

House Bill 228

By: Representatives Butler of the 18<sup>th</sup>, Harbin of the 118<sup>th</sup>, Cole of the 125<sup>th</sup>, Keen of the 179<sup>th</sup>, Oliver of the 83<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend various titles of the Official Code of Georgia Annotated so as to reorganize and  
2 reestablish various state health and human services agencies; to establish the Department of  
3 Health, the Department of Human Services, and the Department of Behavioral Health; to  
4 reassigned various functions of the Department of Community Health and the Department of  
5 Human Resources to the new agencies; to provide for transition to the new agencies; to  
6 create a new board for each agency and to abolish the Board of Community Health and the  
7 Board of Human Resources; to establish the position of State Health Officer; to establish the  
8 Behavioral Health Coordinating Council; to amend various titles for purposes of conformity;  
9 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 PART I  
13 Department of Health.

14 SECTION 1-1.

15 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
16 and redesignating Chapter 5A, relating to the Department of Community Health, and revising  
17 Chapter 2, relating to the Department of Human Resources, as follows:

18 "CHAPTER 2

19 31-5A-1. 31-2-1.

20 Given the growing concern and complexities of health issues in this state, it is the intent  
21 of the General Assembly to create a Department of ~~Community~~ Health dedicated to health  
22 issues. Recognizing that the manner in which health care is currently administered at the  
23 state level is fragmented and often unresponsive to health care issues, the new department

24   is created for the following purposes. The Department of Health shall safeguard and  
25   promote the health of the people of this state and is empowered to employ all legal means  
26   appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the  
27   department is empowered to:

- 28   (1) To serve Serve as the lead planning agency for all health issues in the state to remedy  
29   the current situation wherein the responsibility for health care policy, purchasing,  
30   planning, and regulation is spread among many different agencies;
- 31   (2) To permit Permit the state to maximize its purchasing power inasmuch as the state  
32   now has none of its health care purchasing coordinated;
- 33   (3) To minimize Minimize duplication and maximize administrative efficiency in the  
34   state's health care systems by removing overlapping functions and streamlining  
35   uncoordinated programs;
- 36   (4) To allow Allow the state to develop a better health care infrastructure that is more  
37   responsive to the consumers it serves while improving access to and coverage for health  
38   care; and
- 39   (5) To focus Focus more attention and departmental procedures on the issue of wellness,  
40   including diet, exercise, and personal responsibility;
- 41   (6) Provide epidemiological investigations and laboratory facilities and services in the  
42   detection and control of disease, disorders, and disabilities and to provide research,  
43   conduct investigations, and disseminate information concerning reduction in the  
44   incidence and proper control of disease, disorders, and disabilities;
- 45   (7) Forestall and correct physical, chemical, and biological conditions that, if left to run  
46   their course, could be injurious to health;
- 47   (8) Regulate and require the use of sanitary facilities at construction sites and places of  
48   public assembly and to regulate persons, firms, and corporations engaged in the rental  
49   and service of portable chemical toilets;
- 50   (9) Isolate and treat persons afflicted with a communicable disease who are either unable  
51   or unwilling to observe the department's rules and regulations for the suppression of such  
52   disease and to establish, to that end, complete or modified quarantine, surveillance, or  
53   isolation of persons and animals exposed to a disease communicable to man;
- 54   (10) Procure and distribute drugs and biologicals and purchase services from clinics,  
55   laboratories, hospitals, and other health facilities and, when authorized by law, to acquire  
56   and operate such facilities;
- 57   (11) Cooperate with agencies and departments of the federal government and of the state  
58   by supplying consultant services in medical and hospital programs and in the health  
59   aspects of civil defense;
- 60   (12) Detect and relieve physical defects and deformities;

61       (13) Promote the prevention, early detection, and control of problems affecting the dental  
62       health of the citizens of Georgia;  
63       (14) Contract with county boards of health to assist in the performance of services  
64       incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies  
65       of more than local peril, to employ whatever means may be at its disposal to overcome  
66       such emergencies;  
67       (15) Contract and execute releases for assistance in the performance of its functions and  
68       the exercise of its powers and to supply services which are within its purview to perform;  
69       (16) Enter into or upon public or private property at reasonable times for the purpose of  
70       inspecting same to determine the presence of disease and conditions deleterious to health  
71       or to determine compliance with health laws and rules, regulations, and standards  
72       thereunder;  
73       (17) Promulgate and enforce rules and regulations for the licensing of medical facilities  
74       wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are  
75       to be performed; and, further, to disseminate and distribute educational information and  
76       medical supplies and treatment in order to prevent unwanted pregnancy; and  
77       (18) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia  
78       Administrative Procedure Act,' a schedule of fees for laboratory services provided,  
79       schedules to be determined in a manner so as to help defray the costs incurred by the  
80       department, but in no event to exceed such costs, both direct and indirect, in providing  
81       such laboratory services, provided no person shall be denied services on the basis of his  
82       or her inability to pay. All fees paid thereunder shall be paid into the general funds of the  
83       State of Georgia. The individual who requests services authorized in this Code section  
84       shall pay the fee. As used in this Code section, the term 'individual' means a natural  
85       person.

86 .  
87       31-5A-2. 31-2-2.

88       Notwithstanding the provisions of Code Section 31-1-1, as As used in this chapter, the  
89       term:

- 90       (1) 'Board' means the State Board of Community Health established under Code Section  
91       31-5A-3 31-2-3.  
92       (2) 'Commissioner' means the commissioner of community health established under  
93       Code Section 31-5A-6 31-2-6.  
94       (3) 'Department' means the Department of Community Health established under Code  
95       Section 31-5A-4 31-2-4.

96       (4) 'Department divisions' means the Division of Health Planning, Division of Medical  
97 Assistance, Division of Public Employee Health Benefits, and any other division of the  
98 department established by the board.

99       (5) 'Division of Health Planning' means the Division of Health Planning established as  
100 such pursuant to paragraph (1) of subsection (b) of Code Section 31-5A-4.

101       (6) 'Division of Medical Assistance' means the Division of Medical Assistance  
102 established as such pursuant to paragraph (2) of subsection (b) of Code Section 31-5A-4.

103       (7) 'Division of Public Employee Health Benefits' means the Division of Public  
104 Employee Health Benefits established as such pursuant to paragraph (3) of subsection (b)  
105 of Code Section 31-5A-4.

106       (8)(4) 'Predecessor agency or unit' means the State Personnel Board, solely with respect  
107 to actions regarding the state health benefit plan, the Health Planning Agency, and the  
108 Department of Medical Assistance Department of Community Health, the Division of  
109 Public Health of the Department of Human Resources, and the Office of Regulatory  
110 Services of the Department of Human Resources.

111       (9)(5) 'State health benefit plan' means the health insurance plan authorized under Article  
112 1 of Chapter 18 of Title 45 and Part 6 of Article 17 of Chapter 2 of Title 20.

113       (10)(6) 'State Personnel Board' means the board established under Article IV, Section III  
114 of the Constitution.

115       31-5A-3. 31-2-3.

116       (a) There is created the State Board of Community Health, as of July 1, 2009, which shall  
117 establish the general policy to be followed by the Department of Community Health. The  
118 powers, functions, and duties of the Board of Medical Assistance Community Health as  
119 they existed on June 30, ~~1999~~ 2009, with regard to the Department of Medical Assistance,  
120 and the powers, functions, and duties of the State Personnel Board as they existed on June  
121 30, ~~1999~~, with regard to the state health benefit plan, are transferred to the State Board of  
122 Community Health effective July 1, ~~1999~~ 2009, and the Board of Community Health as it  
123 existed on June 30, 2009 shall be reconstituted as the Board of Health effective July 1,  
124 2009. The board shall consist of nine members appointed by the Governor and confirmed  
125 by the Senate.

126       (b) The Governor shall designate the initial terms of the members of the board as follows:  
127 three members shall be appointed for one year; three members shall be appointed for two  
128 years; and three members shall be appointed for three years. Board members in office on  
129 June 30, 2009, shall serve out the remainder of their respective terms and successors to  
130 these board seats shall be appointed in accordance with this Code section. Thereafter, all

131     succeeding appointments shall be for three-year terms from the expiration of the previous  
132     term.

133     (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
134     as the appointment to the position on the board which becomes vacant, and the appointment  
135     shall be submitted to the Senate for confirmation at the next session of the General  
136     Assembly. An appointment to fill a vacancy other than by expiration of a term of office  
137     shall be for the balance of the unexpired term.

138     (d) Members of the board may be removed from office under the same conditions for  
139     removal from office of members of professional licensing boards provided in Code Section  
140     43-1-17.

141     (e) There shall be a chairperson of the board elected by and from the membership of the  
142     board who shall be the presiding officer of the board.

143     (f) The members of the board shall receive a per diem allowance and expenses as shall be  
144     set and approved by the Office of Planning and Budget in conformance with rates and  
145     allowances set for members of other state boards.

146     31-5A-4. 31-2-4.

147     (a)(1) The Department of ~~Community~~ Health is created and established to perform the  
148     functions and assume the duties and powers exercised on June 30, ~~1999~~ 2009, by the  
149     State Personnel Board solely with respect to the state health benefit plan, the Health  
150     Planning Agency, and the Department of Medical Assistance Department of Community  
151     Health, the Division of Public Health of the Department of Human Resources, and the  
152     Office of Regulatory Services of the Department of Human Resources, unless specifically  
153     transferred to the Department of Human Services, and such department, division, and  
154     office shall be reconstituted as the Department of Health effective July 1, 2009. The  
155     department shall also assume retain powers and responsibility with respect to the  
156     expenditure of any funds appropriated to the department including, without being limited  
157     to, funds received by the state pursuant to the settlement of the lawsuit filed by the state  
158     against certain tobacco companies, *State of Georgia, et al. v. Philip Morris, Inc., et al.*,  
159     Civil Action #E-61692, V19/246 (Fulton County Superior Court, December 9, 1998).

160     (b) ~~The divisions of the department shall be as follows:~~

161         (1) ~~The Health Planning Agency, as it existed on June 30, 1999, is continued in existence~~  
162         ~~on and after July 1, 1999, but shall thereafter be the Division of Health Planning within~~  
163         ~~the department;~~

164         (2) ~~The Department of Medical Assistance, as it existed on June 30, 1999, is continued~~  
165         ~~in existence on and after July 1, 1999, but shall thereafter be the Division of Medical~~  
166         ~~Assistance within the department;~~

167 (3) The Health Benefit Services Division of the State Merit System of Personnel  
168 Administration, as it existed on June 30, 1999, is continued in existence on and after July  
169 1, 1999, but shall thereafter be the Division of Public Employee Health Benefits within  
170 the department; and

171 (4) Such other divisions as the board may establish within the department.

172 (c)(2) The executive director of the Health Planning Agency Division of Public Health in  
173 office on June 30, 1999 2009, the commissioner of medical assistance in office on June 30,  
174 1999, and the director of the Health Benefit Services Division of the State Merit System  
175 of Personnel Administration Office of Regulatory Services in office on June 30, 1999 2009,  
176 shall become directors of the respective divisions division or office which those  
177 predecessor agencies or divisions units have become on and after July 1, 1999 2009, and  
178 until such time as the commissioner appoints other directors of such divisions or units.

179 (d)(b)(1) There is created in the department the Office of Women's Health. Attached to  
180 the office shall be an 11 member advisory council. The members of the advisory council  
181 shall be appointed by the Governor and shall be representative of major public and  
182 private agencies and organizations in the state and shall be experienced in or have  
183 demonstrated particular interest in women's health issues. Each member shall be  
184 appointed for two years and until his or her successor is appointed. The members shall  
185 be eligible to succeed themselves. The council shall elect its chairperson from among the  
186 councilmembers for a term of two years. The Governor may name an honorary  
187 chairperson of the council.

188 (2) The Office of Women's Health shall serve in an advisory capacity to the Governor,  
189 the General Assembly, the board, the department, and all other state agencies in matters  
190 relating to women's health. In particular, the office shall:

- 191 (A) Raise awareness of women's nonreproductive health issues;
- 192 (B) Inform and engage in prevention and education activities relating to women's  
193 nonreproductive health issues;
- 194 (C) Serve as a clearing-house for women's health information for purposes of planning  
195 and coordination;
- 196 (D) Issue reports of the office's activities and findings; and
- 197 (E) Develop and distribute a state comprehensive plan to address women's health  
198 issues.

199 (3) The Office of Women's Health shall have a full-time executive director appointed by  
200 the commissioner and shall be provided with staff personnel, office and meeting facilities,  
201 and other necessary items by the department. The council shall meet upon the call of its  
202 chairperson, the board, or the commissioner.

203 (e)(c) The ~~board of regents~~ Board of Regents of the University System of Georgia is  
204 authorized to contract with the department for health benefits for members, employees, and  
205 retirees of the board of regents and the dependents of such members, employees, and  
206 retirees and for the administration of such health benefits. The department is also  
207 authorized to contract with the board of regents for such purposes.

208 (f)(d) In addition to its other powers, duties, and functions, the department:

209 (1) Shall be the lead agency in coordinating and purchasing health care benefit plans for  
210 state and public employees, dependents, and retirees and may also coordinate with the  
211 board of regents for the purchase and administration of such health care benefit plans for  
212 its members, employees, dependents, and retirees;

213 (2) Is authorized to plan and coordinate medical education and physician workforce  
214 issues;

215 (3) ~~Is authorized to convene at least quarterly a state agency coordinating committee  
216 comprised of the commissioners, directors, chairpersons, or their designees, of the  
217 following agencies involved in health related activities: the Department of Human  
218 Resources, including the Division of Public Health, the Division of Mental Health,  
219 Developmental Disabilities, and Addictive Diseases, and the Division of Aging Services  
220 thereof, the Department of Juvenile Justice, the Department of Corrections, the Insurance  
221 Department, the State Merit System of Personnel Administration, the State Board of  
222 Workers' Compensation, and the Governor's Office of Planning and Budget. The board  
223 of regents may also designate a person to serve on the coordinating committee. The  
224 committee will convene for the purposes of planning and coordinating health issues that  
225 have interagency considerations. The commissioner of the department will serve as the  
226 chairperson of the state agency coordinating committee and will report to the Governor  
227 the activities, findings, and recommendations of the committee;~~

228 (4) Shall investigate the lack of availability of health insurance coverage and the issues  
229 associated with the uninsured population of this state. In particular, the department is  
230 authorized to investigate the feasibility of creating and administering insurance programs  
231 for small businesses and political subdivisions of the state and to propose cost-effective  
232 solutions to reducing the numbers of uninsured in this state;

233 (5) ~~Shall study and recommend any additional functions needed to carry out the purposes  
234 of the department, including the creation of a consumer medical advocate. Such  
235 recommendations shall be made to the Governor and General Assembly by December 31,  
236 1999;~~

237 (6)(4) Is authorized to appoint a health care work force policy advisory committee to  
238 oversee and coordinate work force planning activities;

239       ~~(7)(5)~~ Is authorized to solicit and accept donations, contributions, and gifts and receive,  
240       hold, and use grants, devises, and bequests of real, personal, and mixed property on  
241       behalf of the state to enable the department to carry out its functions and purposes; ~~and~~  
242       ~~(8)(6)~~ Is authorized to award grants, as funds are available, to hospital authorities and  
243       hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1.;  
244       ~~(7) Shall make provision for meeting the cost of hospital care of persons eligible for~~  
245       ~~public assistance to the extent that federal matching funds are available for such~~  
246       ~~expenditures for hospital care. To accomplish this purpose, the department is authorized~~  
247       ~~to pay from funds appropriated for such purposes of the amount required under this~~  
248       ~~paragraph into a trust fund account which shall be available for disbursement for the cost~~  
249       ~~of hospital care of public assistance recipients. The commissioner, subject to the approval~~  
250       ~~of the Office of Planning and Budget, on the basis of the funds appropriated in any year,~~  
251       ~~shall estimate the scope of hospital care available to public assistance recipients and the~~  
252       ~~approximate per capita cost of such care. Monthly payments into the trust fund for~~  
253       ~~hospital care shall be made on behalf of each public assistance recipient and such~~  
254       ~~payments shall be deemed encumbered for assistance payable. Ledger accounts reflecting~~  
255       ~~payments into and out of the hospital care fund shall be maintained for each of the~~  
256       ~~categories of public assistance established under Code Section 49-4-3. The balance of~~  
257       ~~state funds in such trust fund for the payment of hospital costs in an amount not to exceed~~  
258       ~~the amount of federal funds held in the trust fund by the department available for~~  
259       ~~expenditure under this paragraph shall be deemed encumbered and held in trust for the~~  
260       ~~payment of the costs of hospital care and shall be rebudgeted for this purpose on each~~  
261       ~~quarterly budget required under the laws governing the expenditure of state funds. The~~  
262       ~~state auditor shall audit the funds in the trust fund established under this paragraph in the~~  
263       ~~same manner that any other funds disbursed by the department are audited.~~

264       31-5A-5. 31-2-5.

265       (a) ~~To assist in the transition of functions, until July 1, 2000, the State Merit System of~~  
266       ~~Personnel Administration shall perform payroll, accounting, and purchasing services and~~  
267       ~~other general support services on behalf of the Division of Public Employee Health~~  
268       ~~Benefits.~~

269       (b) All persons employed in a predecessor agency ~~or unit~~ on June 30, ~~1999~~ 2009, shall, on  
270       July 1, ~~1999~~ 2009, become employees of the department ~~within the division which such~~  
271       ~~predecessor agency has become.~~ Such employees shall be subject to the employment  
272       practices and policies of the department on and after July 1, ~~1999~~ 2009, but the  
273       compensation and benefits of such transferred employees shall not be reduced as a result  
274       of such transfer. Employees who are subject to the rules of the State Personnel Board and

275 thereby under the State Merit System of Personnel Administration and who are transferred  
276 to the department shall retain all existing rights under the State Merit System of Personnel  
277 Administration. Retirement rights of such transferred employees existing under the  
278 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
279 ~~1999~~ 2009, shall not be impaired or interrupted by the transfer of such employees and  
280 membership in any such retirement system shall continue in the same status possessed by  
281 the transferred employees on June 30, ~~1999~~ 2009. Accrued annual and sick leave  
282 possessed by said employees on June 30, ~~1999~~ 2009, shall be retained by said employees  
283 as employees of the department.

284 (e)(b)(1) The department shall conform to federal standards for a merit system of  
285 personnel administration in any respects necessary for receiving federal grants, and the  
286 board is authorized and empowered to effect such changes as may, from time to time, be  
287 necessary in order to comply with such standards.

288 (2) The department is authorized to employ, on a full-time or part-time basis, such  
289 medical, supervisory, institutional, and other professional personnel and such clerical and  
290 other employees as may be necessary to discharge the duties of the department under this  
291 chapter. The department is also authorized to contract for such professional services as  
292 may be necessary.

293 (3) Classified employees of the department under this chapter shall in all instances be  
294 employed and dismissed in accordance with rules of the State Personnel Board.

295 (4) All personnel of the department are authorized to be members of the Employees'  
296 Retirement System of Georgia as provided in Chapter 2 of Title 47. All rights, credits,  
297 and funds in that retirement system which are possessed by state personnel transferred  
298 by provisions of this chapter to the department, or otherwise had by persons at the time  
299 of employment with the department, are continued and preserved, it being the intention  
300 of the General Assembly that such persons shall not lose any rights, credits, or funds to  
301 which they may be entitled prior to becoming employees of the department.

302 (d)(c) The department shall succeed to all rules, regulations, policies, procedures, and  
303 administrative orders of the predecessor ~~agencies~~ agency or unit which were in effect on  
304 June 30, ~~1999~~ 2009, or scheduled to go into effect on or after July 1, ~~1999~~ 2009, and which  
305 relate to the functions transferred to the department by this chapter. Such rules, regulations,  
306 policies, procedures, and administrative orders shall remain in effect until amended,  
307 repealed, superseded, or nullified by proper authority or as otherwise provided by law.  
308 Rules of the department shall be adopted, promulgated, and implemented as provided in  
309 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that only ~~the~~  
310 ~~Division of Health Planning~~ rules promulgated pursuant to Chapter 6 of this title shall be  
311 subject to the provisions of Code Section 31-6-21.1.

312     ~~(e)(d)~~ The rights, privileges, entitlements, and duties of parties to contracts, leases,  
313     agreements, and other transactions entered into before July 1, ~~1999~~ 2009, by any  
314     predecessor agency or unit and which pertain to the functions transferred to the department  
315     by this chapter shall continue to exist; and none of these rights, privileges, entitlements, and  
316     duties are impaired or diminished by reason of the transfer of the functions to the  
317     department. In all such instances, the Department of ~~Community~~ Health shall be substituted  
318     for the predecessor agency or unit, and the Department of ~~Community~~ Health shall succeed  
319     to the rights and duties under such contracts, leases, agreements, and other transactions.

320     ~~(f)(1) The Governor is authorized to transfer to the Division of Public Employee Health  
321     Benefits of the department, by executive order, employees of the State Merit System of  
322     Personnel Administration who were performing functions for the Health Benefit Services  
323     Division of that system on June 30, 1999, whether or not they were also performing  
324     functions other than functions for that division. Employees so transferred shall become  
325     employees of the Division of Public Employee Health Benefits of the department.~~

326     ~~(2) The commissioner is authorized to transfer department employees from one division  
327     to another division within the department.~~

328     31-5A-6. 31-2-6.

329     There is created the position of commissioner of ~~community~~ health. The commissioner  
330     shall be the chief administrative officer of the department and shall be subject to  
331     appointment and removal by the Governor. Subject to the general policy established by  
332     the board, the commissioner shall supervise, direct, account for, organize, plan, administer,  
333     and execute the functions vested in the department.

334     31-2-1.

335     ~~The Department of Human Resources is created and established to safeguard and promote  
336     the health of the people of this state and is empowered to employ all legal means  
337     appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the  
338     department is empowered to:~~

339         ~~(1) Provide epidemiological investigations and laboratory facilities and services in the  
340         detection and control of disease, disorders, and disabilities and to provide research,  
341         conduct investigations, and disseminate information concerning reduction in the  
342         incidence and proper control of disease, disorders, and disabilities;~~  
343         ~~(2) Forestall and correct physical, chemical, and biological conditions that, if left to run  
344         their course, could be injurious to health;~~

- 345 (3) Regulate and require the use of sanitary facilities at construction sites and places of  
346 public assembly and to regulate persons, firms, and corporations engaged in the rental  
347 and service of portable chemical toilets;
- 348 (4) Isolate and treat persons afflicted with a communicable disease who are either unable  
349 or unwilling to observe the department's rules and regulations for the suppression of such  
350 disease and to establish, to that end, complete or modified quarantine, surveillance, or  
351 isolation of persons and animals exposed to a disease communicable to man;
- 352 (5) Manufacture drugs and biologicals which are not readily available on the market and  
353 not manufactured for commercial purposes, when expressly authorized and shown on the  
354 minutes of the department; to procure and distribute drugs and biologicals and purchase  
355 services from clinics, laboratories, hospitals, and other health facilities and, when  
356 authorized by law, to acquire and operate such facilities;
- 357 (6) Cooperate with agencies and departments of the federal government and of the state  
358 by supplying consultant services in medical and hospital programs and in the health  
359 aspects of civil defense;
- 360 (7) Detect and relieve physical defects and deformities and provide treatment for mental  
361 and emotional disorders and infirmities;
- 362 (8) Promote the prevention, early detection, and control of problems affecting the dental  
363 health of the citizens of Georgia;
- 364 (9) Contract with county boards of health to assist in the performance of services  
365 incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies  
366 of more than local peril, to employ whatever means may be at its disposal to overcome  
367 such emergencies;
- 368 (10) Contract and execute releases for assistance in the performance of its functions and  
369 the exercise of its powers and to supply services which are within its purview to perform;
- 370 (11) Enter into or upon public or private property at reasonable times for the purpose of  
371 inspecting same to determine the presence of disease and conditions deleterious to health  
372 or to determine compliance with health laws and rules, regulations, and standards  
373 thereunder;
- 374 (12) Promulgate and enforce rules and regulations for the licensing of medical facilities  
375 wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are  
376 to be performed; and, further, to disseminate and distribute educational information and  
377 medical supplies and treatment in order to prevent unwanted pregnancy; and
- 378 (13) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia  
379 Administrative Procedure Act,' a schedule of fees for laboratory services provided,  
380 schedules to be determined in a manner so as to help defray the costs incurred by the  
381 department, but in no event to exceed such costs, both direct and indirect, in providing

382 such laboratory services, provided no person shall be denied services on the basis of his  
383 inability to pay. All fees paid thereunder shall be paid into the general funds of the State  
384 of Georgia. The individual who requests services authorized in this Code section shall  
385 pay the fee. As used in this Code section, the term 'individual' means a natural person.

386 31-2-2. 31-2-7.

387 The department is designated and empowered as the agency of this state to apply for,  
388 receive, and administer grants and donations for health purposes from the federal  
389 government and from any of its departments, agencies, and instrumentalities; from  
390 appropriations of the state; and from any other sources in conformity with law, including  
391 but not limited to Code Section 49-4-152. The department shall have the authority to  
392 prescribe the purposes for which such funds may be used in order to:

- 393 (1) Provide, extend, and improve maternal and child health services;
- 394 (2) Locate children already crippled disabled or suffering from conditions leading to  
395 crippling a disability and provide for such children medical, surgical, corrective, and  
396 other services and to provide for facilities for diagnosis, hospitalization, and aftercare;
- 397 (3) Advance the control of cancer and of venereal, tubercular, and other diseases;
- 398 (4) Forestall and correct conditions that, if left to run their course, could be injurious to  
399 health;
- 400 (5) Conduct programs which lie within the scope and the power of the department  
401 relating to industrial hygiene, control of ionizing radiation, occupational health, water  
402 quality, water pollution control, and planning and development of water resources;
- 403 (6) Administer grants-in-aid to assist in the construction of publicly owned and operated  
404 general and special medical facilities;
- 405 (7) Conduct programs:
  - 406 (A) Relating to chronic illness;
  - 407 (B) Relating to the dental health of the people of this state which are appropriate to the  
408 purpose of the department; and
  - 409 (C) Relating to the mental and physical health of the people of this state which are  
410 appropriate to the purpose of the department; and
- 411 (8) Develop the health aspects of civil defense emergency preparedness.

412 When a plan is required to be approved by any department, agency, or instrumentality of  
413 the federal government as condition precedent to the making of grants for health purposes,  
414 the department, as agent of this state, is directed to formulate, submit, and secure approval  
415 of that plan and thereafter, upon its approval and the receipt of funds payable thereunder,  
416 to carry the plan into effect in accordance with its terms, applying thereto the funds so  
417 received as well as other applicable amounts from whatever source.

418     31-2-3. 31-2-8.

419     The department, from time to time, shall make or cause to be made studies and surveys to  
420     determine the quality, scope, and reach of its programs.

421     31-2-4. 31-2-9.

422     (a) The department is authorized to adopt and promulgate rules and regulations to effect  
423     prevention, abatement, and correction of situations and conditions which, if not promptly  
424     checked, would militate against the health of the people of this state. Such rules and  
425     regulations shall be adapted to the purposes intended, within the purview of the powers and  
426     duties imposed upon the department by this chapter, and supersede conflicting rules,  
427     regulations, and orders adopted pursuant to the authority of Chapter 3 of this title.

428     (b) The department upon application or petition may grant variances and waivers to  
429     specific rules and regulations which establish standards for facilities or entities regulated  
430     by the department as follows:

431         (1) The department may authorize departure from the literal requirements of a rule or  
432         regulation by granting a variance upon a showing by the applicant or petitioner that the  
433         particular rule or regulation that is the subject of the variance request should not be  
434         applied as written because strict application would cause undue hardship. The applicant  
435         or petitioner additionally must show that adequate standards affording protection of  
436         health, safety, and care exist and will be met in lieu of the exact requirements of the rule  
437         or regulation in question;

438         (2) The department may dispense entirely with the enforcement of a rule or regulation  
439         by granting a waiver upon a showing by the applicant or petitioner that the purpose of the  
440         rule or regulation is met through equivalent standards affording equivalent protection of  
441         health, safety, and care;

442         (3) The department may grant waivers and variances to allow experimentation and  
443         demonstration of new and innovative approaches to delivery of services upon a showing  
444         by the applicant or petitioner that the intended protections afforded by the rule or  
445         regulation which is the subject of the request are met and that the innovative approach has  
446         the potential to improve service delivery;

447         (4) Waivers or variances which affect an entire class of facilities may only be approved  
448         by the State Board of Human Resources Health and shall be for a time certain, as  
449         determined by the board. A notice of the proposed variance or waiver affecting an entire  
450         class of facilities shall be made in accordance with the requirements for notice of rule  
451         making in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

452         (5) Variances or waivers which affect only one facility in a class may be approved or  
453         denied by the department and shall be for a time certain, as determined by the

454 department. The department shall maintain a record of such action and shall make this  
455 information available to the board and all other persons who request it.

456 This subsection shall not apply to rules adopted by the department pursuant to Code  
457 Section 31-6-21.1.

458 (c) The department may exempt classes of facilities from regulation when, in the  
459 department's judgment, regulation would not permit the purpose intended or the class of  
460 facilities is subject to similar requirements under other rules and regulations. Such  
461 exemptions shall be provided in rules and regulations promulgated by the board.

462 31-2-5. 31-2-10.

463 Actions at law and in equity against the department, the board, or any of its members  
464 predicated upon omissions or acts done in their official capacity or under color thereof shall  
465 be brought in the appropriate county; provided, however, that nothing in this Code section  
466 shall be construed as waiving the immunity of the state to be sued without its consent.

467 31-2-6. 31-2-11.

468 (a) This Code section shall be applicable to any agency, center, facility, institution,  
469 ~~community living arrangement~~, drug abuse treatment and education program, or entity  
470 subject to regulation by the department under Chapters 7, 13, 22, 23, and 44 of this title;  
471 Chapter 5 of Title 26; ~~paragraph (16) of subsection (b) and subsection (c) of Code Section~~  
472 ~~37-1-20;~~ and ~~Chapter 5 and Article 7 of Chapter 6 of Title 49.~~ For purposes of this Code  
473 section, the term 'license' shall be used to refer to any license, permit, registration, or  
474 commission issued by the department pursuant to the provisions of the law cited in this  
475 subsection.

476 (b) The department shall have the authority to take any of the actions enumerated in  
477 subsection (c) of this Code section upon a finding that the applicant or licensee has:

478 (1) Knowingly made any false statement of material information in connection with the  
479 application for a license, or in statements made or on documents submitted to the  
480 department as part of an inspection, survey, or investigation, or in the alteration or  
481 falsification of records maintained by the agency, facility, institution, or entity;  
482 (2) Failed or refused to provide the department with access to the premises subject to  
483 regulation or information pertinent to the initial or continued licensing of the agency,  
484 facility, institution, or entity;  
485 (3) Failed to comply with the licensing requirements of this state; or  
486 (4) Failed to comply with any ~~provisions~~ provision of this Code section.

487 (c) When the department finds that any applicant or licensee has violated any ~~provisions~~  
488 provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders

489 related to the initial or continued licensing of the agency, facility, institution, or entity, the  
490 department, subject to notice and opportunity for hearing, may take any of the following  
491 actions:

- 492 (1) Refuse to grant a license; provided, however, that the department may refuse to grant  
493 a license without holding a hearing prior to taking such action;
- 494 (2) Administer a public reprimand;
- 495 (3) Suspend any license, ~~permit, registration, or commission~~ for a definite period or for  
496 an indefinite period in connection with any condition which may be attached to the  
497 restoration of said license;
- 498 (4) Prohibit any applicant or licensee from allowing a person who previously was  
499 involved in the management or control, as defined by rule, of any agency, facility,  
500 institution, or entity which has had its license or application revoked or denied within the  
501 past 12 months to be involved in the management or control of such agency, facility,  
502 institution, or entity;
- 503 (5) Revoke any license;
- 504 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
505 each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
506 licensing of any agency, facility, institution, or entity, except that no fine may be imposed  
507 against any nursing facility, nursing home, or intermediate care facility which is subject  
508 to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as  
509 amended, whether or not those sanctions are actually imposed; or
- 510 (7) Limit or restrict any license as the department deems necessary for the protection of  
511 the public, including, but not limited to, restricting some or all services or admissions  
512 into an agency, facility, institution, or entity for a time certain.

513 In taking any of the actions enumerated in this subsection, the department shall consider  
514 the seriousness of the violation, including the circumstances, extent, and gravity of the  
515 prohibited acts, and the hazard or potential hazard created to the health or safety of the  
516 public.

- 517 (d)(1) With respect to any facility classified as a nursing facility, nursing home, or  
518 intermediate care home, the department may not take an action to fine or restrict the  
519 license of any such facility based on the same act, occurrence, or omission for which:
- 520 (A) The facility has received an intermediate sanction under the provisions of 42  
521 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or
- 522 (B) Such facility has been served formal notice of intent to take such a sanction which  
523 the ~~Department of Community Health~~ department based on administrative review or  
524 any other appropriate body based on administrative or judicial review determines not  
525 to impose; provided, however, that nothing in this subsection shall prohibit the

526       department from utilizing the provisions authorized under subsection (f) of this Code  
527       section.

528       (2) When any civil monetary penalty is recommended and imposed against such facility,  
529       and the department does not resurvey the facility within 48 hours after the date by which  
530       all items on a plan of correction submitted by the facility are to be completed, the accrual  
531       of any resulting civil monetary penalties shall be suspended until the facility is  
532       resurveyed by the department.

533       (3) If the department resurveys such facility beyond 48 hours after the final date for  
534       completion of all items on the plan of correction submitted by the facility, and the facility  
535       is not in substantial compliance with the applicable standards, any civil monetary  
536       penalties imposed shall relate back to the date on which such penalties were suspended.

537       (4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, nothing  
538       contained in said paragraphs ~~(2) and (3) of this subsection~~ shall be construed as requiring  
539       the state survey agency to act in violation of applicable federal law, regulations, and  
540       guidelines.

541       (e) The department may deny a license or otherwise restrict a license for any applicant  
542       who has had a license denied, revoked, or suspended within one year of the date of an  
543       application or who has transferred ownership or governing authority of an agency, facility,  
544       institution, or entity subject to regulation by the department within one year of the date of  
545       a new application when such transfer was made in order to avert denial, revocation, or  
546       suspension of a license.

547       (f) With regard to any contested case instituted by the department pursuant to this Code  
548       section or other provisions of law which may now or hereafter authorize remedial or  
549       disciplinary grounds and action, the department may, in its discretion, dispose of the action  
550       so instituted by settlement. In such cases, all parties, successors, and assigns to any  
551       settlement agreement shall be bound by the terms specified therein, and violation thereof  
552       by any applicant or licensee shall constitute grounds for any action enumerated in  
553       subsection (c) of this Code section.

554       (g) The department shall have the authority to make public or private investigations or  
555       examinations inside or outside of this state to determine whether the provisions of this  
556       Code section or any other law, rule, regulation, or formal order relating to the licensing of  
557       any agency, facility, institution, or entity has been violated. Such investigations may be  
558       initiated at any time, in the discretion of the department, and may continue during the  
559       pendency of any action initiated by the department pursuant to subsection (c) of this Code  
560       section.

561       (h) For the purpose of conducting any investigation, inspection, or survey, the department  
562       shall have the authority to require the production of any books, records, papers, or other

563 information related to the initial or continued licensing of any agency, facility, institution,  
564 or entity.

565 (i) Pursuant to the investigation, inspection, and enforcement powers given to the  
566 department by this Code section and other applicable laws, the department may assess  
567 against an agency, facility, institution, or entity reasonable and necessary expenses incurred  
568 by the department pursuant to any administrative or legal action required by the failure of  
569 the agency, facility, institution, or entity to fully comply with the provisions of any law,  
570 rule, regulation, or formal order related to the initial or continued licensing. Assessments  
571 shall not include attorney's fees and expenses of litigation, shall not exceed other actual  
572 expenses, and shall only be assessed if such investigations, inspection, or enforcement  
573 actions result in adverse findings, as finally determined by the department, pursuant to  
574 administrative or legal action.

575 (j) For any action taken or any proceeding held under this Code section or under color of  
576 law, except for gross negligence or willful or wanton misconduct, the department, when  
577 acting in its official capacity, shall be immune from liability and suit to the same extent that  
578 any judge of any court of general jurisdiction in this state would be immune.

579 (k) In an administrative or legal proceeding under this Code section, a person or entity  
580 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
581 the burden of proving this exemption or exception.

582 (l) This Code section and all actions resulting from its provisions shall be administered in  
583 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

584 (m) The provisions of this Code section shall be supplemental to and shall not operate to  
585 prohibit the department from acting pursuant to those provisions of law which may now  
586 or hereafter authorize remedial or disciplinary grounds and action for the department. In  
587 cases where those other provisions of law so authorize other disciplinary grounds and  
588 actions, but this Code section limits such grounds or actions, those other provisions shall  
589 apply.

590 (n) The department is authorized to promulgate rules and regulations to implement the  
591 provisions of this Code section.

592 31-2-7. 31-2-12.

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

594 (1) 'Chamber system' means a system of chambers with each chamber being a molded  
595 polyolefin plastic, arch shaped, hollow structure with an exposed bottom area and solid  
596 top and louvered sidewall for infiltration of effluent into adjoining bottom and sidewall  
597 soil areas. Chambers may be of different sizes and configurations to obtain desired  
598 surface areas.

