

Senate Bill 422

By: Senators Unterman of the 45th, Johnson of the 1st, Stephens of the 51st, Balfour of the 9th, Thomas of the 54th and others

A BILL TO BE ENTITLED
AN ACT

1 To define and provide for a new category of facilities to be designated as "assisted living
2 facilities" and to include "assisted living facilities - Level I" and "assisted living facilities -
3 Level II" within such category; to amend Code Section 10-1-393 of the Official Code of
4 Georgia Annotated, relating to unfair or deceptive practices, so as to change certain
5 provisions relating to providing personal care services; to amend Code Section 25-2-13 of
6 the Official Code of Georgia Annotated, relating to buildings presenting special hazards to
7 persons or property, so as to change the listing of buildings and the applicability of certain
8 provisions thereto; to amend Title 31 of the Official Code of Georgia Annotated, relating to
9 health, so as to change certain terms and definitions; to provide for admissions, examinations,
10 inspections, employees, licensing, and staffing; to provide for fees and penalties; to provide
11 for licensing of different levels of assisted living facilities; to retain certain liability for
12 personal care homes; to amend Code Section 37-4-21 of the Official Code of Georgia
13 Annotated, relating to respite care for mentally retarded persons, so as to revise certain terms;
14 to amend Code Section 48-13-9 of the Official Code of Georgia Annotated, relating to
15 general provisions governing business and occupation taxes, so as to change a reference; to
16 change various statutory references to "personal care homes" so that they refer to "assisted
17 living facilities"; to amend Code Section 49-4-142 of the Official Code of Georgia
18 Annotated, relating to the Department of Community Health functions regarding medical
19 assistance, so as to direct the application for federal waivers to authorize Medicaid or to
20 otherwise provide Medicaid for eligible persons receiving care in an assisted living facility
21 in certain pilot projects; to provide for related matters; to provide effective dates; to repeal
22 conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 on or after April 15, 1986, but before January 1, 2005, and any structure constructed as
 2 or converted to an assisted living facility as defined in Code Section 31-7-12 on or after
 3 January 1, 2005, shall be deemed to be a proposed building pursuant to subsection (d)
 4 of Code Section 25-2-14 and that structure may be required to be furnished with a
 5 sprinkler system meeting the standards established by the Commissioner if ~~he~~ the
 6 Commissioner deems this necessary for proper fire safety."

7 SECTION 3.

8 Code Section 31-6-2 of the Official Code of Georgia Annotated, relating to definitions
 9 regarding state health planning, is amended by adding following paragraph (2) thereof a new
 10 paragraph (2.1) to read as follows:

11 "(2.1) 'Assisted living facility' shall have the same meaning as provided in paragraph (5)
 12 of subsection (a) of Code Section 31-7-12 for 'assisted living facility - Level II' for the
 13 purposes of this chapter."

14 SECTION 4.

15 Said Code section is further amended by striking paragraph (8) thereof and inserting in its
 16 place the following:

17 "(8) 'Health care facility' means hospitals; other special care units, including but not
 18 limited to podiatric facilities; skilled nursing facilities; intermediate care facilities;
 19 ~~personal care homes~~ assisted living facilities; ambulatory surgical or obstetrical facilities;
 20 health maintenance organizations; home health agencies; diagnostic, treatment, or
 21 rehabilitation centers, but only to the extent that subparagraph (G) or (H), or both
 22 subparagraphs (G) and (H), of paragraph (14) of this Code section are applicable thereto;
 23 and facilities which are devoted to the provision of treatment and rehabilitative care for
 24 periods continuing for 24 hours or longer for persons who have traumatic brain injury,
 25 as defined in Code Section 37-3-1."

26 SECTION 5.

27 Said Code section is further amended by striking paragraph (18) and inserting in its place the
 28 following:

29 ~~"(18) 'Personal care home' means a residential facility having at least 25 beds and~~
 30 ~~providing, for compensation, protective care and oversight of ambulatory, nonrelated~~
 31 ~~persons who need a monitored environment but who do not have injuries or disabilities~~
 32 ~~which require chronic or convalescent care, including medical, nursing, or intermediate~~
 33 ~~care. Personal care homes include those facilities which monitor daily residents'~~
 34 ~~functioning and location, have the capability for crisis intervention, and provide~~

1 supervision in areas of nutrition, medication, and provision of transient medical care.

