The House Committee on Health and Human Services offers the following substitute to HB 850:

A BILL TO BE ENTITLED
AN ACT

To amend Titles 10, 16, 25, 26, 31, 35, 37, 38, 42, 48, and 51 of the Official Code of Georgia Annotated, relating to commerce and trade, crimes and offenses, fire protection and safety, food, drugs, and cosmetics, health, law enforcement officers and agents, mental health, military, emergency management, and veterans affairs, penal institutions, revenue and taxation, and torts, respectively, so as to provide for the comprehensive regulation and licensing of assisted living communities; to provide for procedures and criteria for the admission and retention of residents of such communities; to provide for certain notices; to provide for agreements regarding the care of residents; to provide for an advisory committee and the composition thereof; to provide for the establishment and requirements for a medication technician program; to provide for inspections and investigations; to provide for rules and regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or deceptive practices in consumer transactions unlawful, is amended by revising paragraph (26) of subsection (b) as follows:

"(26) With respect to any individual or facility providing personal care services <u>or assisted living care</u>:

(A) Any person or entity not duly licensed or registered as a personal care home <u>or assisted living community</u> formally or informally offering, advertising to, or soliciting the public for residents or referrals; <u>or</u>

(B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12, <u>or any assisted living community, as defined in paragraph (6) of Code Section 31-7-321,</u> offering, advertising, or soliciting the public to provide services:

(i) Which are outside the scope of personal care services or assisted living care, respectively; and

(ii) For which it has not been specifically authorized.

Nothing in this subparagraph prohibits advertising by a personal care home or assisted living community for services authorized by the Department of Community Health under a waiver or variance pursuant to subsection (b) of Code Section 31-2-9~~;~~.

~~(C)~~ For purposes of this paragraph, 'personal care' means protective care and watchful oversight of a resident who needs a watchful environment but who does not have an illness, injury, or disability which requires chronic or convalescent care including medical and nursing services and 'assisted living care' means services to meet the living needs and supplemental health care needs, as defined in Code Section 31-7-321, of its residents. The provisions of this paragraph shall be enforced following consultation with the Department of Community Health which shall retain primary responsibility for issues relating to licensure of any individual or facility providing personal care services;″

SECTION 2.

Code Section 16-5-23 of the Official Code of Georgia Annotated, relating to simple battery, is amended by revising subsection (g) as follows:

″(g) A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code Section 31-7-322, relating to assisted living communities, or Code Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense of simple battery against a person who is admitted to or receiving services from such facility, person, or entity shall be punished for a misdemeanor of a high and aggravated nature.″

SECTION 3.

Code Section 16-5-23.1 of the Official Code of Georgia Annotated, relating to battery, is amended by revising subsection (k) as follows:

″(k) A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code Section 31-7-322, relating to assisted living communities, or Code Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense of battery against a person who is admitted to or receiving services from such facility,

person, or entity shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years, or a fine of not more than $2,000.00, or both.″

SECTION 4.

Code Section 16-6-5.1 of the Official Code of Georgia Annotated, relating to sexual assault against persons in custody, sexual assault against person detained or patient in hospital or other institution, and sexual assault by practitioner of psychotherapy against patient, is amended by revising subsection (d) as follows:

″(d) A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed under Code Section 31-7-3, relating to long-term care facilities, <u>or Code Section 31-7-322, relating to assisted living communities,</u> or Code Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, commits sexual assault when such person engages in sexual contact with another person who has been admitted to or is receiving services from such facility, person, or entity. A person convicted of sexual assault pursuant to this subsection shall be punished by imprisonment for not less than ten nor more than 30 years, or a fine of not more than $5,000.00, or both. Any violation of this subsection shall constitute a separate offense. Any person convicted under this subsection of the offense of sexual assault shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.″

SECTION 5.