599 (2) 'Conventional system' means a system traditionally used composed of perforated pipe  
600 surrounded by gravel or stone masking for the infiltration of effluent into adjoining  
601 bottom and side soil areas.

602 (3) 'On-site sewage management system' means a sewage management system other than  
603 a public or community sewage treatment system serving one or more buildings, mobile  
604 homes, recreational vehicles, residences, or other facilities designed or used for human  
605 occupancy or congregation. Such term shall include, without limitation, conventional and  
606 chamber septic tank systems, privies, and experimental and alternative on-site sewage  
607 management systems which are designed to be physically incapable of a surface  
608 discharge of effluent that may be approved by the department.

609 (4) 'Prior approved system' means only a chamber system or conventional system or  
610 component of such system which is designed to be physically incapable of a surface  
611 discharge of effluent and which was properly approved pursuant to subparagraph  
612 (a)(2)(B) of this Code section, as such Code section became law on April 19, 1994, for  
613 use according to manufacturers' recommendations, prior to April 14, 1997.

614 (5) 'Unsatisfactory service' means documented substandard performance as compared  
615 to other approved systems or components.

616 (b) The ~~Department of Human Resources~~ department shall have the authority as it deems  
617 necessary and proper to adopt state-wide regulations for on-site, sewage management  
618 systems, including but not limited to experimental and alternative systems. The department  
619 is authorized to require that any such on-site sewage management system be examined and  
620 approved prior to allowing the use of such system in the state; provided, however, that any  
621 prior approved system shall continue to be approved for installation in every county of the  
622 state pursuant to the manufacturer's recommendations, including sizing of no less than 50  
623 percent of trench length of a conventional system designed for equal flows in similar soil  
624 conditions. Upon written request of one-half or more of the health districts in the state, the  
625 department is authorized to require the reexamination of any such system or component  
626 thereof, provided that documentation is submitted indicating unsatisfactory service of such  
627 system or component thereof. Before any such examination or reexamination, the  
628 department may require the person, persons, or organization manufacturing or marketing  
629 the system to reimburse the department or its agent for the reasonable expenses of such  
630 examination.

631 (c)(1) This subsection shall not be construed to prohibit the governing authority of any  
632 county or municipality in the state from adopting and enforcing codes at the local level;  
633 provided, however, that no county, municipality, or state agency may require any  
634 certified septic tank installer or certified septic tank pumper who has executed and  
635 deposited a bond as authorized in paragraph (2) of this subsection to give or furnish or

636 execute any code compliance bond or similar bond for the purpose of ensuring that all  
637 construction, installation, or modifications are made or completed in compliance with the  
638 county or municipal ordinances or building and construction codes.

639 (2) In order to protect the public from damages arising from any work by a certified  
640 septic tank installer or certified septic tank pumper, which work fails to comply with any  
641 state construction codes or with the ordinances or building and construction codes  
642 adopted by any county or municipal corporation, any such certified septic tank installer  
643 or certified septic tank pumper may execute and deposit with the judge of the probate  
644 court in the county of his or her principal place of business a bond in the sum of  
645 \$10,000.00. Such bond shall be a cash bond of \$10,000.00 or executed by a surety  
646 authorized and qualified to write surety bonds in the State of Georgia and shall be  
647 approved by the local county or municipal health department. Such bond shall be  
648 conditioned upon all work done or supervised by such certificate holder complying with  
649 the provisions of any state construction codes or any ordinances or building and  
650 construction codes of any county or municipal corporation wherein the work is  
651 performed. Action on such bond may be brought against the principal and surety thereon  
652 in the name of and for the benefit of any person who suffers damages as a consequence  
653 of said certificate holder's work not conforming to the requirements of any ordinances or  
654 building and construction codes; provided, however, that the aggregate liability of the  
655 surety to all persons so damaged shall in no event exceed the sum of such bond.

656 (3) In any case where a bond is required under this subsection, the certified septic tank  
657 installer or certified septic tank pumper shall file a copy of the bond with the county or  
658 municipal health department in the political subdivision wherein the work is being  
659 performed.

660 (4) The provisions of this subsection shall not apply to or affect any bonding  
661 requirements involving contracts for public works as provided in Chapter 10 of Title 13.

662 (d) This Code section does not restrict the work of a plumber licensed by the State  
663 Construction Industry Licensing Board to access any on-site sewage management system  
664 for the purpose of servicing or repairing any plumbing system or connection to the on-site  
665 sewage management system.

666 31-2-8. 31-2-13.

667 Until July 1, 2012, the department shall provide by rule or regulation for the regulation of  
668 any land disposal site that receives septic tank waste from only one septic tank pumping  
669 and hauling business and which as of June 30, 2007, operated under a valid permit for such  
670 activity as issued by the department (previously known as the Department of Human  
671 Resources for these purposes) under this Code section. No new permit shall be issued by

672 the department under this Code section for such type of site on or after July 1, 2007, but  
673 instead any new permit issued for such type of site on or after such date shall be issued by  
674 the Department of Natural Resources under Code Section 12-8-41. This Code section shall  
675 stand repealed on July 1, 2012.

676 ~~31-2-9.~~ 31-2-14.

677 (a) The General Assembly makes the following findings:

- 678 (1) Every year in Georgia, approximately 850 people die from suicide;
- 679 (2) More Georgians die from suicide than from homicide;
- 680 (3) More teenagers and young adults die from suicide than from cancer, heart disease,  
681 AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;
- 682 (4) Many who attempt suicide do not seek professional help after the attempt;
- 683 (5) In Georgia, three out of four suicide deaths involve a firearm;
- 684 (6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness,  
685 isolation, and bullying in school contribute to causes of suicide; and
- 686 (7) Education is necessary to inform the public about the causes of suicide and the early  
687 intervention programs that are available.

688 (b) There is created the Suicide Prevention Program to be managed by the injury  
689 prevention section of the Division of Public Health of the ~~Department of Human Resources~~  
690 department.

691 (c) The injury prevention section, in implementing the Suicide Prevention Program, shall:

692 (1) Establish a link between state agencies and offices, including but not limited to the  
693 ~~department's~~ Division of Aging Services, Division of Family and Children Services, and  
694 Division of ~~Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
695 Department of Human Services, the Department of Behavioral Health, local government  
696 agencies, health care providers, hospitals, nursing homes, and jails to collect data on  
697 suicide deaths and attempted suicides;

- 698 (2) Work with public officials to improve firearm safety;
- 699 (3) Improve education for nurses, judges, physician assistants, social workers,  
700 psychologists, and other counselors with regard to suicide education and prevention and  
701 expand educational resources for professionals working with those persons most at risk  
702 of suicide;
- 703 (4) Provide training and minimal screening tools for clergy, teachers and other  
704 educational staff, and correctional workers on how to identify and respond to persons at  
705 risk of suicide;
- 706 (5) Provide educational programs for family members of persons at an elevated risk of  
707 suicide;

- 708       (6) Develop standardized protocols to be used by the ~~Department of Human Resources~~  
709       ~~department~~ in reviewing suicide death scene investigations;  
710       (7) Work to increase the number of follow-back studies of suicides;  
711       (8) Work to increase the number of hospitals that code for external ~~cause of injuries~~  
712       ~~causes of injury~~;  
713       (9) Implement a state-wide reporting system for reporting suicides;  
714       (10) Support pilot projects to link and analyze information on self-destructive behavior  
715       from various, distinct data systems; and  
716       (11) Perform such other tasks as deemed appropriate to further suicide education and  
717       prevention in Georgia.
- 718       (d) The Suicide Prevention Program shall be provided staff to consist of a full-time  
719       coordinator, half-time data analyst/epidemiologist, and administrative support, all subject  
720       to available funding.

721       31-2-15.

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

- 723       (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
724       whether an appeal of the conviction has been sought.
- 725       (2) 'Crime' means commission of the following offenses:
- 726       (A) A violation of Code Section 16-5-1, relating to murder and felony murder;  
727       (B) A violation of Code Section 16-5-21, relating to aggravated assault;  
728       (C) A violation of Code Section 16-5-24, relating to aggravated battery;  
729       (D) A violation of Code Section 16-5-70, relating to cruelty to children;  
730       (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of  
731       age or older;  
732       (F) A violation of Code Section 16-6-1, relating to rape;  
733       (G) A violation of Code Section 16-6-2, relating to aggravated sodomy;  
734       (H) A violation of Code Section 16-6-4, relating to child molestation;  
735       (I) A violation of Code Section 16-6-5, relating to enticing a child for indecent  
736       purposes;  
737       (J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in  
738       custody, detained persons, or patients in hospitals or other institutions;  
739       (K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;  
740       (L) A violation of Code Section 16-8-41, relating to armed robbery;  
741       (M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of  
742       a disabled adult or elder person; or

743       (N) Any other offense committed in another jurisdiction that, if committed in this state,  
744       would be deemed to be a crime listed in this paragraph without regard to its designation  
745       elsewhere.

746       (3) 'Criminal record' means any of the following:

747           (A) Conviction of a crime;

748           (B) Arrest, charge, and sentencing for a crime where:

749              (i) A plea of nolo contendere was entered to the charge;

750              (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
751              granted; or

752              (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;

753              or

754           (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
755           prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

756       (4) 'Facility' means a:

757           (A) Personal care home required to be licensed or permitted under Code Section  
758           31-7-12; or

759           (B) Private home care provider required to be licensed under Article 13 of Chapter 7  
760           of Title 31.

761       (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
762           Chapter 3 of Title 35.

763       (6) 'GCIC information' means criminal history record information as defined in Code  
764           Section 35-3-30.

765       (7) 'License' means the document issued by the department to authorize the facility to  
766           operate.

767       (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,  
768           or association with 10 percent or greater ownership interest in a facility providing care  
769           to persons under the license of the facility in this state and who:

770           (A) Purports to or exercises authority of the owner in a facility;

771           (B) Applies to operate or operates a facility;

772           (C) Maintains an office on the premises of a facility;

773           (D) Resides at a facility;

774           (E) Has direct access to persons receiving care at a facility;

775           (F) Provides direct personal supervision of facility personnel by being immediately  
776           available to provide assistance and direction during the time such facility services are  
777           being provided; or

778           (G) Enters into a contract to acquire ownership of a facility.

779       (9) 'Records check application' means fingerprints in such form and of such quality as  
780       prescribed by the Georgia Crime Information Center and under standards adopted by the  
781       Federal Bureau of Investigation and a records search fee to be established by the  
782       department by rule and regulation, payable in such form as the department may direct to  
783       cover the cost of obtaining criminal background information pursuant to this Code  
784       section.

785       (b) An owner with a criminal record shall not operate or hold a license to operate a facility,  
786       and the department shall revoke the license of any owner operating a facility or refuse to  
787       issue a license to any owner operating a facility if it determines that such owner has a  
788       criminal record; provided, however, that an owner who holds a license to operate a facility  
789       on or before June 30, 2007, shall not have his or her license revoked prior to a hearing  
790       being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia  
791       Administrative Procedure Act.'

792       (c)(1) Prior to approving any license for a new facility and periodically as established by  
793       the department by rule and regulation, the department shall require an owner to submit  
794       a records check application. The department shall establish a uniform method of  
795       obtaining an owner's records check application.

796       (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,  
797       the department shall transmit to the GCIC the fingerprints and records search fee from  
798       each fingerprint records check application in accordance with Code Section 35-3-35.  
799       Upon receipt thereof, the GCIC shall promptly transmit the fingerprints to the Federal  
800       Bureau of Investigation for a search of bureau records and an appropriate report and  
801       shall promptly conduct a search of its records and records to which it has access.  
802       Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the  
803       GCIC shall notify the department in writing of any criminal record or if there is no such  
804       finding. After a search of Federal Bureau of Investigation records and fingerprints and  
805       upon receipt of the bureau's report, the department shall make a determination about an  
806       owner's criminal record and shall notify the owner in writing as to the department's  
807       determination as to whether the owner has or does not have a criminal record.

808       (B) The department may either perform criminal background checks under agreement  
809       with the GCIC or contract with the GCIC and appropriate law enforcement agencies  
810       which have access to GCIC and Federal Bureau of Investigation information to have  
811       those agencies perform for the department criminal background checks for owners. The  
812       department or the appropriate law enforcement agencies may charge reasonable fees  
813       for performing criminal background checks.

814       (3)(A) The department's determination regarding an owner's criminal record, or any  
815       action by the department revoking or refusing to grant a license based on such

816 determination, shall constitute a contested case for purposes of Chapter 13 of Title 50,  
817 the 'Georgia Administrative Procedure Act,' except that any hearing required to be held  
818 pursuant thereto may be held reasonably expeditiously after such determination or  
819 action by the department.

820 (B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b)  
821 of this Code section, the hearing officer shall consider in mitigation the length of time  
822 since the crime was committed, the absence of additional criminal charges, the  
823 circumstances surrounding the commission of the crime, other indicia of rehabilitation,  
824 the facility's history of compliance with the regulations, and the owner's involvement  
825 with the licensed facility in arriving at a decision as to whether the criminal record  
826 requires the denial or revocation of the license to operate the facility. Where a hearing  
827 is required, at least 30 days prior to such hearing, the hearing officer shall notify the  
828 office of the prosecuting attorney who initiated the prosecution of the crime in question  
829 in order to allow the prosecutor to object to a possible determination that the conviction  
830 would not be a bar for the grant or continuation of a license as contemplated within this  
831 Code section. If objections are made, the hearing officer shall take such objections into  
832 consideration in considering the case.

833 (4) Neither the GCIC, the department, any law enforcement agency, nor the employees  
834 of any such entities shall be responsible for the accuracy of information nor have any  
835 liability for defamation, invasion of privacy, negligence, or any other claim in connection  
836 with any dissemination of information or determination based thereon pursuant to this  
837 Code section.

838 (d) All information received from the Federal Bureau of Investigation or the GCIC shall  
839 be for the exclusive purpose of approving or denying the granting of a license to a new  
840 facility or the revision of a license of an existing facility when a new owner is proposed and  
841 shall not be released or otherwise disclosed to any other person or agency except to any  
842 person or agency with a legal right to inspect the facility. All such information collected  
843 by the department shall be maintained by the department pursuant to laws regarding and  
844 the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is  
845 applicable. Penalties for the unauthorized release or disclosure of any such information  
846 shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal  
847 Bureau of Investigation and the GCIC, as is applicable.

848 (e) The requirements of this Code section are supplemental to any requirements for a  
849 license imposed by Article 3 of Chapter 5 of Title 49 or Article 11 of Chapter 7 of this title.

850 (f) The department shall promulgate written rules and regulations to implement the  
851 provisions of this Code section.

852     31-5A-7. 31-2-16.

853     Performance and outcome data and pricing data for selected medical conditions, surgeries,  
854     and procedures in hospitals, ambulatory surgery centers, nursing homes, and rehabilitation  
855     centers in Georgia shall be reported to the Department of ~~Community~~ Health on a regular  
856     basis. The department shall provide for the establishment of a website for the purpose of  
857     providing consumers information on the cost and quality of health care in Georgia to  
858     include but not be limited to cost comparison information on certain prescription drugs at  
859     different pharmacies in Georgia, hospitals, ambulatory surgery centers, nursing homes, and  
860     rehabilitation centers and facilities in Georgia.

861     31-5A-8. 31-2-17.

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

863         (1) 'Biopharmaceutical' means the application of biotechnology to the development of  
864         pharmaceutical products that improve human health.

865         (2) 'Biotechnology' means any technological application that uses biological systems,  
866         living organisms, or derivatives thereof to make or modify products or processes for  
867         specific use.

868         (3) 'Georgia biotechnology, biopharmaceutical, or pharmaceutical company' means a  
869         biotechnology, biopharmaceutical, or pharmaceutical company, or a corporate division  
870         of such a company:

871             (A) The principal activity of which is research or development, manufacturing, or  
872             sales of health care products in this state; and

873             (B)(i) That had a total economic impact in this state of not less than \$60 million  
874             during the most recent taxable year;

875             (ii) That has total capital investment in this state of not less than \$100 million; and

876             (iii) That employs at least 200 Georgia ~~citizens~~ residents.

877     Such term shall not mean a warehouse used to store health care products.

878         (4) 'Pharmaceutical' means of or pertaining to the knowledge or art of pharmacy or to the  
879         art of preparing medicines according to the rules or formulas of pharmacy.

880         (5) 'Research and development' means experimental or laboratory activity for the  
881         ultimate purpose of developing new products, improving existing products, developing  
882         new uses for existing products, or developing or improving methods for producing  
883         products.

884         (6) 'Total economic impact' means the sum of total employee payroll, investment in  
885         external research and development, the value of prescription drug samples provided to  
886         physicians, and the value of prescription drugs donated to ~~low income~~ low-income  
887         individuals through patient assistance programs.

888 (b) The Department of ~~Community~~ Health shall expedite the review of any prescription  
889 drug or other health care product having an approved indication from the federal Food and  
890 Drug Administration for use with humans and that is produced by a Georgia biotechnology,  
891 biopharmaceutical, or pharmaceutical company for any health care coverage provided  
892 under the state health benefit plan under Article 1 of Chapter 18 of Title 45, the medical  
893 assistance program under Article 7 of Chapter 4 of Title 49, the PeachCare for Kids  
894 program under Article 13 of Chapter 5 of Title 49, or any other health benefit plan or  
895 policy administered by or on behalf of the state. Such review shall take place as soon as  
896 practicable following the date that such drug or health care product becomes available for  
897 public consumption. This subsection shall apply to all contracts entered into or renewed  
898 by the Department of Health or its predecessor, the Department of Community Health, on  
899 or after July 1, 2008.

900 (c) In complying with the provisions of this Code section, the department shall consider  
901 the nexus of a biotechnology, biopharmaceutical, or pharmaceutical company in relation  
902 to the state along with the financial impact on the state, the quality of the product, and other  
903 relevant factors."

## 904 SECTION 1-2.

905 Said title is further amended by revising Code Section 31-1-1, relating to definitions relative  
906 to health generally, as follows:

907 "31-1-1.

908 Except as specifically provided otherwise, as used in this title, the term:

909 (1) 'Board' means the State Board of Human Resources Health.

910 (2) 'Commissioner' means the commissioner of human resources health.

911 (3) 'Department' means the Department of Human Resources Health."

## 912 SECTION 1-3.

913 Said title is further amended by adding a new Code section to read as follows:

914 "31-1-10.

915 (a) The office of State Health Officer is created. The commissioner of health or the  
916 director of the Division of Public Health of the Department of Health shall be the State  
917 Health Officer, as designated by the Governor.

918 (b) The State Health Officer shall perform such health emergency preparedness duties as  
919 assigned by the Governor."

920

**SECTION 1-4.**

921 The following Code sections of the Official Code of Georgia Annotated are amended by  
922 replacing "Department of Community Health" wherever it occurs with "Department of  
923 Health":

- 924 (1) Code Section 9-2-21, relating to parties to actions to torts and notice to the  
925 Department of Community Health for a party who has received medical assistance  
926 benefits;
- 927 (2) Code Section 19-10A-2, relating to the definition of the term "medical facility" for  
928 purposes of the "Safe Place for Newborns Act of 2002";
- 929 (3) Code Section 19-11-27, relating to accident and sickness insurance coverage for  
930 children;
- 931 (4) Code Section 20-3-476, relating to authorization and administration of loan program  
932 for attendance at Colleges of Osteopathic Medicine;
- 933 (5) Code Section 20-3-511, relating to employment of staff and director for the State  
934 Medical Education Board;
- 935 (6) Code Section 20-3-513, relating to determination of amount of a medical loan or  
936 scholarship by the State Medical Education Board;
- 937 (7) Code Section 20-3-516, relating to funds for medical loans or scholarships;
- 938 (8) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
- 939 (9) Code Section 25-2-13, relating to buildings presenting special hazards to persons or  
940 property;
- 941 (10) Code Section 26-4-115.1, relating to requirement that certain wholesale distributors  
942 of controlled substances and dangerous drugs provide price and quantity information;
- 943 (11) Code Section 26-4-118, relating to the Pharmacy Audit Bill of Rights;
- 944 (12) Code Section 31-6-2, relating to definitions relative to state health planning and  
945 development;
- 946 (13) Code Section 31-6-21, relating to the Department of Community Health generally  
947 relative to state health planning and development;
- 948 (14) Code Section 31-6-47, relating to exemptions from certificate of need requirements;
- 949 (15) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
950 related institutions;
- 951 (16) Code Section 31-7-75, relating to the functions and powers of hospital authorities;
- 952 (17) Code Section 31-7-94, relating to grants to hospital authorities;
- 953 (18) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act";
- 954 (19) Code Section 31-7-95, relating to funding of medical education provided by hospital  
955 authorities and designated teaching hospitals;
- 956 (20) Code Section 31-7-150, relating to definitions relative to home health agencies;

- 957 (21) Code Section 31-7-250, relating to definitions relative to facility licensing and  
958 employee records checks;
- 959 (22) Code Section 31-7-280, relating to annual health care provider reports;
- 960 (23) Code Section 31-7-300, relating to definitions relative to private home care  
961 providers;
- 962 (24) Code Section 31-7-354, relating to authority to enforce laws relating to nursing  
963 homes employee records checks;
- 964 (25) Code Section 31-7-400, relating to definitions relative to hospital acquisition;
- 965 (26) Code Section 31-8-46, relating to investigation of violations by a hospital;
- 966 (27) Code Section 31-8-106, relating to information to be provided to residents upon  
967 admission into a long-term care facility;
- 968 (28) Code Section 31-8-151, relating to definitions relative to the Indigent Care Trust  
969 Fund;
- 970 (29) Code Section 31-8-162, relating to definitions relative to nursing home provider  
971 fees;
- 972 (30) Code Section 31-8-171, relating to definitions relative to quality assessment fees on  
973 care management organizations;
- 974 (31) Code Section 31-8-192, relating to definitions relative to the "Health Share'  
975 Volunteers in Medicine Act";
- 976 (32) Code Section 31-11-81, relating to definitions relative to emergency services;
- 977 (33) Code Section 31-16-7, relating to reuse of kidney dialyzers;
- 978 (34) Code Section 31-18-3, relating to reporting procedures for traumatic brain and  
979 spinal cord injuries;
- 980 (35) Code Section 31-20-1, relating to definitions relative to performance of sterilization  
981 procedures;
- 982 (36) Code Section 31-21-5, relating to incineration or cremation of dead body or parts  
983 thereof;
- 984 (37) Code Section 31-34-8, relating to funding under the "Physicians for Rural Areas  
985 Assistance Act";
- 986 (38) Code Section 31-43-3, relating to the Commission on Men's Health;
- 987 (39) Code Section 33-19-10, relating to limitation on hospitals with which nonprofit  
988 hospital service corporations are authorized to contract;
- 989 (40) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to  
990 Independent Review Act";
- 991 (41) Code Section 33-21-29, relating to point-of-service option for persons offered health  
992 care coverage through a health maintenance organization;

- 993 (42) Code Section 33-21A-2, relating to definitions relative to Medicaid care  
994 management organizations;
- 995 (43) Code Section 33-21A-3, relating to certificates of authority for care management  
996 organizations;
- 997 (44) Code Section 33-21A-4, relating to reimbursement for emergency health care  
998 services;
- 999 (45) Code Section 33-21A-5, relating to requirements relating to critical access hospitals;
- 1000 (46) Code Section 33-21A-6, relating to coverage for newborn infants until discharged  
1001 from inpatient care;
- 1002 (47) Code Section 33-21A-7, relating to bundling of provider complaints and appeals;
- 1003 (48) Code Section 33-21A-8, relating to participation by dentists;
- 1004 (49) Code Section 33-21A-9, relating to submission and payment of claims;
- 1005 (50) Code Section 33-21A-11, relating to hospital statistical and reimbursement reports  
1006 from care management organizations;
- 1007 (51) Code Section 33-24-56.1, relating to reimbursement of medical expense or disability  
1008 benefit providers in personal injury cases;
- 1009 (52) Code Section 33-45-3, relating to certificate of authority requirement for operation  
1010 of continuing care facilities;
- 1011 (53) Code Section 36-42-3, relating to definitions relative to the "Downtown  
1012 Development Authorities Law";
- 1013 (54) Code Section 37-2-6.1, relating to community service boards;
- 1014 (55) Code Section 40-2-86.8, relating to special license plates supporting breast cancer  
1015 related programs for the medically indigent;
- 1016 (56) Code Section 40-2-86.21, relating to special license plates promoting certain  
1017 beneficial projects and supporting certain worthy agencies, funds, or nonprofit  
1018 corporations;
- 1019 (57) Code Section 42-5-2, relating to responsibilities of governmental unit with custody  
1020 of inmate generally;
- 1021 (58) Code Section 42-5-54, relating to information from inmates relating to medical  
1022 insurance;
- 1023 (59) Code Section 43-1B-6, relating to entities excepted from prohibitions as to financing  
1024 and referrals;
- 1025 (60) Code Section 43-34-24.1, relating to the Composite State Board of Medical  
1026 Examiners as an independent agency;
- 1027 (61) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced  
1028 practice registered nurse;

- 1029 (62) Code Section 43-34-27, relating to license requirement for persons engaged in  
1030 practice of medicine;
- 1031 (63) Code Section 44-14-470, relating to liens on causes of action accruing to injured  
1032 persons for costs of care and treatment of injuries arising out of such causes of action;
- 1033 (64) Code Section 45-18-15, relating to rules and regulations for the administration of  
1034 the state employees' health insurance plan;
- 1035 (65) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree  
1036 Health Benefit Fund;
- 1037 (66) Code Section 45-18-102, relating to responsibilities, duties, and powers of the  
1038 department, board, and commissioner of community health with regard to the Georgia  
1039 Retiree Health Benefit Fund;
- 1040 (67) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded  
1041 in determining eligibility for public assistance;
- 1042 (68) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1043 (69) Code Section 49-4-142, relating to the authorization of the Department of  
1044 Community Health to adopt and administer a state plan for medical assistance;
- 1045 (70) Code Section 49-4-146, relating to time for action on Medicaid claim;
- 1046 (71) Code Section 49-4-146.3, relating to forfeiture of property and proceeds obtained  
1047 through Medicaid fraud;
- 1048 (72) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against  
1049 assistance;
- 1050 (73) Code Section 49-4-147.2, relating to noneligibility of Department of Community  
1051 Health to obtain nor be liable for interest on orders, judgments, and liquidated or  
1052 unliquidated amounts;
- 1053 (74) Code Section 49-4-148, relating to recovery of assistance from third party liable for  
1054 sickness, injury, disease, or disability;
- 1055 (75) Code Section 49-4-149, relating to lien of Department of Community Health against  
1056 third parties;
- 1057 (76) Code Section 49-4-149.1, relating to submission by the Department of Community  
1058 Health of plan for family supplementation of Medicaid payments upon federal removal  
1059 of restrictions;
- 1060 (77) Code Section 49-4-150, relating to regulations as to maintenance and use of records;
- 1061 (78) Code Section 49-4-151, relating to obtaining information for investigations and  
1062 audits;
- 1063 (79) Code Section 49-4-152, relating to research and demonstration projects under  
1064 Medicaid;

- 1065 (80) Code Section 49-4-153, relating to administrative hearings and appeals under  
1066 Medicaid;
- 1067 (81) Code Section 49-4-156.1, relating to reimbursement of services rendered under  
1068 Article 5 of Chapter 6 of Title 49, relating to community care for the elderly;
- 1069 (82) Code Section 49-4-157, relating to construction of Article 7 of Chapter 4 of Title  
1070 49 with the federal Social Security Act;
- 1071 (83) Code Section 49-4-161, relating to definitions relative to the "Georgia Long-term  
1072 Care Partnership Program Act";
- 1073 (84) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
1074 Long-term Care Partnership Program;
- 1075 (85) Code Section 49-4-169.1, relating to definitions relative to therapy services for  
1076 children with disabilities;
- 1077 (86) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;
- 1078 (87) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids  
1079 Program;
- 1080 (88) Code Section 49-10-1, relating to the Georgia Board for Physician Workforce;
- 1081 (89) Code Section 50-13-9.1, relating to variances or waivers to agency rules;
- 1082 (90) Code Section 50-26-19, relating to financing acquisition, construction, and  
1083 equipping of health care facilities;
- 1084 (91) Code Section 51-2-5.1, relating to the relationship between hospital and health care  
1085 provider prerequisite to liability; and
- 1086 (92) Code Section 52-7-14, relating to collisions, accidents, and casualties relative to  
1087 watercraft.

## 1088 SECTION 1-5.

- 1089 The following Code sections of the Official Code of Georgia Annotated are amended by  
1090 replacing "Board of Community Health" wherever it occurs with "State Board of Health":
- 1091 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
1092 public school teachers;
- 1093 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
1094 public school employees;
- 1095 (3) Code Section 31-6-2, relating to definitions relative to state health planning and  
1096 development;
- 1097 (4) Code Section 31-6-21, relating to the Department of Community Health generally  
1098 relative to state health planning and development;
- 1099 (5) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
1100 related institutions;

- 1101 (6) Code Section 31-8-155, relating to promulgation of rules and regulations for funding  
1102 expansions of eligibility and indigent care programs;  
1103 (7) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1104 insurance plan;  
1105 (8) Code Section 45-18-12, relating to the creation of a health insurance fund for the  
1106 state employees' health insurance plan;  
1107 (9) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree Health  
1108 Benefit Fund;  
1109 (10) Code Section 49-4-141, relating to definitions relative to Medicaid;  
1110 (11) Code Section 49-4-143, relating to the power of the Board of Community Health  
1111 with respect to Medicaid;  
1112 (12) Code Section 49-4-150, relating to regulations as to maintenance and use of records;  
1113 (13) Code Section 49-4-153, relating to administrative hearings and appeals under  
1114 Medicaid; and  
1115 (14) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids  
1116 Program.

## 1117 SECTION 1-6.

- 1118 The following Code sections of the Official Code of Georgia Annotated are amended by  
1119 replacing "commissioner of community health" wherever it occurs with "commissioner of  
1120 health":  
1121 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
1122 public school teachers;  
1123 (2) Code Section 20-2-896, relating to the administrative discharge of certain debts due  
1124 the health insurance fund for public school teachers;  
1125 (3) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
1126 public school employees;  
1127 (4) Code Section 20-2-924, relating to the administrative discharge of certain debts due  
1128 the health insurance fund for public school employees;  
1129 (5) Code Section 30-1-5, relating to the definition of a "hearing impaired person";  
1130 (6) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
1131 related institutions;  
1132 (7) Code Section 31-21-5, relating to incineration or cremation of dead body or parts  
1133 thereof;  
1134 (8) Code Section 33-21A-3, relating to certificates of authority for care management  
1135 organizations;

- 1136 (9) Code Section 43-34-24.1, relating to the Composite State Board of Medical  
1137 Examiners as an independent agency;
- 1138 (10) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1139 insurance plan;
- 1140 (11) Code Section 45-18-12, relating to the creation of a health insurance fund for the  
1141 state employees' health insurance plan;
- 1142 (12) Code Section 45-18-13, relating to deposit of amounts from health insurance fund  
1143 available for investment in trust account;
- 1144 (13) Code Section 45-18-15, relating to rules and regulations relative to the state  
1145 employees' health insurance plan;
- 1146 (14) Code Section 45-18-16, relating to certification to departments and other entities of  
1147 the state of employer payment percentage for the ensuing fiscal year;
- 1148 (15) Code Section 45-18-18, relating to the discharge of certain debts or obligations due  
1149 the health insurance fund for employees of the state;
- 1150 (16) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree  
1151 Health Benefit Fund;
- 1152 (17) Code Section 49-4-144, relating to the chief administrative officer of the  
1153 Department of Community Health;
- 1154 (18) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against  
1155 assistance under Medicaid;
- 1156 (19) Code Section 49-4-148, relating to recovery of assistance from third party liable for  
1157 sickness, injury, disease, or disability under Medicaid;
- 1158 (20) Code Section 49-4-150, relating to regulations as to maintenance and use of records  
1159 relating to Medicaid;
- 1160 (21) Code Section 49-4-153, relating to administrative hearings and appeals under  
1161 Medicaid; and
- 1162 (22) Code Section 50-5-69, relating to purchases without competitive bidding by state  
1163 agencies.

