, fluoroscopy, or ultrasound services, are
106 conducted in a location or setting not affiliated or attached to a hospital or

107 in the offices of an individual private physician or single group practice of
108 physicians and conducted exclusively for patients of that physician or
109 group practice.

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

113

114 **SECTION 2.**

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

117 "31-7-12.2.

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

119 (1) 'Administrator' means an individual who is charged with the general
120 administration of an assisted living community, whether or not such
121 individual has an ownership interest in such assisted living community or
122 the duties and functions of such individual are shared with other
123 individuals.

124 (2) 'Age in place' or 'aging in place' means receiving care and services at a
125 licensed assisted living community to accommodate changing needs and
126 preferences to allow the resident to remain in the community as long as
127 the community is able and authorized to accomodate the resident's current
128 and changing needs. Services provided to enable a resident to "age in
129 place" should include but not be limited to services that would be available
130 to a private citizen in his own or her own home.

131 (3) 'Assisted living care services' means the care or services provided to
132 an assisted living resident, including but not limited to assistance with

133 activities of daily living, and supplemental health care pursuant to an
134 assisted living license.

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

144 (5) 'Assisted living license' means a license issued by the department that
145 authorizes an assisted living community to provide aging in place to
146 residents upon move in or to retain residents who desire to continue to age
147 in place.

148 (6) 'Assisted living resident' means a resident of an assisted living
149 community who receives assisted living care services and supplemental
150 health care services.

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

153 (8) 'Informed consent agreement' means a formal, mutually agreed upon,
154 written understanding that:

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

158 (B) Identifies how to balance the assisted living community's
159 responsibilities to the individuals it serves with an assisted living resident's

160 choices and capabilities with the possibility that those choices may place
161 such assisted living resident at risk of harm.

162 (9) 'Assisted living services' include, but are not limited to administration of
163 medications and essential activities of daily living, such as eating, bathing,
164 grooming, dressing, and toileting.

165 (10) 'Administration of Medications' means an assisted living community
166 may administer medications to residents who choose not to or cannot self-
167 administer their medications provided the administration is performed by a
168 person who:

169 (A) holds a current license under state law that authorizes the
170 licensee to administer medications or

171 (B) holds a current medication technician certificate

172 (11)'Self-Administration of Medications' means an assisted living
173 community shall permit residents who are competent and physically able to
174 self-administer their medications if the self administration is ordered by a
175 physician or other person legally authorized to prescribe medication in
176 Georgia and documented in the resident's record. A resident's right to
177 refuse medications does not imply the inability of the resident to self
178 administer medications.

179 (12) 'Qualifications of Medication Technician Staff' means assisted living
180 community staff who administer medications are hereafter referred to as
181 medication technicians. All medication technicians shall have
182 documentation of successfully completing the clinical skills validation and
183 competency evaluation prior to administration. Persons authorized by the
184 state licensure laws to administer medications are exempt from this
185 requirement. Medication technicians shall successfully pass a written
186 examination within 90 days after the successful completion of the clinical

187 skills validation portion of a competency evaluation. Medication
188 technicians shall compete 6 hours of continuing education annually related
189 to medication administration.

190 (13) 'Supplemental health care services' means the provision by any
191 assisted living community of any type of health care services, which the
192 person is licensed to provide either directly or through contractors,
193 subcontractors, agents, or designated providers, except for any service
194 that is required by law to be provided by a health care facility as defined by
195 law.

196 In addition to any marketing materials and with the residency
197 agreement, the assisted living provider shall disclose to (a) any
198 individual who expresses an interest in residing in the assisted
199 living community, and to his or her designated representative
200 and his or her legal representative, if any upon request or prior
201 to admission, whichever occurs first, and (b) any current
202 resident and to his or her designated representative and his or
203 her legal representative, if any, if such information has not been
204 previously disclosed to them a statement listing the assisted
205 living community's licensure status, a statement that residents
206 have the right to choose their own health care providers, a
207 statement regarding the availability of public funds, the
208 department's toll free number for reporting of complaints
209 regarding services provided by the assisted living community
210 provider, and a statement regarding the availability of the long
211 term care ombudsman services and the telephone number of
212 the local and state long term care ombudsman.