Code Section 25-2-13 of the Official Code of Georgia Annotated, relating to buildings presenting special hazards to persons or property and requirements as to construction, maintenance, and use generally, is amended by revising subparagraph (b)(1)(J) as follows:

″(J) Personal care homes <u>and assisted living communities</u> required to be licensed as such by the Department of Community Health and having at least seven beds for nonfamily adults, and the Commissioner shall, pursuant to Code Section 25-2-4, by rule adopt state minimum fire safety standards for those homes, and any structure constructed as or converted to a personal care home on or after April 15, 1986, shall be deemed to be a proposed building pursuant to subsection (d) of Code Section 25-2-14 and that structure may be required to be furnished with a sprinkler system meeting the standards established by the Commissioner if he deems this necessary for proper fire safety.″

SECTION 6.

Code Section 26-4-5 of the Official Code of Georgia Annotated, relating to definitions relative to the "Georgia Pharmacy Practice Act," is amended by revising paragraph (18.1) as follows:

"(18.1) 'Institution' means any licensed hospital, nursing home, assisted living community, personal care home, hospice, health clinic, or prison clinic."

SECTION 7.

Code Section 26-4-191 of the Official Code of Georgia Annotated, relating to definitions relative to the "Utilization of Unused Prescription Drugs Act," is amended by revising paragraph (2) as follows:

"(2) 'Health care facility' means an institution which is licensed as a nursing home, intermediate care home, assisted living community, personal care home, home health agency, or hospice pursuant to Chapter 7 of Title 31."

SECTION 8.

Code Section 31-2-14 of the Official Code of Georgia Annotated, relating to records check requirement for certain facilities, is amended by revising paragraph (4) of subsection (a) as follows:

"(4) 'Facility' means a:

(A) Personal care home required to be licensed or permitted under Code Section 31-7-12;

(B) Assisted living community required to be licensed under Part 2 of Article 13 of Chapter 7 of this title;

~~(B)~~(C) Private home care provider required to be licensed under Article 13 of Chapter 7 of ~~Title 31~~ this title; or

~~(C)~~(D) Community living arrangement subject to licensure under paragraph (8) of subsection (d) of Code Section 31-2-4."

SECTION 9.

Code Section 31-6-2 of the Official Code of Georgia Annotated, relating to definitions relative to state health planning and development, is amended by adding a new paragraph and by revising paragraph (17) as follows:

"(2.1) 'Assisted living community' means a residential facility that is certified as a provider of medical assistance for Medicaid purposes pursuant to Article 7 of Chapter 4 of Title 49 having at least 25 beds and providing, for compensation, services for the living needs and supplemental health care needs of its residents. Any personal care home

in existence and possessing a certificate of need as a personal care home as of June 30, 2010, and which, as of July 1, 2010, comes under the regulation of assisted living communities pursuant to Part 2 of Article 13 of Chapter 7 of this title shall have such certificate of need transferred by the department to such entity as an assisted living community.″

″(17) 'Health care facility' means hospitals; destination cancer hospitals; other special care units, including but not limited to podiatric facilities; skilled nursing facilities; intermediate care facilities; assisted living communities; personal care homes; ambulatory surgical centers or obstetrical facilities; health maintenance organizations; home health agencies; and diagnostic, treatment, or rehabilitation centers, but only to the extent paragraph (3) or (7), or both paragraphs (3) and (7), of subsection (a) of Code Section 31-6-40 are applicable thereto.″

SECTION 10.

Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to health care facilities, is amended by revising subparagraph (A) of paragraph (4) of Code Section 31-7-1, relating to definitions, as follows:

″(4) 'Institution' means:

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

SECTION 11.

Said chapter is further amended by revising subsection (d) of Code Section 31-7-3, relating to requirements for permits to operate institutions, as follows:

″(d)(1) When an application for licensure to operate a personal care home, as defined in subsection (a) of Code Section 31-7-12, or an assisted living community, as defined in paragraph (6) of Code Section 31-7-321, has been made, the department shall inform the office of the state long-term care ombudsman of the name and address of the applicant prior to issuing authority to operate or receive residents and shall provide to the ombudsman program an opportunity to provide to the department information relevant to the applicant's fitness to operate as a licensed personal care home or an assisted living community.

(2) The department may consider any information provided under this subsection, where verified by appropriate licensing procedures, in determining whether an applicant meets the requirements for licensing.

(3) The department shall promulgate regulations setting forth the procedures by which the long-term care ombudsman program shall report information to the department or its designee as required by this subsection, including a consistent format for the reporting of information, safeguards to protect confidentiality, and specified types of information which shall be routinely provided by the long-term care ombudsman program.