1164 **SECTION 1-7.**

1165 The following Code sections of the Official Code of Georgia Annotated are amended by  
1166 replacing "Department of Human Resources" wherever it occurs with "Department of  
1167 Health":

- 1168 (1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors  
1169 in livestock;
- 1170 (2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of  
1171 exotic or pet birds;

- 1172 (3) Code Section 10-1-393, relating to unfair or deceptive practices in consumer  
1173 transactions which are deemed unlawful;
- 1174 (4) Code Section 12-2-8, relating to promulgation of minimum standards and procedures  
1175 for protection of natural resources, environment, and vital areas of the state;
- 1176 (5) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural  
1177 Resources of rules and regulations regarding parks, historic sites, and recreational areas;
- 1178 (6) Code Section 12-5-175, relating to fluoridation of public water systems;
- 1179 (7) Code Section 12-8-1, relating to notice of denial of individual sewage disposal  
1180 permits;
- 1181 (8) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury  
1182 Trust Fund Commission;
- 1183 (9) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;
- 1184 (10) Code Section 16-12-141, relating to when abortion is legal;
- 1185 (11) Code Section 17-10-15, relating to AIDS transmitting crimes;
- 1186 (12) Code Section 19-3-41, relating to preparation by the Department of Human  
1187 Resources of a marriage manual on family planning and other material;
- 1188 (13) Code Section 20-2-142, relating to prescribed courses in elementary and secondary  
1189 schools on alcohol, tobacco, and drug use;
- 1190 (14) Code Section 20-2-143, relating to sex education and AIDS prevention instruction  
1191 in elementary and secondary schools;
- 1192 (15) Code Section 20-2-144, relating to mandatory instruction in elementary and  
1193 secondary schools concerning alcohol and drug use;
- 1194 (16) Code Section 20-2-770, relating to rules and regulations for nutritional screening  
1195 and eye, ear, and dental examinations of students;
- 1196 (17) Code Section 20-2-771, relating to immunization of students in elementary and  
1197 secondary education;
- 1198 (18) Code Section 20-2-772, relating to rules and regulations for screening of students  
1199 for scoliosis;
- 1200 (19) Code Section 24-9-40, relating to when medical information may be released by a  
1201 physician, hospital, health care facility, or pharmacist;
- 1202 (20) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
- 1203 (21) Code Section 25-3-6, relating to the effect of certain laws relating to local fire  
1204 departments on the powers and duties of other officials and departments;
- 1205 (22) Code Section 26-2-371, relating to permits required for food service establishments;
- 1206 (23) Code Section 26-2-372, relating to the issuance of permits for food service  
1207 establishments;

- 1208 (24) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards  
1209 by the Department of Human Resources and county boards of health for food service  
1210 establishments;
- 1211 (25) Code Section 26-2-374, relating to contents and posting of notices relating to  
1212 assistance to persons choking;
- 1213 (26) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of  
1214 food service establishments;
- 1215 (27) Code Section 26-2-376, relating to review of final order or determination by  
1216 Department of Human Resources regarding regulation of a food service establishment;
- 1217 (28) Code Section 26-2-377, relating to penalties for violation of laws regarding the  
1218 regulation of food service establishments;
- 1219 (29) Code Section 26-3-18, relating to assistance in enforcement from Department of  
1220 Agriculture or Department of Human Resources with respect to standards, labeling, and  
1221 adulteration of drugs and cosmetics;
- 1222 (30) Code Section 26-4-85, relating to patient counseling by a pharmacist;
- 1223 (31) Code Section 26-4-116, relating to emergency service providers with respect to  
1224 dangerous drugs and controlled substances;
- 1225 (32) Code Section 26-4-172, relating to license requirements under the "Nuclear  
1226 Pharmacy Law";
- 1227 (33) Code Section 26-5-3, relating to definitions relative to the "Drug Abuse Treatment  
1228 and Education Act";
- 1229 (34) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1230 (35) Code Section 31-3-4, relating to powers of county boards of health;
- 1231 (36) Code Section 31-3-11, relating to appointments of director and staff of county board  
1232 of health;
- 1233 (37) Code Section 31-5-1, relating to adoption of rules and regulations by the  
1234 Department of Human Resources and county boards of health;
- 1235 (38) Code Section 31-5-9, relating to injunctions for enjoining violations of the  
1236 provisions of Title 31;
- 1237 (39) Code Section 31-5-20, relating to the definition of the term "inspection warrant"  
1238 with respect to enforcement of certain public health laws;
- 1239 (40) Code Section 31-5-21, relating to persons who may obtain inspection warrants;
- 1240 (41) Code Section 31-7-133, relating to confidentiality of review organization's records;
- 1241 (42) Code Section 31-7-172, relating to definitions relative to hospice care;
- 1242 (43) Code Section 31-7-175, relating to the administration of the article of the "Georgia  
1243 Hospice Law";

- 1244 (44) Code Section 31-8-1, relating to the establishment and purpose of the Hospital Care  
1245 for the Indigent Program;
- 1246 (45) Code Section 31-8-36, relating to state appropriations to the Nonresident Indigent  
1247 Health Care Fund;
- 1248 (46) Code Section 31-8-46, relating to investigation of violations by a hospital;
- 1249 (47) Code Section 31-8-193, relating to the establishment of a program to provide health  
1250 care services to low-income recipients;
- 1251 (48) Code Section 31-9A-4, relating to information to be made available by the  
1252 Department of Human Resources under the "Woman's Right to Know Act";
- 1253 (49) Code Section 31-9A-6, relating to reporting requirements under the "Woman's Right  
1254 to Know Act";
- 1255 (50) Code Section 31-10-1, relating to definitions relative to vital records;
- 1256 (51) Code Section 31-11-1, relating to findings of the General Assembly and declaration  
1257 of policy with respect to emergency medical services;
- 1258 (52) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
1259 to administration of the Emergency Medical Systems Communication Program;
- 1260 (53) Code Section 31-11-81, relating to definitions relative to emergency services;
- 1261 (54) Code Section 31-11-100, relating to definitions relative to the Georgia Trauma Care  
1262 Network Commission;
- 1263 (55) Code Section 31-11-101, relating to the creation of the Georgia Trauma Care  
1264 Network Commission;
- 1265 (56) Code Section 31-11-102, relating to the duties and responsibilities of the Georgia  
1266 Trauma Care Network Commission;
- 1267 (57) Code Section 31-11-110, relating to legislative findings relative to a system of  
1268 certified stroke centers;
- 1269 (58) Code Section 31-12-1, relating to the power to conduct research and studies relative  
1270 to the control of hazardous conditions, preventable diseases, and metabolic diseases;
- 1271 (59) Code Section 31-12A-9, relating to a continuing education program relative to the  
1272 "Georgia Smokefree Air Act of 2005";
- 1273 (60) Code Section 31-12A-10, relating to enforcement by the Department of Human  
1274 Resources and county boards of health of the "Georgia Smokefree Air Act of 2005";
- 1275 (61) Code Section 31-13-3, relating to definitions relative to the "Georgia Radiation  
1276 Control Act";
- 1277 (62) Code Section 31-13-4, relating to administration of state-wide radiation control  
1278 program for radiation generating equipment;

- 1279 (63) Code Section 31-13-5, relating to the powers and duties of the Department of  
1280 Human Resources and the Department of Natural Resources under the "Georgia  
1281 Radiation Control Act";  
1282 (64) Code Section 31-13-8.2, relating to licensing of diagnostic and therapeutic medical  
1283 uses of radioactive materials;  
1284 (65) Code Section 31-13-9, relating to records of use of radiation sources and exposure  
1285 of employees to radiation;  
1286 (66) Code Section 31-13-10, relating to suspension, revocation, and amendment of  
1287 license or registration of radiation generating equipment;  
1288 (67) Code Section 31-13-11, relating to impounding and condemnation of radiation  
1289 generating equipment and radioactive materials;  
1290 (68) Code Section 31-13-12, relating to the license requirements under the "Georgia  
1291 Radiation Control Act";  
1292 (69) Code Section 31-13-13, relating to penalties under the "Georgia Radiation Control  
1293 Act";  
1294 (70) Code Section 31-13-23, relating to transfer of powers and duties between the  
1295 Department of Natural Resources and the Department of Human Resources under the  
1296 "Georgia Radiation Control Act";  
1297 (71) Code Section 31-14-2, relating to petition for commitment of a person who has  
1298 active tuberculosis;  
1299 (72) Code Section 31-14-9, relating to procedure for securing discharge of a person  
1300 committed for active tuberculosis;  
1301 (73) Code Section 31-15-2, relating to the establishment of a program for the prevention,  
1302 control, and treatment of cancer;  
1303 (74) Code Section 31-16-2, relating to the establishment of a program for the prevention,  
1304 control, and treatment of kidney disease;  
1305 (75) Code Section 31-17-2, relating to the report of diagnosis or treatment to health  
1306 authorities of a case of venereal disease;  
1307 (76) Code Section 31-17-3, relating to examination and treatment by health authorities  
1308 for venereal disease;  
1309 (77) Code Section 31-17-4.2, relating to HIV pregnancy screening;  
1310 (78) Code Section 31-17A-2, relating to examination of persons infected or suspected  
1311 of being infected with HIV;  
1312 (79) Code Section 31-17A-3, relating to refusal to consent to an HIV test;  
1313 (80) Code Section 31-18-4, relating to the duties of the Brain and Spinal Injury Trust  
1314 Fund Commission;

- 1315 (81) Code Section 31-21-25, relating to bonds required prior to receiving unclaimed  
1316 bodies;
- 1317 (82) Code Section 31-22-2, relating to licenses to operate clinical laboratories;
- 1318 (83) Code Section 31-22-9.1, relating to who may perform HIV tests;
- 1319 (84) Code Section 31-22-9.2, relating to report of positive HIV tests;
- 1320 (85) Code Section 31-23-3, relating to hospitals or medical schools which may operate  
1321 eye banks;
- 1322 (86) Code Section 31-24-4, relating to labeling of containers of blood under "The Blood  
1323 Labeling Act";
- 1324 (87) Code Section 31-26-2, relating to the requirement of a certificate to practice  
1325 midwifery;
- 1326 (88) Code Section 31-27-2, relating to the requirement of a permit for a mass gathering;
- 1327 (89) Code Section 31-28-2, relating to issuance of permits to operate a tourist court;
- 1328 (90) Code Section 31-28-5, relating to standards for health, sanitation, and safety of  
1329 tourist courts;
- 1330 (91) Code Section 31-28-6, relating to inspection of premises of tourist courts;
- 1331 (92) Code Section 31-30-9, relating to effectiveness of chapter on reports on veterans  
1332 exposed to agent orange;
- 1333 (93) Code Section 31-34-5, relating to service cancelable loans under the "Physicians for  
1334 Rural Areas Assistance Act";
- 1335 (94) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
1336 emergency providers;
- 1337 (95) Code Section 31-40-2, relating to issuance of permits for tattoo studios;
- 1338 (96) Code Section 31-40-5, relating to rules and regulations relative to tattoo studios;
- 1339 (97) Code Section 31-40-6, relating to enforcement of chapter regulating tattoo studios;
- 1340 (98) Code Section 31-40-8, relating to a public education program relative to tattoo  
1341 studios;
- 1342 (99) Code Section 31-45-8, relating to inspections by the county board of health of  
1343 public swimming pools;
- 1344 (100) Code Section 31-45-9, relating to suspension or revocation of permit for a public  
1345 swimming pool;
- 1346 (101) Code Section 31-45-10, relating to rules and regulations relative to public  
1347 swimming pools;
- 1348 (102) Code Section 31-45-11, relating to enforcement of rules and regulations relative  
1349 to public swimming pools;
- 1350 (103) Code Section 31-46-4, relating to the Georgia Commission for Saving the Cure;

- 1351 (104) Code Section 33-24-59.7, relating to insurance coverage for the treatment of  
1352 morbidly obese patients;
- 1353 (105) Code Section 33-29-3.2, relating to individual accident and sickness insurance  
1354 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1355 (106) Code Section 33-30-4.2, relating to group accident and sickness insurance  
1356 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1357 (107) Code Section 33-44-3, relating to the creation of the Georgia High Risk Health  
1358 Insurance Plan;
- 1359 (108) Code Section 34-9-1, relating to definitions relative to workers' compensation;
- 1360 (109) Code Section 34-9-415, relating to testing under drug-free workplace programs;
- 1361 (110) Code Section 35-1-8, relating to acquisition, collection, classification, and  
1362 preservation of information assisting in identifying deceased persons and locating missing  
1363 persons;
- 1364 (111) Code Section 36-62-2, relating to definitions relative to the "Development  
1365 Authorities Law";
- 1366 (112) Code Section 38-3-22, relating to the Governor's emergency management powers  
1367 and duties;
- 1368 (113) Code Section 38-3-51, relating to emergency powers of the Governor;
- 1369 (114) Code Section 40-6-392, relating to chemical tests for alcohol or drugs in blood  
1370 relating to violations of driving under the influence of alcohol, drugs, or other  
1371 intoxicating substances;
- 1372 (115) Code Section 42-1-7, relating to notification to transporting law enforcement  
1373 agency of inmate's or patient's infectious or communicable disease;
- 1374 (116) Code Section 42-4-6, relating to confinement and care of tubercular inmates;
- 1375 (117) Code Section 42-4-32, relating to sanitation and health requirements for jails;
- 1376 (118) Code Section 43-10-6, relating to rules and regulations as to sanitary requirements  
1377 of beauty shops, beauty salons, schools of cosmetology, schools of esthetics, schools of  
1378 hair design, and schools of nail care;
- 1379 (119) Code Section 43-11-74, relating to direct supervision requirement of dental  
1380 hygienists by a licensed dentist;
- 1381 (120) Code Section 43-14-2, relating to definitions relative to the regulation of electrical  
1382 contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility  
1383 contractors;
- 1384 (121) Code Section 43-18-1, relating to definitions relative to the regulation of funeral  
1385 directors and establishments, embalmers, and crematories;

- 1386 (122) Code Section 43-18-46, relating to grounds for denial or revocation of license or  
1387 registration to operate a funeral establishment or to practice embalming or funeral  
1388 directing;
- 1389 (123) Code Section 43-27-1, relating to definitions relative to nursing home  
1390 administrators;
- 1391 (124) Code Section 43-34-26.1, relating to delegation of authority to nurse or physician's  
1392 assistant;
- 1393 (125) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced  
1394 practice registered nurse;
- 1395 (126) Code Section 43-34-103, relating to applications for utilization of physician's  
1396 assistants;
- 1397 (127) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1398 insurance plan;
- 1399 (128) Code Section 45-18-32, relating to administration of deferred compensation plans  
1400 for employees of the state;
- 1401 (129) Code Section 46-11-4, relating to regulation of transportation of hazardous  
1402 materials on public roads of the state generally;
- 1403 (130) Code Section 49-4-152.3, relating to reuse of unit dosage drugs under Medicaid;
- 1404 (131) Code Section 50-13-4, relating to procedural requirements for adoption,  
1405 amendment, or repeal of rules by a state agency;
- 1406 (132) Code Section 50-18-72, relating to when public disclosure is not required under  
1407 open records laws;
- 1408 (133) Code Section 50-18-76, relating to written matter exempt from disclosure under  
1409 vital records laws; and
- 1410 (134) Code Section 50-26-4, relating to definitions relative to the "Georgia Housing and  
1411 Finance Authority Act."

## 1412 SECTION 1-8.

- 1413 The following Code sections of the Official Code of Georgia Annotated are amended by  
1414 replacing "Board of Human Resources" wherever it occurs with "State Board of Health":
- 1415 (1) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1416 (2) Code Section 31-7-304, relating to fees on private home care providers;
- 1417 (3) Code Section 31-11-2, relating to definitions relative to emergency medical services;
- 1418 (4) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
1419 to administration of the Emergency Medical Systems Communication Program;
- 1420 (5) Code Section 31-11-31.1, relating to license fees on ambulance services;

1421 (6) Code Section 31-12-14, relating to breast cancer, prostate cancer, and ovarian cancer  
1422 research program fund;  
1423 (7) Code Section 31-22-1, relating to definitions relative to clinical laboratories;  
1424 (8) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
1425 member on the State Board of Pardons and Paroles; and  
1426 (9) Code Section 43-7-9, relating to general powers and duties of the State Board of  
1427 Barbers.

## 1428 SECTION 1-9.

1429 The following Code sections of the Official Code of Georgia Annotated are amended by  
1430 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
1431 health":

- 1432 (1) Code Section 8-2-24, relating to appointment of advisory committee relating to state  
1433 building, plumbing, and electrical codes;
- 1434 (2) Code Section 12-5-524, relating to the creation of the Water Council;
- 1435 (3) Code Section 16-12-141, relating to when abortion is legal;
- 1436 (4) Code Section 16-12-141.1, relating to disposal of aborted fetuses;
- 1437 (5) Code Section 21-2-231, relating to lists of persons convicted of felonies, persons  
1438 declared mentally incompetent, and deceased persons provided to Secretary of State with  
1439 respect to registration of voters;
- 1440 (6) Code Section 26-2-393, relating to enforcement of article relating to nonprofit food  
1441 sales and food service;
- 1442 (7) Code Section 31-7-176.1, relating to determination or pronouncement of death of a  
1443 patient in hospice care;
- 1444 (8) Code Section 31-8-32, relating to determination of indigency for hospital care for  
1445 nonresidents;
- 1446 (9) Code Section 31-8-43, relating to determination of indigency for hospital care for  
1447 pregnant women;
- 1448 (10) Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to  
1449 Know Act";
- 1450 (11) Code Section 31-10-1, relating to definitions relative to vital records;
- 1451 (12) Code Section 31-11-2, relating to definitions relative to emergency medical  
1452 services;
- 1453 (13) Code Section 31-11-36, relating to suspension or revocation of licenses for  
1454 ambulance services;
- 1455 (14) Code Section 31-16-3, relating to functions of the Kidney Disease Advisory  
1456 Committee;

- 1457 (15) Code Section 31-27-7, relating to emergency powers of the Governor regarding  
1458 mass gatherings;
- 1459 (16) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
1460 emergency responders;
- 1461 (17) Code Section 31-36A-7, relating to petition for health care placement transfer,  
1462 admission, or discharge order by health care facility;
- 1463 (18) Code Section 33-20B-3.1, relating to health maintenance organizations' expansion  
1464 into rural areas;
- 1465 (19) Code Section 33-21-3, relating to grounds and procedure for issuance or denial of  
1466 certificate of authority for a health maintenance organization;
- 1467 (20) Code Section 33-21-5, relating to suspension or revocation of certificate of authority  
1468 for a health maintenance organization;
- 1469 (21) Code Section 33-21-15, relating to filing of annual reports by health maintenance  
1470 organizations;
- 1471 (22) Code Section 33-21-17, relating to examinations of health maintenance  
1472 organizations and providers;
- 1473 (23) Code Section 33-21-18, relating to adoption of rules and regulations generally  
1474 relative to health maintenance organizations;
- 1475 (24) Code Section 33-21-20, relating to conduct of hearings generally relative to health  
1476 maintenance organizations;
- 1477 (25) Code Section 33-21-21, relating to authority of commissioner of human resources  
1478 to contract for making of recommendations required by health maintenance organizations  
1479 laws;
- 1480 (26) Code Section 33-21-27, relating to enforcement of health maintenance organizations  
1481 laws;
- 1482 (27) Code Section 38-2-10, relating to use of National Guard in drug law enforcement,  
1483 provision of medical care in medically underserved areas, and for youth opportunity  
1484 training programs;
- 1485 (28) Code Section 42-4-32, relating to sanitation and health requirements in jails  
1486 generally;
- 1487 (29) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
1488 member on the State Board of Pardons and Paroles;
- 1489 (30) Code Section 43-1A-4, relating to the Occupational Regulation Review Council;
- 1490 (31) Code Section 43-27-2, relating to creation of the State Board of Nursing Home  
1491 Administrators;
- 1492 (32) Code Section 43-45-3, relating to creation of the State Structural Pest Control  
1493 Commission;

- 1494 (33) Code Section 45-9-73, relating to the creation of the Georgia Public School  
1495 Personnel Indemnification Commission; and  
1496 (34) Code Section 45-9-83, relating to the creation of the Georgia State Indemnification  
1497 Commission.

1498 **SECTION 1-10.**

1499 The following Code sections of the Official Code of Georgia Annotated are amended by  
1500 replacing "Chapter 5A of Title 31" wherever it occurs with "Chapter 2 of Title 31":

- 1501 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
1502 public school teachers;  
1503 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
1504 public school employees;  
1505 (3) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to  
1506 Independent Review Act";  
1507 (4) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1508 insurance plan;  
1509 (5) Code Section 49-4-141, relating to definitions relative to Medicaid;  
1510 (6) Code Section 49-4-142, relating to the authorization of the Department of  
1511 Community Health to adopt and administer a state plan for medical assistance;  
1512 (7) Code Section 49-4-143, relating to the power of the Board of Community Health with  
1513 respect to Medicaid; and  
1514 (8) Code Section 49-4-144, relating to the chief administrative officer of the Department  
1515 of Community Health.

1516 **SECTION 1-11.**

1517 The following Code sections of the Official Code of Georgia Annotated are amended by  
1518 replacing "Chapter 5A of this title" wherever it occurs with "Chapter 2 of this title":

- 1519 (1) Code Section 31-6-2, relating to definitions relative to state health planning and  
1520 development;  
1521 (2) Code Section 31-6-21, relating to the Department of Community Health generally  
1522 under state health planning and development;  
1523 (3) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act;"  
1524 (4) Code Section 31-8-151, relating to definitions relative to the indigent care trust fund;  
1525 (5) Code Section 31-8-162, relating to definitions relative to nursing home provider fees;  
1526 and  
1527 (6) Code Section 31-8-171, relating to definitions relative to quality assessment fees on  
1528 care management organizations.

**SECTION 1-12.**

1529 The following Code sections of the Official Code of Georgia Annotated are amended by  
1530 replacing "Code Section 31-2-6" wherever it occurs with "Code Section 31-2-11":  
1531  
1532 (1) Code Section 25-2-40, relating to smoke detectors required in new dwellings and  
1533 dwelling units;  
1534 (2) Code Section 31-7-2.1, relating to rules and regulations relative to regulation of  
1535 hospitals and related institutions;  
1536 (3) Code Section 31-7-302, relating to rules and regulations relative to private home care  
1537 providers;  
1538 (4) Code Section 31-8-60, relating to retaliation against a resident of a long-term care  
1539 facility and prohibition against interference with the ombudsman;  
1540 (5) Code Section 31-8-135, relating to hearings under the "Remedies for Residents of  
1541 Personal Care Homes Act";  
1542 (6) Code Section 31-11-9, relating to enforcement of emergency medical services laws;  
1543 and  
1544 (7) Code Section 31-44-11, relating to the authority of the Department of Human  
1545 Resources to deal with violations of renal disease facilities laws.

**SECTION 1-13.**

1546 The following Code sections of the Official Code of Georgia Annotated are amended by  
1547 replacing "Code Section 31-2-7" wherever it occurs with "Code Section 31-2-12":  
1548  
1549 (1) Code Section 31-3-5, relating to functions of county boards of health;  
1550 (2) Code Section 31-3-5.1, relating to conformity prerequisite to building permit; and  
1551 (3) Code Section 50-13-4, relating to procedural requirements for adoption, amendment,  
1552 or repeal of rules.

**SECTION 1-14.**

1553 Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or  
1554 deceptive practices in consumer transactions which are deemed unlawful, is amended by  
1555 revising paragraph (26) of subsection (b) as follows:  
1556  
1557 "(26) With respect to any individual or facility providing personal care services:  
1558 (A) Any person or entity not duly licensed or registered as a personal care home  
1559 formally or informally offering, advertising to, or soliciting the public for residents or  
1560 referrals;  
1561 (B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12,  
1562 offering, advertising, or soliciting the public to provide services:  
1563 (i) Which are outside the scope of personal care services; and

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

Nothing in this subparagraph prohibits advertising by a personal care home for services authorized by the Department of ~~Human Resources~~ Health under a waiver or variance pursuant to subsection (b) of Code Section ~~31-2-4~~ 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.

The provisions of this paragraph shall be enforced following consultation with the Department of Human Resources Health which shall retain primary responsibility for issues relating to licensure of any individual or facility providing personal care services;"

## **SECTION 1-15.**

Code Section 12-8-41 of the Official Code of Georgia Annotated, relating to permits issued by the Department of Natural Resources for land disposal sites, is amended as follows:

"12-8-41.

The department shall provide by rule or regulation for the regulation and permitting of any land disposal site that receives septic tank waste from any one or more septic tank pumping and hauling businesses. Any new permit issued for such type of site on or after July 1, 2007, shall be issued by the department under this Code section. Any such type of site that as of June 30, 2007, operated under a valid permit issued on or before such date by the Department of Human Resources (now known as the Department of Health for these purposes) under Code Section ~~31-2-8~~ 31-2-13 may continue to operate under such Code section until July 1, 2012, but a permit shall be obtained from the department under this Code section prior to such date in order to continue such operation thereafter."

## **SECTION 1-16.**

Code Section 15-11-66.1 of the Official Code of Georgia Annotated, relating to disposition of a child committing delinquent act constituting AIDS transmitting crime, is amended by revising subsection (e) as follows:

"(e) If a child is required by this Code section to submit to an HIV test and is thereby determined to be infected with HIV, that determination and the name of the child shall be deemed to be AIDS confidential information and shall be reported to:

(1) The Department of Juvenile Justice or the Department of Corrections, as the case may be, and the Department of ~~Human~~ Resources Health, the latter of which may disclose the name of the child if necessary to provide and shall provide counseling to each victim of that child's AIDS transmitting crime or to any parent or guardian of any

victim who is a minor or incompetent person, if the Department of Juvenile Justice or the Department of Corrections believes the crime posed a reasonable risk of transmitting HIV to the victim;

(2) The court which ordered the HIV test; and

(3) Those persons in charge of any facility to which the child has been confined by order of the court. In addition to any other restrictions regarding the confinement of children, a child determined to be an HIV infected person may be confined in that facility separately from any other children in that facility other than those who have been determined to be infected with HIV if:

(A) That child is reasonably believed to be sexually active while confined;

(B) That child is reasonably believed to be sexually predatory either during or prior to detention; or

(C) The commissioner of juvenile justice or the commissioner of corrections, as the case may be, reasonably determines that other circumstances or conditions exist which indicate that separate confinement would be warranted."

## **SECTION 1-17.**

Code Section 15-21-143 of the Official Code of Georgia Annotated, relating to appointment of members and personnel of the Brain and Spinal Injury Trust Fund Commission, is amended as follows:

"15-21-143.

(a) The Brain and Spinal Injury Trust Fund Commission shall consist of 15 members who shall serve for terms of two years, except that with respect to the first members appointed, five members shall be appointed for a term of three years, five for a term of two years, and five for a term of one year. The following agencies may each appoint one member of the commission:

(1) The Division of Rehabilitation Services of the Department of Labor;

(2) The State Board of Education;

(3) The Department of Public Safety;

(4) The Department of Community Health; and

(5) The Department of Human Resources Services.

The remaining ten members of the commission shall be appointed by the Governor, seven of whom shall be citizens who have sustained brain or spinal cord injury or members of such persons' immediate families, no more than one of whom shall reside in the same geographic area of the state which constitutes a health district established by the Department of Human Resources Health. The Governor is authorized but not required to appoint the remaining three members from recommendations submitted by the Private

1635 Rehabilitation Suppliers of Georgia, the Georgia Hospital Association, the Brain Injury  
1636 Association of Georgia, the Medical Association of Georgia, and the Georgia State Medical  
1637 Association. The Governor shall also establish initial terms of office for all 15 members  
1638 of the board within the limitations of this subsection.

1639 (b) In the event of death, resignation, disqualification, or removal for any reason of any  
1640 member of the commission, the vacancy shall be filled in the same manner as the original  
1641 appointment and the successor shall serve for the unexpired term.

1642 (c) Membership on the commission does not constitute public office, and no member shall  
1643 be disqualified from holding public office by reason of his or her membership.

1644 (d) The Governor shall designate a chairperson of the commission from among the  
1645 members, which chairperson shall serve in that position at the pleasure of the Governor.  
1646 The commission may elect such other officers and committees as it considers appropriate.

1647 (e) The commission, with the approval of the Governor, may employ such professional,  
1648 technical, or clerical personnel as deemed necessary to carry out the purposes of this  
1649 chapter."

## 1650 SECTION 1-18.

1651 Code Section 17-18-1 of the Official Code of Georgia Annotated, relating to duty of certain  
1652 officials to offer written statement of information to victims of rape or forcible sodomy, is  
1653 amended as follows:

1654 "17-18-1.

1655 When any employee of the ~~Department of Human Resources, Department of Human~~  
1656 ~~Services, Department of Health, Department of Behavioral Health,~~ a law enforcement  
1657 agency, or a court has reason to believe that he or she in the course of official duties is  
1658 speaking to an adult who is or has been a victim of a violation of Code Section 16-6-1,  
1659 relating to rape, or Code Section 16-6-2, relating to aggravated sodomy, such employee  
1660 shall offer or provide such adult a written statement of information for victims of rape or  
1661 aggravated sodomy. Such written statement shall, at a minimum, include the information  
1662 set out in Code Section 17-18-2 and may include additional information regarding  
1663 resources available to victims of sexual assault. Information for victims of rape or  
1664 aggravated sodomy may be provided in any language."

## 1665 SECTION 1-19.

1666 Code Section 19-3-35.1 of the Official Code of Georgia Annotated, relating to AIDS  
1667 brochures for applicants for a marriage license, is amended by revising subsection (b) as  
1668 follows:

1669 "(b) The Department of Human Resources Department of Health shall prepare a brochure  
1670 describing AIDS, HIV, and the dangers, populations at risk, risk behaviors, and prevention  
1671 measures relating thereto. That department shall also prepare a listing of sites at which  
1672 confidential and anonymous HIV tests are provided without charge. That department shall  
1673 further prepare a form for acknowledging that the brochures and listings have been  
1674 received, as required by subsection (c) of this Code section. The brochures, listings, and  
1675 forms prepared by the Department of Health (formerly known as the Department of Human  
1676 Resources for these purposes) under this subsection shall be prepared and furnished to the  
1677 office of each judge of the probate court no later than October 1, 1988."

## **SECTION 1-20.**

1679 Code Section 19-13-32 of the Official Code of Georgia Annotated, relating to the  
1680 membership, terms, filling of vacancies, and officers of the State Commission on Family  
1681 Violence, is amended by revising paragraph (1) of subsection (a) as follows:

1682 "(1) Three ex officio members shall be the director of the Division of Family and Children  
1683 Services of the Department of Human Services, the director of Women's Health Services  
1684 in the division of public health of the Department of Human Resources Health, and the  
1685 Attorney General;"

## **SECTION 1-21.**

1687 Code Section 19-15-4 of the Official Code of Georgia Annotated, relating to Georgia Child  
1688 Fatality Review Panel, is amended by revising subsection (c) as follows:

1689 "(c) The panel shall be composed as follows:

1690 (1) One district attorney appointed by the Governor;

1691 (2) One juvenile court judge appointed by the Governor;

1692 (3) Two citizen members who shall be appointed by the Governor, who are not employed  
1693 by or officers of the state or any political subdivision thereof and one of whom shall come  
1694 from each of the following: (A) a state-wide child abuse prevention organization; and (B)  
1695 a state-wide childhood injury prevention organization;

1696 (4) One forensic pathologist appointed by the Governor;

1697 (5) The chairperson of the Board of Human Resources Services;

1698 (6) The director of the Division of Family and Children Services of the Department of  
1699 Human Resources Services;

1700 (7) The director of the Georgia Bureau of Investigation;

1701 (8) The chairperson of the Criminal Justice Coordinating Council;

1702 (9) A member of the Georgia Senate appointed by the Lieutenant Governor;

- 1703 (10) A member of the Georgia House of Representatives appointed by the Speaker of the  
1704 House of Representatives;  
1705 (11) A local law enforcement official appointed by the Governor;  
1706 (12) A superior court judge appointed by the Governor;  
1707 (13) A coroner appointed by the Governor;  
1708 (14) The Child Advocate for the Protection of Children;  
1709 (15) The director of the Division of Public Health of the Department of ~~Human~~  
1710 ~~Resources~~ Health; and  
1711 (16) The ~~director~~ commissioner of the ~~Division of Mental Health, Developmental~~  
1712 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ behavioral  
1713 health."

1714 **SECTION 1-22.**

1715 Code Section 20-2-260 of the Official Code of Georgia Annotated, relating to capital outlay  
1716 funds generally, is amended by revising paragraphs (5) and (8) of subsection (c) as follows:  
1717 "(5) To develop a state-wide needs assessment for purposes of planning and developing  
1718 policies, anticipating state-wide needs for educational facilities, and providing assistance  
1719 to local school systems in developing educational facilities plans. The state-wide needs  
1720 assessment shall be developed from, among other sources, vital statistics published by the  
1721 Department of ~~Human~~ Resources Health, census data published by the Bureau of the  
1722 Census, local school system educational facilities and real property inventories, educational  
1723 facilities surveys, full-time equivalent student projection research, and educational facilities  
1724 construction plans; shall reflect circumstances where rapid population growth is caused by  
1725 factors not reflected in full-time equivalent student projection research; and shall give  
1726 priority to elementary school construction. In addition, the state board shall develop a  
1727 consistent, systematic research approach to full-time equivalent student projections which  
1728 will be used in the development of needs within each local unit. Projections shall not be  
1729 confined to full-time equivalent resident students but shall be based on full-time equivalent  
1730 student counts which include full-time equivalent nonresident students, whether or not such  
1731 full-time equivalent nonresident students attend school pursuant to a contract between local  
1732 school systems. The full-time equivalent projection shall be calculated in accordance with  
1733 subsection (m) of this Code section. The survey team will use such projections in  
1734 determining the improvements needed for the five-year planning period. The state board  
1735 shall also develop schedules for allowable square footage and cost per square foot and  
1736 review these schedules annually. The cost estimate for each recommended improvement  
1737 included in the plan shall be based on these schedules. Any increase in cost or square  
1738 footage for a project beyond that allowed by state board schedules for such projects shall

1739 be the responsibility of the local school system and shall not count toward present or future  
1740 required local participation. The schedules for allowable square footage and cost per  
1741 square foot shall be specified in regulations by the State Board of Education;"  
1742 "(8) To coordinate construction project reviews with the state fire marshal's office and the  
1743 Department of ~~Human Resources~~ Health;"

1744 **SECTION 1-23.**

1745 Code Section 26-4-192 of the Official Code of Georgia Annotated, relating to the state-wide  
1746 program for distribution of unused prescription drugs for the benefit of medically indigent  
1747 persons, is amended as follows:

1748 "26-4-192.

1749 (a) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the  
1750 Department of ~~Community~~ Health shall jointly develop and implement a state-wide  
1751 program consistent with public health and safety standards through which unused  
1752 prescription drugs, other than prescription drugs defined as controlled substances, may be  
1753 transferred from health care facilities to pharmacies designated or approved by the  
1754 Department of ~~Human Resources~~ Health for the purpose of distributing such drugs to  
1755 residents of this state who are medically indigent persons.

1756 (b) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the  
1757 Department of ~~Community~~ Health shall be authorized to develop and implement a pilot  
1758 program to determine the safest and most beneficial manner of implementing the program  
1759 prior to the state-wide implementation of the program required in subsection (a) of this  
1760 Code section.

1761 (c) The Georgia State Board of Pharmacy, in consultation with ~~the Department of Human~~  
1762 ~~Resources~~ and the Department of ~~Community~~ Health, shall develop and promulgate rules  
1763 and regulations to establish procedures necessary to implement the program and pilot  
1764 program, if applicable, provided for in this Code section. The rules and regulations shall  
1765 provide, at a minimum:

- 1766 (1) For an inclusionary formulary for the prescription drugs to be distributed pursuant  
1767 to the program;
- 1768 (2) For the protection of the privacy of the individual for whom a prescription drug was  
1769 originally prescribed;
- 1770 (3) For the integrity and safe storage and safe transfer of the prescription drugs, which  
1771 may include, but shall not be limited to, limiting the drugs made available through the  
1772 program to those that were originally dispensed by unit dose or an individually sealed  
1773 dose and that remain in intact packaging; provided, however, that the rules and  
1774 regulations shall authorize the use of any remaining prescription drugs;

1775 (4) For the tracking of and accountability for the prescription drugs; and  
1776 (5) For other matters necessary for the implementation of the program.  
1777 (d) The state-wide program required by this Code section shall be implemented no later  
1778 than January 1, 2007, unless a pilot program is implemented pursuant to subsection (b) of  
1779 this Code section, in which case state-wide implementation shall occur no later than July  
1780 1, 2008."

## **SECTION 1-24.**

1782 Code Section 31-5-2 of the Official Code of Georgia Annotated, relating to hearings of the  
1783 Department of Human Resources, is amended as follows:

1784 "31-5-2.

1785 (a) Hearings shall be required with respect to for any and all quasi-judicial actions and in  
1786 any other proceeding required by this title or the Constitution of Georgia. All such hearings  
1787 shall be conducted as provided in this Code section in accordance with Chapter 13 of Title  
1788 50, the 'Georgia Administrative Procedure Act.'

1789 (b) Where hearing is required or afforded, notice thereof as provided in this Code section  
1790 shall be given in person or by registered or certified mail or statutory overnight delivery  
1791 to all interested parties; provided, however, in proceedings where the number of interested  
1792 parties is so numerous as to make individual notice impracticable, notice shall be given by  
1793 publication or by such other means reasonably calculated to afford actual notice as may be  
1794 prescribed by the agency or person conducting such hearing. All notices shall state (1) the  
1795 time and place of hearing and nature thereof and (2) the matters of fact and law asserted  
1796 and must be given at least five days before the day set for hearing unless the agency  
1797 determines that an imminent threat to the public health exists which requires shorter notice.

1798 (c) All interested parties at such hearings shall have, upon request, compulsory process as  
1799 provided in Code Section 31-5-4 and shall have the right to adduce evidence and conduct  
1800 cross-examination of all adverse witnesses. Any member of the department or county  
1801 boards of health, as the case may be, their authorized officials or agents, or any attorney  
1802 at law may administer oaths to all witnesses. No witness shall be abused while under  
1803 examination or required to incriminate himself. Where possible, all evidence and  
1804 proceedings shall be reported.

1805 (d) The department is authorized and empowered to employ and appoint hearing  
1806 examiners to conduct hearings, issue compulsory process, administer oaths, and submit  
1807 their findings and recommendations to the appointing agency; provided, however, that any  
1808 such examiner shall be a member in good standing of the State Bar of Georgia. A county  
1809 board of health is authorized and empowered to direct its director or the director's  
1810 appointee to conduct hearings, issue compulsory process, administer oaths, and submit his

1811 findings and recommendations to the county board of health. In both of such cases, the  
1812 examiner and director or the director's appointee shall make the report available to all  
1813 interested parties, and such parties are permitted to file written exception thereto prior to  
1814 final decision thereon."

1815 **SECTION 1-25.**

1816 Code Section 31-6-21.1 of the Official Code of Georgia Annotated, relating to procedures  
1817 for rule making by the Department of Community Health, is amended by adding a new  
1818 subsection to the end of the Code section to read as follows:

1819 "(j) This Code section shall apply only to rules adopted pursuant to this chapter."

1820 **SECTION 1-26.**

1821 Code Section 31-6-40 of the Official Code of Georgia Annotated, relating to a certificate of  
1822 need required for new institutional health services, is amended by revising paragraph (1) of  
1823 subsection (c) as follows:

1824 "(c)(1) Any person who had a valid exemption granted or approved by the former Health  
1825 Planning Agency or the former Department of Community Health (now known as the  
1826 Department of Health) prior to July 1, 2008, shall not be required to obtain a certificate of  
1827 need in order to continue to offer those previously offered services."

1828 **SECTION 1-27.**

1829 Code Section 31-6-48 of the Official Code of Georgia Annotated, relating to the abolishment  
1830 of prior entities and the transfer of contractual obligations, is amended as follows:

1831 "31-6-48.

1832 The State Health Planning and Development Agency, the State-wide Health Coordinating  
1833 Council, and the State Health Planning Review Board existing immediately prior to July  
1834 1, 1983, are abolished, and their respective successors on and after July 1, 1983, shall be  
1835 the Health Planning Agency, the Health Policy Council, and the Health Planning Review  
1836 Board, as established in this chapter, except that on and after July 1, 1991, the Health  
1837 Strategies Council shall be the successor to the Health Policy Council, and except that on  
1838 and after July 1, 1999, the Department of Community Health (now known as the  
1839 Department of Health) shall be the successor to the Health Planning Agency, and except  
1840 that on and after July 1, 2008, the Board of Community Health (now known as the State  
1841 Board of Health) shall be the successor to the duties of the Health Strategies Council with  
1842 respect to adoption of the state health plan, and except that on June 30, 2008, the Health  
1843 Planning Review Board is abolished and the terms of all members on such board on such  
1844 date shall automatically terminate and the Certificate of Need Appeal Panel shall be the

1845 successor to the duties of the Health Planning Review Board on such date. For purposes  
1846 of any existing contract with the federal government, or federal law referring to such  
1847 abolished agency, council, or board, the successor department, council, or board  
1848 established in this chapter or in Chapter ~~5A~~ 2 of this title shall be deemed to be the  
1849 abolished agency, council, or board and shall succeed to the abolished agency's, council's,  
1850 or board's functions. The State Health Planning and Development Commission is  
1851 abolished."

## 1852 SECTION 1-28.

1853 Code Section 31-6-49 of the Official Code of Georgia Annotated, relating to transitional  
1854 provisions with respect to the certificate of need program, is amended as follows:

1855 "31-6-49.

1856 All matters transferred to the Health Planning Agency by the previously existing provisions  
1857 of this Code section and that are in effect on June 30, 1999, shall automatically be  
1858 transferred to the Department of Community Health (now known as the Department of  
1859 Health) on July 1, 1999. All matters of the Health Planning Review Board that are pending  
1860 on June 30, 2008, shall automatically be transferred to the Certificate of Need Appeal Panel  
1861 established pursuant to Code Section 31-6-44."