2 Such term does not include:

3 ~~(A) Old age residences which are devoted to independent living units with kitchen~~
 4 ~~facilities in which residents have the option of preparing and serving some or all of their~~
 5 ~~own meals; or~~

6 ~~(B) Boarding facilities which do not provide personal care Reserved.~~"

7 SECTION 6.

8 Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to the regulation
 9 of health care facilities, is amended by striking subparagraph (B) of paragraph (1) of Code
 10 Section 31-7-1, relating to definitions, and inserting in its place the following:

11 "(B) Any building, facility, or place in which are provided two or more beds and other
 12 facilities and services that are used for persons received for examination, diagnosis,
 13 treatment, surgery, maternity care, nursing care, ~~or personal care~~ services, or assistance
 14 with activities of daily living or instrumental activities of daily living as defined in
 15 Code Section 31-7-12 for periods continuing for 24 hours or longer and which is
 16 classified by the department, as provided for in this chapter, as either a hospital, nursing
 17 home, or ~~personal care home~~ assisted living facility;"

18 SECTION 7.

19 Said chapter is further amended by striking Code Section 31-7-12, relating to licensing of
 20 personal care homes, and inserting in its place the following:

21 "31-7-12.

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

23 ~~(1) 'Personal care home' means any dwelling, whether operated for profit or not, which~~
 24 ~~undertakes through its ownership or management to provide or arrange for the provision~~
 25 ~~of housing, food service, and one or more personal services for two or more adults who~~
 26 ~~are not related to the owner or administrator by blood or marriage.~~

27 (1) 'Activities of daily living' means, but is not limited to, eating, bathing, grooming,
 28 dressings, toileting, transfer, ambulation, and self-administered medications.

29 (2) 'Ambulatory resident' means a resident who has the ability to move from place to
 30 place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker or
 31 hand rails, or by propelling a wheelchair.

32 (3) 'Assisted living facility' means any assisted living facility - Level I or assisted living
 33 facility - Level II, but shall not mean a respite care facility or any facility receiving funds
 34 pursuant to a contract or subcontract with the department and operating exclusively for
 35 consumers with mental illness, mental retardation, or substance abuse problems that is

1 exempt from licensure under Code Section 31-7-3. Such facility shall be required under
 2 its contract with the department to receive routine monitoring and service oversight.

3 (4) 'Assisted living facility - Level I' means any dwelling, whether operated for profit or
 4 not, that undertakes through its ownership or management to provide or arrange for the
 5 provision of housing and 24 hour watchful oversight, services for persons with
 6 disabilities, and assistance with activities of daily living and instrumental activities of
 7 daily living for two or more ambulatory residents who are not related by blood or
 8 marriage to the owner or administrator of the home. An assisted living facility - Level I
 9 may not provide services for bedridden or bed-bound persons. It is the intent of the
 10 General Assembly that the category 'assisted living facility - Level I' replace the former
 11 'personal care home' category and that the department consider this intent when
 12 promulgating appropriate rules and regulations.

13 (5) 'Assisted living facility - Level II' means any dwelling, whether operated for profit
 14 or not, that undertakes through its ownership or management to provide or arrange for the
 15 provision of housing; health care oversight, including monitoring of vital signs and bodily
 16 functions; limited nursing services of less than 24 hours duration; 24 hour watchful
 17 oversight; 24 hour awake staff; and assistance with activities of daily living and
 18 instrumental activities of daily living for two or more adults who are not related by blood
 19 or marriage to the owner or administrator of the home.

20 (6) 'Instrumental activities of daily living' includes, but is not limited to, preparing meals,
 21 shopping, managing money, using the telephone, light housework, and transportation.