(4) Nothing in this subsection shall be construed to provide any authority to the long-term care ombudsman program to license or refuse to license the operation of a personal care home <u>or an assisted living community</u>.″

SECTION 12.

Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section 31-7-111, relating to findings and declaration of policy under the "Residential Care Facilities for the Elderly Authorities Act," as follows:

″(1) There exists in this state a seriously inadequate supply of and a critical need for facilities which can furnish the comprehensive services required by elderly persons in a single location, including, without limitation, residential care and the types of services provided in skilled nursing homes, intermediate care homes, <u>assisted living communities,</u> and personal care homes (hereinafter referred to as 'residential care facilities for the elderly');″

SECTION 13.

Said chapter is further amended by revising subparagraph (A) of paragraph (7) of Code Section 31-7-112, relating to definitions relative to the "Residential Care Facilities for the Elderly Authorities Act," as follows:

″(A) Any one or more buildings or structures to be used in providing at a single location the comprehensive services required by the elderly, including, without limitation, residential care and the types of services provided in skilled nursing homes, intermediate care homes, <u>assisted living communities,</u> and personal care homes supplied with all necessary or useful furnishings, machinery, equipment, parking facilities, landscaping, and facilities for outdoor storage, all as determined by the authority, which determination shall be final and not subject to review; provided, however, that no single project or residential care facility shall be required to render all types of services and levels of care referred to above. There may be included as part of any such project all improvements necessary to the full utilization thereof, including,

without limitation, site preparation; roads and streets; sidewalks; water supply; outdoor lighting; belt line railroad; railroad sidings and lead tracks; bridges; causeways; terminals for railroad, automotive, and air transportation; transportation facilities incidental to the project; and the dredging and improving of harbors and waterways. However, none of the aforementioned improvements shall be the primary purpose of any project;″

SECTION 14.

Said chapter is further amended by revising paragraph (4) of Code Section 31-7-172, relating to definitions relative to the "Georgia Hospice Law," as follows:

″(4) 'Health care facility' means hospitals; other special care units, including but not limited to podiatric facilities; skilled nursing facilities; intermediate care facilities; assisted living communities; personal care homes; ambulatory surgical or obstetrical facilities; health maintenance organizations; home health agencies; and diagnostic, treatment, or rehabilitation centers.″

SECTION 15.

Said chapter is further amended by designating Code Sections 31-7-300 through 31-7-308 of Article 13, relating to private home care providers, as Part 1 of said article and by adding a new part to read as follows:

″Part 2

31-7-320.

The purpose of this part is to ensure that assisted living communities in this state deliver the highest possible quality of care to their residents. Pursuant to this part, the department shall be responsible for implementing and enforcing the minimum acceptable levels of care for all assisted living residents. Such levels of care shall include, but not be limited to:

(1) Resident independence and self-determination;

(2) Humane treatment;

(3) Conservative intervention;

(4) Access to care;

(5) Continuity of care;

(6) Coordination of services;

(7) Safe surroundings;

(8) Professionalism of service providers;

(9) Participation in useful studies; and

(10) Quality of life.

31-7-321.

As used in the part, the term:

(1) 'Administration of medications' means administering medications to residents who choose not to or cannot self-administer their medications; provided, however, that such medications may be limited by department rule but in no event shall be more restrictive than that authorized for personal care homes.

(2) 'Administrator' means an individual who is charged with the general administration of an assisted living community.

(3) 'Age in place' or 'aging in place' means receiving care and services at a licensed assisted living community to accommodate a resident's changing living needs or supplemental health care needs.

(4) 'Agent' means any person with the legal authority to make decisions regarding the care of a resident including, but not limited to, any person designated to make such decisions pursuant to a legally executed advance directive for health care, living will, court appointed guardian, or power of attorney.

(5) 'Ambulatory' means the ability to move from place to place by walking, either unaided or aided by a prothesis, brace, cane, crutches, walker, or hand rails, or by propelling a wheelchair, and the ability to respond to an emergency condition and exit an assisted living community with minimal human assistance by normal means of egress.

