

House Bill 318 (AS PASSED HOUSE AND SENATE)

By: Representatives McClinton of the 59th, Post 1, Howard of the 98th, Ashe of the 42nd, Post 2, Mobley of the 58th, Sinkfield of the 50th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 49 of the Official Code of Georgia Annotated, relating to
2 services for the aging, so as to enact the "Adult Day Center for Aging Adults Licensure Act";
3 to provide a short title; to define terms; to provide for licensure of adult day centers; to
4 authorize the Department of Human Resources to promulgate regulations for the operation
5 of adult day centers; to authorize the Department of Human Resources to issue and revoke
6 licenses of adult day centers; to provide access to adult day centers for the Department of
7 Human Resources for the purpose of inspection and investigation; to provide for exemptions
8 from inspections; to amend Chapter 5 of Title 30 of the Official Code of Georgia Annotated,
9 relating to protection of disabled adults and elder persons, so as to increase the penalty for
10 abuse, neglect, and exploitation of disabled adults and elder persons to a felony; to amend
11 Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department
12 of Human Resources, so as to authorize actions against applicants and licensees of certain
13 centers; to provide for related matters; to provide for effective dates; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Chapter 6 of Title 49 of the Official Code of Georgia Annotated, relating to services for the
18 aging, is amended by adding after Code Section 49-6-77, relating to rules and regulations to
19 implement Georgia Family Caregiver Support, a new article to read as follows:

20 style="text-align:center">"ARTICLE 7

21 49-6-80.

22 This article shall be known and may be cited as the 'Adult Day Center for Aging Adults
23 Licensure Act.'

24 49-6-81.

1 The intent of the General Assembly is to promote, safeguard, and protect the well-being
2 of adults participating in adult day care or adult day health services by authorizing,
3 promoting, and supporting licensure regulations for adult day care and adult day health
4 services providers. It is further the intent of the General Assembly that the Department of
5 Human Resources shall serve as the agency responsible for promulgating, implementing,
6 and enforcing the licensure regulations.

7 49-6-82.

8 As used in this article, the term:

9 (1) 'Adult day care' means the provision of a comprehensive plan of services that meets
10 the needs of aging adults, as defined in paragraph (4) of this Code section, under a social
11 model, as defined in paragraph (7) of this Code section.

12 (2) 'Adult day center' means a facility serving aging adults that provides adult day care
13 or adult day health services, as defined in paragraphs (1) and (3) of this Code section, for
14 compensation, to three or more persons.

15 (3) 'Adult day health services' means the provision of a comprehensive plan of services
16 that meets the needs of aging adults under a medical model, as defined in paragraph (6)
17 of this Code section.

18 (4) 'Aging adults' means persons 60 years of age or older or mature adults below the age
19 of 60 whose needs and interests are substantially similar to persons 60 years of age or
20 older who have physical or mental limitations that restrict their abilities to perform the
21 normal activities of daily living and impede independent living.

22 (5) 'Department' means the Department of Human Resources.

23 (6) 'Medical model' means a comprehensive program that provides aging adults with the
24 basic social, rehabilitative, health, and personal care services needed to sustain essential
25 activities of daily living and to restore or maintain optimal capacity for self-care. Such
26 program of care shall be based on individual plans of care and shall be provided for less
27 than 24 hours per day.

28 (7) 'Social model' means a program that addresses primarily the basic social and
29 recreational activities needed to be provided to aging adults, but also provides, as
30 required, limited personal care assistance, supervision, or assistance essential for
31 sustaining the activities of daily living. Such programs of care shall be based on
32 individual plans of care and shall be provided for less than 24 hours per day.

33 49-6-83.

34 No person, business entity, corporation, or association, whether operated for profit or not
35 for profit, shall operate an adult day center without first obtaining a license or a provisional

1 license from the department. A license issued under this article shall not be assignable or
2 transferable.

3 49-6-84.

4 The department is authorized to promulgate rules and regulations to implement this article
5 utilizing the public rule-making process to elicit input from consumers, providers, and
6 advocates. The department is further authorized to issue, deny, suspend, or revoke licenses
7 or take other enforcement actions against licensees or applicants as provided in Code
8 Section 31-2-6. All rules and regulations and any enforcement actions initiated by the
9 department shall comply with the requirements of Chapter 13 of Title 50, the 'Georgia
10 Administrative Procedure Act.'

11 49-6-85.

12 An adult day center for which an application for a license has been submitted or to which
13 a license has been issued shall be inspected by the department periodically and as
14 determined necessary to monitor such center's compliance with applicable laws and
15 regulations; provided, however, the department may exempt a center from inspection if
16 such center has been certified or accredited by a certification or accreditation entity
17 recognized and approved by the department if such entity uses standards that are
18 substantially similar to those established by the department. A center seeking exemption
19 from inspection shall be required to submit to the department documentation of
20 certification or accreditation, including a copy of its most recent certification or
21 accreditation inspection report, which shall be maintained by the department as a public
22 record."

23 **SECTION 1A.**

24 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to protection of
25 disabled adults and elder persons, is amended by striking Code Section 30-5-8, relating to
26 criminal offenses and penalties for abuse, neglect, and exploitation of disabled adults and
27 elder persons, and inserting in lieu thereof the following:

28 "30-5-8.

29 (a)(1) In addition to any other provision of law, it shall be unlawful for any person to
30 abuse, neglect, or exploit any disabled adult or elder person.

31 (2) Except as otherwise provided in Title 16, any person violating the provisions of this
32 subsection shall be guilty of a ~~misdemeanor of a high and aggravated nature~~ felony and,
33 upon conviction, shall be punished by imprisonment for not less than one nor more than
34 five years.

1 (b)(1) It shall be unlawful for any person or official required by paragraph (1) of
 2 subsection (a) of Code Section 30-5-4 to report a case of disabled adult or elder person
 3 abuse to fail knowingly and willfully to make such report.

4 (2) Any person violating the provisions of this subsection shall be guilty of a
 5 misdemeanor.

6 (c) Any violation of this Code section shall constitute a separate offense."

7 SECTION 2.

8 Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department
 9 of Human Resources, is amended by striking subsection (a) of Code Section 31-2-6,
 10 relating to actions against applicants or licensees regulated under Chapters 7, 13, 22, and
 11 23 of this title and Chapter 5 of Title 49, and inserting in its place the following:

12 "(a) This Code section shall be applicable to any agency, center, facility, institution, or
 13 entity subject to regulation by the department under Chapters 7, 13, 22, 23, and 44 of this
 14 title and Chapter 5 and Article 7 of Chapter 6 of Title 49. For purposes of this Code
 15 section, the term 'license' shall be used to refer to any license, permit, registration, or
 16 commission issued by the department pursuant to the provisions of the law cited in this
 17 subsection."

18 SECTION 3.

19 (a) For purposes of promulgating rules and regulations only, the Sections 1 and 2 of this Act
 20 shall become effective only if funds are specifically appropriated for the purposes of this Act
 21 in an appropriations Act making specific reference to this Act and shall become effective
 22 when funds so appropriated become available for expenditure.

23 (b) For all other purposes, Sections 1 and 2 of this Act shall become effective July 1 of the
 24 fiscal year following the year in which funds are specifically appropriated for the purposes
 25 of this Act in an appropriations Act making specific reference to this Act and shall become
 26 effective when funds so appropriated become available for expenditure.

27 (c) This section and Sections 1A and 4 of this Act shall become effective July 1, 2003.

28 SECTION 4.

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