22 (7) 'Limited nursing services' means acts that may be performed by licensed practical
 23 nurses under Article 2 of Chapter 26 of Title 43, relating to practical nurses, and may be
 24 administered on a less than 24 hour continuous basis in an assisted living facility - Level
 25 II for those residents who have been screened, assessed, and educated about their
 26 long-term care options as appropriate for Level II care in accordance with the
 27 department's rules and regulations.

28 (8) 'Personal services' includes, but is not limited to, individual assistance with or
 29 supervision of self-administered medication and essential activities of daily living such
 30 as eating, bathing, grooming, dressing, and toileting.

31 (9) 'Watchful oversight' means, but is not limited to, a daily awareness by the
 32 management of an assisted living facility resident's functioning, his or her whereabouts,
 33 the making and reminding that resident of medical appointments, the ability and readiness
 34 to intervene if a crisis arises for that resident, supervision in areas of nutrition and
 35 medications, and actual provision of supportive medical services.

36 (b) All ~~personal care homes~~ assisted living facilities shall be licensed as provided for in
 37 Code Section 31-7-3, ~~except that, in lieu of licensure, the department may require persons~~

1 ~~who operate personal care homes with two or three beds for nonfamily adults to comply~~
2 ~~with registration requirements delineated by the department. Such registration requirements~~
3 ~~within this category shall authorize the department to promulgate pursuant to Chapter 13~~
4 ~~of Title 50, the 'Georgia Administrative Procedure Act,' reasonable standards to protect the~~
5 ~~health, safety, and welfare of the occupants of such personal care homes.~~

6 (b.1) Each prospective resident of an assisted living facility shall be examined by a
7 physician not employed by the facility prior to admission to that facility. The physician
8 shall complete a medical examination report on a form approved by the department and
9 submit such form to the facility. The report shall contain a certificate that such resident is
10 appropriate to the level of care provided by the facility before such facility may admit such
11 prospective resident. In addition, and in accordance with department rules and regulations,
12 each resident shall be screened, assessed, and educated about his or her long-term care
13 options and appropriateness for Level II care. No facility may admit any person who is not
14 properly certified pursuant to this subsection. Within ten business days of admission to a
15 facility, each resident shall provide the facility with the name, address, and phone number
16 of his or her physician of record, if any. Each resident shall undergo an annual
17 examination by a physician not employed by the facility for the purpose of being recertified
18 as appropriate to the level of care provided by the facility. Nothing in this subsection shall
19 preclude a resident's physician from recommending that a resident be moved to another
20 level of care based on such physician's ongoing assessment of the resident's needs.

21 (c) The department shall periodically inspect assisted living facilities in accordance with
22 established rules and regulations. Upon the designation by the department and with the
23 consent of county boards of health, such boards may act as agents to the department in
24 performing inspections and other authorized functions regarding ~~personal care homes~~ such
25 facilities licensed under this chapter Code section. ~~With approval of the department,~~
26 ~~county boards of health may establish inspection fees to defray part of the costs of~~
27 ~~inspections performed for the department.~~

28 (d) The state ombudsman or community ombudsman, on that ombudsman's initiative or
29 in response to complaints made by or on behalf of residents of a registered or licensed
30 ~~personal care home~~ assisted living facility, may conduct investigations in matters within
31 the ombudsman's powers and duties.

32 (e) The department shall promulgate procedures to govern the waiver, variance, and
33 exemption process related to ~~personal care homes~~ assisted living facilities pursuant to
34 Chapter 2 of this title. Such procedures shall include published, measurable criteria for the
35 decision process, shall take into account the need for protection of public and individual
36 health, care, and safety, and shall afford an opportunity for public input into the process.

1 (f) The fees for licenses of assisted living facilities shall be paid when a license is initially
 2 granted and annually thereafter. Such fees shall be determined according to the number
 3 of beds available for persons who will be provided assistance with some or all activities of
 4 daily living or instrumental activities of daily living in such facilities, and the department
 5 is authorized and shall determine the amount of such fees. Such fees shall apply only to
 6 licenses granted at any time on or after July 1, 2005, and to annual renewals of licenses.
 7 Any facility operating on or after July 1, 2005, without obtaining the license required shall
 8 be required to pay the license fee applicable to that facility as well as a penalty equal to the
 9 amount of such fee.