(6) 'Assisted living community' means any for profit or nonprofit dwelling that provides or arranges for the provision of services relating to living needs or supplemental health care needs for two or more adults who are not related to the owner or administrator by blood or marriage. The term shall not include a host home, as defined in paragraph (18) of Code Section 37-1-20, a community living arrangement, as defined in paragraph (8) of subsection (d) of Code Section 31-2-4, a personal care home, as defined in paragraph (1) of subsection (a) of Code Section 31-7-12, or a facility for respite care, as defined in subsection (a) of Code Section 37-4-21.

(7) 'Committee' means the advisory committee on assisted living communities created pursuant to Code Section 31-7-330.

(8) 'Continuous nursing or health care' means services that are ordered by a physician for a resident whose condition requires the supervision of a physician and continued monitoring of vital signs and physical status. Such services shall be medically complex enough to require supervision, assessment, planning, or intervention by a licensed nurse or physician assistant and are required to be performed on a daily basis by or under the

direct supervision of licensed nursing personnel or other nursing personnel for safe and effective performance.

(9) 'License' means a license issued by the department pursuant to this part that authorizes an assisted living community to operate.

(10) 'Living needs' means a resident's daily survival needs that an assisted living community may legally provide, including, but not limited to, the administration of medications, 24 hour watchful oversight, assistance with eating, arranging for or assistance with preparing meals, assistance with ambulation and transfer, assistance with essential activities of daily living, such as bathing, grooming, dressing, toileting, using the telephone, and light housework, and the provision or arranging of transportation. Services to meet such needs shall be provided only by persons authorized by law to provide such services.

(11) 'Medication technician' means an assisted living community staff member certified by the department pursuant to Code Section 31-7-329 to administer medications.

(12) 'Resident' means a resident of an assisted living community who receives services relating to living needs and supplemental health care needs.

(13) 'Self-administration of medication' means the taking of medication by a resident.

(14) 'Supplemental health care needs' means those needs required to provide for the health of a resident; provided, however, that this shall not include any health care needs that would require continuous nursing or health care. Services to meet such needs shall be provided only by persons authorized by law to provide such services.

31-7-322.

(a) Except as otherwise provided in this part, no person, business entity, corporation, or association, whether operated for profit or not for profit, may operate as an assisted living community without first obtaining a license or provisional license from the department. A license issued under this part shall not be assignable or transferable.

(b) In order to qualify for a license pursuant to subsection (a) of this Code section, an assisted living community shall:

(1)(A) For assisted living communities which have at least seven beds for nonfamily adults, submit a letter to the department from an architect licensed in this state certifying that the building in which the assisted living community is located meets all applicable codes, rules, and regulations and complies with state minimum fire safety standards in accordance with subparagraph (b)(1)(J) of Code Section 25-2-13.

(B) For assisted living communities which have less than seven beds for nonfamily adults, submit a letter to the department that such community meets all applicable fire code and safety standards as set out in department rules.

(C) The department may accept applications that phase in modifications to permit an assisted living community to meet such standards over a specific period of time;

(2) Provide a criminal background check of the person who shall serve as the administrator of the assisted living community that is applying for the license. Such criminal background check shall be provided in the same manner and subject to the same requirements and provisions as contained in Article 14 of this chapter;

(3) Submit a plan describing the services the assisted living community intends to provide and the method by which such community intends to provide such services. Such plan shall provide an estimated ratio for staff to residents for such community and shall include a scheduling plan ensuring that for every shift each resident has a designated staff member assigned to him or her at all times for purposes of resident safety, including evacuation in the event of fire, and to ensure the resident's living needs and supplemental health care needs are met; and

(4) Comply with other requirements the department determines are necessary to ensure that the living needs and supplemental health care needs of such assisted living community's residents shall be met.

The department shall not issue a license for an assisted living community unless it determines that the applicant is able, at a minimum, to provide services to meet the living needs and supplemental health care needs of residents.

(c) An assisted living community shall require a criminal background check for all personnel who shall be involved in providing services to meet the living needs and supplemental health care needs of the residents of such community. The assisted living community shall maintain a record including the criminal background checks of such personnel. Such criminal background check shall be provided in the same manner and subject to the same requirements and provisions as contained in Article 14 of this chapter.