## 1862 SECTION 1-29.

1863 Code Section 31-7-2.2 of the Official Code of Georgia Annotated, relating to determination  
1864 that patients or residents in an institution, community living arrangement, or treatment  
1865 program are in danger, is amended as follows:

1866 "31-7-2.2.

1867 (a)(1) The commissioner may order the emergency relocation of patients or residents  
1868 from an institution subject to licensure under this chapter; ~~a community living~~  
1869 ~~arrangement subject to licensure under paragraph (16) of subsection (b) and subsection~~  
1870 ~~(c) of Code Section 37-1-20;~~ or a drug abuse treatment and education program subject to  
1871 licensure under Chapter 5 of Title 26 when the commissioner has determined that the  
1872 patients or residents are subject to an imminent and substantial danger.

1873 (2) When an order is issued under this subsection, the commissioner shall provide for:

1874 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her  
1875 physician of the emergency relocation and the reasons therefor;  
1876 (B) Relocation to the nearest appropriate institution, ~~community living arrangement,~~  
1877 or drug abuse treatment and education program; and  
1878 (C) Other protection designed to ensure the welfare and, when possible, the desires of  
1879 the patient or resident.

1880       (b)(1) The commissioner may order the emergency placement of a monitor in an  
1881 institution subject to licensure under this chapter, ~~a community living arrangement~~  
1882 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~  
1883 ~~Section 37-1-20~~, or a drug abuse treatment and education program subject to licensure  
1884 under Chapter 5 of Title 26 when one or more of the following conditions are present:

- 1885           (A) The institution, ~~community living arrangement~~, or drug abuse treatment and  
1886 education program is operating without a permit or a license;  
1887           (B) The department has denied application for a permit or a license or has initiated  
1888 action to revoke the existing permit or license of the institution, ~~community living~~  
1889 ~~arrangement~~, or drug abuse treatment and education program;  
1890           (C) The institution, ~~community living arrangement~~, or drug abuse treatment and  
1891 education program is closing or plans to close and adequate arrangements for relocation  
1892 of the patients or residents have not been made at least 30 days before the date of  
1893 closure; or  
1894           (D) The health, safety, security, rights, or welfare of the patients or residents cannot  
1895 be adequately assured by the institution, ~~community living arrangement~~, or drug abuse  
1896 treatment and education program.

1897       (2) A monitor may be placed, pursuant to this subsection, in an institution, ~~community~~  
1898 ~~living arrangement~~, or drug abuse treatment and education program for no more than ten  
1899 days, during which time the monitor shall observe conditions and compliance with any  
1900 recommended remedial action of the department by the institution, ~~community living~~  
1901 ~~arrangement~~, or drug abuse treatment and education program. The monitor shall report  
1902 to the department. The monitor shall not assume any administrative responsibility within  
1903 the institution, ~~community living arrangement~~, or drug abuse treatment and education  
1904 program nor shall the monitor be liable for any actions of the institution, ~~community~~  
1905 ~~living arrangement~~, or drug abuse treatment and education program. The costs of placing  
1906 a monitor in an institution, ~~community living arrangement~~, or drug abuse treatment and  
1907 education program shall be paid by the institution, ~~community living arrangement~~, or  
1908 drug abuse treatment and education program unless the order placing the monitor is  
1909 determined to be invalid in a contested case proceeding under subsection (d) of this Code  
1910 section, in which event the costs shall be paid by the state.

1911       (c)(1) The commissioner may order the emergency prohibition of admissions to an  
1912 institution subject to licensure under this chapter, ~~a community living arrangement~~  
1913 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~  
1914 ~~Section 37-1-20~~, or program subject to licensure under Chapter 5 of Title 26 when ~~an~~  
1915 ~~such~~ institution, ~~community living arrangement~~, or drug abuse treatment and education  
1916 program has failed to correct a violation of departmental permit rules or regulations

within a reasonable period of time, as specified in the department's corrective order, and the violation:

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

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

(2) Admission to an institution, ~~community living arrangement~~, or drug abuse treatment and education program may be suspended until the violation has been corrected or until the department has determined that the institution, ~~community living arrangement~~, or drug abuse treatment and education program has undertaken the action necessary to effect 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 1-30.**

Code Section 31-7-12 of the Official Code of Georgia Annotated, relating to regulation of personal care homes, is amended by revising paragraph (1) of subsection (a) as follows:

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

1952 include host homes, as defined in paragraph ~~(16)(19)~~ of subsection (b) of Code Section  
1953 ~~37-1-20 49-2-6.~~"

## 1954 SECTION 1-31.

1955 Code Section 31-7-17 of the Official Code of Georgia Annotated, relating to licensure and  
1956 regulation of hospitals and related institutions transferred to Department of Community  
1957 Health, is amended as follows:

1958 "31-7-17.

1959 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of hospitals  
1960 and related institutions pursuant to this article shall be transferred from the Department of  
1961 Human Resources (now known as the Department of Human Services) to the Department  
1962 of Community Health.

1963 (b) The Department of Community Health shall succeed to all rules, regulations, policies,  
1964 procedures, and administrative orders of the Department of Human Resources that are in  
1965 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
1966 relate to the functions transferred to the Department of Community Health pursuant to this  
1967 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
1968 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
1969 which relate to the functions transferred to the Department of Community Health pursuant  
1970 to this Code section. Such rules, regulations, policies, procedures, and administrative  
1971 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
1972 Department of Community Health by proper authority or as otherwise provided by law.

1973 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
1974 agreements, and other transactions entered into before July 1, 2009, by the Department of  
1975 Human Resources which relate to the functions transferred to the Department of  
1976 Community Health pursuant to this Code section shall continue to exist; and none of these  
1977 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
1978 transfer of the functions to the Department of Community Health. In all such instances,  
1979 the Department of Community Health shall be substituted for the Department of Human  
1980 Resources, and the Department of Community Health shall succeed to the rights and duties  
1981 under such contracts, leases, agreements, and other transactions.

1982 (d) All persons employed by the Department of Human Resources in capacities which  
1983 relate to the functions transferred to the Department of Community Health pursuant to this  
1984 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
1985 Department of Community Health in similar capacities, as determined by the commissioner  
1986 of Community health. Such employees shall be subject to the employment practices and  
1987 policies of the Department of Community Health on and after July 1, 2009, but the

1988 compensation and benefits of such transferred employees shall not be reduced as a result  
1989 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
1990 thereby under the State Merit System of Personnel Administration and who are transferred  
1991 to the department shall retain all existing rights under the State Merit System of Personnel  
1992 Administration. Retirement rights of such transferred employees existing under the  
1993 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
1994 shall not be impaired or interrupted by the transfer of such employees and  
1995 membership in any such retirement system shall continue in the same status possessed by  
1996 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
1997 said employees on June 30, 2009, shall be retained by said employees as employees of the  
1998 Department of Community Health."

### **SECTION 1-32.**

2000 Code Section 31-7-95 of the Official Code of Georgia Annotated, relating to funding of  
2001 medical education provided by hospital authorities and designated teaching hospitals, is  
2002 amended by revising subsection (a) as follows:

2003 "(a) As used in this Code section, the term:

2004 (1) 'Designated teaching hospital' means a teaching hospital operated by other than a  
2005 hospital authority, which hospital agrees to contract with the state to offer or continue to  
2006 offer a residency program approved by the American Medical Association, which  
2007 program has at least 50 residents and which hospital operates a 24 hour,  
2008 seven-day-per-week emergency room open to the public and which hospital files a  
2009 semiannual statistical report consistent with those filed by other state funded tertiary,  
2010 neonatal, obstetrical centers with the ~~Family Health Section of the Department of Human~~  
2011 ~~Resources Department of Health.~~

2012 (2) 'Hospital authority' means a hospital authority operating a teaching hospital which  
2013 offers a residency program approved by the American Medical Association.

2014 (3) 'Resident' means a physician receiving medical education and training through a  
2015 teaching hospital operated by a hospital authority or designated teaching hospital."

### **SECTION 1-33.**

2016 Code Section 31-7-159 of the Official Code of Georgia Annotated, relating to licensure and  
2017 regulation of home health agencies transferred to Department of Community Health, is  
2018 amended as follows:

2019 "31-7-159.

2020 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of home  
2021 health agencies pursuant to this article shall be transferred from the Department of Human

2023      Resources (now known as the Department of Human Services) to the Department of  
2024      Community Health.

2025      (b) The Department of Community Health shall succeed to all rules, regulations, policies,  
2026      procedures, and administrative orders of the Department of Human Resources that are in  
2027      effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2028      relate to the functions transferred to the Department of Community Health pursuant to this  
2029      Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
2030      and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2031      which relate to the functions transferred to the Department of Community Health pursuant  
2032      to this Code section. Such rules, regulations, policies, procedures, and administrative  
2033      orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2034      Department of Community Health by proper authority or as otherwise provided by law.

2035      (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2036      agreements, and other transactions entered into before July 1, 2009, by the Department of  
2037      Human Resources which relate to the functions transferred to the Department of  
2038      Community Health pursuant to this Code section shall continue to exist; and none of these  
2039      rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
2040      transfer of the functions to the Department of Community Health. In all such instances,  
2041      the Department of Community Health shall be substituted for the Department of Human  
2042      Resources, and the Department of Community Health shall succeed to the rights and duties  
2043      under such contracts, leases, agreements, and other transactions.

2044      (d) All persons employed by the Department of Human Resources in capacities which  
2045      relate to the functions transferred to the Department of Community Health pursuant to this  
2046      Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
2047      Department of Community Health in similar capacities, as determined by the commissioner  
2048      of community health. Such employees shall be subject to the employment practices and  
2049      policies of the Department of Community Health on and after July 1, 2009, but the  
2050      compensation and benefits of such transferred employees shall not be reduced as a result  
2051      of such transfer. Employees who are subject to the rules of the State Personnel Board and  
2052      thereby under the State Merit System of Personnel Administration and who are transferred  
2053      to the department shall retain all existing rights under the State Merit System of Personnel  
2054      Administration. Retirement rights of such transferred employees existing under the  
2055      Employees' Retirement System of Georgia or other public retirement systems on June 30,  
2056      2009, shall not be impaired or interrupted by the transfer of such employees and  
2057      membership in any such retirement system shall continue in the same status possessed by  
2058      the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by

2059 said employees on June 30, 2009, shall be retained by said employees as employees of the  
2060 Department of ~~Community~~ Health."

2061 **SECTION 1-34.**

2062 Code Section 31-7-265 of the Official Code of Georgia Annotated, relating to facility  
2063 licensing and employee records checks for personal care homes transferred to Department  
2064 of Community Health, is amended as follows:

2065 "31-7-265.

2066 (a) Effective July 1, 2009, all matters relating to facility licensing and employee records  
2067 checks for personal care homes pursuant to this article shall be transferred from the  
2068 Department of Human Resources (now known as the Department of Human Services) to  
2069 the Department of ~~Community~~ Health.

2070 (b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies,  
2071 procedures, and administrative orders of the Department of Human Resources that are in  
2072 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2073 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
2074 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
2075 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2076 which relate to the functions transferred to the Department of ~~Community~~ Health pursuant  
2077 to this Code section. Such rules, regulations, policies, procedures, and administrative  
2078 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2079 Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

2080 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2081 agreements, and other transactions entered into before July 1, 2009, by the Department of  
2082 Human Resources which relate to the functions transferred to the Department of  
2083 ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these  
2084 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
2085 transfer of the functions to the Department of ~~Community~~ Health. In all such instances,  
2086 the Department of ~~Community~~ Health shall be substituted for the Department of Human  
2087 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties  
2088 under such contracts, leases, agreements, and other transactions.

2089 (d) All persons employed by the Department of Human Resources in capacities which  
2090 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
2091 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
2092 Department of ~~Community~~ Health in similar capacities, as determined by the commissioner  
2093 of ~~community~~ health. Such employees shall be subject to the employment practices and  
2094 policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the

2095 compensation and benefits of such transferred employees shall not be reduced as a result  
2096 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
2097 thereby under the State Merit System of Personnel Administration and who are transferred  
2098 to the department shall retain all existing rights under the State Merit System of Personnel  
2099 Administration. Retirement rights of such transferred employees existing under the  
2100 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
2101 shall not be impaired or interrupted by the transfer of such employees and  
2102 membership in any such retirement system shall continue in the same status possessed by  
2103 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
2104 said employees on June 30, 2009, shall be retained by said employees as employees of the  
2105 Department of Community Health."

### 2106 SECTION 1-35.

2107 Code Section 31-7-308 of the Official Code of Georgia Annotated, relating to licensure and  
2108 regulation of private home care providers transferred to Department of Community Health,  
2109 is amended as follows:

2110 "31-7-308.

2111 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of private  
2112 home care providers pursuant to this article shall be transferred from the Department of  
2113 Human Resources (now known as the Department of Human Services) to the Department  
2114 of Community Health.

2115 (b) The Department of Community Health shall succeed to all rules, regulations, policies,  
2116 procedures, and administrative orders of the Department of Human Resources that are in  
2117 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2118 relate to the functions transferred to the Department of Community Health pursuant to this  
2119 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
2120 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2121 which relate to the functions transferred to the Department of Community Health pursuant  
2122 to this Code section. Such rules, regulations, policies, procedures, and administrative  
2123 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2124 Department of Community Health by proper authority or as otherwise provided by law.

2125 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2126 agreements, and other transactions entered into before July 1, 2009, by the Department of  
2127 Human Resources which relate to the functions transferred to the Department of  
2128 Community Health pursuant to this Code section shall continue to exist; and none of these  
2129 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
2130 transfer of the functions to the Department of Community Health. In all such instances,

2131 the Department of ~~Community~~ Health shall be substituted for the Department of Human  
2132 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties  
2133 under such contracts, leases, agreements, and other transactions.

2134 (d) All persons employed by the Department of Human Resources in capacities which  
2135 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
2136 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
2137 Department of ~~Community~~ Health in similar capacities, as determined by the commissioner  
2138 of ~~community~~ health. Such employees shall be subject to the employment practices and  
2139 policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the  
2140 compensation and benefits of such transferred employees shall not be reduced as a result  
2141 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
2142 thereby under the State Merit System of Personnel Administration and who are transferred  
2143 to the department shall retain all existing rights under the State Merit System of Personnel  
2144 Administration. Retirement rights of such transferred employees existing under the  
2145 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
2146 shall not be impaired or interrupted by the transfer of such employees and  
2147 membership in any such retirement system shall continue in the same status possessed by  
2148 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
2149 said employees on June 30, 2009, shall be retained by said employees as employees of the  
2150 Department of ~~Community~~ Health."

### 2151 SECTION 1-36.

2152 Code Section 31-8-82 of the Official Code of Georgia Annotated, relating to reporting abuse  
2153 or exploitation of a resident in a long-term care facility, is amended by revising subsection  
2154 (a) as follows:

2155 "(a) Any:  
2156 (1) Administrator, manager, physician, nurse, nurse's aide, orderly, or other employee  
2157 in a hospital or facility;  
2158 (2) Medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social  
2159 worker, coroner, clergyman, police officer, pharmacist, physical therapist, or  
2160 psychologist; or  
2161 (3) Employee of a public or private agency engaged in professional services to residents  
2162 or responsible for inspection of long-term care facilities  
2163 who has knowledge that any resident or former resident has been abused or exploited while  
2164 residing in a long-term care facility shall immediately make a report as described in  
2165 subsection (c) of this Code section by telephone or in person to the department. In the event  
2166 that an immediate report to the department is not possible, the person shall make the report

2167 to the appropriate law enforcement agency. Such person shall also make a written report  
2168 to the Department of Human ~~Resources Services~~ within 24 hours after making the initial  
2169 report."

2170 **SECTION 1-37.**

2171 Code Section 31-8-192 of the Official Code of Georgia Annotated, relating to definitions  
2172 relative to the "'Health Share' Volunteers in Medicine Act," is amended by revising  
2173 subparagraph (D) of paragraph (6) as follows:

2174 "(D) Any client or beneficiary of the department, or the Department of Human  
2175 ~~Resources Services, or the Department of Behavioral Health~~ who voluntarily chooses  
2176 to participate in a program offered or approved by the department, or the Department  
2177 of Human ~~Resources Services, or the Department of Behavioral Health~~ and meets the  
2178 program eligibility guidelines of the department, or the Department of Human  
2179 ~~Resources Services, or the Department of Behavioral Health~~ whose family income does  
2180 not exceed 200 percent of the federal poverty level as defined annually by the federal  
2181 Office of Management and Budget."

2182 **SECTION 1-38.**

2183 Code Section 31-11-2 of the Official Code of Georgia Annotated, relating to definitions  
2184 relative to emergency medical services, is amended by revising paragraphs (3), (5), and (6.1)  
2185 as follows:

2186 "(3) 'Ambulance provider' means an agency or company providing ambulance service  
2187 which is operating under a valid license from the Emergency Health Section of the  
2188 Division of Public Health of the Department of ~~Human Resources~~ Health."

2189 "(5) 'Cardiac technician' means a person who, having been trained and certified as an  
2190 emergency medical technician and having completed additional training in advanced  
2191 cardiac life support techniques in a training course approved by the department, is so  
2192 certified by the Composite State Board of Medical Examiners prior to January 1, 2002,  
2193 or the Department of Human Resources (now known as the Department of Health for  
2194 these purposes) on and after January 1, 2002."

2195 "(6.1) 'Department' means the Department of ~~Human Resources~~ Health."

2196 **SECTION 1-39.**

2197 Code Section 31-11-50 of the Official Code of Georgia Annotated, relating to medical  
2198 advisers relative to emergency medical services, is amended by revising subsection (a) as  
2199 follows:

2200     "(a) To enhance the provision of emergency medical care, each ambulance service shall  
2201     be required to have a medical adviser. The adviser shall be a physician licensed to practice  
2202     medicine in this state and subject to approval by the medical consultant of the Emergency  
2203     Health Section of the Division of Physical Public Health of the Department of Human  
2204     Resources Department of Health. Ambulance services unable to obtain a medical adviser,  
2205     due to unavailability or refusal of physicians to act as medical advisers, may request the  
2206     district health director or his or her designee to act as medical adviser until the services of  
2207     a physician are available."

## **SECTION 1-40.**

2209 Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated  
2210 external defibrillator program, is amended by revising paragraph (1) of subsection (b) as  
2211 follows:

2212 "(1) It is recommended that all persons who have access to or use an automated external  
2213 defibrillator obtain appropriate training as set forth in the ~~Rules and Regulations~~ rules and  
2214 regulations of the Department of ~~Health Human Resources~~ Chapter 290-5-30. It is further  
2215 recommended that such training include at a minimum the successful completion of:

- 2216 (A) A nationally recognized health care provider/professional rescuer level  
2217 cardiopulmonary resuscitation course; and  
2218 (B) A department established or approved course which includes demonstrated  
2219 proficiency in the use of an automated external defibrillator;"

## **SECTION 1-41.**

2221 Code Section 31-13-25 of the Official Code of Georgia Annotated, relating to rules,  
2222 regulations, agreements, and contracts formerly under the Department of Human Resources  
2223 with respect to radiation control, is amended as follows:

2224 "31-13-25.

2225 All rules and regulations, agreements, contracts, or other instruments which involve  
2226 radioactive materials heretofore under the jurisdiction of the Department of Human  
2227 Resources (now known as the Department of Health for these purposes) will, by operation  
2228 of law, be assumed by the Department of Natural Resources on April 4, 1990."

## **SECTION 1-42.**

2230 Code Section 31-15-4 of the Official Code of Georgia Annotated, relating to a cancer control  
2231 officer, is amended as follows:

2232 "31-15-4.

2233 The commissioner shall appoint a cancer control officer. The cancer control officer shall  
2234 be a physician licensed to practice medicine under Chapter 34 of Title 43 and ~~must shall~~  
2235 be knowledgeable in the field of medicine covered by this chapter. He ~~or she~~ shall  
2236 administer the cancer program for the Division of ~~Physical Public~~ Health of the ~~Department~~  
2237 ~~of Human Resources~~ Department of Health in compliance with this chapter. He ~~or she~~ shall  
2238 be provided an office with clerical and administrative assistance to carry out this program."

2239 **SECTION 1-43.**

2240 Code Section 33-21-20.1 of the Official Code of Georgia Annotated, relating to regulation  
2241 of health maintenance organizations by the commissioner of human resources, is amended  
2242 as follows:

2243 "33-21-20.1.

2244 On May 13, 2004, all health maintenance organizations meeting the requirements of  
2245 subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the  
2246 commissioner of human resources (now known as the commissioner of health for these  
2247 purposes). Upon the Commissioner of Insurance's determination that a health maintenance  
2248 organization no longer meets the requirements of subsection (b.1) of Code Section 33-21-3,  
2249 the Commissioner shall immediately notify the commissioner of ~~human resources~~ health;  
2250 and such health maintenance organization shall be subject to regulation by the  
2251 commissioner of ~~human resources~~ health until such time as it again meets the requirements  
2252 of subsection (b.1) of Code Section 33-21-3 as determined by the Commissioner of  
2253 Insurance."

2254 **SECTION 1-44.**

2255 Code Section 33-21A-10 of the Official Code of Georgia Annotated, relating to new and  
2256 renewal agreements with care management organizations and health care providers, is  
2257 amended as follows:

2258 "33-21A-10.

2259 (a) On and after May 13, 2008, the Department of Community Health, now known as the  
2260 Department of Health, shall include provisions in all new or renewal agreements with a  
2261 care management organization, which provisions require the care management organization  
2262 to comply with all provisions of this chapter.

2263 (b) On and after May 13, 2008, a care management organization shall not include any  
2264 provisions in new or renewal agreements with providers entered into pursuant to the  
2265 contract between the Department of Community Health (now known as the Department of

2266 Health) and the care management organization, which provisions are inconsistent with the  
2267 provisions of this chapter."

## **SECTION 1-45.**

2269 Code Section 33-24-56.3 of the Official Code of Georgia Annotated, relating to colorectal  
2270 cancer screening and testing, is amended by revising paragraph (1) of subsection (a) as  
2271 follows:

2272       "(1) 'Health benefit policy' means any individual or group plan, policy, or contract for  
2273       health care services issued, delivered, issued for delivery, executed, or renewed by an  
2274       insurer in this state on or after July 1, 2002, including, but not limited to, those contracts  
2275       executed by the Department of ~~Community~~ Health pursuant to paragraph (1) of  
2276       subsection ~~(f)(d)~~ of Code Section ~~31-5A-4~~ 31-2-4. The term 'health benefit policy' does  
2277       not include the following limited benefit insurance policies: accident only, CHAMPUS  
2278       supplement, dental, disability income, fixed indemnity, long-term care, medicare  
2279       supplement, specified disease, vision, and nonrenewable individual policies written for  
2280       a period of less than six months."

## **SECTION 1-46.**

2282 Code Section 33-24-59.2 of the Official Code of Georgia Annotated, relating to insurance  
2283 coverage for equipment and self-management training for individuals with diabetes, is  
2284 amended by revising subsection (b) as follows:

2285 "(b)(1) Diabetes outpatient self-management training and education as provided for in  
2286 subsection (a) of this Code section shall be provided by a certified, registered, or licensed  
2287 health care professional with expertise in diabetes.

(2) The office of the Commissioner of Insurance shall promulgate rules and regulations after consultation with the Department of Human Resources Health which conform to the current standards for diabetes outpatient self-management training and educational services established by the American Diabetes Association for purposes of this Code section.

2293 (3) The office of the Commissioner of Insurance shall promulgate rules and regulations,  
2294 relating to standards of diabetes care, to become effective July 1, 2002, after consultation  
2295 with the Department of Human Resources (now known as the Department of Health for  
2296 these purposes), the American Diabetes Association, and the National Institutes of  
2297 Health. Such rules and regulations shall be adopted in accordance with the provisions of  
2298 Code Section 33-2-9."

**SECTION 1-47.**

2299  
2300 Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificates of  
2301 authority required for operation of continuing care facilities, is amended as follows:

2302 "33-45-3.  
2303 Nothing in this title or chapter shall be deemed to authorize any provider of a continuing  
2304 care facility to transact any insurance business other than that of continuing care insurance  
2305 or otherwise to engage in any other type of insurance unless it is authorized under a  
2306 certificate of authority issued by the department under this title. Nothing in this chapter  
2307 shall be construed so as to interfere with the jurisdiction of ~~the Department of Human~~  
2308 ~~Resources, the Department of Community Health;~~ or any other regulatory body exercising  
2309 authority over continuing care providers."

**SECTION 1-48.**

2310  
2311 Code Section 42-5-52.1 of the Official Code of Georgia Annotated, relating to submission  
2312 to HIV test of inmates, is amended by revising subsection (c) as follows:

2313 "(c) No later than December 31, 1991, the department shall require to submit to an HIV  
2314 test each person who has been committed to the custody of the commissioner to serve time  
2315 in a penal institution of this state and who remains in such custody, or who would be in  
2316 such custody but for having been transferred to the custody of the Department of Human  
2317 Resources (now known as the Department of Behavioral Health) under Code Section  
2318 42-5-52, if that person has not submitted to an HIV test following that person's most recent  
2319 commitment to the custody of the commissioner and unless that person is in such custody  
2320 because of having committed an AIDS transmitting crime and has already submitted to an  
2321 HIV test pursuant to Code Section 17-10-15."

**SECTION 1-49.**

2322  
2323 Code Section 43-10A-7 of the Official Code of Georgia Annotated, relating to licensing  
2324 requirements for professional counselors, social workers, and marriage and family therapists,  
2325 is amended by revising paragraphs (3) and (12) of subsection (b) as follows:

2326 "(3)(A) Persons who, prior to July 1, 2000, engaged in the practice of a specialty as an  
2327 employee of any community service board or similar entity created by general law to  
2328 provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any  
2329 agency or department of the state or any of its political subdivisions, but only when  
2330 engaged in that practice as an employee of such an agency or department.

2331 (B) Persons who engage in the practice of social work as employees of any community  
2332 service board or similar entity created by general law to provide services to persons with  
2333 disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state

2334 or any of its political subdivisions, but only when engaged in that practice as employees  
2335 of such community service board or similar entity, agency, or department, and persons or  
2336 entities which contract to provide social work services with any community service board  
2337 or similar entity or any agency or department of the state or any of its political  
2338 subdivisions, but such contracting persons and entities shall only be exempt under this  
2339 subparagraph when engaged in providing social work services pursuant to those contracts  
2340 and shall only be exempt until January 1, 1996.

2341 (C) Persons who engage in the practice of professional counseling as employees of  
2342 privately owned correctional facilities, the Department of Corrections, Department of  
2343 Human Resources Health, Department of Behavioral Health, Department of Human  
2344 Services, any county board of health, or any community service board or similar entity  
2345 created by general law to provide services to persons with disabilities, as defined in  
2346 Chapter 2 of Title 37, but only when engaged in that practice as employees of such  
2347 privately owned correctional facility, department, board, or entity and persons or entities  
2348 which contract to provide professional counseling services with such department or county  
2349 board of health, but such contracting persons and entities shall only be exempt under this  
2350 subparagraph when engaged in providing professional counseling services pursuant to  
2351 those contracts and shall only be exempt until January 1, 1996;"

2352 "(12) Persons engaged in the practice of a specialty as an employee of the Division of  
2353 Family and Children Services of the Department of Human Resources Services but only  
2354 when engaged in such practice as an employee of that division;"

## 2355 SECTION 1-50.

2356 Code Section 43-27-2 of the Official Code of Georgia Annotated, relating to the creation of  
2357 the State Board of Nursing Home Administrators, is amended as follows:

2358 "43-27-2.

2359 (a) There is created the State Board of Nursing Home Administrators, which shall consist  
2360 of 13 members, none of whom may be employees of the United States government or of  
2361 this state, and the commissioner of human resources services or his or her designee, who  
2362 shall serve as ex officio member of the board, and the commissioner of community health  
2363 or his or her designee, who shall serve as ex officio member of the board. The members of  
2364 the board shall be appointed by the Governor and confirmed by the Senate, as follows:

- 2365 (1) One member who is a licensed medical doctor in this state and who is not a nursing  
2366 home administrator or pecuniarily interested in any nursing home;  
2367 (2) One member who is a registered nurse in this state and who is not a nursing home  
2368 administrator or pecuniarily interested in any nursing home;

(3) One member who is an educator with a graduate degree and specializing in the field of gerontology and who is not a nursing home administrator or pecuniarily interested in any nursing home;

(4) Three members of the public at large who are not nursing home administrators or pecuniarily interested in any nursing home or have any connection with the nursing home industry whatsoever. Two of these three public-at-large positions shall be appointed from a list of three persons for each of these two positions submitted by the State Board of Human Resources Health. The Governor is vested with complete discretion in appointing the third member for one of these three public-at-large positions;

(5) One member who is a hospital administrator in this state, who is the holder of a master's degree in hospital administration, and who is not a nursing home administrator or pecuniarily interested in any nursing home; and

(6) Six members, at least one of whom shall represent nonproprietary nursing homes, who are licensed nursing home administrators in this state.

(b) The term for all members shall be three years from the date of appointment. A member may be removed as provided in Code Section 43-1-17. All vacancies shall be filled by the Governor for the unexpired terms in accordance with the requirements for appointment to the vacant position."

## **SECTION 1-51.**

Code Section 43-27-5 of the Official Code of Georgia Annotated, relating to general powers and duties of the State Board of Nursing Home Administrators, is amended by revising paragraph (4) of subsection (a) as follows:

"(4) To initiate investigations for the purpose of discovering violations by a nursing home administrator of the rules, regulations, or statutes of the Department of Community Health or the Department of Human Resources Services, provided that the board shall investigate those violations only after revocation, limitation, or restriction of participation of the nursing home of which such individual is the administrator in the medical assistance program or the license issued by the Department of Human Resources Health and make written findings as to the causes of the alleged violations;"

## **SECTION 1-52.**

2400 Code Section 45-9-1 of the Official Code of Georgia Annotated, relating to general  
2401 provisions relative to insuring and indemnification of state officers and employees, is  
2402 amended by revising subsection (c) as follows:

"(c) For the purpose of this article, the term 'agency' shall specifically include, but shall not be limited to, public retirement systems of state-wide application established by the laws of this state, but shall not include counties or municipalities; provided, however, that the employees of community service boards, county departments of health, and county departments of family and children services as well as the members of the boards of said departments shall be considered to be state employees or officials for the purpose of this article. In order to facilitate the administration of liability coverage or other insurance coverages provided the community service boards, county departments of health, and county departments of family and children services, the Department of Human Resources Behavioral Health ~~must~~ shall designate a central office which ~~will~~ shall be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services. In order to facilitate the administration of liability coverage or other insurance coverages provided county departments of family and children services, the Department of Human Services shall designate a central office which shall be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services. In order to facilitate the administration of liability coverage or other insurance coverages provided county departments of health, the Department of Health shall designate a central office which shall be responsible for obtaining, submitting, and collecting all underwriting information and insurance premiums requested and assessed by the Department of Administrative Services."

## **SECTION 1-53.**

2425 Code Section 45-9-110 of the Official Code of Georgia Annotated, relating to authorization  
2426 for consolidation of unemployment compensation claim matters under the commissioner of  
2427 administrative services, is amended by revising subsection (d) as follows:

"(d) The commissioner of administrative services shall have the authority to provide unemployment compensation benefits insurance to all of the county departments of health, county departments of family and children services, and community service boards. The commissioner of ~~human resources~~ health shall establish a procedure to provide the Department of Administrative Services all of the underwriting information required, including but not limited to payroll data each quarter for the service centers, and shall collect the unemployment premium from ~~such boards and departments~~ county departments of health and remit the premium to the Department of Administrative Services. The commissioner of human services shall establish a procedure to provide the Department of Administrative Services all of the underwriting information required, including but not limited to payroll data each quarter for the service centers, and shall collect the

2439 unemployment premium from county departments of family and children services and  
2440 remit the premium to the Department of Administrative Services. The commissioner of  
2441 behavioral health shall establish a procedure to provide the Department of Administrative  
2442 Services all of the underwriting information required, including but not limited to payroll  
2443 data each quarter for the service centers, and shall collect the unemployment premium from  
2444 community service boards and remit the premium to the Department of Administrative  
2445 Services. All of the county departments of health, county departments of family and  
2446 children services, and community service boards shall participate in such unemployment  
2447 compensation benefit insurance program."

## **SECTION 1-54.**

2449 Code Section 46-4-154 of the Official Code of Georgia Annotated, relating to notice of  
2450 election, unbundling, rates, application requirements, and surcharge on interruptibles under  
2451 the "Natural Gas Competition and Deregulation Act," is amended by revising subsection (e)  
2452 as follows:

2453       "(e) The commission shall establish a surcharge on all customers receiving interruptible  
2454 service over the electing distribution company's distribution system sufficient to ensure  
2455 that such customers will pay an equitable share of the cost of the distribution system over  
2456 which such customers receive service. The commission is authorized to direct the electing  
2457 distribution company or the marketers to collect such surcharge directly from the  
2458 customers. Such surcharge shall be paid promptly upon receipt into the universal service  
2459 fund. This surcharge shall not be applied to any hospital that has a medicare and Medicaid  
2460 payor mix of at least 30 percent and has uncompensated writeoffs for the provision of  
2461 charity, indigent, and free health care services of not less than 5 percent of such hospital's  
2462 annual operating expenses based on the annual hospital surveys by **the Division of Health**  
2463 ~~Planning~~ of the Department of Community Health. This surcharge shall not be applied to  
2464 any institution or property enumerated in Code Section 50-16-3, or administered or  
2465 regulated under authority granted by Code Section 42-2-5 or 49-4A-6 or by Chapter 9 of  
2466 Title 50."

## **SECTION 1-55.**

2468 Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions  
2469 relative to setoff debt collection, is amended as follows:

2470 "48-7-161.

2471 As used in this article, the term:

2472 (1) 'Claimant agency' means and includes, in the order of priority set forth below:

- 2473       (A) The Department of Human Resources Services, Department of Behavioral Health,  
2474       and the Department of Health with respect to collection of debts under Chapter 9 of  
2475       Title 37, Article 1 of Chapter 11 of Title 19, and Code Section 49-4-15;  
2476       (B) The Georgia Student Finance Authority with respect to the collection of debts  
2477       arising under Part 3 of Article 7 of Chapter 3 of Title 20;  
2478       (C) The Georgia Higher Education Assistance Corporation with respect to the  
2479       collection of debts arising under Part 2 of Article 7 of Chapter 3 of Title 20;  
2480       (D) The State Medical Education Board with respect to the collection of debts arising  
2481       under Part 6 of Article 7 of Chapter 3 of Title 20;  
2482       (E) The Department of Labor with respect to the collection of debts arising under Code  
2483       Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the  
2484       exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the  
2485       Department of Labor establishes that the debtor has been afforded required due process  
2486       rights by such Department of Labor with respect to the debt and all reasonable  
2487       collection efforts have been exhausted;  
2488       (F) The Department of Corrections with respect to probation fees arising under Code  
2489       Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence  
2490       imposed on a person convicted of a crime who is in the legal custody of the department;  
2491       (G) The State Board of Pardons and Paroles with respect to restitution imposed on a  
2492       person convicted of a crime and subject to the jurisdiction of the board; and  
2493       (H) The Department of Juvenile Justice with respect to restitution imposed on a  
2494       juvenile for a delinquent act which would constitute a crime if committed by an adult.
- 2495       (2) 'Debt' means any liquidated sum due and owing any claimant agency, which sum has  
2496       accrued through contract, subrogation, tort, or operation of law regardless of whether  
2497       there is an outstanding judgment for the sum, any sum which is due and owing any  
2498       person and is enforceable by the Department of Human Resources Services pursuant to  
2499       subsection (b) of Code Section 19-11-8, or any sum of restitution or reparation due  
2500       pursuant to a sentence imposed on a person convicted of a crime and sentenced to  
2501       restitution or reparation and probation.
- 2502       (3) 'Debtor' means any individual owing money to or having a delinquent account with  
2503       any claimant agency, which obligation has not been adjudicated as satisfied by court  
2504       order, set aside by court order, or discharged in bankruptcy.
- 2505       (4) 'Refund' means the Georgia income tax refund which the department determines to  
2506       be due any individual taxpayer."