10 (g) An assisted living facility may be licensed at more than one level if it offers services
 11 at more than one level. Any facility licensed as a Level II facility may also provide Level I
 12 services.

13 (h) Each employee of an assisted living facility shall receive a minimum amount of
 14 training and continuing education hours annually as determined by the department.

15 (i) An assisted living facility - Level II shall be staffed with either a registered professional
 16 nurse or a licensed practical nurse. Such registered professional nurse or licensed practical
 17 nurse shall be on site for a minimum of 12 hours per day. The facility shall also employ
 18 additional nurses in numbers sufficient to meet the limited nursing needs of all residents.
 19 If one or more licensed practical nurses are so employed, such licensed practical nurse or
 20 nurses shall be under the supervision of a registered professional nurse who shall be
 21 employed by the facility either directly or as a consultant. Such registered professional
 22 nurse must be available on call to the facility at all times so that in the event nursing
 23 services are needed in the facility and a licensed practical nurse is not on duty, the facility
 24 may contact such registered professional nurse for assistance."

25 SECTION 8.

26 Said chapter is further amended by striking Code Section 31-7-12.1, relating to unlicensed
 27 personal care homes, and inserting in its place the following:

28 "31-7-12.1.

29 (a) A facility shall be deemed to be an '~~unlicensed personal care home~~ assisted living
 30 facility' if it is unlicensed and not exempt from licensure and:

31 (1) The facility is providing personal services and is operating as a ~~personal care home~~
 32 an assisted living facility as those terms are defined in Code Section 31-7-12;

33 (2) The facility is held out as or represented as providing personal services and operating
 34 as a ~~personal care home~~ an assisted living facility as those terms are defined in Code
 35 Section 31-7-12; or

36 (3) The facility represents itself as a licensed ~~personal care home~~ assisted living facility.

1 ~~(b) Personal care homes in existence on July 1, 1994, which obtain licenses from the~~
 2 ~~department no later than October 1, 1994, shall not be subject to the penalties set out in this~~
 3 ~~Code section.~~

4 ~~(c) Except as provided in subsection (b) of this Code section, any Any unlicensed personal~~
 5 ~~care home assisted living facility shall be assessed by the department, after opportunity for~~
 6 ~~hearing in accordance with the provisions of Chapter 13 of Title 50, the 'Georgia~~
 7 ~~Administrative Procedure Act,' a civil penalty in the amount of \$100.00 per bed per day for~~
 8 ~~each day of violation of subsection (b) of Code Section 31-7-12. The department shall~~
 9 ~~send a notice by certified mail or statutory overnight delivery stating that licensure is~~
 10 ~~required and including a period for obtaining licensure with an expiration date. Such notice~~
 11 ~~shall be deemed to be constructively received on the date of the first attempt to deliver such~~
 12 ~~notice by the United States Postal Service. For unlicensed personal care homes which were~~
 13 ~~not in existence on July 1, 1994, the civil penalty provided by this subsection shall be~~
 14 ~~calculated as beginning on the expiration date of the notice. For unlicensed personal care~~
 15 ~~homes which were in existence on July 1, 1994, the civil penalty provided by this~~
 16 ~~subsection shall be calculated as beginning on the expiration date of the notice or on~~
 17 ~~October 1, 1994, whichever is later. The department shall take no action to collect such~~
 18 ~~civil penalty until after opportunity for a hearing.~~

19 ~~(d)~~(c) The civil penalty authorized by subsection ~~(c)~~ (b) of this Code section shall be
 20 doubled if:

21 (1) The operator of an unlicensed ~~personal care home~~ assisted living facility refuses to
 22 seek licensure; or

23 (2) The operator seeks licensure, the licensure application is denied, and the operator
 24 continues to operate the unlicensed ~~personal care home~~ assisted living facility.

25 ~~(e)~~(d) The operator of a ~~personal care home~~ an assisted living facility who is assessed a
 26 civil penalty in accordance with this Code section may have review of such civil penalty
 27 by appeal to the superior court in the county in which the action arose or to the Superior
 28 Court of Fulton County in accordance with the provisions of Code Section 31-5-3."

