

Senate Bill 264

By: Senators Stokes of the 43rd and Balfour of the 9th

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide for actions against community living arrangements and drug abuse treatment and
3 education programs licensed by the Department of Human Resources; to delete community
4 living arrangements from the definition of “institution”; to provide for the relocation of
5 residents of certain community living arrangements and patients of certain drug abuse
6 treatment and education programs under certain emergency conditions; to include community
7 living arrangements in a definition of long-term care facility for purposes of reporting abuse
8 or exploitation; to amend Title 37 of the Official Code of Georgia Annotated, relating to
9 mental health, so as to provide for the licensing of community living arrangements by the
10 Department of Human Resources; to provide for related matters; to repeal conflicting laws;
11 and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking
15 subsection (a) of Code Section 31-2-6, relating to actions against applicants or licensees
16 regulated under Chapters 7, 13, 22, and 23 of this title and Chapter 5 of Title 49, and
17 inserting in its place the following:

18 “(a) This Code section shall be applicable to any agency, facility, institution, community
19 living arrangement, drug abuse treatment and education program, or entity subject to
20 regulation by the department under Chapters 7, 13, 22, 23, and 44 of this title; Chapter 5
21 of Title 26; paragraph (16) of subsection (b) and subsection (c) of Code Section 37-1-20;
22 and Chapter 5 of Title 49. For purposes of this Code section, the term 'license' shall be used
23 to refer to any license, permit, registration, or commission issued by the department
24 pursuant to the provisions of the law cited in this subsection.”

SECTION 2.

Said title is further amended by striking subparagraph (A) of paragraph (1) of Code Section 31-7-1, relating to definitions, and inserting in its place the following:

~~"(A) Any community living arrangements as defined in paragraph (16) of subsection (b) of Code Section 37-1-20~~ Reserved;"

SECTION 3.

Said title is further amended by striking Code Section 31-7-2.2, relating to determination that patients or residents in an institution are in danger, relocation of patients or residents, and suspension of admissions, and inserting in its place the following:

~~"31-7-2.2.~~

(a)(1) The commissioner may order the emergency relocation of patients or residents from an institution subject to licensure under this chapter, a community living arrangement subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code Section 37-1-20, or a drug abuse treatment and education program subject to licensure under Chapter 5 of Title 26 when the commissioner has determined that the patients or residents are subject to an imminent and substantial danger.

(2) When an order is issued under this subsection, the commissioner shall provide for:

(A) Notice to the patient or resident, his or her next of kin or guardian, and his or her physician of the emergency relocation and the reasons therefor;

(B) Relocation to the nearest appropriate institution, community living arrangement, or drug abuse treatment and education program; and

(C) Other protection designed to ensure the welfare and, when possible, the desires of the patient or resident.

(b)(1) The commissioner may order the emergency placement of a monitor in an institution subject to licensure under this chapter, a community living arrangement subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code Section 37-1-20, or a drug abuse treatment and education program subject to licensure under Chapter 5 of Title 26 when one or more of the following conditions are present:

(A) The institution, community living arrangement, or drug abuse treatment and education program is operating without a permit or a license;

(B) The department has denied application for a permit or a license or has initiated action to revoke the existing permit or license of the institution, community living arrangement, or drug abuse treatment and education program;

(C) The institution, community living arrangement, or drug abuse treatment and education program is closing or plans to close and adequate arrangements for relocation

1 of the patients or residents have not been made at least 30 days before the date of
2 closure; or

3 (D) The health, safety, security, rights, or welfare of the patients or residents cannot
4 be adequately assured by the institution, community living arrangement, or drug abuse
5 treatment and education program.

6 (2) A monitor may be placed, pursuant to this subsection, in an institution, community
7 living arrangement, or drug abuse treatment and education program for no more than ten
8 days, during which time the monitor shall observe conditions and ~~institutional~~ compliance
9 with any recommended remedial action of the department by the institution, community
10 living arrangement, or drug abuse treatment and education program. The monitor shall
11 report to the department. The monitor shall not assume any administrative responsibility
12 within the institution, community living arrangement, or drug abuse treatment and
13 education program nor shall the monitor be liable for any actions of the institution,
14 community living arrangement, or drug abuse treatment and education program. The
15 costs of placing a monitor in an institution, community living arrangement, or drug abuse
16 treatment and education program shall be paid by the institution, community living
17 arrangement, or drug abuse treatment and education program unless the order placing the
18 monitor is determined to be invalid in a contested case proceeding under subsection (d)
19 of this Code section, in which event the costs shall be paid by the state.