31-7-323.

(a) Prior to admission, each prospective resident of an assisted living community shall, no more than one month prior to admission, be examined by a licensed physician or advanced practice registered nurse or physician assistant working under a protocol who is not employed by or under contract to the facility prior to admission to that community. Such licensed physician, advanced practice registered nurse, or physician assistant shall complete a medical assessment report that confirms that:

(1) The prospective resident is not in need of 24 hour skilled nursing care or medical care which would require placement in a hospital or skilled nursing facility; and

(2) He or she has assessed and reviewed the needs of the prospective resident and finds that the services at the assisted living community are appropriate for the prospective resident.

The department shall be authorized to establish further criteria for the admission and retention of residents.

(b) No assisted living resident shall be permitted to continue to age in place unless the assisted living resident or his or her agent, if applicable, the administrator, and the assisted living resident's physician or advanced practice registered nurse or physician assistant working under a protocol agree that the living needs and supplemental health care needs of the assisted living resident can be safely and appropriately met at the assisted living community under the terms of the resident's individual services plan. The medical assessment required by subsection (a) of this Code section shall be evaluated periodically, as determined by the department, to determine whether the resident has had a change of condition which require additional services to allow the living needs and supplemental health care needs of the assisted living resident to be safely and appropriately met at the assisted living community. If there is such a change in condition, an assisted living resident otherwise eligible for assisted living services or his or her agent shall submit to the assisted living community a written report from the physician, advanced practice registered nurse, or physician assistant working under a protocol which report shall state that:

(1) He or she has physically examined the assisted living resident within the last month; and

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

(c) An assisted living community shall provide the necessary services to meet the living needs and the supplemental health care needs of such community's residents. Every resident shall be permitted to age in place; provided, however, that an assisted living community may remove a resident if such resident:

(1) Requires continuous nursing or health care;

(2) Demonstrates verbal or physical aggressive behavior that poses an imminent threat to himself or herself or others; or

(3) Requires physical or chemical restraints; provided, however, that such restraints shall not include psychotropic medications prescribed to such resident for a manageable mental disorder or condition.

(d) If the health condition of a resident changes after he or she enters an assisted living community, such resident shall be immediately examined by a licensed physician or an advanced practice registered nurse or physician assistant working under a protocol. If after such examination the licensed physician, advanced practice registered nurse, or physician

assistant finds that such resident is not in need of continuous nursing or health care, such resident shall be permitted to continue to age in place at the assisted living community. Such resident's licensed physician, advanced practice registered nurse, or physician assistant shall, as often as he or she deems appropriate, conduct a medical examination of the resident. If such examination concludes that the condition of such resident has again substantively changed, the conditions set out in this subsection shall be met prior to such resident being permitted to continue to age in place at the assisted living community.

(e) A prospective resident must be ambulatory in order to be admitted into an assisted living community. If a resident becomes nonambulatory within six months of admission, the assisted living community may remove the resident. If a personal care home becomes licensed as an assisted living community, this subsection shall not apply to the current residents of such personal care home.

(f) The department shall establish rules and regulations governing the maximum number of nonambulatory residents an assisted living community may have, taking into consideration the safety of the residents.

31-7-324.

(a) The department shall inspect each assisted living community on an annual basis and upon complaint. The department shall have the authority to investigate an assisted living community upon the probable cause that such community is not providing the necessary services to meet the living needs or the supplemental health care needs of one of its residents. If the department concludes that the assisted living community is failing to provide the necessary services to meet the living needs or supplemental health care needs of its residents, the department shall serve notice on such community and provide such community with 30 days to submit a plan to the department to remedy the problem. Within 30 days of submitting such plan to the department, a report shall be submitted to the department stating that the resident or such resident's agent, if applicable, such resident's physician, and the assisted living community agree that the problem that was originally discovered by or reported to the department has been rectified. The department shall be authorized to impose fees for inspections conducted pursuant to this subsection to cover the department's costs relating to such inspection.

(b) The department shall be authorized to impose fines and other penalties pursuant to Code Section 31-2-11 if it concludes that an assisted living community has failed to meet the living needs or supplemental health care needs of a resident.