29 SECTION 9.

30 Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section
 31 31-7-111, relating to findings regarding certain authorities for certain facilities for the
 32 elderly, and inserting in its place the following:

33 "(1) There exists in this state a seriously inadequate supply of and a critical need for
 34 facilities which can furnish the comprehensive services required by elderly persons in a
 35 single location, including, without limitation, residential care and the types of services
 36 provided in skilled nursing homes, intermediate care homes, and ~~personal care homes~~

1 (~~hereinafter assisted living facilities~~, referred to as 'residential care facilities for the
2 elderly');".

3 SECTION 10.

4 Said chapter is further amended by striking paragraphs (1), (4), (5), (6), (10), (11), and (15)
5 of Code Section 31-7-250, relating to definitions regarding records checks for personal care
6 home employees, and inserting in their respective places the following:

7 "(1) 'Assisted living facility' means a home required to be licensed under Code Section
8 31-7-12.

9 (1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of
10 whether an appeal of the conviction has been sought."

11 "(4) 'Director' means the chief administrative or executive officer or manager of an
12 assisted living facility.

13 (5) 'Employee' means any person, other than a director, utilized by a ~~personal care home~~
14 an assisted living facility to provide personal services to any resident on behalf of the
15 ~~personal care home~~ assisted living facility or to perform at any facilities of the ~~personal~~
16 ~~care home~~ assisted living facility any duties which involve personal contact between that
17 person and any paying resident of the ~~personal care home~~ assisted living facility.

18 (6) 'Facility' means real property of a ~~personal care home~~ an assisted living facility where
19 residents reside."

20 "(10) 'License' means the permit or document issued by the department to authorize the
21 ~~personal care home~~ assisted living facility to which it is issued to operate a facility under
22 this chapter.

23 (11) '~~Personal care home~~' or '~~home~~' means a ~~home required to be licensed or permitted~~
24 ~~under Code Section 31-7-12~~ Reserved."

25 "(15) 'Regular license' means a permit which will remain in effect for the ~~personal care~~
26 ~~home~~ assisted living facility, until and unless the facility ceases to operate or revocation
27 proceedings are commenced."

28 SECTION 11.

29 Said chapter is further amended by striking Code Section 31-7-256, relating to the expiration
30 of personal care home licenses, and inserting in its place the following:

31 "31-7-256.

32 ~~Reserved~~. Any facility licensed in this state as a personal care home prior to January 1,
33 2005, shall be deemed to have been licensed as an assisted living facility - Level I. Any
34 sale of a facility deemed to be licensed pursuant to this Code section shall require such
35 facility to apply for and receive a new license. Any new facility in this state first owned

1 or operated on or after that date by a personal care home deemed to have been licensed as
 2 an assisted living facility as provided in this Code section shall be required to have a new
 3 license issued pursuant to Code Sections 31-7-251 and 31-7-255. Nothing in this Code
 4 section shall relieve from any civil or criminal liability or penalty any personal care home
 5 for operating without the required license before this Code section becomes effective on
 6 January 1, 2005."

7 **SECTION 12.**

8 Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to long-term care
 9 ombudsman definitions, is amended by striking paragraph (2) thereof and inserting in its
 10 place the following:

11 "(2) 'Long-term care facility' means any skilled nursing home, intermediate care home,
 12 or ~~personal care home~~ assisted living facility now or hereafter subject to regulation and
 13 licensure by the department, or any regulated facility receiving funds pursuant to a
 14 contract or subcontract with the department to provide services for consumers with
 15 mental illness, mental retardation, or substance abuse problems."

16 **SECTION 13.**

17 Code Section 31-8-81 of the Official Code of Georgia Annotated, relating to definitions
 18 regarding abuse of residents of long-term care facilities, is amended by striking paragraph (3)
 19 thereof and inserting in its place the following:

20 "(3) 'Long-term care facility' or 'facility' means any skilled nursing home, intermediate
 21 care home, ~~personal care home~~ assisted living facility, or community living arrangement
 22 now or hereafter subject to regulation and licensure by the department, or any regulated
 23 facility receiving funds pursuant to a contract or subcontract with the department to
 24 provide services for consumers with mental illness, mental retardation, or substance
 25 abuse problems."