20 (c)(1) The commissioner may order the emergency prohibition of admissions to an
21 institution subject to licensure under this chapter, a community living arrangement
22 subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code
23 Section 37-1-20, or program subject to licensure under Chapter 5 of Title 26 when an
24 institution, community living arrangement, or drug abuse treatment and education
25 program has failed to correct a violation of departmental permit rules or regulations
26 within a reasonable period of time, as specified in the department's corrective order, and
27 the violation:

28 (A) Could jeopardize the health and safety of the residents or patients in the institution,
29 community living arrangement, or drug abuse treatment and education program if
30 allowed to remain uncorrected; or

31 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross
32 negligence.

33 (2) Admission to an institution, community living arrangement, or drug abuse treatment
34 and education program may be suspended until the violation has been corrected or until
35 the department has determined that the institution, community living arrangement, or
36 drug abuse treatment and education program has undertaken the action necessary to effect
37 correction of the violation.

(d) The commissioner may issue emergency orders pursuant to this Code section only if authorized by rules and regulations of the department. Unless otherwise provided in the order, an emergency order shall become effective immediately. The department shall hold a preliminary hearing within ten days following a request therefor by any institution, community living arrangement, or drug abuse treatment and education program affected by an emergency order. If at the preliminary hearing the order is determined by the department to be invalid, that order shall thereupon become void and of no effect. If at the preliminary hearing the order is determined by the department to be valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and that order shall remain in effect until determined invalid in a proceeding regarding the contested case or until rescinded by the commissioner, whichever is earlier. For purposes of this subsection, an emergency order is valid only if the order is authorized to be issued under this Code section and rules and regulations relating thereto.

(e) The powers provided by this Code section are cumulative of all other powers of the department, board, and commissioner."

SECTION 4.

Said title is further amended by striking paragraph (3) of Code Section 31-8-81, relating to definitions related to reporting abuse or exploitation of residents in long-term care facilities, and inserting in its place the following:

"(3) 'Long-term care facility' or 'facility' means any skilled nursing home, intermediate care home, ~~or personal care home,~~ or community living arrangement now or hereafter subject to regulation and licensure by the department."

SECTION 5.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by striking paragraph (16) of subsection (b) of Code Section 37-1-20, relating to the Division of Mental Health, Developmental Disabilities, and Addictive Disorders, and inserting in its place the following:

"(16) Establish 'community living arrangements' which shall be defined as any residence, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food, one or more personal services, supports, care, or treatment exclusively for two or more persons who are not related to the owner or administrator of the residence by blood or marriage and whose services are financially supported, in whole or in part, by funds authorized through the Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the

Department of Human Resources. ~~All community living arrangements, as defined in this paragraph, shall be classified by the department pursuant to subparagraph (A) of paragraph (1) of Code Section 31-7-1 solely for the purposes of being licensed by the department the rules and regulations promulgated by the department and shall be subject to the provisions of Code Section 31-2-6 in accordance with the administration, regulation, and enforcement provisions of Chapters 2, 5, and 7 of Title 31. To be eligible for licensing as a community living arrangement, the residence and services provided must be integrated within the local community."~~

SECTION 6.

Said title is further amended by striking subsection (c) of Code Section 37-1-20, relating to the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, and inserting in its place the following:

"(c) The department shall:

(1) Establish a unit of the department which shall receive and consider complaints from individuals receiving services, make recommendations to the director of the division regarding such complaints, and ensure that the rights of individuals receiving services are fully protected;

(2) Exercise all powers and duties provided for in this title or which may be deemed necessary to effectuate the purposes of this title; ~~and~~

(3) Assign specific responsibility to one or more units of the division for the development of programs designed to serve disabled infants, children, and youth. To the extent practicable, such units shall cooperate with the Georgia Department of Education and the University System of Georgia in developing such programs; and

(4) Classify and license community living arrangements, as defined in paragraph (16) of subsection (b) of this Code section, in accordance with the rules and regulations promulgated by the department for the licensing of community living arrangements and the enforcement of licensing requirements. To be eligible for licensing as a community living arrangement, the residence and services provided must be integrated within the local community. All community living arrangements licensed by the department shall be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business entity, corporation, or association, whether operated for profit or not for profit, may operate a community living arrangement without first obtaining a license or provisional license from the department. A license issued under this article is not assignable or transferable."

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- SECTION 7.
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- All laws and parts of laws in conflict with this Act are repealed.