213 Every operator shall execute with each resident a written
214 residency agreement. Such agreement shall be signed by the
215 operator , the resident, the resident's representative, and
216 resident's legal representative, if any, and any other party to be
217 charged under this agreement. The agreement shall include, at
218 a minimum: name, telephone number, street address, and
219 mailing address of the residence, a statement describing the
220 licensure or certification status of the assisted living community
221 provider, description of services to be provided, rate or fee
222 schedule, a description of the process through which the
223 agreement may be modified, amended, or terminated, and

224 setting forth the terms and time frames under which the
225 agreement may terminated, a copy of the resident's rights for
226 the resident's review and signature, and a description of the
227 complaint resolution process available to residents.

228 The Department Of Community Health shall promulgate rules to establish
229 minimum medication administration standards for assisted living
230 communities. The rules shall include the minimum staffing and training
231 requirements for medication technicians and standards for professional
232 supervision of assisted living communities' medication controls. The
233 requirements shall be designed to minimize medication error rates in
234 assisted living communities. The requirements shall include, but need not
235 be limited to, all of the following:

236 (a) Training for medication technicians, including periodic refresher
237 training.

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

239 (c) Oversight by licensed professionals.

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

241 (e) Medications must be delivered to the assisted living community in
242 single or multi-dose packaging systems which clearly display the date and
243 time to minimize the occurrence of prescription drug errors.

244 (b)(1) In order for an assisted living resident to move into and age in place,
245 the assisted living community shall be able to provide care and services
246 consistent with the scope of services set forth in the Individual Service
247 Plan and informed consent agreement. An assisted living resident may
248 move in or remain in the assisted living community as long as the assisted
249 living community is able and authorized to accommodate such assisted
250 living resident's current and changing needs. No assisted living resident
251 shall be permitted to continue to age in place under the terms of an

252 assisted living license unless the assisted living resident or the assisted
253 living resident's family, the administrator, and the assisted living resident's
254 physician agree that the additional needs of the assisted living resident can
255 be safely and appropriately met at the assisted living community. An
256 assisted living resident eligible for assisted living care services or his or her
257 personal representative shall submit to the assisted living community a
258 written report from a physician which report shall state that:

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

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

264 (2) If an assisted living resident from a functional status reaches the point
265 where due to a chronic debilitating condition versus an acute medical
266 condition cannot ambulate, is a fall risk or has some condition that could
267 benefit from intermittent nursing or medical care and oversight to allow the
268 condition to show reasonable and predictable improvement in status, that
269 resident can remain at the community if the following conditions are met:

270 a. the assisted living community develops an Individualized Service Plan
271 that describes the resident's care and services, when the care will be
272 provided and by whom, to meet the residents needs upon move in and
273 updated with a change of condition or annually, whichever occurs first.

274 b. resident enters into an informed consent agreement if requested by the
275 provider.

276 c. If deemed necessary by the physician, the resident and family agrees to
277 palliative/hospice care by a licensed provider.

278 d. In accordance with the language and provisions of O.C.G.A 31-32-8, an
279 assisted living community must comply with a duly-executed advance
280 directive for healthcare, e.g., Do Not Resuscitate Order (DNRO), or must
281 notify the resident or duly-appointed Health Care Agent of the need to
282 transfer the resident to another health care facility or provider if they are
283 unable to honor the advance directive for healthcare. It is the responsibility
284 of the resident or Health Care Agent to provide the assisted living
285 community with a copy of such documents.

286 (B) The assisted living resident, resident's family, resident's physicians and
287 assisted living provider all determine that, with the provisions of the
288 individualized service plan or such additional nursing, medical, or hospice
289 care, if deemed necessary by the physician, the assisted living resident
290 can be safely cared for in the assisted living community and would not
291 require placement in a hospital, nursing home, or other licensed setting;

292 (C) The administrator agrees to allow the resident to move in or retain the
293 assisted living resident and to provide the additional care directly or to
294 coordinate the care provided by the assisted living community or the
295 additional nursing, medical, or hospice staff; and

296 (D) The assisted living resident is otherwise eligible to reside at the
297 assisted living community.