26 **SECTION 14.**

27 Said chapter is further amended by striking Code Section 31-8-132, relating to definitions
 28 regarding remedies for personal care home residents, and inserting in its place the following:

29 "31-8-132.

30 As used in this article, the term:

31 (1) 'Administrator' means the manager designated by the governing body of a ~~personal~~
 32 ~~care home~~ an assisted living facility as responsible for the day-to-day management,
 33 administration, and supervision of the ~~personal care home~~ assisted living facility, who

1 may also serve as on-site manager and responsible staff person except during periods of
2 his or her own absence.

3 (1.1) 'Assisted living facility' means a facility required to be licensed under Code Section
4 31-7-12.

5 (2) 'Community ombudsman' means a person certified as a community ombudsman
6 pursuant to Code Section 31-8-52.

7 (3) 'Governing body' means the board of trustees, the partnership, the corporation, the
8 association, or the person or group of persons who maintain and control a ~~personal care~~
9 ~~home~~ an assisted living facility and who are legally responsible for the operation of the
10 ~~home~~ facility.

11 (4) 'Legal surrogate' means a duly appointed person who is authorized to act, within the
12 scope of the authority granted under the legal surrogate's appointment, on behalf of a
13 resident who is adjudicated or certified incapacitated. No member of the governing body,
14 administration, or staff of a ~~personal care home~~ an assisted living facility or any affiliated
15 ~~personal care home~~ assisted living facility or their family members may serve as the legal
16 surrogate for a resident unless that resident is a family member.

17 (5) '~~Personal care home' or 'home'~~ means a facility as defined in Code Section 31-7-12
18 Reserved.

19 (6) 'Representative' means a person who voluntarily, with the resident's written
20 authorization, may act upon the resident's direction with regard to matters concerning the
21 health and welfare of the resident, including being able to access personal records
22 contained in the resident's file and receive information and notices pertaining to the
23 resident's overall care and condition. No member of the governing body, administration,
24 or staff of a ~~personal care home~~ an assisted living facility or any affiliated ~~personal care~~
25 ~~home~~ assisted living facility or their family members may serve as the representative for
26 a resident unless that resident is a family member.

27 (7) 'Resident' means a person who resides in a ~~personal care home~~ an assisted living
28 facility.

29 (8) 'State ombudsman' means the state ombudsman established under Code Section
30 31-8-52."

31 SECTION 15.

32 Code Section 37-4-21 of the Official Code of Georgia Annotated, relating to respite care for
33 mentally retarded persons, is amended by striking subsection (c) thereof and inserting in its
34 place the following:

35 "(c) An admission for respite care shall be for no longer than two weeks, provided that a
36 person may be admitted for additional periods of respite care; provided, further, that there

1 shall be no more than two admissions for respite care within any six-month period, counted
 2 from the first day of such an admission. Any such admission which exceeds limits provided
 3 in this Code section must be in accordance with the procedure in Code Section 37-4-20 or
 4 37-4-40. This Code section shall not apply when the person sought to be admitted is living
 5 in a nursing home or ~~personal care home~~ assisted living facility, as defined in ~~paragraph~~
 6 ~~(2) of Code Section~~ Sections 43-27-1 and 31-7-12, respectively."

7 **SECTION 16.**

8 Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to
 9 general provisions governing business and occupation taxes, is amended by striking
 10 paragraph (14) of subsection (b) of Code Section 48-13-9, relating to businesses which are
 11 and which are not subject to regulatory fees, and inserting in its place the following:

12 "(14) Nursing homes and ~~personal care homes~~ assisted living facilities;"

13 **SECTION 17.**

14 The following Code sections of the Official Code of Georgia Annotated are amended by
 15 striking the terms "a personal care home," "Personal care home," "personal care home,"
 16 "Personal care homes," and "personal care homes" wherever they occur and inserting in their
 17 respective places the terms "an assisted living facility," "Assisted living facility," "assisted
 18 living facility," "Assisted living facilities," and "assisted living facilities":