(c) The department shall have the authority to immediately revoke the license of any assisted living community that the department determines poses an immediate threat to the

well-being of such community's residents. The provisions of this subsection shall be cumulative to the powers of the department pursuant to Code Section 31-7-2.2.

31-7-325.

(a) An assisted living community shall comply with a properly executed advance directive for health care, a 'do not resuscitate order,' or a living will.

(b) Prior to admission, if the assisted living community is unable or unwilling to provide the necessary care to satisfy the requirements of subsection (a) of this Code section, the assisted living community shall notify in writing the prospective resident or such resident's agent, if applicable. Such notification shall include the signatures of the resident or the resident's agent, if applicable, and the authorized agent of the assisted living community.

(c) If a resident does have an advance directive for health care, a 'do not resuscitate order,' or a living will, the assisted living community where such resident resides shall keep such advance directive for health care, 'do not resuscitate order,' or living will on file on the premises.

31-7-326.

(a) Each resident or such resident's agent, if applicable, shall enter into an agreement with the assisted living community where such resident resides that clearly states:

(1) The resident shall have the right to age in place;

(2) The living needs and supplemental health care needs of the resident;

(3) The services that the assisted living community will provide to such resident to meet his or her living needs and supplemental health care needs;

(4) The choices such resident shall have with respect to how such services shall be applied and the potential risk of harm to such resident that may arise from such choices;

(5) That transfer to another facility with appropriate services may be required pursuant to subsection (c) of Code Section 31-7-323 if the condition of such resident changes while at the assisted living community. The agreement shall also describe in detail the criteria the assisted living community will use to determine that the assisted living community is no longer reasonably able to meet the living needs or supplemental health care needs of the resident and the process for which such determination will be communicated to the resident;

(6) A description of the licensure or certification status of the assisted living community;

(7) A description of the rates or fees for which the resident shall be responsible;

(8) A description of the terms and the process through which the agreement may be modified, amended, or terminated; and

(9) A description of the complaint resolution process available to the resident.

(b) An assisted living community shall provide to all its residents a written notice regarding the department's contact information for reporting complaints, information regarding reporting abuse, the availability of a long-term care ombudsman, and the contact information for such ombudsman. An assisted living community shall post in a conspicuous place a notice regarding the rights of residents with respect to reporting long-term care abuse and contacting the long-term care ombudsman, in accordance with the requirements of Code Sections 31-8-88 and 31-8-59, respectively.

31-7-327.

(a) An assisted living community shall not provide a resident with continuous nursing or health care.

(b) An assisted living community shall be authorized to enter into contracts with outside health care providers or assist the resident or his or her agent in arranging for such providers for the purpose of meeting a resident's supplemental health care needs or other health care needs that the assisted living community is not equipped or qualified to provide to such resident, but that is not considered continuous nursing or health care.

(c) An assisted living community shall make all reasonable efforts to assist in transferring a resident from such community to another facility that provides the appropriate services to meet the living needs, supplemental health care needs, or any other health care needs such resident possesses for any resident:

(1) Whose condition has changed while at the assisted living community;

(2) If such assisted living community is no longer able to meet the living needs or supplemental health care needs of such resident; and

(3) If such resident's attending physician determines that continuous nursing or health care is required for the resident.

(d) An assisted living community shall be exempt from any prohibition against the retention of a resident who is receiving services from a licensed hospice in accordance with Article 9 of this chapter.

31-7-328.

(a) The administration of medication to a resident of an assisted living community shall be performed either by a person who holds a current license under state law that authorizes the licensee to administer medications or by a medication technician; provided, however, that a medication technician shall not be permitted to administer any medication that is legally required to be administered only by a licensed physician, physician assistant, or nurse.

(b) Residents may self-administer medications if the self-administration is ordered by a physician or other person legally authorized to prescribe medications in Georgia and is documented in the resident's record. A resident's right to refuse medications shall not imply the inability of the resident to self-administer medications.

31-7-329.

Medication technicians shall be permitted to assist in the administration of medication to residents of assisted living communities. The department shall develop certification requirements and qualifications for medication technicians working with assisted living communities. Such requirements and qualifications shall be tailored for persons who are not licensed physicians, physician assistants, or nurses, but that the department determines may administer certain medications to a resident without threatening the health of such resident.