2507

**SECTION 1-56.**

2508 Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to adoption and  
2509 administration of a state plan for medical assistance by the Department of Community  
2510 Health, is amended by revising subsection (b) as follows:

2511 "(b) The department shall, not later than June 1, 1986, implement a modification of the  
2512 state plan for medical assistance or any affected rules or regulations of the department,  
2513 which modification will allow supplementation by relatives or other persons for a private  
2514 room or private sitter or both for a recipient of medical assistance in a nursing home. ~~The~~  
2515 ~~Department of Human Resources shall likewise modify any affected rules and regulations~~  
2516 ~~of the Department of Human Resources.~~ The modification to the plan or to any affected  
2517 rules and regulations shall be effective unless and until federal authorities rule that such  
2518 modification is out of compliance with federal regulations. Such modification of the state  
2519 plan for medical assistance or rules and regulations:

2520 (1) Shall provide that a provider of nursing home services in either a skilled care facility  
2521 or an intermediate care facility shall be obligated to provide a recipient of medical  
2522 assistance only semiprivate accommodations which meet the other requirements of  
2523 appropriate regulations;

2524 (2) Shall provide that at no time can more than 10 percent of a skilled care or  
2525 intermediate care facility's rooms be used for Medicaid recipients for whom a private  
2526 room supplementation has been made;

2527 (3) Shall provide that payments made by relatives or other persons to a provider of  
2528 medical assistance for the specific stated purpose of paying the additional costs for a  
2529 private room or private sitter or both for a recipient of medical assistance in a skilled care  
2530 facility or intermediate care facility shall not be considered as income when determining  
2531 the amount of patient liability toward vendor payments; provided, however, that the  
2532 department's entitlement to payments made by legally liable third parties shall not be  
2533 diminished by this modification of the state plan;

2534 (4) Shall provide that no provider of medical assistance shall discriminate against a  
2535 recipient of medical assistance who does not have a relative or other person who is  
2536 willing and able to provide supplementation; but the provision of a private room or  
2537 private sitter to a recipient when supplementation is provided shall not constitute  
2538 discrimination against other recipients;

2539 (5) Shall provide that no recipient who is transferred to or admitted to a private room  
2540 because of a shortage of beds in semiprivate rooms shall be discharged because the  
2541 recipient does not have a relative or other person who is willing and able to provide  
2542 supplementation; and

2543 (6) May provide that the rate charged by the provider of medical assistance to the relative  
2544 or other person providing supplementation for a private room for a recipient shall not  
2545 exceed the difference between the maximum rate charged by the provider for a private  
2546 room to or for a private pay patient and the amount which the provider receives or will  
2547 receive from the department as reimbursement for otherwise providing for the recipient's  
2548 care in a semiprivate room."

## **SECTION 1-57.**

2550 Code Section 49-4-153 of the Official Code of Georgia Annotated, relating to administrative  
2551 hearings and appeals under Medicaid, is amended by revising subsection (d) as follows:  
2552 "(d) All contested cases involving the imposition of a remedial or punitive measure against  
2553 a nursing facility by the Department of ~~Community~~ Health shall be conducted in the  
2554 manner provided for in subsection (l) of Code Section ~~31-2-6~~ 31-2-11, but only if such  
2555 remedial or punitive measure is based upon findings made by the Department of ~~Human~~  
2556 ~~Resources~~ Health in its capacity as the state survey agency for the Georgia Medicaid  
2557 program."

## **SECTION 1-58.**

2560 Code Section 49-4-154 of the Official Code of Georgia Annotated, relating to powers and  
2561 duties retained by the Department of Human Resources with respect to Medicaid, is amended  
2562 as follows:

2563 "49-4-154.

2564 (a) The status, position, and rights of persons transferred from the Department of Human  
2565 Resources (now known as the Department of Health for these purposes) to the Department  
2566 of Medical Assistance pursuant to Ga. L. 1977, p. 384 shall not be affected by the transfer,  
2567 in and of itself; and such persons shall retain, inter alia, all rights of rank or grade; rights  
2568 to vacation, sick pay, and leave; rights under any retirement plan; and any other rights  
2569 under any law or administrative policy.

2570 (b) The Department of Human Resources (now known as the Department of Health for  
2571 these purposes) shall retain, in accordance with terms of the state plan, the functions, and  
2572 all tangible things and employees relating thereto, of:

2573 (1) Establishing and maintaining certain standards for certain institutions and agencies  
2574 seeking to become or remain providers and shall finally determine and certify whether  
2575 such institutions and agencies meet such standards;

2576 (2) Determining and certifying the eligibility of certain applicants for and recipients of  
2577 medical assistance; and

2578 (3) Prescribing regulations to require that applicants for medical assistance be given clear  
2579 and easily understandable notice that all books, papers, records, and memoranda of the  
2580 provider relating to the provision of medical assistance to the applicant will be made  
2581 available, upon request, to the commissioner of medical assistance or his representative  
2582 and that, by accepting medical assistance, the applicant thereby consents to the providing  
2583 of such books, papers, records, and memoranda to the commissioner of medical  
2584 assistance or his representative."

## **SECTION 1-59.**

2586 Code Section 49-4-155 of the Official Code of Georgia Annotated, relating to the  
2587 Department of Community Health succeeding to existing rules, regulations, policies,  
2588 procedures, and administrative orders with respect to Medicaid, is amended as follows:  
2589 "49-4-155.

The Department of Community Health (now known as the Department of Health) shall succeed to all the rules, regulations, policies, procedures, and administrative orders of the Department of Human Resources (now known as the Department of Human Services) transferred to the Department of Medical Assistance pursuant to the previously existing provisions of this Code section and that are in effect on June 30, 1999, and shall further succeed to any rights, privileges, entitlements, obligations, and duties of the Department of Human Resources (now known as the Department of Human Services) that are in effect on June 30, 1999, to which the Department of Medical Assistance succeeded pursuant to the previously existing provisions of Code Section 49-4-156."

## **SECTION 1-60.**

2600 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to applicability  
2601 of the "Georgia Administrative Procedure Act," is amended by revising subsection (a) as  
2602 follows:

2603       "(a) In addition to those agencies expressly exempted from the operation of this chapter  
2604       under paragraph (1) of Code Section 50-13-2, this article shall not apply to the  
2605       Commissioner of Agriculture, the Public Service Commission, the ~~Health Planning Review~~  
2606       ~~Board Certificate of Need Appeal Panel~~, or the Department of ~~Community~~ Health or to the  
2607       Department of Labor with respect to unemployment insurance benefit hearings conducted  
2608       under the authority of Chapter 8 of Title 34. Such exclusion does not prohibit such office  
2609       or agencies from contracting with the Office of State Administrative Hearings on a  
2610       case-by-case basis."

**SECTION 1-61.**

2611  
2612 Code Section 50-16-3 of the Official Code of Georgia Annotated, relating to property of state  
2613 boards and departments, is amended by revising paragraph (2) as follows:

2614 "(2) The several institutions operated by the Department of Human Resources Services,  
2615 the Department of Health, or the Department of Behavioral Health, including all real and  
2616 personal property belonging to the several institutions or used in connection therewith,  
2617 and all other property conveyed to the any such department for the use of any of the  
2618 institutions or conveyed to any of the boards of trustees of which the such department is  
2619 the successor or to any of the institutions under its control;"

**PART II**

2620  
2621 Department of Human Services.

**SECTION 2-1.**

2622  
2623 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
2624 by revising Chapters 1 and 2, relating to general provisions on social services and the  
2625 Department of Human Resources, respectively, as follows:

**"CHAPTER 1**

2626  
2627 49-1-1.

2628 As used in this title, the term:

- 2629 (1) 'Board' means the Board of Human Resources Services.  
2630 (2) 'Commissioner' means the commissioner of human resources services.  
2631 (3) 'County board' means a county or district board of family and children services.  
2632 (4) 'County department' means a county or district department of family and children  
2633 services.  
2634 (5) 'County director' means the director of a county or district department of family and  
2635 children services.  
2636 (6) 'Department' means the Department of Human Resources Services.

2637  
2638 49-1-2.

2639 All rules and regulations made by the Department of Human Resources Services shall be  
binding on the counties and shall be complied with by the respective county departments.

2640 49-1-3.

2641 (a) Notwithstanding any other provisions of law, the Governor shall have the power by  
2642 executive order to direct and implement such internal organization of the Department of  
2643 Human Resources as he may determine necessary to improve the management and  
2644 administration of the functions vested in the department, including the power to allocate  
2645 within such organization the executive authority described in Code Section 49-2-1 with  
2646 respect to any or any grouping of the functions of the department. For these purposes, the  
2647 Governor shall have the power by executive order to redefine the department's substate  
2648 structure and to direct the establishment of district health and welfare organizations, as  
2649 respectively described and with such powers and duties as set forth in Code Sections  
2650 31-3-15 and 49-3-1. The district director of a health district shall be a licensed physician.  
2651 The district director and other executive staff of district health and welfare organizations  
2652 shall hereafter be appointed by the department, provided that the department shall not  
2653 appoint as a director of any such organization any person whose appointment is not  
2654 approved by a majority of the respective district board concerned in a meeting of such  
2655 board called for that purpose.

2656 (b) Any other provisions of this Code section to the contrary notwithstanding, any such  
2657 reorganization plan shall provide for a county department of family and children services,  
2658 a county board of family and children services, and a county director of family and children  
2659 services in each county of this state. The county director shall be the executive officer of  
2660 the county department who shall be responsible for operations and personnel. In addition  
2661 to such other powers and authorities which may be delegated to county departments of  
2662 family and children services, each county board and director of family and children  
2663 services shall have the same powers, duties, and bond requirements as provided in Code  
2664 Sections 49-3-2 through 49-3-5.

2665 (c) Notwithstanding any other provision of this Code section, the Governor shall not have  
2666 the power by executive order to abolish any county board.

2667 (d) The Governor's power under this Code section shall expire on December 31, 1976, but  
2668 the organization accomplished by executive order hereunder shall continue until altered in  
2669 the manner provided by law. Reserved.

2670 49-1-4.

2671 No individual, supervisor, or member of the Board of Human Resources Services or the  
2672 county or district boards of family and children services having to do with the  
2673 administration of this title shall be authorized or permitted, directly or indirectly, to sell  
2674 supplies or other items of any kind or character to any of the institutions to be benefited by  
2675 this title.

2676 49-1-5.

2677 (a) In order that the public welfare laws of this state may be better enforced, the Governor  
2678 is authorized and empowered to suspend any member of any county board, any county  
2679 director, or any employee or official of the department whenever he or she shall find that  
2680 good cause for such suspension exists. Such suspension shall be by executive order of the  
2681 Governor, which shall state the reason therefor. A copy of such order of suspension shall  
2682 be sent to the person so suspended within five days after it is issued, by registered or  
2683 certified mail or statutory overnight delivery, return receipt requested, together with a  
2684 notice from the Governor or his or her executive secretary that the suspended person may  
2685 be heard before the Governor at such time as may be stated in the notice, which hearing  
2686 shall be not less than ten nor more than 20 days from the date of the notice. Upon such  
2687 hearing, if the Governor shall find that good cause for the removal of the person so  
2688 suspended exists, he or she is authorized and empowered to remove such member of any  
2689 county board, any county director, or any employee or official in the department;  
2690 whereupon, such person's tenure of office or employment shall terminate, subject to the  
2691 right of appeal granted to any employee under the State Merit System of Personnel  
2692 Administration by Chapter 20 of Title 45, and the vacancy shall be filled as provided by  
2693 law. If the Governor shall find that good cause for the removal of such person does not  
2694 exist, he or she shall, by appropriate executive order, restore him or her to duty.

2695 (b) In addition to removal by the Governor as specified in subsection (a) of this Code  
2696 section, the director of the Division of Family and Children Services may terminate the  
2697 employment of any county director or district director subject to any right of appeal such  
2698 director may have under the State Merit System of Personnel Administration by Chapter  
2699 20 of Title 45, and the vacancy shall be filled as provided by law.

2700 49-1-6.

2701 (a) Any charitable or nonprofit corporation which has been granted a charter or articles of  
2702 incorporation under the laws of this state may transfer all or a part of its assets to the  
2703 department upon such terms as may be agreed upon between such corporation and the  
2704 department, provided such corporation shall first have obtained authority to make such  
2705 transfer in accordance with this Code section.

2706 (b) Any such corporation may apply for authority to make such transfer by filing its  
2707 petition with the superior court of the county in which such corporation has its principal  
2708 office. Such application shall set forth the assets which the corporation desires to transfer  
2709 to the department and the terms upon which it desires to transfer these assets.

2710 (c) Such corporation, once a week for four weeks prior to the filing of such petition, shall  
2711 publish notice in the newspaper of the county in which is located the principal office of the

2712 corporation, such newspaper being the newspaper in which notices of sheriff's sales are  
2713 advertised. The notice shall set forth the date, time, and place when such application will  
2714 be presented, the court to which it will be presented, and the assets which such corporation  
2715 desires to transfer to the department.

2716 (d) After a hearing, the court shall be authorized to grant the application and permit a  
2717 transfer of the assets of the applicant upon terms as set out in the application or modified  
2718 as the court may deem advisable, if the court considers this in the public interest; or the  
2719 court may deny the application if the court deems such denial to be in the public interest.  
2720 Where such corporation makes a transfer of all of its right, title, and interest in any of its  
2721 assets to the department and such transfer is made pursuant to the authority of the court  
2722 obtained in the manner provided for in this Code section, such transfer shall be  
2723 conclusively deemed to be a proper and legal transfer.

2724 (e) Should such corporation desire to transfer all of its assets to the department, the court  
2725 to which such application is presented may include in its order a provision that upon the  
2726 transfer by such corporation of all of its assets to the department and upon compliance with  
2727 Chapter 3 of Title 14, the charter or articles of incorporation of such corporation shall stand  
2728 surrendered and the corporation dissolved.

2729 (f) Nothing contained in this Code section shall be considered as authorizing the  
2730 department to accept a transfer of assets upon terms which would require the use of them  
2731 by the department in a manner not authorized by law.

2732 49-1-7.

2733 ~~The department is authorized to purchase land or lands adjacent to or near lands now under  
2734 the control of the department where, in the opinion of the department, the land is needed  
2735 for the benefit of one of the institutions under its control and management, to pay for such  
2736 land out of any funds which may be available for such purpose, and to take title to land so  
2737 purchased in the name of the State of Georgia for the use of the department.~~

2738 49-1-8.

2739 ~~(a) The department shall sell, to the best advantage, all surplus products of the Central  
2740 State Hospital or other institutions under the control and supervision of the department and  
2741 shall apply the proceeds thereof to the maintenance of the institution from which such  
2742 surplus products are received. Should any surplus funds arise from this source, they shall  
2743 be paid into the state treasury annually, and the department shall, at the end of each quarter,  
2744 make a detailed report of all such transactions to the Governor.~~

2745 ~~(b) It is not the intention of this Code section to encourage competition in any way by the  
2746 state, its institutions, agencies, departments or branches, or other subdivisions with the~~

2747 ~~individual, private farmers of this state, or others, in the production and sale of agricultural~~  
2748 ~~or industrial commodities or products in due course of commerce.~~

2749 ~~49-1-9~~ 49-1-7.

2750 (a) The General Assembly finds that it is in the best interest of the state to provide for  
2751 programs for home delivered meals, transportation services for the elderly, and preschool  
2752 children with special needs, including but not limited to disabled children, troubled  
2753 children, school readiness programs, and other similar needs for the benefit of the citizens  
2754 of Georgia. In addition to and as a supplement to traditional financing mechanisms for such  
2755 programs, it is the policy of this state to enable and encourage citizens voluntarily to  
2756 support such programs.

2757 (b) To support programs for home delivered meals, transportation services for the elderly,  
2758 and preschool children with special needs which programs have been established or  
2759 approved by the department or the Department of Health, the department may, without  
2760 limitation, promote and solicit voluntary contributions through the income tax return  
2761 contribution mechanism established in subsection (f) of this Code section, through offers  
2762 to match contributions by any person with moneys appropriated or contributed to the  
2763 department or the Department of Health for such programs, or through any fund raising or  
2764 other promotional techniques deemed appropriate by the department or the Department of  
2765 Health.

2766 (c) There is established a special fund to be known as the 'Home Delivered Meals,  
2767 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'  
2768 This fund shall consist of all moneys contributed under subsection (b) of this Code section,  
2769 all moneys transferred to the department under subsection (f) of this Code section, and any  
2770 other moneys contributed to this fund or to the home delivered meals, transportation  
2771 services for the elderly, or preschool children with special needs programs of the  
2772 department or the Department of Health and all interest thereon. All balances in the fund  
2773 shall be deposited in an interest-bearing account identifying the fund and shall be carried  
2774 forward each year so that no part thereof may be deposited in the general treasury. The  
2775 fund shall be administered and the moneys held in the fund shall be expended by the  
2776 department through the Office Division of Aging Services in furtherance of home delivered  
2777 meals and transportation services to the elderly programs and by the ~~department~~  
2778 Department of Health in furtherance of preschool children with special needs programs.

2779 (d) Following the transmittal of contributions to the department for deposit in the fund  
2780 pursuant to subsection (f) of this Code section, the expenditure of moneys in the fund shall  
2781 be allocated as follows:

2782 (1) Fifty percent of the contributions to the fund shall be used for home delivered meals  
2783 and transportation services to the elderly programs; and

2784 (2) Fifty percent of the contributions to the fund shall be transferred to the Department  
2785 of Health to be used for preschool children with special needs programs.

2786 (e) Contributions to the fund shall be deemed supplemental to and shall in no way supplant  
2787 funding that would otherwise be appropriated for these purposes. Contributions shall only  
2788 be used for benefits and services and shall not be used for personnel or administrative  
2789 positions. The department and the Department of Health shall each prepare, by February  
2790 1 of each year, an accounting of the funds received and expended from the fund and a  
2791 review and evaluation of all expended moneys of the fund. The report reports shall be made  
2792 available to the Governor, the Lieutenant Governor, the Speaker of the House of  
2793 Representatives, to the members of the Board of Human Resources Services, and, upon  
2794 request, to members of the public.

2795 (f)(1) Unless an earlier date is deemed feasible and established by the Governor, each  
2796 Georgia income tax return form for taxable years beginning on or after January 1, 1993,  
2797 shall contain appropriate language, to be determined by the state revenue commissioner,  
2798 offering the taxpayer the opportunity to contribute to the Home Delivered Meals,  
2799 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund  
2800 established in subsection (c) of this Code section by either donating all or any part of any  
2801 tax refund due, by authorizing a reduction in the refund check otherwise payable, or by  
2802 contributing any amount over and above any amount of tax owed by adding that amount  
2803 to the taxpayer's payment. The instructions accompanying the income tax return form  
2804 shall contain a description of the purposes for which this fund was established and the  
2805 intended use of moneys received from the contributions. Each taxpayer required to file  
2806 a state income tax return who desires to contribute to such fund may designate such  
2807 contribution as provided in this Code section on the appropriate income tax return form.

2808 (2) The Department of Revenue shall determine annually the total amount so contributed,  
2809 shall withhold therefrom a reasonable amount for administering this voluntary  
2810 contribution program, and shall transmit the balance to the department for deposit in the  
2811 fund established in subsection (c) of this Code section; provided, however, the amount  
2812 retained for administrative costs, including implementation costs, shall not exceed  
2813 \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of  
2814 Revenue for collecting contributions pursuant to this Code section exceed the sum of  
2815 such contributions, the administrative costs which the Department of Revenue is  
2816 authorized to withhold from such contributions shall not exceed the sum of such  
2817 contributions.

## CHAPTER 2

## ARTICLE 1

2820 49-2-1.

2821 (a) There is created a Department of Human Resources Services. The powers, functions,  
2822 and duties of the Department of Human Resources as they existed on June 30, 2009, except  
2823 for those relating to mental health, addictive diseases, the Division of Public Health, and  
2824 the Office of Regulatory Services, unless specifically transferred or reassigned to the  
2825 Department of Health or the Department of Behavioral Health, are transferred to the  
2826 Department of Human Services effective July 1, 2009, and the Department of Human  
2827 Resources shall be reconstituted as the Department of Human Services effective July 1,  
2828 2009.

2829 (b) There is also created the position of commissioner of human resources services. The  
2830 commissioner shall be the chief administrative officer of the department and be both  
2831 appointed and removed by the board, subject to the approval of the Governor. Subject to  
2832 the general policy established by the board, the commissioner shall supervise, direct,  
2833 account for, organize, plan, administer, and execute the functions vested in the department.

2834 49-2-2.

2835 (a) There is created a Board of Human Resources Services, as of July 1, 2009, which shall  
2836 establish the general policy to be followed by the Department of Human Resources  
2837 Services created by Code Section 49-2-1. The powers, functions, and duties of the Board  
2838 of Human Resources as they existed on June 30, 2009, except for those relating to mental  
2839 health, addictive diseases, the Division of Public Health, and the Office of Regulatory  
2840 Services, unless specifically transferred or reassigned to the Department of Health or the  
2841 Department of Behavioral Health, are transferred to the Board of Human Services effective  
2842 July 1, 2009, and the Board of Human Resources as it existed on June 30, 2009, shall be  
2843 abolished effective July 1, 2009. The board shall consist of one member from each  
2844 congressional district in the state and four at-large nine members appointed by the  
2845 Governor and confirmed by the Senate. For this purpose, the congressional districts used  
2846 shall be those specified in Code Section 21-1-2, as amended by Act No. 2EX11 of the  
2847 second extraordinary 2001 session of the General Assembly and as thereafter amended by  
2848 law. Seven members of the board shall be engaged professionally in rendering health  
2849 services, and at least five of these seven members shall be licensed to practice medicine  
2850 pursuant to Chapter 34 of Title 43. In appointing members to the board, the Governor shall  
2851 take into account to the extent practicable all areas and functions encompassed by the  
2852 department.

2853 (b) The Governor shall designate the initial terms of the members of the board as follows:  
2854 three members shall be appointed for one year; three members shall be appointed for two  
2855 years; and three members shall be appointed for three years; ~~three members shall be~~  
2856 appointed for four years; and the remaining members shall be appointed for five years.  
2857 Thereafter, all succeeding appointments shall be for ~~five-year~~ three-year terms from the  
2858 expiration of the previous term.

2859 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
2860 as the appointment to the position on the board which becomes vacant, ~~and the appointment~~  
2861 ~~shall be submitted to the Senate for confirmation at the next session of the General~~  
2862 ~~Assembly.~~ An appointment to fill a vacancy, other than by expiration of a term of office,  
2863 shall be for the balance of the unexpired term.

2864 (d) Members of the board may be removed from office under the same conditions for  
2865 removal from office of members of professional licensing boards provided in Code Section  
2866 43-1-17.

2867 ~~(d)~~(e) There shall be a chairman chairperson of the board, elected by and from the  
2868 membership of the board, who shall be the presiding officer of the board.

2869 ~~(e) Those members engaged in rendering health services shall comprise no more than~~  
2870 ~~seven members of the total membership of the board.~~

2871 (f) The members of the board shall receive per diem and expenses as shall be set and  
2872 approved by the Office of Planning and Budget and in conformance with rates and  
2873 allowances set for members of other state boards.

2874 49-2-2.1.

2875 (a) The Department of Human Services shall succeed to all rules, regulations, policies,  
2876 procedures, and administrative orders of the Department of Human Resources that are in  
2877 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2878 relate to the functions transferred to the Department of Human Services pursuant to Code  
2879 Section 49-2-1 and shall further succeed to any rights, privileges, entitlements, obligations,  
2880 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2881 which relate to the functions transferred to the Department of Human Services pursuant to  
2882 Code Section 49-2-1. Such rules, regulations, policies, procedures, and administrative  
2883 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2884 Department of Human Services by proper authority or as otherwise provided by law.

2885 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2886 agreements, and other transactions entered into before July 1, 2009, by the Department of  
2887 Human Resources which relate to the functions transferred to the Department of Human  
2888 Services pursuant to Code Section 49-2-1 shall continue to exist; and none of these rights,

2889 privileges, entitlements, and duties are impaired or diminished by reason of the transfer of  
2890 the functions to the Department of Human Services. In all such instances, the Department  
2891 of Human Services shall be substituted for the Department of Human Resources, and the  
2892 Department of Human Services shall succeed to the rights and duties under such contracts,  
2893 leases, agreements, and other transactions.

2894 (c) All persons employed by the Department of Human Resources in capacities which  
2895 relate to the functions transferred to the Department of Human Services pursuant to Code  
2896 Section 49-2-1 on June 30, 2009, shall, on July 1, 2009, become employees of the  
2897 Department of Human Services in similar capacities, as determined by the commissioner  
2898 of human services. Such employees shall be subject to the employment practices and  
2899 policies of the Department of Human Services on and after July 1, 2009, but the  
2900 compensation and benefits of such transferred employees shall not be reduced as a result  
2901 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
2902 thereby under the State Merit System of Personnel Administration and who are transferred  
2903 to the department shall retain all existing rights under the State Merit System of Personnel  
2904 Administration. Retirement rights of such transferred employees existing under the  
2905 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
2906 2009, shall not be impaired or interrupted by the transfer of such employees and  
2907 membership in any such retirement system shall continue in the same status possessed by  
2908 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
2909 said employees on June 30, 2009, shall be retained by said employees as employees of the  
2910 Department of Human Services.

2911 49-2-3.

2912 (a) Reserved.

2913 (b) The policy-making functions of the State Board for Children and Youth, contained in  
2914 Ga. L. 1963, p. 81, are vested in the Board of Human Resources Services.

2915 (c)(b) The policy-making functions of the Commission on Aging, created in Ga. L. 1962,  
2916 p. 604, are vested in the Board of Human Resources Services.

2917 49-2-4.

2918 There shall be created in the department such divisions as may be found necessary for its  
2919 effective operation. The commissioner shall have the power to allocate and reallocate  
2920 functions among the divisions within the department.

2921 49-2-5.

2922 The department is declared to be an institution of the state for which the powers of taxation  
2923 over the whole state may be exercised, and the department is empowered and authorized  
2924 to administer, expend, and disburse funds appropriated to it and allocated to it by the  
2925 General Assembly, the respective counties of the state, and the United States, through its  
2926 appropriate agencies and instrumentalities for the purpose of distributing old-age benefits  
2927 and all other benefits as provided in this title.

2928 49-2-6.

2929 (a) The department shall administer or supervise all county departments of the state as  
2930 provided in Chapter 3 of this title.

2931 (b) The department shall:

2932 (1) Administer or supervise:

2933 (A) All categories of public assistance established under Code Section 49-4-3;

2934 (B) The operation of state charitable ~~and eleemosynary~~ institutions;

2935 (C) Agencies and institutions caring for dependent or mentally or physically disabled  
2936 or aged adults; and

2937 (D) Such other welfare activities or services as may be vested in it;

2938 (2) ~~Cooperate in the supervision of all correctional activities, including the operation of~~  
2939 ~~all the penal and correctional institutions of the state, together with parole, supervising~~  
2940 ~~of probation services, segregation of first offenders, and the inspection of local jails;~~

2941 (3) Provide services to county governments, including the organization and supervision  
2942 of county departments for the effective administration of welfare functions and the  
2943 compilation of statistics and necessary information relative to public welfare problems  
2944 throughout the state;

2945 (4)(3) Prescribe qualifications and salary standards for welfare personnel in state and  
2946 county departments, subject to Chapter 20 of Title 45;

2947 (5)(4) Assist other state and federal departments, agencies, and institutions, when so  
2948 requested, by performing services in conformity with the purposes of this title;

2949 (6)(5) Act as the agent of the federal government in welfare matters of mutual concern  
2950 in conformity with this title and the administration of any federal funds granted to the  
2951 state to aid in the furtherance of any functions of the department;

2952 (7)(6) Under rules and regulations prescribed by the board, designate county and district  
2953 departments to serve as agents in the performance of all state welfare activities in the  
2954 counties or districts;

2955 (8)(7) Have the right to designate private institutions as state institutions; to contract with  
2956 such private institutions for such activities, in carrying out this title, as the department

2957 may deem necessary from time to time; and to exercise such supervision and cooperation  
2958 in the operation of such designated private institutions as the department may deem  
2959 necessary;

2960 ~~(9)~~(8) Have the right to accept and execute gifts or donations for welfare purposes, as  
2961 may be prescribed by the donors thereof;

2962 ~~(10)~~(9) Have authority to delegate in whole or in part the operation of any institution or  
2963 other activity of the department to any other appropriate department or agency of the  
2964 state, county, or municipal governments; and to contract with and cooperate with such  
2965 departments or subdivisions in any manner proper for carrying out the purposes of this  
2966 title;

2967 ~~(11) Make provision for meeting the cost of hospital care of persons eligible for public  
2968 assistance to the extent that federal matching funds are available for such expenditures  
2969 for hospital care. To accomplish this purpose, the department is authorized to pay from  
2970 funds appropriated for the purposes of this title the amount required under this paragraph  
2971 into a trust fund account which shall be available for disbursement for the cost of hospital  
2972 care of public assistance recipients. The commissioner, subject to the approval of the  
2973 Office of Planning and Budget, on the basis of the funds appropriated in any year, shall  
2974 estimate the scope of hospital care available to public assistance recipients and the  
2975 approximate per capita cost of such care. Monthly payments into the trust fund for  
2976 hospital care shall be made on behalf of each public assistance recipient and such  
2977 payments shall be deemed encumbered for assistance payable. Ledger accounts  
2978 reflecting payments into and out of the hospital care fund shall be maintained for each of  
2979 the categories of public assistance established under Code Section 49-4-3. The balance  
2980 of state funds in such trust fund for the payment of hospital costs in an amount not to  
2981 exceed the amount of federal funds held in the trust fund by the department available for  
2982 expenditure under this paragraph shall be deemed encumbered and held in trust for the  
2983 payment of the costs of hospital care and shall be rebudgeted for this purpose on each  
2984 quarterly budge required under the laws governing the expenditure of state funds. The  
2985 state auditor shall audit the funds in the trust fund established under this paragraph in the  
2986 same manner that any other funds disbursed by the department are audited; and~~

2987 ~~(12)~~(10) Administer such programs and provide such services as may be appropriate and  
2988 necessary to strengthen family life and help needy individuals attain the maximum  
2989 economic and personal independence of which they are capable, including services to  
2990 applicants and recipients of old-age assistance to help them attain self-care, provided that  
2991 the costs incurred by the county departments in administering this Code section in  
2992 conjunction with the public assistance programs administered by the department shall be  
2993 deemed to be administrative expenses;

- 2994       (11) Establish, administer, and supervise the state program for developmental  
2995       disabilities;
- 2996       (12) Have authority to conduct research into the causes and treatment of disability;
- 2997       (13) Assign specific responsibility to one or more units of the department for the  
2998       development of a disability prevention program. The objectives of such program shall  
2999       include, but are not limited to, monitoring of completed and ongoing research related to  
3000       the prevention of disability, implementation of programs known to be preventive, and  
3001       testing, where practical, of those measures having a substantive potential for the  
3002       prevention of such disabilities;
- 3003       (14) Assign specific responsibility to one or more units of the department for the  
3004       development of programs designed to serve disabled infants, children, and youth. To the  
3005       extent practicable, such units shall cooperate with the Georgia Department of Education  
3006       and the University System of Georgia in developing such programs;
- 3007       (15) Establish a system of regional administration of developmental disability services  
3008       in institutions and in the community;
- 3009       (16) Make and administer budget allocations to regional offices to fund the operation of  
3010       developmental disabilities facilities and programs;
- 3011       (17) Establish, operate, supervise, and staff programs and facilities for the treatment of  
3012       disabilities throughout this state;
- 3013       (18) Classify and license community living arrangements in accordance with the rules  
3014       and regulations promulgated by the department for the licensing and enforcement of  
3015       licensing requirements for persons whose services are financially supported, in whole or  
3016       in part, by funds authorized through the department. To be eligible for licensing as a  
3017       community living arrangement, the residence and services provided must be integrated  
3018       within the local community. All community living arrangements licensed by the  
3019       department shall be subject to the provisions of Code Sections 49-2-17 and 49-2-18. No  
3020       person, business entity, corporation, or association, whether operated for profit or not for  
3021       profit, may operate a community living arrangement without first obtaining a license or  
3022       provisional license from the department. A license issued pursuant to this paragraph is  
3023       not assignable or transferable. As used in this paragraph, the term 'community living  
3024       arrangement' means any residence, whether operated for profit or not, which undertakes  
3025       through its ownership or management to provide or arrange for the provision of housing,  
3026       food, one or more personal services, supports, care, or treatment exclusively for two or  
3027       more persons who are not related to the owner or administrator of the residence by blood  
3028       or marriage;
- 3029       (19) Classify host homes for persons whose services are financially supported, in whole  
3030       or in part, by funds authorized through the department and provide guidelines for and

oversight of host homes, which may include, but not be limited to, criteria to become a host home, requirements relating to physical plants and supports, placement procedures, and ongoing oversight requirements. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider which provides the host home services by contract with the department. The department shall approve and enter into agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served or of their property nor the agent in such person's advance directive for health care. The placement determination for each person placed in a host home shall be made according to such person's choice, as well as the individual needs of such person in accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person. As used in this paragraph, the term 'host home' means a private residence in a residential area in which the occupant owner or lessee provides housing and provides or arranges for the provision of food, one or more personal services, supports, care, or treatment exclusively for one or two persons who are not related to the occupant owner or lessee by blood or marriage:

(20) Report annually to the General Assembly on family violence;

(21) Develop standards to be utilized by the department in the certification and regulation of family violence intervention programs, as defined in Code Section 19-13-10; and

(22) Certify biannual training for family violence intervention programs, as defined in Code Section 19-13-10.

49-2-7.

(a) The functions, duties, and authority of the Board of Public Welfare, established by Ga. L. 1919, p. 222, as amended, as transferred and vested in the Board of Control of Eleemosynary Institutions by Ga. L. 1931, p. 7, Section 44A, are vested in the Department of Human Resources Services.

(b) The functions, duties, and authority of the Department of Family and Children Services, created in Ga. L. 1937, p. 355, as amended, are vested in the Department of Human Resources Services.

(c) The functions of the State Board for Children and Youth, created in Ga. L. 1963, p. 81, except for the policy-making functions transferred to the Board of Human Resources, are vested in the Department of Human Resources Services.

(d) Reserved:

(e) The functions, duties, and authority of the State Commission on Aging, created in Ga. L. 1962, p. 602, except the policy-making functions transferred to the Board of Human Resources Services, are vested in the Department of Human Resources Services.

3067 49-2-8.

3068 ~~The five members of the board who are licensed to practice medicine pursuant to Chapter~~  
3069 ~~34 of Title 43 shall pass upon and approve the professional qualifications of all physicians~~  
3070 ~~and medical doctors employed by the department.~~ Reserved.

3071 49-2-9.

3072 In administering any funds appropriated or made available to the department for welfare  
3073 purposes, the department shall have the power:

3074 (1) To make use of all local processes to enforce the minimum standards prescribed  
3075 under or pursuant to the laws providing for grants-in-aid; and  
3076 (2) To administer and disburse any and all funds which may be allocated by any  
3077 municipality of the state or private organization or society for such purposes as may be  
3078 designated by such municipality or other agency. The department may use a reasonable  
3079 percentage of such funds for administrative costs, not to exceed 10 percent of the total  
3080 sum administered.

3081 49-2-10.

3082 For the purpose of carrying out the duties and obligations of the department for  
3083 performance of welfare services of the state, for administrative costs, for matching such  
3084 federal funds as may be available for all of the aforesaid services, for the purpose of  
3085 establishing an equalization fund to be used in assisting those counties which may be  
3086 unable otherwise to bear their proportionate share of the expenses of administration and of  
3087 dispensing the benefits provided for under this title, and for dispensing all of the benefits  
3088 provided for under this title, the General Assembly shall make appropriations out of the  
3089 general fund of the state or otherwise for the various and separate activities of the  
3090 department. All funds appropriated or allocated to the department or to the county  
3091 departments by the General Assembly, the fiscal authorities of the respective counties, and  
3092 by the federal government through its appropriate agencies and instrumentalities are  
3093 declared to be funds provided for a public purpose; and all appropriations provided for in  
3094 this Code section and hereafter may be expended and distributed by the department for the  
3095 purposes provided for under this title.

3096 49-2-11.

3097 (a) Notwithstanding any provision in this title to the contrary, particularly Articles 2, 3,  
3098 and 5 of Chapter 4 of this title, nothing therein contained shall be construed to prevent the  
3099 acceptance of more than 50 percent federal matching funds. The department may accept  
3100 and disburse the maximum percentage of federal grant-in-aid funds made available to this

3101 state by the federal government under any formula of variable grants or other formula for  
3102 the granting of federal grants-in-aid.

3103 (b) The department is authorized to comply with the requirements prescribed by Congress  
3104 as conditions to federal grants.

3105 (c) To the end of empowering the department to comply with federal requirements and to  
3106 effectuate the purposes of grant-in-aid welfare programs, the board is authorized to  
3107 promulgate all necessary rules and regulations and the department is authorized to do all  
3108 things necessary and proper for the securing of the maximum amount of such federal  
3109 grants.

3110 (d) In the event that Congress appropriates funds for grants-in-aid to the state governments  
3111 for the purpose of assisting them in the operation of general assistance programs, medical  
3112 assistance programs, or any other welfare programs, the department is authorized to  
3113 cooperate with the federal government in such programs, to accept funds from the federal  
3114 government in the maximum amounts made available, to disburse them, and to comply  
3115 with all requirements of the federal government necessary for the securing of such  
3116 grant-in-aid funds.

3117 (e) Any state funds which are made available by appropriation to the department for  
3118 matching federal funds shall be available to supply the state portion of expenditures for  
3119 general assistance programs, medical assistance programs, or any other type welfare  
3120 programs provided for by the federal government which benefit the citizens or residents  
3121 of this state.

3122 (f) Notwithstanding subsections (a) through (e) of this Code section, the Department of  
3123 ~~Community~~ Health shall be the single state agency for the administration of the state  
3124 medical assistance plan.

3125 49-2-12.

3126 (a) All divisions and sections within the department shall make an inventory of all the  
3127 various vehicles to which the department holds title and shall investigate their utilization  
3128 patterns in order to establish and develop a consolidated and coordinated transportation  
3129 plan for the various human services programs of the department, including, but not limited  
3130 to, those programs relating to the aged and to the mentally and physically disabled.