- 19 (1) Code Section 16-5-23, relating to simple battery;
- 20 (2) Code Section 16-5-23.1, relating to battery;
- 21 (3) Code Section 16-6-5.1, relating to sexual assault of persons in custody;
- 22 (4) Code Section 26-4-5, relating to pharmacy definitions;
- 23 (5) Code Section 31-7-3, relating to the requirement for permits to operate institutions;
- 24 (6) Code Section 31-7-112, relating to definitions regarding authorities for facilities for
 25 the elderly;
- 26 (7) Code Section 31-7-258, relating to changes in personal care home directors;
- 27 (8) Code Section 31-7-259, relating to employment at personal care homes with
 28 temporary licenses;
- 29 (9) Code Section 31-7-300, relating to definitions governing private home care provider
 30 laws;
- 31 (10) Code Section 31-7-305, relating to exempt services;
- 32 (11) Code Section 31-7-307, relating to certificates of need;
- 33 (12) Code Section 31-8-52, relating to the establishment of the long-term care
 34 ombudsman;

- 1 (13) Code Section 31-8-130, relating to the creation of the "Remedies for Residents of
2 Personal Care Homes Act";
- 3 (14) Code Section 31-8-131, relating to legislative findings and intent;
- 4 (15) Code Section 31-8-134, relating to grievance procedures;
- 5 (16) Code Section 31-8-135, relating to hearings and transfer of residents;
- 6 (17) Code Section 31-8-136, relating to actions for damages;
- 7 (18) Code Section 31-8-137, relating to temporary restraining orders;
- 8 (19) Code Section 31-8-138, relating to failure to validly license as a defense;
- 9 (20) Code Section 31-8-139, relating to mandamus;
- 10 (21) Code Section 31-8-181, relating to exempt individuals and hospitals;
- 11 (22) Code Section 31-36A-5, relating to certification by a physician;
- 12 (23) Code Section 31-36A-7, relating to petition for order by a health care facility;
- 13 (24) Code Section 38-4-2, relating to powers of veterans' home administrators; and
- 14 (25) Code Section 49-2-14, relating to record searches for conviction data on prospective
15 employees.

16 **SECTION 18.**

17 Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to the
18 Department of Community Health functions regarding medical assistance, is amended by
19 adding at the end thereof new subsections (d) and (e) to read as follows:

20 "(d) The actions authorized by subsection (e) of this Code section shall be undertaken by
21 the Department of Community Health on a pilot program basis. Such pilot program shall
22 begin with two sites, one rural and one urban, and the locations of such pilot sites shall be
23 determined by the department. The results of such pilot program and any decision to
24 continue or extend such pilot program shall be considered in light of the evaluation of the
25 department as to the feasibility of such continuation, extension, or both.

26 (e) The Department of Community Health may apply to the appropriate federal agency for
27 the necessary waivers to authorize Medicaid payments or otherwise provide Medicaid
28 funds for those persons certified as eligible to receive Medicaid who are receiving care or
29 services in a licensed assisted living facility - Level II on a pilot program basis as provided
30 in subsection (d) of this Code section. This subsection shall include persons who are
31 otherwise eligible to receive Medicaid payments as residents of facilities but who do not
32 require the level of care provided by that facility as determined by the agency responsible
33 for making such determination. Budget neutrality or cost savings as required by federal
34 law for waivers shall be achieved by the subsequent reduction of Medicaid certified beds
35 in inpatient facilities other than hospitals as defined in Chapter 7 of Title 31. The funding
36 for assisted living facilities - Level II shall be derived from those funds budgeted for

1 inpatient facilities other than hospitals as defined in Chapter 7 of Title 31. No federal block
2 grant legislation shall affect any programs operated under a federal waiver."

3 **SECTION 19.**

4 This Act shall become effective only for the purposes of promulgating rules and regulations
5 thereunder upon its approval by the Governor or upon its becoming law without such
6 approval. This Act shall become effective for all other purposes on January 1, 2005.

7 **SECTION 20.**

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