31-7-330.

(a) There is created the advisory committee on assisted living communities which shall consist of 19 appointed members. The commissioner of community health shall appoint:

(1) Two staff members from the department to serve as nonvoting advisory members, one of which shall represent long-term care policy and one of which shall represent long-term care regulation;

(2) Five members to represent the interests of consumers; one member shall be a representative of the Alzheimer's Association-Georgia Chapter, one member shall be a representative from the Georgia Council on Aging, one member shall be a family member of a resident in a community that will seek to be licensed as an assisted living community, one member shall be the long-term care ombudsman provided for by Code Section 31-8-55, and one member shall be a representative of an advocacy organization representing the interests of seniors;

(3) Two members who are currently residents of an assisted living community;

(4) Two members who are family members of current residents of an assisted living community; and

(5) Two members each representing the interests of:

(A) Aging services;

(B) Assisted living associations;

(C) Community care providers; and

(D) Health care providers.

(b) The committee shall elect a presiding officer from among its voting members.

(c) The committee shall advise the department on standards for licensing assisted living communities and on the implementation of this part.

31-7-331.

The department shall promulgate such rules and regulations necessary to implement the purpose of this part, including, but not limited to, rules and regulations regarding adequate staffing ratios for residents who become nonambulatory and regarding the appropriate discharge or transfer of any resident.″

SECTION 16.

Said chapter is further amended in Article 13, relating to private home care providers, by revising the following Code sections by replacing "this article" or "This article" everywhere each occurs with "this part" or "This part", respectively:

(1) Code Section 31-7-300, relating to definitions;

(2) Code Section 31-7-301, relating to license requirement;

(3) Code Section 31-7-302, relating to rules and regulations;

(4) Code Section 31-7-305, relating to exempt services;

(5) Code Section 31-7-306, relating to applications received prior to effective date of article;

(6) Code Section 31-7-307, relating to certificate of need not required of licensees; and

(7) Code Section 31-7-308, relating to licensure and regulation of private home care providers transferred to Department of Community Health.

SECTION 17.

Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to definitions regarding the long-term care ombudsman program, is amended by revising paragraph (2) as follows:

″(2) 'Long-term care facility' means any skilled nursing home, intermediate care home, assisted living community, or personal care home now or hereafter subject to regulation and licensure by the Department of Community Health.

SECTION 18.

Code Section 31-8-81 of the Official Code of Georgia Annotated, relating to definitions regarding the 'Long-term Care Facility Resident Abuse Reporting Act,' is amended by revising paragraph (3) as follows:

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

SECTION 19.

Code Section 31-8-102 of the Official Code of Georgia Annotated, relating to definitions regarding the 'Bill of Rights for Residents of Long-term Care Facilities,' is amended by revising paragraph (3) as follows:

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

SECTION 20.

Code Section 31-36A-5 of the Official Code of Georgia Annotated, relating to certification by physician under the "Temporary Health Care Placement Decision Maker for an Adult Act," is amended by revising paragraph (2) as follows:

"(2) It is the physician's belief that it is in the adult's best interest to be discharged from a hospital, institution, medical center, or other health care institution providing health or personal care for treatment of any type of physical or mental condition and to be transferred to or admitted to an alternative facility or placement, including, but not limited to, nursing facilities, assisted living communities, personal care homes, rehabilitation facilities, and home and community based programs."

SECTION 21.

Code Section 31-36A-7 of the Official Code of Georgia Annotated, relating to petition for order by health care facility, is amended by revising paragraph (2) of subsection (b) as follows:

"(2) It is the physician's belief that it is in the adult's best interest to be admitted to or discharged from a hospital, institution, medical center, or other health care institution providing health or personal care for treatment of any type of physical or mental condition or to be transferred to an alternative facility or placement, including, but not

limited to, nursing facilities, assisted living communities, personal care homes, rehabilitation facilities, and home and community based programs; and″

SECTION 22.