3131 (b) Other departments and agencies of the state shall cooperate with the Department of  
3132 ~~Human Resources~~ Services in mutually beneficial agreements regarding the establishment  
3133 and development of a coordinated transportation plan involving various vehicles to which  
3134 the state has title.

3135 (c) The plan required to be developed under this Code section shall identify the fully  
3136 allocated costs of the transportation component of their services and take into consideration

3137 various limitations on the expenditure of federal funds which may arise in any consolidated  
3138 or coordinated transportation system. No later than June 30, 1980, a preliminary  
3139 transportation plan shall be submitted by the department to the Human Relations and Aging  
3140 Committee of the House of Representatives and the Education and Youth, Aging, and  
3141 ~~Human Ecology~~ Committee of the Senate, which plan shall be revised and submitted to  
3142 such committees every two years thereafter.

3143 49-2-13.

3144 All divisions and sections within the department, in cooperation with the Department of  
3145 Transportation, shall identify those areas of the state where the general transportation needs  
3146 of the elderly and persons with disabilities are not and cannot be adequately served by bus  
3147 service and community service centers furnishing transportation. In further cooperation  
3148 with the Department of Transportation, the department shall identify alternatives for  
3149 meeting the transportation needs of these persons and shall report to the committees  
3150 specified in subsection (c) of Code Section 49-2-12 as required therein. Such alternative  
3151 means to be considered for providing for the transportation needs of these persons should  
3152 include, but shall not be limited to:

- 3153 (1) Contract service resulting from competitive bidding by private sector bus operators  
3154 operating under Article 1 of Chapter 7 of Title 46;
- 3155 (2) Contract service resulting from competitive bidding by taxi operators;
- 3156 (3) Negotiated fee basis with municipal and area-wide transportation systems serving the  
3157 general public; or
- 3158 (4) Any combination of above paragraphs (1) through (3) of this Code section.

3159 49-2-13.1.

3160 (a) The department may, when funds are available from the United States government for  
3161 such purposes, provide financial assistance with such funds, or such funds and state general  
3162 funds appropriated for these purposes, to private nonprofit corporations and associations  
3163 for the specific purpose of assisting them in providing transportation services meeting the  
3164 special needs of the elderly or persons with disabilities, or both, for whom the department  
3165 determines that the mass transportation services planned, designed, and carried out by local  
3166 public bodies, agencies, and authorities are unavailable, insufficient, or inappropriate. Such  
3167 financial assistance shall be subject to those terms, conditions, requirements, and  
3168 restrictions as the department determines to be necessary or appropriate in order to carry  
3169 out the purposes of this Code section.

3170       (b) In order to effectuate and enforce this Code section, the department is authorized to  
3171       promulgate necessary rules and regulations and to prescribe conditions and procedures in  
3172       order to assure compliance in carrying out the purposes of this Code section.

3173       49-2-14.

3174       (a) As used in this Code section, the term 'conviction data' means a record of a finding or  
3175       verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,  
3176       regardless of whether an appeal of the conviction has been sought.

3177       (b) The department may receive from any law enforcement agency conviction data that is  
3178       relevant to a person whom the department, its contractors, or a district or county health  
3179       agency is considering as a final selectee for employment in a position the duties of which  
3180       involve direct care, treatment, custodial responsibilities, or any combination thereof for its  
3181       clients. The department may also receive conviction data which is relevant to a person  
3182       whom the department, its contractors, or a district or county health agency is considering  
3183       as a final selectee for employment in a position if, in the judgment of the employer, a final  
3184       employment decision regarding the selectee can only be made by a review of conviction  
3185       data in relation to the particular duties of the position and the security and safety of clients,  
3186       the general public, or other employees. Further, the department or any licensed  
3187       child-placing agency, designated by the department to assist it in preparing studies of  
3188       homes in which children in its custody may be placed, may receive from any law  
3189       enforcement agency conviction data that is relevant to any adult person who resides in a  
3190       home where children in the custody of the department may be placed.

3191       (c) The department shall establish a uniform method of obtaining conviction data under  
3192       subsection (a) of this Code section which shall be applicable to the department, and its  
3193       contractors, ~~and any district or county health agency~~. Such uniform method shall require  
3194       the submission to the Georgia Crime Information Center of ~~two complete sets of~~  
3195       fingerprints and the records search fee in accordance with Code Section 35-3-35. Upon  
3196       receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~  
3197       fingerprints to the Federal Bureau of Investigation for a search of bureau records and an  
3198       appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its own  
3199       records and records to which it has access. After receiving the fingerprints and fee, the  
3200       Georgia Crime Information Center shall notify the department in writing of any derogatory  
3201       finding, including, but not limited to, any conviction data regarding the fingerprint records  
3202       check or if there is no such finding.

3203       (d) All conviction data received shall be for the exclusive purpose of making employment  
3204       decisions or decisions concerning children in the custody of the department or who are the  
3205       subjects of a child protective services referral, complaint, or investigation and shall be

3206 privileged and shall not be released or otherwise disclosed to any other person or agency  
3207 except to any person or agency with a legal right to inspect the employment, department,  
3208 or licensed child-placing agency file. Immediately following the employment decisions  
3209 or upon receipt of the conviction data concerning any adult person who has contact with  
3210 a child who is the subject of a child protective services referral, complaint, or investigation  
3211 or who resides in a home where children in the custody of the department may be placed,  
3212 all such conviction data collected by the department or the licensed child-placing agency  
3213 shall be maintained by the department or child-placing agency pursuant to laws regarding  
3214 and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime  
3215 Information Center, as is applicable. Penalties for the unauthorized release or disclosure  
3216 of any conviction data shall be as prescribed pursuant to laws regarding and rules or  
3217 regulations of the Federal Bureau of Investigation and the Georgia Crime Information  
3218 Center, as is applicable.

3219 (e) Notwithstanding the provisions of subsection (c) of this Code section, when a  
3220 contractor to this department is a personal care home, the provisions of Code Sections  
3221 31-7-250 through 31-7-264 shall apply.

3222 (f) The department may promulgate written rules and regulations to implement the  
3223 provisions of this Code section.

3224 (g) The department may receive from any law enforcement agency criminal history  
3225 information, including arrest and conviction data, and any and all other information which  
3226 it may be provided pursuant to state or federal law which is relevant to any adult person  
3227 who resides in a home where children in the custody of the department have been or may  
3228 be placed or which is relevant to any adult person who resides in the home of or provides  
3229 care to a child who is the subject of a child protective services referral, complaint, or  
3230 investigation to the fullest extent permissible by federal and state law, including but not  
3231 limited to Public Law 92-544. The department shall establish a uniform method of  
3232 obtaining criminal history information under this subsection. Such method shall require  
3233 the submission to the Georgia Crime Information Center of ~~two complete sets of fingerprint~~  
3234 ~~cards fingerprints~~ together with any required records search fee in accordance with Code  
3235 Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall  
3236 promptly transmit ~~one set of~~ the fingerprints submitted by the department to the Federal  
3237 Bureau of Investigation for a search of bureau records and an appropriate report and shall  
3238 ~~retain the other set and~~ promptly conduct a search of its own records and records to which  
3239 it has access. Such method shall also permit the submission of the names alone of such  
3240 adult persons to the proper law enforcement agency when the department is considering  
3241 placement of a child in exigent circumstances for a name based check of such adult  
3242 person's criminal history information as maintained by the Georgia Crime Information

3243 Center and the Federal Bureau of Investigation. In such exigent circumstances, the  
3244 department shall submit ~~two complete sets of fingerprint cards~~ fingerprints of those adult  
3245 persons in the placement home, together with any required records search fee, to the  
3246 Federal Bureau of Investigation within 15 calendar days of the date of the name based  
3247 check on that person. ~~Fingerprint cards~~ The fingerprints shall be forwarded to the Federal  
3248 Bureau of Investigation through the Georgia Crime Information Center in accordance with  
3249 Code Section 35-3-35. Following the submission of such ~~fingerprint cards~~ fingerprints, the  
3250 department may receive the criminal history information, including arrest and conviction  
3251 data, relevant to such person. In the event that a child has been placed in exigent  
3252 circumstances, a name based records search has been requested for any adult person of the  
3253 placement household, and that adult refuses to provide fingerprints after being requested  
3254 to do so by the department, the child shall be immediately removed from the placement  
3255 household by the department, provided that the child is in the custody of the department.  
3256 (h) The department shall be authorized to conduct a name or descriptor based check of any  
3257 adult person's criminal history information, including arrest and conviction data, and other  
3258 information from the Georgia Crime Information Center regarding any adult person who  
3259 resides in a home where children in the custody of the department have been or may be  
3260 placed or which is relevant to any adult person who resides in the home of or provides care  
3261 to a child who is the subject of a child protective services referral, complaint, or  
3262 investigation without the consent of such adult person and without fingerprint comparison  
3263 to the fullest extent permissible by federal and state law.

3264 49-2-14.1.

3265 (a) As used in this Code section, the term:

- 3266 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
3267 whether an appeal of the conviction has been sought.
- 3268 (2) 'Crime' means commission of the following offenses:
  - 3269 (A) A violation of Code Section 16-5-1, relating to murder and felony murder;
  - 3270 (B) A violation of Code Section 16-5-21, relating to aggravated assault;
  - 3271 (C) A violation of Code Section 16-5-24, relating to aggravated battery;
  - 3272 (D) A violation of Code Section 16-5-70, relating to cruelty to children;
  - 3273 (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of  
3274 age or older;
  - 3275 (F) A violation of Code Section 16-6-1, relating to rape;
  - 3276 (G) A violation of Code Section 16-6-2, relating to aggravated sodomy;
  - 3277 (H) A violation of Code Section 16-6-4, relating to child molestation;

3278       (I) A violation of Code Section 16-6-5, relating to enticing a child for indecent  
3279       purposes;  
3280       (J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in  
3281       custody, detained persons, or patients in hospitals or other institutions;  
3282       (K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;  
3283       (L) A violation of Code Section 16-8-41, relating to armed robbery;  
3284       (M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of  
3285       a disabled adult or elder person; or  
3286       (N) Any other offense committed in another jurisdiction that, if committed in this state,  
3287       would be deemed to be a crime listed in this paragraph without regard to its designation  
3288       elsewhere.

3289       (3) 'Criminal record' means any of the following:

3290       (A) Conviction of a crime;  
3291       (B) Arrest, charge, and sentencing for a crime where:  
3292           (i) A plea of nolo contendere was entered to the charge;  
3293           (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
3294           granted; or  
3295           (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
3296           or  
3297       (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
3298       prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

3299       (4) 'Facility' means a:

3300       (A) ~~Personal care home required to be licensed or permitted under Code Section~~  
3301       ~~31-7-12;~~  
3302       (B) ~~Private home care provider required to be licensed under Article 13 of Chapter 7~~  
3303       ~~of Title 31;~~  
3304       (C) Community living arrangement subject to licensure under paragraph ~~(16)~~(18) of  
3305       subsection (b) and subsection (c) of Code Section ~~37-1-20~~ 49-2-6; or  
3306       (D)(B) Child welfare agency required to be licensed under Code Section 49-5-12.

3307       (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
3308       Chapter 3 of Title 35.

3309       (6) 'GCIC information' means criminal history record information as defined in Code  
3310       Section 35-3-30.

3311       (7) 'License' means the document issued by the department to authorize the facility to  
3312       operate.

3313       (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,  
3314       or association with 10 percent or greater ownership interest in a facility providing care  
3315       to persons under the license of the facility in this state and who:  
3316           (A) Purports to or exercises authority of the owner in a facility;  
3317           (B) Applies to operate or operates a facility;  
3318           (C) Maintains an office on the premises of a facility;  
3319           (D) Resides at a facility;  
3320           (E) Has direct access to persons receiving care at a facility;  
3321           (F) Provides direct personal supervision of facility personnel by being immediately  
3322       available to provide assistance and direction during the time such facility services are  
3323       being provided; or  
3324           (G) Enters into a contract to acquire ownership of a facility.

3325       (9) 'Records check application' means two sets of classifiable fingerprints in such form  
3326       and of such quality as prescribed by the Georgia Crime Information Center under  
3327       standards adopted by the Federal Bureau of Investigation and a records search fee to be  
3328       established by the department by rule and regulation, payable in such form as the  
3329       department may direct to cover the cost of obtaining criminal background information  
3330       pursuant to this Code section.

3331       (b) An owner with a criminal record shall not operate or hold a license to operate a facility,  
3332       and the department shall revoke the license of any owner operating a facility or refuse to  
3333       issue a license to any owner operating a facility if it determines that such owner has a  
3334       criminal record; provided, however, that an owner who holds a license to operate a facility  
3335       on or before June 30, 2007, shall not have his or her license revoked prior to a hearing  
3336       being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia  
3337       Administrative Procedure Act.'

3338       (c)(1) Prior to approving any license for a new facility and periodically as established by  
3339       the department by rule and regulation, the department shall require an owner to submit  
3340       a records check application. The department shall establish a uniform method of  
3341       obtaining an owner's records check application.

3342       (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,  
3343       the department shall transmit to the GCIC ~~both sets of the~~ fingerprints and ~~the~~ records  
3344       search fee from each fingerprint records check application in accordance with Code  
3345       Section 35-3-35. Upon receipt thereof, the GCIC shall promptly transmit ~~one set of the~~  
3346       fingerprints to the Federal Bureau of Investigation for a search of bureau records and  
3347       an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its  
3348       records and records to which it has access. Within ten days after receiving fingerprints  
3349       acceptable to the GCIC and the fee, the GCIC shall notify the department in writing of

3350 any criminal record or if there is no such finding. After a search of Federal Bureau of  
3351 Investigation records and fingerprints and upon receipt of the bureau's report, the  
3352 department shall make a determination about an owner's criminal record and shall  
3353 notify the owner in writing as to the department's determination as to whether the owner  
3354 has or does not have a criminal record.

3355 (B) The department may either perform criminal background checks under agreement  
3356 with the GCIC or contract with the GCIC and appropriate law enforcement agencies  
3357 which have access to GCIC and Federal Bureau of Investigation information to have  
3358 those agencies perform for the department criminal background checks for owners. The  
3359 department or the appropriate law enforcement agencies may charge reasonable fees  
3360 for performing criminal background checks.

3361 (3)(A) The department's determination regarding an owner's criminal record, or any  
3362 action by the department revoking or refusing to grant a license based on such  
3363 determination, shall constitute a contested case for purposes of Chapter 13 of Title 50,  
3364 the 'Georgia Administrative Procedure Act,' except that any hearing required to be held  
3365 pursuant thereto may be held reasonably expeditiously after such determination or  
3366 action by the department.

3367 (B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b)  
3368 of this Code section, the hearing officer shall consider in mitigation the length of time  
3369 since the crime was committed, the absence of additional criminal charges, the  
3370 circumstances surrounding the commission of the crime, other indicia of rehabilitation,  
3371 the facility's history of compliance with the regulations, and the owner's involvement  
3372 with the licensed facility in arriving at a decision as to whether the criminal record  
3373 requires the denial or revocation of the license to operate the facility. Where a hearing  
3374 is required, at least 30 days prior to such hearing, the hearing officer shall notify the  
3375 office of the prosecuting attorney who initiated the prosecution of the crime in question  
3376 in order to allow the prosecutor to object to a possible determination that the conviction  
3377 would not be a bar for the grant or continuation of a license as contemplated within this  
3378 Code section. If objections are made, the hearing officer shall take such objections into  
3379 consideration in considering the case.

3380 (4) ~~Neither the~~ The GCIC, the department, any law enforcement agency, ~~nor~~ and the  
3381 employees of any such entities shall not be responsible for the accuracy of information  
3382 nor have any liability for defamation, invasion of privacy, negligence, or any other claim  
3383 in connection with any dissemination of information or determination based thereon  
3384 pursuant to this Code section.

3385 (d) All information received from the Federal Bureau of Investigation or the GCIC shall  
3386 be for the exclusive purpose of approving or denying the granting of a license to a new

3387 facility or the revision of a license of an existing facility when a new owner is proposed and  
3388 shall not be released or otherwise disclosed to any other person or agency except to any  
3389 person or agency with a legal right to inspect the facility. All such information collected  
3390 by the department shall be maintained by the department pursuant to laws regarding and  
3391 the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is  
3392 applicable. Penalties for the unauthorized release or disclosure of any such information  
3393 shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal  
3394 Bureau of Investigation and the GCIC, as is applicable.

3395 (e) The requirements of this Code section are supplemental to any requirements for a  
3396 license imposed by Article 3 of Chapter 5 of this title or Article 11 of Chapter 7 of Title 31.

3397 (f) The department shall promulgate written rules and regulations to implement the  
3398 provisions of this Code section.

3399 49-2-15.

3400 When any action is brought against the Department of Human Resources Services, the  
3401 Board of Human Resources Services, the commissioner of human resources services, or  
3402 any employee or agent thereof or when any action is brought in which the department could  
3403 be held responsible for damages awarded in such action, it shall be the duty of the plaintiff  
3404 to provide for service of notice of the pendency of such action by providing for service of  
3405 a second original process, issued from the court in which the action is filed, upon the  
3406 commissioner of human resources services personally or upon a person designated by the  
3407 commissioner in writing to serve as agent for the acceptance of such service of process.  
3408 The service of process in such action shall not be perfected until such second original  
3409 process has been served as provided in this Code section. The provisions of this Code  
3410 section shall be cumulative of any other requirements imposed by law for the service of  
3411 process or notice.

3412 49-2-16.

3413 (a) There is created a Georgia Council for Welfare Administration. The objectives for of  
3414 the council shall be:

3415 (1) To promote improvements in public welfare and social service programs of the  
3416 Division of Family and Children Services within the Department of Human Resources  
3417 Services;

3418 (2) To provide a forum for the interchange of information relating to welfare and social  
3419 service programs; and

3420       (3) To promote with any organization exempt under Section 501(c)(4) of the United  
3421       States Internal Revenue Code of 1986 a more efficient public welfare delivery system for  
3422       the citizens of this state.  
3423       (b) Membership in the council shall be open to persons actively employed in the Division  
3424       of Family and Children Services within the Department of Human Resources Services.  
3425       (c) No state funds shall be appropriated for the benefit or use of the council.  
3426       (d) The council is authorized to adopt bylaws which prescribe its organizational structure,  
3427       officers, terms and condition of office, meeting schedules, and such other organizational  
3428       procedures as are necessary for its lawful and effective functioning.  
3429       (e) The commissioner of human resources services hall call the initial meeting of the  
3430       council at which time the council shall organize and select its officers.

3431       49-2-17.

3432       (a) This Code section shall be applicable to any agency, facility, institution, community  
3433       living arrangement, or entity subject to regulation by the department under Chapter 5 of  
3434       Title 49 or paragraph (18) of subsection (b) of Code Section 49-2-6. For purposes of this  
3435       Code section, the term 'license' shall be used to refer to any license, permit, registration, or  
3436       commission issued by the department pursuant to the provisions of the law cited in this  
3437       subsection.  
3438       (b) The department shall have the authority to take any of the actions enumerated in  
3439       subsection (c) of this Code section upon a finding that the applicant or licensee has:  
3440           (1) Knowingly made any false statement of material information in connection with the  
3441           application for a license, or in statements made or on documents submitted to the  
3442           department as part of an inspection, survey, or investigation, or in the alteration or  
3443           falsification of records maintained by the agency, facility, institution, or entity;  
3444           (2) Failed or refused to provide the department with access to the premises subject to  
3445           regulation or information pertinent to the initial or continued licensing of the agency,  
3446           facility, institution, or entity;  
3447           (3) Failed to comply with the licensing requirements of this state; or  
3448           (4) Failed to comply with any provision of this Code section.  
3449       (c) When the department finds that any applicant or licensee has violated any provision  
3450       of subsection (b) of this Code section or laws, rules, regulations, or formal orders related  
3451       to the initial or continued licensing of the agency, facility, institution, or entity, the  
3452       department, subject to notice and opportunity for hearing, may take any of the following  
3453       actions:  
3454           (1) Refuse to grant a license; provided, however, that the department may refuse to grant  
3455           a license without holding a hearing prior to taking such action;

3456       (2) Administer a public reprimand;

3457       (3) Suspend any license for a definite period or for an indefinite period in connection  
3458       with any condition which may be attached to the restoration of said license;

3459       (4) Prohibit any applicant or licensee from allowing a person who previously was  
3460       involved in the management or control, as defined by rule, of any agency, facility,  
3461       institution, or entity which has had its license or application revoked or denied within the  
3462       past 12 months to be involved in the management or control of such agency, facility,  
3463       institution, or entity;

3464       (5) Revoke any license;

3465       (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
3466       each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
3467       licensing of any agency, facility, institution, or entity; or

3468       (7) Limit or restrict any license as the department deems necessary for the protection of  
3469       the public, including, but not limited to, restricting some or all services of or admissions  
3470       into an agency, facility, institution, or entity for a time certain.

3471       In taking any of the actions enumerated in this subsection, the department shall consider  
3472       the seriousness of the violation, including the circumstances, extent, and gravity of the  
3473       prohibited acts, and the hazard or potential hazard created to the health or safety of the  
3474       public.

3475       (d) The department may deny a license or otherwise restrict a license for any applicant  
3476       who has had a license denied, revoked, or suspended within one year of the date of an  
3477       application or who has transferred ownership or governing authority of an agency, facility,  
3478       institution, or entity subject to regulation by the department within one year of the date of  
3479       a new application when such transfer was made in order to avert denial, revocation, or  
3480       suspension of a license.

3481       (e) With regard to any contested case instituted by the department pursuant to this Code  
3482       section or other provisions of law which may now or hereafter authorize remedial or  
3483       disciplinary grounds and action, the department may, in its discretion, dispose of the action  
3484       so instituted by settlement. In such cases, all parties, successors, and assigns to any  
3485       settlement agreement shall be bound by the terms specified therein and violation thereof  
3486       by any applicant or licensee shall constitute grounds for any action enumerated in  
3487       subsection (c) of this Code section.

3488       (f) The department shall have the authority to make public or private investigations or  
3489       examinations inside or outside of this state to determine whether the provisions of this  
3490       Code section or any other law, rule, regulation, or formal order relating to the licensing of  
3491       any agency, facility, institution, or entity has been violated. Such investigations may be  
3492       initiated at any time, in the discretion of the department, and may continue during the

3493 pendency of any action initiated by the department pursuant to subsection (c) of this Code  
3494 section.

3495 (g) For the purpose of conducting any investigation, inspection, or survey, the department  
3496 shall have the authority to require the production of any books, records, papers, or other  
3497 information related to the initial or continued licensing of any agency, facility, institution,  
3498 or entity.

3499 (h) Pursuant to the investigation, inspection, and enforcement powers given to the  
3500 department by this Code section and other applicable laws, the department may assess  
3501 against an agency, facility, institution, or entity reasonable and necessary expenses incurred  
3502 by the department pursuant to any administrative or legal action required by the failure of  
3503 the agency, facility, institution, or entity to fully comply with the provisions of any law,  
3504 rule, regulation, or formal order related to the initial or continued licensing. Assessments  
3505 shall not include attorney's fees and expenses of litigation, shall not exceed other actual  
3506 expenses, and shall only be assessed if such investigations, inspection, or enforcement  
3507 actions result in adverse findings, as finally determined by the department, pursuant to  
3508 administrative or legal action.

3509 (i) For any action taken or any proceeding held under this Code section or under color of  
3510 law, except for gross negligence or willful or wanton misconduct, the department, when  
3511 acting in its official capacity, shall be immune from liability and suit to the same extent that  
3512 any judge of any court of general jurisdiction in this state would be immune.

3513 (j) In an administrative or legal proceeding under this Code section, a person or entity  
3514 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
3515 the burden of proving this exemption or exception.

3516 (k) This Code section and all actions resulting from its provisions shall be administered  
3517 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

3518 (l) The provisions of this Code section shall be supplemental to and shall not operate to  
3519 prohibit the department from acting pursuant to those provisions of law which may now  
3520 or hereafter authorize remedial or disciplinary grounds and action for the department. In  
3521 cases where those other provisions of law so authorize other disciplinary grounds and  
3522 actions, but this Code section limits such grounds or actions, those other provisions shall  
3523 apply.

3524 (m) The department is authorized to promulgate rules and regulations to implement the  
3525 provisions of this Code section.

3526 49-2-18.

3527 (a)(1) The commissioner may order the emergency relocation of patients or residents  
3528 from a community living arrangement subject to licensure under paragraph (18) of

3529 subsection (b) of Code Section 49-2-6 when the commissioner has determined that the  
3530 patients or residents are subject to an imminent and substantial danger.

3531 (2) When an order is issued under this subsection, the commissioner shall provide for:

3532 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her  
3533 physician of the emergency relocation and the reasons therefor;

3534 (B) Relocation to the nearest appropriate community living arrangement; and

3535 (C) Other protection designed to ensure the welfare and, when possible, the desires of  
3536 the patient or resident.

3537 (b)(1) The commissioner may order the emergency placement of a monitor in a  
3538 community living arrangement subject to licensure under paragraph (18) of subsection

3539 (b) of Code Section 49-2-6 when one or more of the following conditions are present:

3540 (A) The community living arrangement is operating without a license;

3541 (B) The department has denied application for a license or has initiated action to  
3542 revoke the existing license of the community living arrangement;

3543 (C) The community living arrangement is closing or plans to close and adequate  
3544 arrangements for relocation of the patients or residents have not been made at least 30  
3545 days before the date of closure; or

3546 (D) The health, safety, security, rights, or welfare of the patients or residents cannot  
3547 be adequately assured by the community living arrangement.

3548 (2) A monitor may be placed, pursuant to this subsection, in a community living  
3549 arrangement for no more than ten days, during which time the monitor shall observe

3550 conditions and compliance with any recommended remedial action of the department by  
3551 the community living arrangement. The monitor shall report to the department. The

3552 monitor shall not assume any administrative responsibility within the community living  
3553 arrangement nor shall the monitor be liable for any actions of the community living  
3554 arrangement. The costs of placing a monitor in a community living arrangement shall be

3555 paid by the community living arrangement unless the order placing the monitor is  
3556 determined to be invalid in a contested case proceeding under subsection (d) of this Code

3557 section, in which event the costs shall be paid by the state.

3558 (c)(1) The commissioner may order the emergency prohibition of admissions to a  
3559 community living arrangement subject to licensure under paragraph (18) of subsection

3560 (b) of Code Section 49-2-6 when the community living arrangement has failed to correct  
3561 a violation of departmental permit rules or regulations within a reasonable period of time,

3562 as specified in the department's corrective order, and the violation:

3563 (A) Could jeopardize the health and safety of the residents or patients in the  
3564 community living arrangement if allowed to remain uncorrected; or

3565       (B) Is a repeat violation over a 12 month period, which is intentional or due to gross  
3566       negligence.

3567       (2) Admission to a community living arrangement may be suspended until the violation  
3568       has been corrected or until the department has determined that the community living  
3569       arrangement has undertaken the action necessary to effect correction of the violation.

3570       (d) The commissioner may issue emergency orders pursuant to this Code section only if  
3571       authorized by rules and regulations of the department. Unless otherwise provided in the  
3572       order, an emergency order shall become effective immediately. The department shall hold  
3573       a preliminary hearing within ten days following a request therefor by any community living  
3574       arrangement affected by an emergency order. If at the preliminary hearing the order is  
3575       determined by the department to be invalid, that order shall thereupon become void and of  
3576       no effect. If at the preliminary hearing the order is determined by the department to be  
3577       valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the  
3578       'Georgia Administrative Procedure Act,' and that order shall remain in effect until  
3579       determined invalid in a proceeding regarding the contested case or until rescinded by the  
3580       commissioner, whichever is earlier. For purposes of this subsection, an emergency order  
3581       is valid only if the order is authorized to be issued under this Code section and rules and  
3582       regulations relating thereto.

3583       (e) The powers provided by this Code section are cumulative of all other powers of the  
3584       department, board, and commissioner.

3585       49-2-19.

3586       (a) It is the goal of the State of Georgia that every citizen be provided an adequate level  
3587       of disability care through a unified system of disability services. To this end, the  
3588       department shall, to the maximum extent possible, allocate funds available for services so  
3589       as to provide an adequate disability services program available to all citizens of this state.  
3590       In funding and providing disability services, the department and the regional offices shall  
3591       ensure that all providers, public or private, meet minimum standards of quality and  
3592       competency as established by the department.

3593       (b) Fees generated, if any, by hospitals, community service boards, and other private and  
3594       public providers providing services under contract or purview of the department shall be  
3595       reported to the department and applied wherever appropriate against the cost of providing,  
3596       and increasing the quantity and quality of, disability services; provided, however, that  
3597       income of a community service board derived from fees may be used to further the  
3598       purposes of such community service board as found in Code Section 37-3-6.1, subject to  
3599       appropriations. The department shall be responsible for developing procedures to properly  
3600       account for the collection, remittance, and reporting of generated fees. The department

3601 shall work with the community service boards and other public or private providers to  
3602 develop an appropriate mechanism for accounting for the funds and resources contributed  
3603 to local disability services by counties and municipalities within the area. Such  
3604 contributions are not required to be submitted to either the community service boards or  
3605 the department; however, appropriate documentation and accounting entries shall make  
3606 certain that the county or municipality is credited, and if necessary compensated,  
3607 appropriately for such contribution of funds or resources.

3608 (c) No person shall be denied disability services as defined in this chapter provided by the  
3609 state based on age, gender, race, ethnic origin, or inability to pay; provided, however,  
3610 unless otherwise prohibited by law or contract, providers of disability services may deny  
3611 nonemergency disability services to any person who is able to pay but who refuses to pay.  
3612 The department shall develop a state-wide sliding fee scale for the provision of disability  
3613 services and shall promulgate standards that define emergency disability services and  
3614 refusal to pay.

3615 ARTICLE 2

3616 49-2-20.

3617 As used in this part, the term:

3618 (1) 'Developmental disabilities law' means Code Section 37-4-4 and any rule or  
3619 regulation duly promulgated thereunder.

3620 (2) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
3621 property where such a search or inspection is one that is necessary for the enforcement  
3622 of a residential child care licensing law.

3623 (3) 'Residential child care licensing law' means this chapter and Chapter 5 of this title  
3624 and any rule or regulation duly promulgated thereunder.

3625 49-2-21.

3626 The commissioner or the commissioner's designee, in addition to other procedures now or  
3627 hereafter provided, may obtain an inspection warrant under the conditions specified in this  
3628 part. Such warrant shall authorize the commissioner or the commissioner's designee to  
3629 conduct a search or inspection of property either with or without the consent of the person  
3630 whose property is to be searched or inspected if such search or inspection is one that is  
3631 elsewhere authorized under the rules and regulations duly promulgated pursuant to a  
3632 residential child care licensing law or developmental disabilities law.

3633 49-2-22.

3634 (a) Inspection warrants shall be issued only by a judge of a court of record whose  
3635 territorial jurisdiction encompasses the property to be inspected.

3636 (b) The issuing judge shall issue the warrant when the judge is satisfied that the following  
3637 conditions are met:

3638 (1) The one seeking the warrant must establish under oath or affirmation that the  
3639 property to be inspected is to be inspected as a part of a legally authorized program of  
3640 inspection which includes that property or that there is probable cause for believing that  
3641 there is a condition, object, activity, or circumstance which legally justifies such an  
3642 inspection of that property; and

3643 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
3644 part.

3645 49-2-23.

3646 The inspection warrant shall be validly issued only if it meets the following requirements:

3647 (1) The warrant is attached to the affidavit required to be made in order to obtain the  
3648 warrant;

3649 (2) The warrant describes either directly or by reference to the affidavit the property  
3650 upon which the inspection is to occur and is sufficiently accurate that the executor of the  
3651 warrant and the owner or possessor of the property can reasonably determine from it the  
3652 property of which the warrant authorizes an inspection;

3653 (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
3654 inspection is intended to check or reveal; and

3655 (4) The warrant refers in general terms to the statutory or regulatory provisions sought  
3656 to be enforced.

3657 49-2-24.

3658 No facts discovered or evidence obtained in an inspection conducted under authority of an  
3659 inspection warrant issued pursuant to this part shall be competent as evidence in any  
3660 criminal proceeding against any party.

3661 49-2-25.

3662 The Department of Human Services is empowered to institute appropriate proceedings for  
3663 injunction in the courts of competent jurisdiction in this state for the purpose of enjoining  
3664 a violation of any provision of a residential child care licensing law or developmental  
3665 disabilities law as now existing or as may be hereafter amended or of any regulation or  
3666 order duly issued by the board or department. The department is also empowered to

3667 maintain action for injunction to abate any public nuisance which is injurious to the public  
3668 health, safety, or comfort. Such actions may be maintained notwithstanding the fact that  
3669 such violation also constitutes a crime and notwithstanding that other adequate remedies  
3670 at law exist. Such actions may be instituted in the name of the department in the county in  
3671 which a violation of any provision of this title occurs."