298 (3) The assisted living community shall notify an assisted living resident
299 that, while the assisted living community will make reasonable efforts to
300 facilitate the assisted living resident's ability to age in place pursuant to an
301 individualized service plan, there may be a point reached where the needs
302 of the assisted living resident cannot be reasonably met at the assisted
303 living community, requiring the transfer of the assisted living resident to a
304 more appropriate facility.

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

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

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

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

319 (c) a person requiring physical or chemical restraints, not including
320 psychotropic medications prescribed for a manageable mental disorder or
321 condition

322 (d) The department shall create standards for informed consent
323 agreements that promote aging in place which includes written
324 acknowledgment of the risks assisted living residents assume while
325 directing their own care. Such informed consent agreements shall only be
326 entered into upon the mutual agreement of the assisted living resident and
327 the assisted living community.

328 (e) All assisted living communities shall be licensed as provided for in
329 Code Section 31-7-3 Such licensure requirements within this category
330 shall authorize the department pursuant to Chapter 13 of Title 50, the
331 'Georgia Administrative Procedure Act,' to promulgate reasonable

332 standards to protect the health, safety, and welfare of the occupants of
333 such assisted living communities. To obtain an assisted living license, the
334 applicant shall submit a plan to the department setting forth how the
335 additional needs of assisted living residents will be safely and appropriately
336 met at such assisted living community. Such plan shall include, but shall
337 not be limited to, a written description of services, average staffing levels,
338 staff education and training, work experience, and any environmental
339 modifications that have been made or will be made to protect the health,
340 safety, and welfare of such assisted living residents in the assisted living
341 community.

342 Assisted living communities shall submit a letter from a professional
343 engineer certifying that the building meets all applicable codes, rules, and
344 regulations, and must comply with the following fire safety features:

- 345 a) an automatic sprinkler system through out the building
- 346 b) a supervised smoke detection system throughout the building
347 including all bedrooms
- 348 c) fire protection systems directly connected to the local fire department
349 or to a 24 hour attended central station

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

352 (f) Facilities licensed to provide assisted living care services shall be
353 exempt from the criteria for continued residency as set forth in rules
354 adopted under Code Section 31-2-4. Assisted living communities so
355 licensed shall adopt their own requirements within guidelines for continued
356 residency set forth by rule. However, such facilities shall not serve assisted
357 living residents who require 24 hour nursing supervision except as
358 otherwise provided by law. Facilities licensed to provide assisted living

359 care services shall provide each assisted living resident with a summary of
360 the assisted living community policies governing admission and retention.

361 (g)(1) There is created the advisory committee on assisted living
362 communities which shall consist of fourteen appointed members. The
363 commissioner of the Department of Community Health shall appoint two
364 staff members from the department to serve as nonvoting advisory
365 members. In appointing staff members under this subsection, the
366 commissioner shall appoint one member as a representative of long-term
367 care policy and one member as a representative of long-term care
368 regulation. The commissioner of the Department of Community Health
369 shall appoint four members to represent the interests of consumers; one
370 member shall be the Alzheimer's Association-Georgia Chapter, one
371 member shall be a family member of a resident in a community that will
372 seek to be licensed as an assisted living community, one shall be an
373 advocacy organization representing the interests of seniors. The Aging
374 Services of Georgia, the Assisted Living Association of Georgia, the
375 Georgia-Assisted Living Federation of America, and the Georgia
376 Association of Community Care Providers shall each appoint two members
377 to serve on the advisory committee. One member representing the
378 interests of providers shall represent a nonprofit facility.

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

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

383 The department shall have enforcement and licensure staff dedicated
384 solely to assisted living communities to conduct.

385 (i) The state ombudsman or community ombudsman, on that
386 ombudsman's initiative or in response to complaints made by or on behalf
387 of assisted living residents of a licensed assisted living community, may
388 conduct investigations in matters within the ombudsman's powers and
389 duties.

390 (j) The department shall promulgate procedures to govern the waiver,
391 variance, and exemption process related to assisted living communities.
392 Such procedures shall include published, measurable criteria for the
393 decision process, shall take into account the need for protection of public
394 and individual health care and safety."

395

396 **SECTION 3.**

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

398