Code Section 35-3-34.1 of the Official Code of Georgia Annotated, relating to circumstances when exonerated first offender's criminal record may be disclosed, is amended by revising paragraph (2) of subsection (a) as follows:

″(2) The request for information is an inquiry about a person who has applied for employment with a nursing home, assisted living community, personal care home, or a person or entity that offers day care for elderly persons and the person who is the subject of the inquiry to the center was prosecuted for the offense of sexual battery, incest, pimping, pandering, or a violation of Code Section 30-5-8; or″

SECTION 23.

Code Section 35-3-174 of the Official Code of Georgia Annotated, relating to time for reporting elopement of disabled person from personal care home, is amended as follows:

″35-3-174.

The staff of personal care homes and assisted living communities shall call the local police department to report the elopement of any disabled person from the home within 30 minutes of the staff's receiving actual knowledge that such person is missing from the home.″

SECTION 24.

Code Section 37-4-21 of the Official Code of Georgia Annotated, relating to admission of developmentally disabled persons to facilities for purposes of temporary supervision and care, is amended by revising subsection (c) as follows:

″(c) An admission for respite care shall be for no longer than two weeks, provided that a person may be admitted for additional periods of respite care; provided, further, that there shall be no more than two admissions for respite care within any six-month period, counted from the first day of such an admission. Any such admission which exceeds limits provided in this Code section must be in accordance with the procedure in Code Section 37-4-20 or 37-4-40. This Code section shall not apply when the person sought to be admitted is living in a nursing home ~~or personal care home~~, as defined in paragraph (2) of Code Section 43-27-1, a personal care home, as defined in subsection (a) of Code Section 31-7-12, or an assisted living community, as defined in paragraph (6) of Code Section 31-7-321.″

SECTION 25.

Code Section 38-4-2 of the Official Code of Georgia Annotated, relating to powers and appointment of executive directors of veterans' homes, is amended by revising paragraph (4) of subsection (a) as follows:

"(4) To construct and operate hospitals, nursing homes, nursing care homes, assisted living communities, and personal care homes for the use and care of war veterans discharged under other than dishonorable conditions and to pay the cost of construction of the hospitals, nursing homes, nursing care homes, assisted living communities, and personal care homes. The term 'cost of the construction' as used in this paragraph shall embrace the cost of construction; the cost of all lands, properties, rights, and easements acquired; the cost of all machinery and equipment; and the cost of engineering, architectural, and legal expenses and of plans and specifications and other expenses necessary or incident to determining the feasibility or practicability of the construction of any hospitals, nursing homes, nursing care homes, assisted living communities, and personal care homes. The term shall also include administrative expense and such other expenses as may be necessary or incident to the construction of any hospitals, nursing homes, nursing care homes, assisted living communities, and personal care homes; the placing of the same in operation; and the condemnation of property necessary for such construction and operation."

SECTION 26.

Code Section 42-8-63.1 of the Official Code of Georgia Annotated, relating to discharges disqualifying individuals from employment, is amended by revising paragraph (3) of subsection (a) as follows:

"(3) The employment is with a nursing home, assisted living community, personal care home, or a person or entity that offers day care for elderly persons and the defendant was discharged under this article after prosecution for the offense of sexual battery, incest, pimping, pandering, or a violation of Code Section 30-5-8; or"

SECTION 27.

Code Section 48-13-9 of the Official Code of Georgia Annotated, relating to limitation on authority of local government to impose regulatory fee and examples of businesses or practitioners of professions or occupations which may be subject to fees, is amended by revising paragraph (14) of subsection (b) as follows:

"(14) Nursing homes, assisted living communities, and personal care homes;"

SECTION 28.

Code Section 51-1-29.5 of the Official Code of Georgia Annotated, relating to limitation on health care liability claim to gross negligence in emergency medical care, is amended by revising paragraph (8) of subsection (a) as follows:

"(8) 'Health care institution' means:

(A) An ambulatory surgical center;

(B) A personal care home licensed under Chapter 7 of Title 31;

(B.1) An assisted living community licensed under Chapter 7 of Title 31;

(C) An institution providing emergency medical services;

(D) A hospice;

(E) A hospital;

(F) A hospital system;

(G) An intermediate care facility for the mentally retarded; or

(H) A nursing home."

SECTION 29.

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