## **SECTION 2-2.**

3673 The following Code sections of the Official Code of Georgia Annotated are amended by  
3674 replacing "Department of Human Resources" wherever it occurs with "Department of Human  
3675 Services":

- 3676 (1) Code Section 2-7-102, relating to grounds for denial, suspension, revocation, or  
3677 modification of license, permit, or certification for use and application of pesticides;  
3678 (2) Code Section 10-1-855, relating to referral procedures to provide intervention and  
3679 assistance for elder or disabled persons;  
3680 (3) Code Section 12-6-49.1, relating to denial or suspension of license for  
3681 noncompliance with child support order;  
3682 (4) Code Section 15-11-8, relating to expenses charged to county and payment by  
3683 parents on court order;  
3684 (5) Code Section 15-11-14, relating to emergency care and supervision of a child by the  
3685 Department of Human Resources;  
3686 (6) Code Section 15-11-15, relating to detainment of child in temporary protective  
3687 custody of a physician;  
3688 (7) Code Section 15-11-19, relating to the establishment of the Council of Juvenile Court  
3689 Judges;  
3690 (8) Code Section 15-11-55, relating to disposition of a deprived child;  
3691 (9) Code Section 15-11-58, relating to reasonable efforts regarding reunification of  
3692 family;  
3693 (10) Code Section 15-11-71, relating to supervision fees for juvenile courts;  
3694 (11) Code Section 15-11-103, relating to placement of a child following a termination  
3695 order;  
3696 (12) Code Section 15-11-171, relating to definitions relative to the "Georgia Child  
3697 Advocate for the Protection of Children Act";  
3698 (13) Code Section 15-11A-4, relating to appointment of personnel to the Family Court  
3699 Division of the Superior Court of Fulton County;  
3700 (14) Code Section 15-18-14, relating to appointment of prosecuting attorneys;  
3701 (15) Code Section 18-4-131, relating to definitions relative to continuing garnishment  
3702 for family support;

- 3703       (16) Code Section 19-6-15, relating to child support in final verdict or decree;
- 3704       (17) Code Section 19-6-31, relating to definitions relative to income deduction orders;
- 3705       (18) Code Section 19-6-33.1, relating to the family support registry;
- 3706       (19) Code Section 19-6-51, relating to members of the Georgia Child Support  
3707       Commission;
- 3708       (20) Code Section 19-7-5, relating to reporting of child abuse;
- 3709       (21) Code Section 19-7-6, relating to reporting of juvenile drug use;
- 3710       (22) Code Section 19-7-22, relating to petitions for legitimation of child;
- 3711       (23) Code Section 19-7-40, relating to jurisdiction and administrative determination of  
3712       paternity;
- 3713       (24) Code Section 19-7-43, relating to petitions to establish paternity of a child;
- 3714       (25) Code Section 19-7-52, relating to whom support payments may be made;
- 3715       (26) Code Section 19-7-54, relating to motions to set aside determination of paternity;
- 3716       (27) Code Section 19-8-1, relating to definitions relative to adoption;
- 3717       (28) Code Section 19-8-5, relating to surrender or termination of parental or guardian's  
3718       rights where child to be adopted by a third party;
- 3719       (29) Code Section 19-8-23, relating to where records of adoption are kept;
- 3720       (30) Code Section 19-8-26, relating to how surrender of parental rights is executed;
- 3721       (31) Code Section 19-9-122, relating to delegation of authority for the care of a minor  
3722       child;
- 3723       (32) Code Section 19-9-129, relating to the power of attorney form for the care of a  
3724       minor child;
- 3725       (33) Code Section 19-10A-5, relating to investigating and reporting utilization of  
3726       provisions under the "Safe Place for Newborns Act of 2002";
- 3727       (34) Code Section 19-10A-6, relating to reimbursement of medical costs under the "Safe  
3728       Place for Newborns Act of 2002";
- 3729       (35) Code Section 19-11-3, relating to definitions relative to the "Child Support  
3730       Recovery Act";
- 3731       (36) Code Section 19-11-9.1, relating to duty to furnish information about obligor to the  
3732       Department of Human Resources;
- 3733       (37) Code Section 19-11-9.2, relating to duty of employers to report hiring or rehiring  
3734       of persons;
- 3735       (38) Code Section 19-11-9.3, relating to suspension or denial of license for  
3736       noncompliance with child support order;
- 3737       (39) Code Section 19-11-18, relating to collection procedures for child support payments  
3738       in arrears;

- 3739 (40) Code Section 19-11-30.1, relating to the computer based registry for financial  
3740 institutions with regard to the "Child Support Recovery Act";  
3741 (41) Code Section 19-11-30.2, relating to definitions relative to the computer based  
3742 registry for financial institutions with regard to the "Child Support Recovery Act";  
3743 (42) Code Section 19-11-30.3, relating to the responsibility of the Department of Human  
3744 Resources Bank Match Registry;  
3745 (43) Code Section 19-11-58, relating to the Department of Human Resources designated  
3746 as the state information agency under the "Uniform Reciprocal Enforcement of Support  
3747 Act";  
3748 (44) Code Section 19-11-102, relating to designated tribunals under the "Uniform  
3749 Interstate Family Support Act";  
3750 (45) Code Section 19-11-110, relating to jurisdiction under the "Uniform Interstate  
3751 Family Support Act";  
3752 (46) Code Section 19-11-127, relating to authority of district attorney to represent the  
3753 Department of Human Resources in a proceeding under the "Uniform Interstate Family  
3754 Support Act";  
3755 (47) Code Section 19-11-129, relating to the Department of Human Resources as the  
3756 state information agency under the "Uniform Interstate Family Support Act";  
3757 (48) Code Section 19-13-20, relating to definitions relative to family violence shelters;  
3758 (49) Code Section 19-15-2, relating to child abuse protocol committees;  
3759 (50) Code Section 19-15-3, relating to county multiagency child fatality review  
3760 committees;  
3761 (51) Code Section 20-1A-60, relating to definitions relative to the Georgia Child Care  
3762 Council;  
3763 (52) Code Section 20-2-133, relating to free public instruction for children in elementary  
3764 and secondary education;  
3765 (53) Code Section 20-2-250, relating to projects to improve effectiveness in elementary  
3766 and secondary education;  
3767 (54) Code Section 20-2-696, relating to duties of visiting teachers and attendance  
3768 officers;  
3769 (55) Code Section 20-3-660, relating to creation of a program of postsecondary grants  
3770 for foster children and adopted children;  
3771 (56) Code Section 29-4-2, relating to qualifications of guardians selected for adults;  
3772 (57) Code Section 29-4-3, relating to order of preference in selection of guardians;  
3773 (58) Code Section 29-9-10, relating to oath by a duly appointed delegate of the  
3774 Department of Human Resources;

- 3775 (59) Code Section 29-10-3, relating to qualifications and requirements of public  
3776 guardians;
- 3777 (60) Code Section 29-10-4, relating to registration of public guardians with the probate  
3778 court;
- 3779 (61) Code Section 29-10-10, relating to compensation of public guardians;
- 3780 (62) Code Section 29-10-11, relating to appropriation of funds for compensation of  
3781 public guardians in certain circumstances;
- 3782 (63) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3783 (64) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3784 for the Blind;
- 3785 (65) Code Section 30-5-3, relating to definitions relative to the "Disabled Adults and  
3786 Elder Persons Protection Act"
- 3787 (66) Code Section 30-5-10, relating to cooperative effort in development of programs  
3788 relating to the abuse and exploitation of persons 65 years of age or older;
- 3789 (67) Code Section 31-7-282, relating to collection and submission of health care data;
- 3790 (68) Code Section 31-8-52, relating to the establishment of a long-term care ombudsman  
3791 program;
- 3792 (69) Code Section 31-8-116, relating to involuntary transfer of residents discharged from  
3793 a long-term care facility;
- 3794 (70) Code Section 31-10-9.1, relating to social security account information of parents  
3795 with respect to vital records;
- 3796 (71) Code Section 34-8-199, relating to uncollected overissuance of food stamp coupons;
- 3797 (72) Code Section 37-4-4, relating to coordination of training programs for the mentally  
3798 retarded;
- 3799 (73) Code Section 37-4-110, relating to appeal rights of clients, their representatives, or  
3800 attorneys relating to habilitation of mentally retarded persons;
- 3801 (74) Code Section 37-5-4, relating to applicability of the "Community Services Act for  
3802 the Mentally Retarded";
- 3803 (75) Code Section 37-5-7, relating to duty of the Department of Human Resources to  
3804 provide consulting and financial assistance to county boards of health;
- 3805 (76) Code Section 39-4-1, relating to the definition of "appropriate public authority" with  
3806 respect to the Interstate Compact on the Placement of Children;
- 3807 (77) Code Section 39-4-2, relating to the definition of "appropriate authority in the  
3808 receiving state" with respect to the Interstate Compact on the Placement of Children;
- 3809 (78) Code Section 40-5-2, relating to keeping of records of applications for licenses and  
3810 information on licensees;

- 3811 (79) Code Section 40-5-25, relating to applications for instruction permits and drivers'  
3812 licenses;
- 3813 (80) Code Section 40-5-54.1, relating to denial or suspension of license for  
3814 noncompliance with child support order;
- 3815 (81) Code Section 42-1-12, relating to the state sexual offender registry;
- 3816 (82) Code Section 42-9-58, relating to effect of state pardons and paroles laws on other  
3817 laws respecting parole and probation;
- 3818 (83) Code Section 43-1-19, relating to grounds for refusing to grant or revoking licenses  
3819 by a professional licensing board;
- 3820 (84) Code Section 45-9-4, relating to the commissioner of administrative services to  
3821 purchase insurance or indemnity contracts;
- 3822 (85) Code Section 45-13-22, relating to distribution of Georgia Laws and journals of the  
3823 House of Representatives and Senate;
- 3824 (86) Code Section 46-4-152, relating to definitions relative to the "Natural Gas  
3825 Competition and Deregulation Act";
- 3826 (87) Code Section 46-4-158.3, relating to adequate and accurate consumer information  
3827 disclosure statements;
- 3828 (88) Code Section 48-7-29.15, relating to a tax credit for the adoption of a foster child;
- 3829 (89) Code Section 49-3-1, relating to establishment of county and district departments,  
3830 boards, and directors;
- 3831 (90) Code Section 49-3-3, relating to appointment of county director; bond of county  
3832 director;
- 3833 (91) Code Section 49-3-4, relating to appointment of staff, salaries, and power of the  
3834 commissioner of human resources to transfer employees;
- 3835 (92) Code Section 49-3-6, relating to functions of county departments of family and  
3836 children services;
- 3837 (93) Code Section 49-4-2, relating to definitions relative to public assistance;
- 3838 (94) Code Section 49-4-3, relating to establishment of categories of public assistance;
- 3839 (95) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded  
3840 in determining eligibility for public assistance;
- 3841 (96) Code Section 49-4-8, relating to applications for public assistance;
- 3842 (97) Code Section 49-4-9, relating to investigation and record concerning application for  
3843 public assistance;
- 3844 (98) Code Section 49-4-14, relating to regulations as to records relating to public  
3845 assistance;
- 3846 (99) Code Section 49-4-36, relating to payment of assistance for needy individuals who  
3847 are 65 years of age or older after recipient moves to another county;

- 3848 (100) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
3849 the Blind Act";
- 3850 (101) Code Section 49-4-56, relating to reexamination of recipient's eyesight under the  
3851 "Aid to the Blind Act";
- 3852 (102) Code Section 49-4-60, relating to payment of assistance for needy blind  
3853 individuals after recipient moves to another county;
- 3854 (103) Code Section 49-4-85, relating to payment of assistance for needy individuals who  
3855 are totally and permanently disabled after recipient moves to another county;
- 3856 (104) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
3857 Long-term Care Partnership Program;
- 3858 (105) Code Section 49-4-171, relating to a hearing on the petition for a personal  
3859 representative to manage assistance payments;
- 3860 (106) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
3861 needy families;
- 3862 (107) Code Section 49-4-183, relating to administration of the temporary assistance for  
3863 needy families program by the Department of Human Resources;
- 3864 (108) Code Section 49-4-190, relating to construction of the laws relating to the  
3865 temporary assistance for needy families program;
- 3866 (109) Code Section 49-5-4, relating to the coordination of other state departments,  
3867 agencies, officers, and employees for children and youth services;
- 3868 (110) Code Section 49-5-7, relating to development and administration of public child  
3869 welfare and youth services;
- 3870 (111) Code Section 49-5-8, relating to powers and duties of the Department of Human  
3871 Resources with respect to programs and protection for children and youth;
- 3872 (112) Code Section 49-5-12, relating to licensing and inspection of child welfare  
3873 agencies;
- 3874 (113) Code Section 49-5-41, relating to persons and agencies permitted access to child  
3875 abuse and deprivation records;
- 3876 (114) Code Section 49-5-41.1, relating to inspection and retention of records of juvenile  
3877 drug use;
- 3878 (115) Code Section 49-5-90, relating to definitions relative to emergency protection of  
3879 children in certain institutions;
- 3880 (116) Code Section 49-5-130, relating to legislative findings and intent relative to the  
3881 Governor's Office for Children and Families;
- 3882 (117) Code Section 49-5-154, relating to study of youth needs for delinquency  
3883 prevention and community based services;

3884 (118) Code Section 49-5-180, relating to definitions relative to a central child abuse  
3885 registry;  
3886 (119) Code Section 49-5-281, relating to the bill of rights for foster parents;  
3887 (120) Code Section 49-6-20, relating to the creation of the Council on Aging;  
3888 (121) Code Section 49-6-60, relating to legislative intent for community care and  
3889 services for the elderly;  
3890 (122) Code Section 49-6-61, relating to definitions relative to community care and  
3891 services for the elderly;  
3892 (123) Code Section 49-6-72, relating to definitions relative to the "Georgia Family  
3893 Caregiver Support Act";  
3894 (124) Code Section 49-6-81, relating to the legislative intent of the "Adult Day Center  
3895 for Aging Adults Licensure Act";  
3896 (125) Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for  
3897 Aging Adults Licensure Act";  
3898 (126) Code Section 50-5-136, relating to the powers and authority of the State Use  
3899 Council; and  
3900 (127) Code Section 50-27-55, relating to setoff of debt collection against lottery prizes  
3901 applicable to prizes of \$5,000.00 or more.

### 3902 SECTION 2-3.

3903 The following Code sections of the Official Code of Georgia Annotated are amended by  
3904 replacing "Board of Human Resources" wherever it occurs with "Board of Human Services":  
3905 (1) Code Section 9-10-152, relating to grounds for continuance in any case pending in  
3906 the courts of this state for attendance by a board member at meeting of Board of Human  
3907 Resources;  
3908 (2) Code Section 17-8-30, relating to grounds for granting of continuances in any case  
3909 pending in the courts of this state for party or party's counsel in attendance as a board  
3910 member at meeting of Board of Human Resources;  
3911 (3) Code Section 19-11-5, relating to debt to state created by payment of public  
3912 assistance under the "Child Support Recovery Act";  
3913 (4) Code Section 19-15-4, relating to the Georgia Child Fatality Review Panel;  
3914 (5) Code Section 30-5-6, relating to cooperation of other public agencies with the  
3915 director of the Division of Aging Services of the Department of Human Resources under  
3916 the "Disabled Adults and Elder Persons Protection Act";  
3917 (6) Code Section 45-10-40, relating to prohibitions on contracting with state institutions;  
3918 (7) Code Section 45-10-41, relating to penalty for profiting from contracts with state  
3919 institutions generally;

3920 (8) Code Section 49-3-6, relating to functions of county departments of family and  
3921 children services;  
3922 (9) Code Section 49-4-11, relating to award and payment of public assistance to needy  
3923 persons;  
3924 (10) Code Section 49-4-12, relating to periodic redetermination of public assistance  
3925 awards;  
3926 (11) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
3927 the Blind Act";  
3928 (12) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
3929 needy families;  
3930 (13) Code Section 49-4-183, relating to administration of the temporary assistance for  
3931 needy families program by the Department of Human Resources;  
3932 (14) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;  
3933 and  
3934 (15) Code Section 49-6-62, relating to the establishment of community care unit in the  
3935 Division of Aging Services of the Department of Human Resources.

3936 **SECTION 2-4.**

3937 The following Code sections of the Official Code of Georgia Annotated are amended by  
3938 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
3939 human services":  
3940 (1) Code Section 19-8-16, relating to investigation by child-placing agency or other  
3941 agent with respect to adoption;  
3942 (2) Code Section 19-8-23, relating to where records of adoption are kept;  
3943 (3) Code Section 19-11-9, relating to location of absent parents by the Department of  
3944 Human Resources with respect to the "Child Support Recovery Act";  
3945 (4) Code Section 19-11-11, relating to issuance of subpoenas by the Department of  
3946 Human Resources with respect to the "Child Support Recovery Act";  
3947 (5) Code Section 19-11-18, relating to collection procedures with respect to the "Child  
3948 Support Recovery Act";  
3949 (6) Code Section 19-11-30.6, relating to reciprocal agreements with other states with  
3950 respect to the "Child Support Recovery Act";  
3951 (7) Code Section 19-11-30.7, relating to construction of the "Child Support Recovery  
3952 Act";  
3953 (8) Code Section 19-11-30.8, relating to annual reports with respect to the "Child  
3954 Support Recovery Act";

- 3955 (9) Code Section 19-11-30.9, relating to information subject to disclosure with respect  
3956 to the "Child Support Recovery Act";  
3957 (10) Code Section 19-11-30.11, relating to fee on levied accounts with respect to the  
3958 "Child Support Recovery Act";  
3959 (11) Code Section 20-1A-61, relating to the members of the Child Care Council;  
3960 (12) Code Section 28-5-60, relating to creation of the Claims Advisory Board;  
3961 (13) Code Section 30-1-5, relating to the definition of a "hearing impaired person";  
3962 (14) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3963 for the Blind;  
3964 (15) Code Section 31-8-53, relating to duties of the state long-term care ombudsman;  
3965 (16) Code Section 45-7-7, relating to compensation and allowances of certain public  
3966 officials not to be changed without giving public notice;  
3967 (17) Code Section 45-9-4, relating to commissioner of administrative services to  
3968 purchase insurance or indemnity contracts insuring or indemnifying state officers,  
3969 officials, or employees against personal liability;  
3970 (18) Code Section 49-3-3, relating to appointment of the director of each county board  
3971 of family and children services;  
3972 (19) Code Section 49-3-4, relating to appointment of the staff of each county board of  
3973 family and children services;  
3974 (20) Code Section 49-4-15.1, relating to examination of financial records in instances of  
3975 alleged fraud by recipients of food stamps and public assistance;  
3976 (21) Code Section 49-4A-3, relating to the creation of the Department of Juvenile  
3977 Justice;  
3978 (22) Code Section 49-5-90, relating to definitions relative to emergency protection of  
3979 children in certain institutions;  
3980 (23) Code Section 49-8-3, relating to definitions relative to "The Economic  
3981 Rehabilitation Act of 1975";  
3982 (24) Code Section 50-5-69, relating to state purchases without competitive bidding; and  
3983 (25) Code Section 50-5-135, relating to the creation of the State Use Council.

3984 **SECTION 2-5.**

- 3985 The following Code sections of the Official Code of Georgia Annotated are amended by  
3986 replacing "Office of Aging" or "Office of Aging Section" wherever it occurs with "Division  
3987 of Aging Services":  
3988 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and  
3989 assistance for elder or disabled persons;

3990 (2) Code Section 49-6-5, relating to the creation of the Office of Aging Section within  
3991 the Department of Human Resources; and  
3992 (3) Code Section 49-6-20, relating to the creation of the Council on Aging.

## **SECTION 2-6.**

3994 The following Code sections of the Official Code of Georgia Annotated are amended by  
3995 replacing "mentally retarded" or "Mentally Retarded" wherever it occurs with  
3996 "developmentally disabled" or "Developmentally Disabled", respectively:

- (1) Code Section 31-22-9.1, relating to who may perform HIV tests;
  - (2) Code Section 35-1-8, relating to the acquisition, collection, classification, and preservation of information assisting in identifying deceased persons and locating missing persons;
  - (3) Code Section 35-3-34.1, relating to circumstances when exonerated first offender's criminal record may be disclosed;
  - (4) Code Section 37-4-1, relating to the declaration of policy relating to the habilitation of mentally retarded persons generally;
  - (5) Code Section 37-4-3, relating to the authority of the board of human resources to issue regulations relating to the habilitation of mentally retarded persons generally;
  - (6) Code Section 37-4-4, relating to coordination of training programs for the mentally retarded;
  - (7) Code Section 37-4-5, relating to validity of hospital orders entered before September 1, 1978;
  - (8) Code Section 37-4-8, relating to approval of private facilities;
  - (9) Code Section 37-4-20, relating to examination of minor children;
  - (10) Code Section 37-4-21, relating to admission of mentally retarded persons to facilities for purposes of temporary supervision and care;
  - (11) Code Section 37-4-22, relating to admission of persons to facilities for dental services;
  - (12) Code Section 37-4-40, relating to filing petition with the court for according of program of services to mentally retarded person;
  - (13) Code Section 37-4-40.1, relating to certification that a person requires temporary care;
  - (14) Code Section 37-4-40.2, relating to admission or discharge of a person in custody of a state facility for temporary care;
  - (15) Code Section 37-4-42, relating to procedure for continuation of court ordered habilitation;

- (16) Code Section 37-4-62, relating to transfer of clients to custody of federal agencies for services;
  - (17) Code Section 37-4-120, relating to individual dignity of clients to be respected;
  - (18) Code Section 37-4-123, relating to recognition of clients' physical integrity;
  - (19) Code Section 37-5-1, relating to the short title;
  - (20) Code Section 37-5-2, relating to declaration of policy relative to community services for the mentally retarded;
  - (21) Code Section 37-5-4, relating to applicability of chapter;
  - (22) Code Section 37-5-5, relating to duty of county board of health to provide community services;
  - (23) Code Section 37-5-6, relating to county or health district plan for community services;
  - (24) Code Section 37-5-7, relating to duty of department to provide consulting and financial assistance to county boards of health;
  - (25) Code Section 37-5-10, relating to timetable for implementation of this chapter;
  - (26) Code Section 37-6-2, relating to participation by department in financing of day-care centers for mentally retarded children;
  - (27) Code Section 37-6-3, relating to participation by department in financing of day-care centers generally;
  - (28) Code Section 37-6-4, relating to grants-in-aid to county board of health for purchase of services from private day-care centers;
  - (29) Code Section 37-6-6, relating to inspection and approval of day-care centers;
  - (30) Code Section 37-6-7, relating to departmental standards for day-care centers;
  - (31) Code Section 37-9-6, relating to standards for determination of assessments for less than full cost of care;
  - (32) Code Section 42-8-63.1, relating to discharges disqualifying individuals from employment;
  - (33) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies providing services to the mentally retarded;
  - (34) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act"; and
  - (35) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

## **SECTION 2-7.**

4058 The following Code sections of the Official Code of Georgia Annotated are amended by  
4059 replacing "mental retardation" wherever it occurs with "developmental disability":

- 4060 (1) Code Section 31-12-3.2, relating to meningococcal disease;

4061       (2) Code Section 31-32-4, relating to the advance directives for health care form;

4062       (3) Code Section 37-4-40.4, relating to evaluation of a person in custody of a state

4063       facility for temporary care;

4064       (4) Code Section 37-4-61, relating to transportation of clients generally;

4065       (5) Code Section 49-4-31, relating to definitions relative to old-age assistance;

4066       (6) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";

4067       and

4068       (7) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

## **SECTION 2-8.**

4070 The following Code sections of the Official Code of Georgia Annotated are amended by  
4071 replacing "mental retardation" wherever it occurs with "a developmental disability":  
4072 (1) Code Section 31-20-3, relating to sterilization of mentally incompetent persons;  
4073 (2) Code Section 37-4-80, relating to effect of inability to pay on right to habilitation  
4074 services;  
4075 (3) Code Section 37-4-100, relating to retention of rights and privileges by clients  
4076 generally; and  
4077 (4) Code Section 37-4-122, relating to client's care and treatment rights.

## SECTION 2-9.

4079 Code Section 10-1-395 of the Official Code of Georgia Annotated, relating to the  
4080 appointment and duties of the administrator and the creation of the Consumer Advisory  
4081 Board, is amended by revising subsection (a) as follows:  
4082 "(a) The administrator shall be appointed by the Governor and shall serve at his pleasure.  
4083 The office of the administrator shall be attached to the office of the Governor for  
4084 administrative purposes only. The administrator shall perform all functions formerly  
4085 performed by the Consumer Services Unit of the Division of Special Programs of the  
4086 Department of Human Resources (now known as the Department of Human Services)."  
4087

## **SECTION 2-10.**

4088 Code Section 15-11-63 of the Official Code of Georgia Annotated, relating to commitment  
4089 of child 13 to 17 years of age to custody of Department of Corrections, is amended by  
4090 revising paragraph (2) of subsection (e) as follows:

4091 "(2) During the placement or any extension thereof:  
4092 (A) After the expiration of the period provided in subparagraph (C) of paragraph (1) of  
4093 this subsection, the child shall not be released from intensive supervision without the

written approval of the commissioner of juvenile justice or such commissioner's designated deputy;

(B) While in a youth development center, the child may be permitted to participate in all youth development center services and programs and shall be eligible to receive special medical and treatment services, regardless of the time of confinement in the youth development center. After the first six months of confinement in a youth development center, a child may be eligible to participate in youth development center sponsored programs including community work programs and sheltered workshops under the general supervision of a youth development center staff outside of the youth development center; and, in cooperation and coordination with the Department of Human Resources Services, the child may be allowed to participate in state sponsored programs for evaluation and services under the Division of Rehabilitation Services of the Department of Labor and the ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources~~ Department of Behavioral Health;

(C) The child shall not be discharged from the custody of the Department of Juvenile Justice unless a motion therefor is granted by the court, which motion shall not be made prior to the expiration of one year of custody; and

(D) Unless otherwise specified in the order, the Department of Juvenile Justice shall report in writing to the court not less than once every six months during the placement on the status, adjustment, and progress of the child; and"

#### **SECTION 2-11.**

Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to family violence, is amended by repealing Article 3, relating to the State Commission on Family Violence, and designating said article as reserved.

#### **SECTION 2-12.**

Said chapter is further amended in Code Section 19-13-10, relating to definitions relative to family violence intervention, as follows:

"19-13-10.

As used in this article, the term:

(1) '~~Commission~~' means the ~~State Commission on Family Violence~~.

(2) 'Commissioner' means the commissioner of ~~corrections~~ human services.

(3) 'Department' means the Department of ~~Corrections~~ Human Services.

(4) 'Family or household members' means past or present spouses, persons who are parents of the same child, or other persons living or formerly living in the same household.

4129       (5)(4) 'Family violence' means the commission of the offenses of battery, simple battery,  
4130       simple assault, assault, stalking, criminal damage to property, or criminal trespass  
4131       between family or household members.

(6)(5) 'Family violence intervention program' or 'program' means any program that is certified by the Department of Corrections Human Services pursuant to Code Section 19-13-14 and designed to rehabilitate family violence offenders. The term includes, but is not limited to, batterer intervention programs, anger management programs, anger counseling, family problem resolution, and violence therapy."

## **SECTION 2-13.**

4138 Said chapter is further amended in Code Section 19-13-11, relating to the fee for certification  
4139 application, as follows:

4140 "19-13-11.

4141 In carrying out the purpose of this article, the department shall charge a fee for the  
4142 consideration of applications for certification of family violence intervention programs and  
4143 instructors. The amount of this fee shall be established by the ~~commission~~ department and  
4144 shall, as best as the ~~commission~~ department shall determine, approximate the expense  
4145 incurred by the department in consideration of an application. These certifications shall  
4146 be valid for a period of two years unless suspended or revoked prior to the expiration of  
4147 that time period."

## **SECTION 2-14.**

4149 Said chapter is further amended in Code Section 19-13-14, relating to standards and  
4150 requirements for course content, as follows:

4151 "19-13-14.

4152 (a) The commission and the department shall establish standards and requirements  
4153 concerning the content of courses, including, but not limited to, duration of courses,  
4154 qualifications of instructors, program and certification fees, attendance requirements, and  
4155 examinations. In order to be certified, a program shall meet the standards established by  
4156 the commission and the department.

4157 (b) Programs may be operated by any individual, partnership, corporation, association,  
4158 civic group, club, county, municipality, board of education, school, or college or any  
4159 public, private, or governmental entity.

4160 (c) No official or employee, or his or her spouse, of the department or the State Board of  
4161 Pardons or Paroles shall own, operate, instruct at, or be employed by a program except as  
4162 provided by Code Section 19-13-15.

4163 (d) The department shall be is responsible for establishing requirements for the  
4164 certification of programs. An applicant ~~must~~ shall meet the certification requirements  
4165 promulgated by the department through standards established by ~~the commission and the~~ department.  
4166 No program shall be approved unless the owner of the program agrees in  
4167 writing to submit reports as required in the rules and regulations of the department and to  
4168 allow the examination and audit of the books, records, and financial statements of the  
4169 program or its authorized agent. No program ~~will~~ shall be certified unless the owner of the  
4170 program agrees in writing to pay to the state, for the costs of administration, a fee as  
4171 established by the ~~commission~~ department, provided that nothing in this Code section shall  
4172 be construed so as to allow the department to retain any funds required by the Constitution  
4173 of this state to be paid into the state treasury; and provided, further, that the department  
4174 shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget  
4175 Act,' except Code Section 45-12-92, prior to expending any such miscellaneous funds. All  
4176 programs operated by the department and the State Board of Pardons and Paroles shall be  
4177 exempt from fee provisions relating to obtaining certification.

4178 (e) The department has the authority to deny, suspend, or revoke a certificate under this  
4179 article or to impose sanctions upon and discipline a program which is not complying with  
4180 the rules and regulations set forth by the department. The department shall establish  
4181 criteria to determine noncompliance with its rules and regulations, sanctions for  
4182 noncompliance, and methods of appeal if certification is denied, suspended, or revoked.

4183 (f) The department shall maintain a list of programs certified pursuant to this article and  
4184 make the list available to the public and all courts."

## 4185 SECTION 2-15.

4186 Said chapter is further amended in Code Section 19-13-15, relating to cooperation with the  
4187 State Board of Pardons and Paroles, as follows:

4188 "19-13-15.

4189 The department and the State Board of Pardons and Paroles may operate family violence  
4190 intervention programs which meet the requirements of the department. The courts and the  
4191 State Board of Pardons and Paroles may accept such programs in lieu of certified family  
4192 violence intervention programs as defined in paragraph ~~(6)~~(5) of Code Section 19-13-10."

## 4193 SECTION 2-16.

4194 Said chapter is further amended in Code Section 19-13-52, relating to the purpose of the  
4195 Family Violence and Stalking Protective Order Registry, as follows:

4196 "19-13-52.

4197 (a) The Georgia Protective Order Registry shall be created to serve as a centralized data  
4198 base for state-wide protective orders issued pursuant to Code Sections 16-5-90 through  
4199 16-5-94 and this chapter. The registry is intended to enhance victim safety by providing  
4200 law enforcement officers, prosecuting attorneys, and the courts access to protective orders  
4201 issued by the courts of this state and foreign courts 24 hours of the day and seven days of  
4202 the week. Access to the registry is intended to aid law enforcement officers, prosecuting  
4203 attorneys, and the courts in the enforcement of protective orders and the protection to  
4204 victims of stalking and family violence.

4205 (b) The registry shall be maintained by the Georgia Crime Information Center. The  
4206 Georgia Commission on Family Violence Department of Human Services may consult  
4207 with the Georgia Crime Information Center regarding the effectiveness of the registry in  
4208 enhancing the safety of victims of domestic violence and stalking.

4209 (c) The registry shall include a complete and systematic record and index of all valid  
4210 protective orders and modifications thereof. Law enforcement officers and the courts shall  
4211 have access to the registry.

4212 (d) The registry shall be linked to the National Crime Information Center Network, and  
4213 protective orders entered in the registry shall be immediately transmitted to this network."

## 4214 SECTION 2-17.

4215 Code Section 19-15-1 of the Official Code of Georgia Annotated, relating to definitions  
4216 relative to child abuse, is amended by revising paragraph (4) as follows:

4217 "(4) 'Child protection professional' means any person who is employed by the state or a  
4218 political subdivision of the state as a law enforcement officer, school teacher, school  
4219 administrator, or school counselor or who is employed to render services to children by  
4220 the Department of Health, Department of Behavioral Health, or the Department of  
4221 Human Resources Services or any county board of health or county department of family  
4222 and children services."

## 4223 SECTION 2-18.

4224 Code Section 20-1A-3 of the Official Code of Georgia Annotated, relating to the  
4225 commissioner and board of the Department of Early Care and Learning, is amended by  
4226 revising subsection (d) as follows:

4227 "(d) The board shall determine policies and promulgate rules and regulations for the  
4228 operation of the department including:

4229 (1) Functions formerly performed by the Office of School Readiness, including, but not  
4230 limited to, Even Start;

4231 (2) Functions transferred to the department from the Department of Human Resources  
4232 (now known as the Department of Human Services) relating to day-care centers, group  
4233 day-care homes, family day-care homes, and other functions as agreed upon by the  
4234 department and the Department of Human Resources (now known as the Department of  
4235 Human Services) in accordance with Code Section 20-1A-8;  
4236 (3) Functions transferred to the department from the Georgia Child Care Council  
4237 pursuant to Code Section 20-1A-63; and  
4238 (4) Functions relating to early childhood education programs transferred from the  
4239 Department of Education by agreement in accordance with Code Section 20-1A-17."

## **SECTION 2-19.**

4241 Code Section 20-1A-4 of the Official Code of Georgia Annotated, relating to the powers and  
4242 duties of the Department of Early Care and Learning, is amended by revising paragraph (8)  
4243 as follows:

4244 "(8) To perform any other functions as agreed upon between the department and the  
4245 Department of Human Resources (now known as the Department of Human Services),  
4246 pursuant to Code Section 20-1A-8;"

## **SECTION 2-20.**

4248 Code Section 20-1A-8 of the Official Code of Georgia Annotated, relating to the transfer of  
4249 functions, powers, personnel, equipment, and assets from Department of Human Resources  
4250 to the Department of Early Care and Learning, is amended by revising subsections (a) and  
4251 (b) as follows:

4252       "(a) Effective October 1, 2004, the department shall carry out all of the functions and  
4253       exercise all of the powers formerly held by the Department of Human Resources (now  
4254       known as the Department of Human Services) for the regulation and licensure of early care  
4255       and education programs and any other functions as agreed upon by the department and the  
4256       Department of Human Resources. Subject to subsection (c) of this Code section, all persons  
4257       employed by and positions authorized for the Department of Human Resources to perform  
4258       functions relating to the licensure and certification of early care and education programs  
4259       and any other functions as agreed upon by the department and the Department of Human  
4260       Resources on September 30, 2004, shall on October 1, 2004, be transferred to the  
4261       department. All office equipment, furniture, and other assets in possession of the  
4262       Department of Human Resources which are used or held exclusively or principally by  
4263       personnel transferred under this subsection shall be transferred to the department on  
4264       October 1, 2004.

4265 (b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child  
4266 Care Council included in Code Section 20-1A-63, the department shall carry out the  
4267 functions and exercise the powers formerly held by the Georgia Child Care Council under  
4268 former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section,  
4269 all persons employed by and positions authorized for the Georgia Child Care Council to  
4270 perform functions relating to the recommendation of measures to improve the quality,  
4271 availability, and affordability of child care in this state on September 30, 2004, shall on  
4272 October 1, 2004, be transferred to the department. All office equipment, furniture, and  
4273 other assets in possession of the Georgia Child Care Council or the Department of Human  
4274 Resources, (now known as the Department of Human Services) which are used or held  
4275 exclusively or principally by personnel transferred under this subsection shall be  
4276 transferred to the department on October 1, 2004."

## 4277 SECTION 2-21.

4278 Code Section 20-1A-9 of the Official Code of Georgia Annotated, relating to the authority  
4279 to license and regulate day-care centers, group day-care homes, and family day-care homes  
4280 transferred to the Department of Early Care and Learning, is amended as follows:

4281 "20-1A-9.

4282 The department shall succeed to all rights and responsibilities relating to licensure and  
4283 regulation of day-care centers, group day-care homes, and family day-care homes,  
4284 including such rules, regulations, policies, procedures, and pending and finalized  
4285 administrative orders of the Department of Human Resources (now known as the  
4286 Department of Human Services), the Georgia Child Care Council, and the Office of State  
4287 Administrative Hearings, where applicable, which are in effect on September 30, 2004, and  
4288 which relate to the functions transferred to the department pursuant to Code Section  
4289 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law, procedures,  
4290 and orders shall remain in effect until amended, repealed, superseded, or nullified by the  
4291 commissioner. Such rules, regulations, and policies shall remain in effect until amended,  
4292 repealed, superseded, or nullified by the board."

## 4293 SECTION 2-22.

4294 Code Section 24-9-101, of the Official Code of Georgia Annotated, relating to definitions  
4295 relative to use of sign language and intermediary interpreter in administrative and judicial  
4296 proceedings, is amended by revising paragraph (2) as follows:

4297 "(2) 'Department' means the Department of Human Resources Labor."

**SECTION 2-23.**

4298  
4299 Code Section 30-8-1 of the Official Code of Georgia Annotated, relating to the Governor's  
4300 Council on Developmental Disabilities, is amended as follows:

4301 "30-8-1.

4302 (a) There is created the Governor's Georgia Council on Developmental Disabilities. The  
4303 council shall serve as the designated state agency and state planning council for purposes  
4304 of carrying out the provisions of Chapter 75 of Title 42 of the United States Code, as now  
4305 or hereafter amended, relating to programs for persons with developmental disabilities.

4306 (b) The members of the council shall be appointed by the Governor from among the  
4307 residents of the state, and the composition of the council shall comply with the membership  
4308 requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter  
4309 amended. The Governor shall consider appointing to the council persons representing a  
4310 broad range of individuals with developmental disabilities and individuals interested in  
4311 programs for the developmentally disabled. To the extent feasible, appointments to the  
4312 council shall be made with a view toward equitable geographic, racial, and ethnic  
4313 representation.

4314 (c) Each member shall serve for a term of four years or until a successor is appointed.  
4315 Members shall be eligible to succeed themselves. Vacancies shall be filled in the same  
4316 manner as original appointments. The council shall elect its own chairperson and such  
4317 other officers as it deems necessary. The council may adopt rules and procedures and shall  
4318 meet at the call of the chairperson.

4319 (d) The Governor's Georgia Council on Developmental Disabilities shall:

4320 (1) Develop and implement a state plan, which includes the specification of federal and  
4321 state priority areas, to address on a state-wide and comprehensive basis the need for  
4322 services, support, and other assistance for individuals with developmental disabilities and  
4323 their families;

4324 (2) Monitor, review, and evaluate, not less than annually, the implementation and  
4325 effectiveness of the plan;

4326 (3) Submit to the United States secretary of health and human services, through the  
4327 Governor, such plan and periodic reports on the council's activities as the secretary finds  
4328 necessary;

4329 (4) Receive, account for, and disburse funds paid to the state pursuant to the provisions  
4330 of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, and  
4331 as authorized by the approved state plan;

4332 (5) To the maximum extent feasible, review and comment on all plans in the state which  
4333 relate to programs affecting persons with developmental disabilities;

4334 (6) Serve as an advocate for persons with developmental disabilities;

4335       (7) Advise the Governor, the General Assembly, and all other state agencies in matters  
4336       relating to developmentally disabled persons; and  
4337       (8) Fulfill the responsibilities and meet the requirements of a designated state agency and  
4338       of a state planning council as provided by Chapter 75 of Title 42 of the United States  
4339       Code, as now or hereafter amended.

4340       (e) The Governor's Georgia Council on Developmental Disabilities shall be attached to the  
4341       Department of Human Resources Services for administrative purposes only as provided in  
4342       Code Section 50-4-3. The council shall recruit and hire staff as provided by law and as the  
4343       council determines necessary to carry out its duties. All costs incurred by the council shall  
4344       be covered by funds paid to the state under Chapter 75 of Title 42 of the United States  
4345       Code, as now or hereafter amended, except that members who are state employees shall be  
4346       reimbursed for their expenses by their agency in the same manner as other state employees.  
4347       Members who are not state employees shall be reimbursed for their actual expenses,  
4348       including travel and any other expenses incurred in performance of their council duties,  
4349       from funds appropriated to the Department of Human Resources Services."

## **SECTION 2-24.**

4351 Chapter 4 of Title 31 of the Official Code of Georgia Annotated, relating to the Council on  
4352 Maternal and Infant Health, is repealed in its entirety and reserved.

## **SECTION 2-25.**

4354 Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to definitions  
4355 relative to the long-term care ombudsman, is amended by adding a new paragraph to read as  
4356 follows:

4357     "(1.1) 'Department' means the Department of Human Services."

## **SECTION 2-26.**

4359 Code Section 33-24-28 of the Official Code of Georgia Annotated, relating to termination  
4360 of coverage of dependent child upon attainment of specified age, is amended as follows:  
4361 "33-24-28.

4362 (a) An individual hospital or medical expense insurance policy or hospital or medical  
4363 service plan contract which provides that coverage of a dependent child shall terminate  
4364 upon attainment of the limiting age for dependent children specified in the policy or  
4365 contract shall also provide in substance that attainment of the limiting age shall not operate  
4366 to terminate the coverage of the child while the child is and continues to be both incapable  
4367 of self-sustaining employment by reason of ~~mental retardation~~ developmental disability or  
4368 physical disability as determined by the Department of Human Resources Services and

4369 chiefly dependent upon the policyholder or subscriber for support and maintenance,  
4370 provided proof of incapacity and dependency is furnished to the insurer, hospital, or  
4371 medical service plan corporation by the policyholder or subscriber within 31 days of the  
4372 child's attainment of the limiting age and subsequently as may be required by the insurer  
4373 or corporation but not more frequently than annually after the two-year period following  
4374 the child's attainment of the limiting age.

4375 (b) A group hospital or medical expense insurance policy or hospital or medical service  
4376 plan contract which provides that coverage of a dependent child of an employee or other  
4377 member of the covered group shall terminate upon attainment of the limiting age for  
4378 dependent children specified in the policy or contract shall also provide in substance that  
4379 attainment of such limiting age shall not operate to terminate the coverage of the child  
4380 while the child is and continues to be both incapable of self-sustaining employment by  
4381 reason of ~~mental retardation~~ developmental disability or physical disability as determined  
4382 by the Department of Human Resources Services and chiefly dependent upon the employee  
4383 or member for support and maintenance, provided proof of incapacity and dependency is  
4384 furnished to the insurer or hospital or medical service plan corporation by the employee or  
4385 member within 31 days of the child's attainment of the limiting age and subsequently as  
4386 may be required by the insurer or corporation but not more frequently than annually after  
4387 the two-year period following the child's attainment of the limiting age.

4388 (c) This Code section shall apply equally to health insurance policies issued pursuant to  
4389 Chapters 29 and 30 of this title, contracts issued by nonprofit hospital and medical service  
4390 corporations under Chapters 18 and 19 of this title, coverage by health maintenance  
4391 organizations under Chapter 21 of this title, and health care plans under Chapter 20 of this  
4392 title."

## 4393 SECTION 2-27.

4394 Code Section 34-15-2 of the Official Code of Georgia Annotated, relating to the July 2001  
4395 transfer of the Division of Rehabilitation Services to the Department of Labor, is amended  
4396 by revising subsection (a) as follows:

4397 "(a) The Division of Rehabilitation Services within the Department of Human Resources  
4398 (now known as the Department of Human Services), including the disability adjudication  
4399 section and the Roosevelt Warm Springs Institute for Rehabilitation, is transferred to the  
4400 Department of Labor on July 1, 2001, and that division shall become the Division of  
4401 Rehabilitation Services of the Department of Labor on July 1, 2001. The functions, duties,  
4402 programs, institutions, and authority of the Division of Rehabilitation Services which were  
4403 vested in the Department of Human Resources on June 30, 2001, are vested in the  
4404 Department of Labor effective July 1, 2001. The division shall be administered by a

4405 director appointed by the Commissioner. The policy-making functions which were vested  
4406 in the Board of Human Resources (now known as the Board of Human Services) or the  
4407 Department of Human Resources pertaining to the Division of Rehabilitation Services are  
4408 vested in the Commissioner of Labor effective July 1, 2001."

4409 **SECTION 2-28.**

4410 Code Section 35-6-2 of the Official Code of Georgia Annotated, relating to the membership  
4411 of the State Victim Services Commission, is amended by revising subsection (a) as follows:

4412 "(a) The State Victim Services Commission shall consist of 15 members as follows:

4413 (1) The executive director of the Prosecuting Attorneys' Council of Georgia or his or her  
4414 designee;

4415 (2) The president of the Georgia Sheriffs' Association or his or her designee;

4416 (3) The executive director of the Criminal Justice Coordinating Council or his or her  
4417 designee;

4418 (4) The chairperson of the Georgia Commission on Family Violence commissioner of  
4419 human services or his or her designee;

4420 (5) The executive director of the Georgia Coalition Against Domestic Violence or his or  
4421 her designee;

4422 (6) The executive director of the Association County Commissioners of Georgia or his  
4423 or her designee;

4424 (7) The executive director of the Children's Advocacy Centers of Georgia or his or her  
4425 designee;

4426 (8) The executive director of the Georgia Superior Court Clerks' Cooperative Authority  
4427 or his or her designee;

4428 (9) The executive director of the Georgia Association of Homes and Services for  
4429 Children or his or her designee;

4430 (10) The executive director of the Georgia Municipal Association or his or her designee;

4431 (11) The executive director of the Georgia Network to End Sexual Assault or his or her  
4432 designee;

4433 (12) A district attorney appointed by the Prosecuting Attorneys' Council of Georgia;

4434 (13) One member appointed by the Governor;

4435 (14) One member appointed by the Lieutenant Governor; and

4436 (15) One member appointed by the Speaker of the House of Representatives."

4437 **SECTION 2-29.**

4438 Code Section 37-4-2 of the Official Code of Georgia Annotated, relating to definitions  
4439 relative to the habilitation of the mentally retarded, is amended as follows:

4440 "37-4-2.

4441 As used in this chapter, the term:

4442 (1) 'Client' means any ~~mentally retarded~~ developmentally disabled person who seeks  
4443 habilitation under this chapter or any person for whom such habilitation is sought.

4444 (2) 'Clinical record' means a written record pertaining to an individual client and includes  
4445 habilitation record, progress notes, charts, admission and discharge data, and all other  
4446 information which is recorded by a facility and which pertains to the client's habilitation.  
4447 Such other information as may be required by rules and regulations of the board shall also  
4448 be included.

4449 (3) 'Community services' means all services deemed reasonably necessary by the  
4450 Department of Human Resources Services to provide for the education, training,  
4451 habilitation, and care of ~~mentally retarded~~ developmentally disabled individuals. Such  
4452 services shall include, but not be limited to, diagnostic and evaluation services, day-care  
4453 and training services, work activity services, community residential services such as  
4454 group family care homes, transportation services, social services, medical services, and  
4455 specified home services.

4456 (4) 'Comprehensive evaluation team' or 'comprehensive habilitation team' means and  
4457 shall consist of a group of persons with special training and experience in the assessment  
4458 of needs and provision of services for ~~mentally retarded~~ developmentally disabled  
4459 persons, which group shall include, at a minimum, persons qualified to provide social,  
4460 psychological, medical, and other services. The department shall specify the  
4461 qualifications of the individuals who ~~compose~~ comprise a comprehensive evaluation team  
4462 or a comprehensive habilitation team and shall ensure that such teams are located  
4463 throughout the state so as to provide diagnostic, evaluation, and habilitation services for  
4464 all citizens of Georgia.

4465 (5) 'Court' means:

4466 (A) In the case of an individual who is 17 years of age or older, the probate court of the  
4467 county of residence of the client or the county in which such client is found.  
4468 Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate  
4469 court is unable to hear a case brought under this chapter within the time required for  
4470 such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction  
4471 of the probate court in such case. Any person so appointed shall be a member of the  
4472 State Bar of Georgia and shall be otherwise qualified for his or her duties by training  
4473 and experience. Such appointment may be made on a case-by-case basis or by making  
4474 a standing appointment of one or more persons. Any person receiving such standing  
4475 appointment shall serve at the pleasure of the judge making the appointment or ~~his~~ the  
4476 judge's successor in office to hear such cases if and when necessary. The compensation

4477 of a person so appointed shall be as agreed upon by the judge who makes the  
4478 appointment and the person appointed with the approval of the governing authority of  
4479 the county for which such person is appointed and shall be paid from the county funds  
4480 of said county. All fees collected for the services of such appointed person shall be paid  
4481 into the general funds of the county served; or

4482 (B) In the case of an individual who is under the age of 17 years, the juvenile court of  
4483 the county of residence of the client or the county in which such client is found.

4484 (6) 'Department' means the Department of Human Services.

4485 (7) 'Developmental disability' means a state of significantly subaverage general  
4486 intellectual functioning existing concurrently with deficits in adaptive behavior and  
4487 originating in the developmental period.

4488 (8) 'Developmentally disabled person' means a person having a significantly subaverage  
4489 general intellectual functioning existing concurrently with deficits in adaptive behavior  
4490 and originating in the developmental period.

4491 (9) 'Developmentally disabled person in need of community services' means a  
4492 developmentally disabled person who, after comprehensive evaluation and a hearing, is  
4493 found to be in need of community services as defined in Code Section 37-5-3.

4494 (10) 'Developmentally disabled person requiring temporary and immediate care' means  
4495 a person who is developmentally disabled, and:

4496 (A) Who presents a substantial risk of imminent harm to himself or herself or others;

4497 (B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain  
4498 developmental, medical, or behavioral needs; and

4499 (C) For whom there currently exists no available, appropriate community residential  
4500 setting for meeting the needs of the person.

4501 (6)(11) 'Facility' means any state owned or state operated institution utilized 24 hours a  
4502 day for the habilitation and residence of persons who are mentally retarded  
4503 developmentally disabled, any facility operated or utilized for such purpose by the United  
4504 States Department of Veterans Affairs or any other federal agency, and any other facility  
4505 within the State of Georgia approved for such purpose by the department.

4506 (7)(12) 'Full and fair hearing' or 'hearing' means a proceeding before a hearing examiner,  
4507 under Code Section 37-4-42, or before a court, as defined in paragraph (5) of this Code  
4508 section. The hearing may be held in a regular courtroom or in an informal setting, in the  
4509 discretion of the hearing examiner or the court, but the hearing shall be recorded  
4510 electronically or by a qualified court reporter. The client shall be provided with effective  
4511 assistance of counsel. If the client cannot afford counsel, the court shall appoint counsel  
4512 for him or her or the hearing examiner shall have the court appoint such counsel. The  
4513 client shall have the right to confront and cross-examine witnesses and to offer evidence.

4514 The client shall have the right to subpoena witnesses and to require testimony before the  
4515 hearing examiner or in court in person or by deposition from any physician upon whose  
4516 evaluation the decision of the hearing examiner or the court may rest. The client shall  
4517 have the right to obtain a continuance for any reasonable time for good cause shown. The  
4518 hearing examiner and the court shall apply the rules of evidence applicable in civil cases.  
4519 The burden of proof shall be upon the party seeking treatment of the client. The standard  
4520 of proof shall be by clear and convincing evidence. At the request of the client, the public  
4521 may be excluded from the hearing; and the client need not be present if the court  
4522 consents; in either of these events, the record shall reflect the reason for the hearing  
4523 examiner's or the court's action.

4524 (8)(13) 'Habilitation' means the process by which program personnel help clients acquire  
4525 and maintain those life skills which will enable them to cope more effectively with the  
4526 demands of their own persons and of their environment and to raise the level of their  
4527 physical, mental, social, and vocational abilities.

4528 (9)(14) 'Individualized program plan' means a proposed habilitation program written in  
4529 behavioral terms, developed by the comprehensive evaluation team, and specifically  
4530 tailored to the needs of an individual client. Each plan shall include:

- 4531 (A) A statement of the nature of the client's specific problems and specific needs;
- 4532 (B) A description of intermediate and long-range habilitation goals and a projected  
4533 timetable for their attainment;
- 4534 (C) A description of the proposed habilitation program and its relation to habilitation  
4535 goals;
- 4536 (D) Identification of the facility and types of professional personnel responsible for  
4537 execution of the client's habilitation program;
- 4538 (E) A statement of the least restrictive environment necessary to achieve the purposes  
4539 of habilitation, based upon the needs of the client;
- 4540 (F) An explanation of criteria for acceptance or rejection of alternative environments  
4541 for habilitation; and
- 4542 (G) Proposed criteria for release of the client into less restrictive habilitation  
4543 environments upon obtaining specified habilitation goals.

4544 (10)(15) 'Least restrictive alternative,' 'least restrictive environment,' or 'least restrictive  
4545 appropriate habilitation' means that which is the least restrictive available alternative,  
4546 environment, or appropriate habilitation, as applicable, within the limits of state funds  
4547 specifically appropriated therefor.

4548 ~~(11) 'Mental retardation' means a state of significantly subaverage general intellectual  
4549 functioning existing concurrently with deficits in adaptive behavior and originating in the  
4550 developmental period.~~

4551 (12) 'Mentally retarded person' means a person having a significantly subaverage general  
4552 intellectual functioning existing concurrently with deficits in adaptive behavior and  
4553 originating in the developmental period.

4554 (13) 'Mentally retarded person in need of community services' means a mentally retarded  
4555 person who, after comprehensive evaluation and a hearing, is found to be in need of  
4556 community services as defined in Code Section 37-5-3.

4557 (13.1) 'Mentally retarded person requiring temporary and immediate care' means a  
4558 person who is mentally retarded, and:

4559 (A) Who presents a substantial risk of imminent harm to himself or others;

4560 (B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain  
4561 developmental, medical, or behavioral needs; and

4562 (C) For whom there currently exists no available, appropriate community residential  
4563 setting for meeting the needs of the person.

4564 (14)(16) 'Person in charge of a client's habilitation' means a superintendent or regional  
4565 state hospital administrator of a facility, a case manager, or any other service provider  
4566 designated by the department to have overall responsibility for implementation of a  
4567 client's individualized program plan. The department shall designate such a person for  
4568 each individual ordered to receive services from the department under this chapter.

4569 (14.1)(17) 'Regional state hospital administrator' means the chief administrative officer  
4570 of a state owned or state operated hospital and the state owned or operated community  
4571 programs in a region. The regional state hospital administrator, under the supervision of  
4572 the regional coordinator, has overall management responsibility for the regional state  
4573 hospital and manages services provided by employees of the regional state hospital and  
4574 employees of state owned or operated community programs within a mental health,  
4575 developmental disabilities, and addictive diseases region established in accordance with  
4576 Code Section 37-2-3.

4577 (15)(18) 'Representatives' means the persons appointed as provided in Code Section  
4578 37-4-107 to receive any notice under this chapter.

4579 (16)(19) 'Superintendent' means the chief administrative officer who has overall  
4580 management responsibility at any facility, other than a regional state hospital or state  
4581 owned or operated community program, receiving ~~mentally retarded~~ developmentally  
4582 disabled persons under this chapter or an individual appointed as the designee of such  
4583 superintendent."

## 4584 SECTION 2-30.

4585 Code Section 37-4-109 of the Official Code of Georgia Annotated, relating to establishment  
4586 of patients and staff complaint procedure, is amended as follows:

4587 "37-4-109.

4588 The department shall establish procedures whereby complaints of the client or complaints  
4589 of the staff concerning admission, treatment, or habilitation can be speedily heard. Clients  
4590 shall receive reasonable notice of such procedures. Final decisions shall be made by the  
4591 superintendent, the regional state hospital administrator, or an advisory committee,  
4592 whichever is appropriate, with the right of appeal to the ~~director of the Division of Mental~~  
4593 ~~Health, Developmental Disabilities, and Addictive Diseases~~ commissioner or his or her  
4594 designee. The board shall establish rules and regulations for the implementation of such  
4595 procedures. However, the client shall not be required to utilize these procedures in lieu of  
4596 other available legal remedies."

### 4597 SECTION 2-31.

4598 Code Section 37-5-3 of the Official Code of Georgia Annotated, relating to definitions  
4599 relative to community services for the mentally retarded, is amended as follows:

4600 "37-5-3.

4601 As used in this chapter, the term:

4602 (1) 'Community services' means all ~~community-based~~ community based services deemed  
4603 reasonably necessary by the department to provide for education, training, rehabilitation,  
4604 and care of ~~mentally retarded~~ developmentally disabled individuals and shall include but  
4605 not be limited to: diagnostic and evaluation services; day-care and training services;  
4606 work-activity services; community residential services such as group family-care homes;  
4607 transportation services incidental to educational, training, and rehabilitation services;  
4608 social services; medical services; and specified home services.

4609 (2) 'Department' means the Department of Human Services.

4610 (2)(3) ~~'Mentally retarded Developmentally disabled individual'~~ means a person whose  
4611 ability to care for himself or herself is substantially impaired by ~~mental retardation a~~  
4612 developmental disability or by a neurological dysfunction associated with ~~mental~~  
4613 retardation developmental disability.

4614 (3)(4) ~~'Mental retardation Developmental disability'~~ means a state of significantly  
4615 subaverage general intellectual functioning existing concurrently with deficits in adaptive  
4616 behavior and originating in the developmental period."

### 4617 SECTION 2-32.

4618 Code Section 37-6-1 of the Official Code of Georgia Annotated, relating to definitions  
4619 relative to day-care centers for the mentally retarded, is amended as follows:

4620 "37-6-1.

4621 As used in this chapter, the term:

4622 (1) 'Day-care center' means any facility that is operated and maintained for and is  
4623 qualified to furnish care and training to ~~mentally retarded~~ developmentally disabled  
4624 individuals on less than a 24 hour basis.  
4625 (2) 'Department' means the Department of Human Services.  
4626 (2)(3) ~~'Mentally retarded Developmentally disabled individual'~~ means any individual  
4627 who is suffering from ~~mental retardation~~ a developmental disability.  
4628 (3)(4) ~~'Mental retardation Developmental disability'~~ means a state of subaverage general  
4629 intellectual functioning which originates during the developmental period and is  
4630 associated with impairment in adaptive behavior."

### 4631 SECTION 2-33.

4632 Code Section 40-2-86.21 of the Official Code of Georgia Annotated, relating to special  
4633 license plates promoting certain beneficial projects and supporting certain worthy agencies,  
4634 funds, or nonprofit corporations, is amended by revising paragraphs (14) and (33) of  
4635 subsection (o) as follows:

4636 "(14) A special license plate for the Thanks Mom and Dad Fund. The funds raised by the  
4637 sale of this special license plate shall be disbursed to the Department of Human ~~Resources~~  
4638 Services to address the key needs of the state's older population or a nonprofit corporation  
4639 organized to serve the needs of the state's older population."

4640 "(33) A special license plate supporting programs for the treatment of autism. The funds  
4641 raised by the sale of this special license plate shall be disbursed to the Department of  
4642 Human ~~Resources~~ Services for the support of programs for the treatment of autism in  
4643 Georgia."

### 4644 SECTION 2-34.

4645 Code Section 43-26-51 of the Official Code of Georgia Annotated, relating to the purpose  
4646 of the "Georgia Qualified Medication Aide Act," is amended as follows:

4647 "43-26-51.

4648 The purpose of this article is to protect, promote, and preserve the public health, safety, and  
4649 welfare through the delegation of certain activities performed by registered professional  
4650 nurses and licensed practical nurses to persons who are certified as qualified medication  
4651 aides and who are employed by and working in community living arrangements established  
4652 by the Department of Human ~~Resources~~ Services pursuant to paragraphs (15) and (16)  
4653 paragraph (18) of subsection (b) of Code Section 37-1-20 49-2-46."

**SECTION 2-35.**

4654  
4655 Code Section 43-26-52 of the Official Code of Georgia Annotated, relating to definitions  
4656 relative to the "Georgia Qualified Medication Aide Act," is amended by revising paragraph  
4657 (3) as follows:

4658 "(3) 'Community living arrangement' means any residence, whether operated for profit or  
4659 not for profit, which undertakes through its ownership or management to provide or  
4660 arrange for the provision of daily personal services, support, care, or treatment exclusively  
4661 for two or more adults who are not related to the owner or administrator by blood or  
4662 marriage which is established by the Department of Human ~~Resources Services~~ pursuant  
4663 to paragraph ~~(16)~~ (18) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6 and whose  
4664 services are financially supported, in whole or part, by funds authorized through the  
4665 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
4666 ~~Department of Human Resources~~ Department of Human Services. A community living  
4667 arrangement is also referred to as a 'residence.'"

**SECTION 2-36.**

4668  
4669 Code Section 45-20-90 of the Official Code of Georgia Annotated, relating to definitions  
4670 relative to random drug testing of public employees in high-risk jobs, is amended by revising  
4671 paragraph (2) as follows:

4672 "(2) 'Established drug test' means the collection and testing of bodily fluids administered  
4673 in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace  
4674 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended) or  
4675 other professionally valid procedures approved by the ~~commissioner of human resources~~  
4676 State Personnel Board."

**SECTION 2-37.**

4677  
4678 Code Section 46-1-5 of the Official Code of Georgia Annotated, relating to duties of the  
4679 Department of Human Resources with regard to assistance to low or fixed income consumers  
4680 of gas and electric service, is amended as follows:

4681 "46-1-5.

4682 By March 2, 1982, the Department of Human Resources (now known as the Department  
of Human Services) shall develop a program to identify those low or fixed income  
4684 consumers of gas and electric utility service who, in the department's opinion, should  
4685 benefit from public assistance in paying their bills for gas and electric service. The  
4686 department shall also establish an efficient and economical method for distributing to such  
4687 consumers all public assistance funds which will be made available, whether by  
4688 appropriations of state or federal funds, grants, or otherwise. All gas and electric utilities

4689 shall cooperate fully with the department in developing and implementing its program.  
4690 Nothing in this Code section shall limit the commission's authority to order regulatory  
4691 alternatives which assist low or fixed income ratepayers."

4692 **SECTION 2-38.**

4693 Code Section 46-5-7 of the Official Code of Georgia Annotated, relating to the plan to ensure  
4694 the confidentiality of family violence shelters' addresses and locations, is amended by  
4695 revising subsection (e) as follows:

4696 "(e) Within three days of filing original plans or updates with the commission, each person,  
4697 corporation, or other entity subject to this Code section shall submit a copy of all original  
4698 plans, updated plans, and revised plans to the ~~State Commission on Family Violence~~  
4699 Department of Human Services, which is authorized to provide comments concerning such  
4700 plans to the commission in order to aid in review and approval of such plans."

4701 **SECTION 2-39.**

4702 Code Section 49-4A-5 of the Official Code of Georgia Annotated, relating to transfer of  
4703 functions and employees of the Division of Youth Services, is amended by revising  
4704 subsection (b) as follows:

4705 "(b) Any employees of the Department of Juvenile Justice who became so employed by  
4706 virtue of their transfer from the Division of Youth Services of the Department of Human  
4707 Resources (now known as the Department of Human Services) on June 30, 1992, shall  
4708 retain their compensation and benefits and such may not be reduced. Transferred  
4709 employees who were subject to the State Merit System of Personnel Administration shall  
4710 retain all existing rights under the State Merit System of Personnel Administration.  
4711 Retirement rights of such transferred employees existing under the Employees' Retirement  
4712 System of Georgia or other public retirement systems on July 1, 1992, shall not be impaired  
4713 or interrupted by the transfer of such employees and membership in any such retirement  
4714 system shall continue in the same status possessed by the transferred employees on June  
4715 30, 1992. Accrued annual and sick leave possessed by said employees on June 30, 1992,  
4716 shall be retained by said employees as employees of the department."

4717 **SECTION 2-40.**

4718 Code Section 49-5-60 of the Official Code of Georgia Annotated, relating to definitions  
4719 relative to employees' record checks for day-care centers, is amended by revising paragraph  
4720 (1) as follows:

4721        "(1) 'Center' means a child-caring institution or child-placing agency child welfare  
4722        agency, as defined in subsection (a) of Code Section 49-5-12, which is required to be  
4723        licensed or registered under Article 1 of this chapter."

## SECTION 2-41.

4725 Code Section 49-5-69.1 of the Official Code of Georgia Annotated, relating to fingerprint  
4726 and preliminary records check for foster homes, is amended as follows:

4727 "49-5-69.1.

(a) No licensed child-placing agency child welfare agency, as defined in this chapter subsection (a) of Code Section 49-5-12, shall place a child in a foster care home unless the foster parent or parents of the home and other adult persons that reside in the home or provide care to children placed in the home have received a satisfactory preliminary records check determination. Additionally, no child shall continue to be placed in such foster care home unless the foster parent or parents also subsequently receive a satisfactory fingerprint records check determination. A ~~child-placing agency~~ child welfare agency or any applicant for a license for such an agency shall be required to submit to the department a preliminary records check application and a records check application for the foster parent or parents of any foster care home used by the agency and a preliminary records check application for any other adult persons that reside in the home or provide care to children placed in the home. In lieu of such applications, the agency or license applicant may submit evidence, satisfactory to the department, that within the immediately preceding 12 months such foster parent or parents or other adult persons have received a satisfactory fingerprint records check determination or a satisfactory preliminary records check determination.

4744 (b) After receiving or obtaining the fingerprint records check determinations or the  
4745 preliminary records check determinations, the department shall notify in writing the agency  
4746 or license applicant as to each person for whom an application was received regarding  
4747 whether the department's determinations were satisfactory or unsatisfactory. If any such  
4748 determinations are unsatisfactory, such homes shall not be used by the ~~child-placing agency~~  
4749 child welfare agency as foster care homes.

4750 (c) The department shall have the authority to take any of the actions enumerated in  
4751 subsection (c) of Code Section 31-2-6 49-2-17 if a licensed child-placing agency child  
4752 welfare agency or an applicant for such a license violates any provision of this Code  
4753 section.

4754 (d) An executive director of a child-placing agency child welfare agency that uses a foster  
4755 care home with a foster parent or parents or other adult persons referenced in this Code

4756 section whom the executive director knows or should reasonably know to have a criminal  
4757 record shall be guilty of a misdemeanor.

4758 (e) In addition to any other requirement established by law, the submission of fingerprints  
4759 shall be a prerequisite to the issuance of a license or authorization for the operation of a  
4760 foster home or to serve as foster parents as provided in this article. Such fingerprints shall  
4761 be used for the purposes of fingerprint checks by the Georgia Crime Information Center  
4762 and the Federal Bureau of Investigation."

4763 **SECTION 2-42.**

4764 Code Section 49-6-84 of the Official Code of Georgia Annotated, relating to the authority  
4765 of the Department of Human Resources to promulgate rules and regulations under the "Adult  
4766 Day Center for Aging Adults Licensure Act," is amended as follows:

4767 "49-6-84.

4768 The department is authorized to promulgate rules and regulations to implement this article  
4769 utilizing the public rule-making process to elicit input from consumers, providers, and  
4770 advocates. The department is further authorized to issue, deny, suspend, or revoke licenses  
4771 or take other enforcement actions against licensees or applicants as provided in Code  
4772 Section 31-2-6 49-2-17. All rules and regulations and any enforcement actions initiated  
4773 by the department shall comply with the requirements of Chapter 13 of Title 50, the  
4774 'Georgia Administrative Procedure Act.'

4775 **SECTION 2-43.**

4776 Code Section 49-8-4 of the Official Code of Georgia Annotated, relating to administration  
4777 of "The Economic Rehabilitation Act of 1975," is amended by revising subsection (a) as  
4778 follows:

4779 "(a) For purposes of administration, responsibility for the coordination of community  
4780 services and fiscal accountability shall be determined by the commissioner of human  
4781 resources services.

4782 **SECTION 2-44.**

4783 Code Section 50-5-136 of the Official Code of Georgia Annotated, relating to the powers and  
4784 authority of the State Use Council, is amended by revising paragraph (4) of subsection (b)  
4785 as follows:

4786 "(4) To oversee and assist in the development of guidelines for the certification of  
4787 community based rehabilitation programs and training centers in the State of Georgia. The  
4788 intent of these guidelines shall be to evaluate the qualifications and capabilities of  
4789 community based rehabilitation programs and training centers interested in certification;

4790 to determine criteria for quality, efficiency, timeliness, and cost effectiveness in the  
4791 production of goods, wares, merchandise, and services to be procured under the state use  
4792 plan and purchased by the State of Georgia; and to establish a certification process which  
4793 shall enable community based rehabilitation programs and training centers qualified under  
4794 this process to compete in procurement activities provided for by this part. All community  
4795 based rehabilitation programs and training centers which are certified by the commissioner  
4796 of human resources (now known as the commissioner of human services for these  
4797 purposes) as of February 8, 1994, shall not have to undergo the certification evaluation and  
4798 approval process until 24 months from February 8, 1994;"

## PART III

## **SECTION 3-1.**

4802 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
4803 revising Chapter 1 and Article 1 of Chapter 2, relating to general provisions and  
4804 administration of mental health, developmental disabilities, addictive diseases, and other  
4805 disability services, respectively, as follows:

# "CHAPTER 1

## ARTICLE 1

4808 37-1-1.

4809 As used in this title, the term:

4810 (1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or  
4811 other drugs and includes substance abuse.

4812 (2) 'Board' means the Board of Human Resources Behavioral Health.

4813 (3) 'Commissioner' means the commissioner of ~~human resources~~ behavioral health.

4814 (4) 'Community service board' means a public mental health, developmental disabilities,  
4815 and addictive diseases board established pursuant to Code Section 37-2-6.

4816 (5) 'Consumer' means a natural person who has been or is a recipient of disability  
4817 services as defined in Code Section 37-2-2.

(6) 'County board of health' means a county board of health established in accordance with Chapter 3 of Title 31 and includes its duly authorized agents.

(7) 'Department' means the Department of Human Resources Behavioral Health and includes its duly authorized agents and designees.

4822 (8) 'Division' means the Division of Mental Health, Developmental Disabilities, and  
4823 Addictive Diseases.

4824 (9)(8) 'Peace officer' means any federal, city, or county police officer, any officer of the  
4825 Georgia State Patrol, or any sheriff or deputy sheriff.

4826 (10)(9) 'Penal offense' means a violation of a law of the United States, this state, or a  
4827 political subdivision thereof for which the offender may be confined in a state prison or  
4828 a city or county jail or any other penal institution.

4829 (11)(10) 'Physician' means any person duly authorized to practice medicine in this state  
4830 under Chapter 34 of Title 43.

4831 (12)(11) 'Psychologist' means any person authorized under the laws of this state to  
4832 practice as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1.

4833 (13)(12) 'Regional board' means a regional ~~mental health, mental retardation, and~~  
4834 ~~substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code  
4835 section existed on June 30, 2002.

4836 (14)(13) 'Regional coordinator' means an employee of the department who acts as the  
4837 department's agent and designee to manage community ~~and hospital~~ services for  
4838 consumers of disability services within a mental health, developmental disabilities, and  
4839 addictive diseases region established in accordance with Code Section 37-2-3.

4840 (15)(14) 'Regional office' means a ~~Division of Mental Health, Developmental~~  
4841 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ an office  
4842 created pursuant to Code Section 37-2-4.1. Such office shall serve as the entity for the  
4843 administration of disability services in a region.

4844 (16)(15) 'Regional planning board' means a ~~mental health, developmental disabilities,~~  
4845 ~~and addictive diseases~~ planning board established in accordance with Code Section  
4846 37-2-4.1.

4847 (17)(16) 'Regional services administrator' means an employee of the department who,  
4848 under the supervision of the regional coordinator, manages the purchase or authorization  
4849 of services, or both, for consumers of disability services, the assessment and coordination  
4850 of services, and ongoing monitoring and evaluation of services provided within a ~~mental~~  
4851 ~~health, developmental disabilities, and addictive diseases~~ region established in  
4852 accordance with Code Section 37-2-3.

4853 (18)(17) 'Regional state hospital administrator' means the chief administrative officer of  
4854 a state owned or state operated hospital and the state owned or operated community  
4855 programs in a region. The regional state hospital administrator, ~~under the supervision of~~  
4856 ~~the regional coordinator~~, has overall management responsibility for the regional state  
4857 hospital and manages services provided by employees of the regional state hospital and  
4858 employees of state owned or operated community programs within a ~~mental health,~~

4859 ~~developmental disabilities, and addictive diseases~~ region established in accordance with  
4860 Code Section 37-2-3.

4861 ~~(19)~~(18) 'Resident' means a person who is a legal resident of the State of Georgia.

4862 37-1-2.

4863 (a) The General Assembly finds that the state has a need to continually improve its system  
4864 for providing effective, efficient, and quality mental health, ~~developmental disability~~, and  
4865 addictive disease services. ~~The General Assembly also finds that the needs of the publicly~~  
4866 funded mental health, ~~developmental disability~~, and addictive disease system and the state  
4867 can best be met through reorganizing the regional mental health, mental retardation, and  
4868 substance abuse boards and certain functions of the Department of Human Resources.  
4869 Further, the General Assembly finds that a comprehensive range of quality services and  
4870 opportunities is vitally important to the existence and well-being of individuals with mental  
4871 health, ~~developmental disability~~, or addictive disease needs and their families. The General  
4872 Assembly further finds that the state has an obligation and a responsibility to develop and  
4873 implement planning and service delivery systems which focus on a core set of consumer  
4874 oriented, community based values and principles which include, but are not limited to, the  
4875 following:

- 4876 (1) Consumers and families should have choices about services and providers and should  
4877 have substantive input into the planning and delivery of all services;
- 4878 (2) A single point of accountability should exist for fiscal, service, and administrative  
4879 issues to ensure better coordination of services among all programs and providers and to  
4880 promote cost-effective, efficient service delivery and administration;
- 4881 (3) The system should be appropriately comprehensive and adaptive to allow consumers  
4882 and their families to access the services they desire and need;
- 4883 (4) Public programs are the foundation of the service planning and delivery system and  
4884 they should be valued and nurtured; at the same time, while assuring comparable  
4885 standards of quality, private sector involvement should be increased to allow for  
4886 expanded consumer choice and improved cost effectiveness;
- 4887 (5) Planning should ~~reside begin~~ at the local level, ~~with the primary authority vested in~~  
4888 ~~and include~~ local government, consumers, families, advocates, and other interested local  
4889 parties;
- 4890 (6) The system should ensure that the needs of consumers who are most in need are met  
4891 at the appropriate service levels; at the same time, prevention strategies should be  
4892 emphasized for those disabilities which are known to be preventable;

4893       (7) The system should be designed to provide the highest quality of services utilizing  
4894       flexibility in funding, incentives, and outcome evaluation techniques which reinforce  
4895       quality, accountability, efficiency, and consumer satisfaction;  
4896       (8) The functions of service planning, coordination, contracting, resource allocation, and  
4897       consumer assessment should be separated from the actual treatment, habilitation, and  
4898       prevention services provided by contractors;  
4899       (9) Consumers and families should have a single, community based point of entry into  
4900       the system;  
4901       (10) Consumers, staff, providers, and regional planning board and community service  
4902       board members should receive ongoing training and education and should have access  
4903       to key management resources such as information systems and technical and professional  
4904       support services; and  
4905       (11) The department is responsible for ensuring the appropriate use of state, federal, and  
4906       other funds to provide quality services for individuals with mental health, ~~developmental~~  
4907       ~~disabilities~~, or addictive disease needs who are served by the public system and to protect  
4908       consumers of these services from abuse and maltreatment.

4909       (b) Local governments, specifically county governing authorities, have provided  
4910       outstanding leadership and support for mental health, ~~developmental disability~~, and  
4911       addictive disease programs, and the General Assembly finds that their investments, both  
4912       personal and capital, should be valued and utilized in any improved system. As such, the  
4913       state and any new governing structure should take special precautions to ensure that the  
4914       county governing authorities have an expanded level of input into decision making and  
4915       resource allocation and that any services or programs should continue to use and expand  
4916       their use of county facilities and resources wherever appropriate and possible.

4917       (c) The purpose of this chapter and Chapter 2 of this title is to provide for a comprehensive  
4918       and improved mental health, ~~developmental disability~~, and addictive disease services  
4919       planning and delivery system in this state which will develop and promote the essential  
4920       public interests of the state and its citizens. The provisions of this chapter and Chapter 2  
4921       of this title shall be liberally construed to achieve their purposes.

4922       37-1-3.

4923       (a) There is created the Board of Behavioral Health which shall establish the general  
4924       policy to be followed by the Department of Behavioral Health. The powers, functions, and  
4925       duties of the Board of Human Resources as they existed on June 30, 2009, with regard to  
4926       mental health and addictive diseases are transferred to the Board of Behavioral Health  
4927       effective July 1, 2009. The board shall consist of nine members appointed by the Governor  
4928       and confirmed by the Senate.

4929 (b) The Governor shall designate the initial terms of the members of the board as follows:  
4930 three members shall be appointed for one year; three members shall be appointed for two  
4931 years; and three members shall be appointed for three years. Thereafter, all succeeding  
4932 appointments shall be for three-year terms from the expiration of the previous term.

4933 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
4934 as the appointment to the position on the board which becomes vacant. An appointment to  
4935 fill a vacancy other than by expiration of a term of office shall be for the balance of the  
4936 unexpired term.

4937 (d) Members of the board may be removed from office under the same conditions for  
4938 removal from office of members of professional licensing boards provided in Code Section  
4939 43-1-17.

4940 (e) There shall be a chairperson of the board elected by and from the membership of the  
4941 board who shall be the presiding officer of the board.

4942 (f) The members of the board shall receive a per diem allowance and expenses as shall be  
4943 set and approved by the Office of Planning and Budget in conformance with rates and  
4944 allowances set for members of other state boards.

4945 37-1-4.

4946 (a) There is created a Department of Behavioral Health. The powers, functions, and duties  
4947 of the Department of Human Resources as they existed on June 30, 2009, relating to mental  
4948 health and addictive diseases are transferred to the Department of Behavioral Health  
4949 effective July 1, 2009.

4950 (b) There is created the position of commissioner of behavioral health. The commissioner  
4951 shall be the chief administrative officer of the department and be both appointed and  
4952 removed by the board, subject to the approval of the Governor. Subject to the general  
4953 policy established by the board, the commissioner shall supervise, direct, account for,  
4954 organize, plan, administer, and execute the functions vested in the department.

4955 37-1-5.

4956 (a) The Department of Behavioral Health shall succeed to all rules, regulations, policies,  
4957 procedures, and administrative orders of the Department of Human Resources that are in  
4958 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
4959 relate to the functions transferred to the Department of Behavioral Health pursuant to Code  
4960 Section 37-1-4 and shall further succeed to any rights, privileges, entitlements, obligations,  
4961 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
4962 which relate to the functions transferred to the Department of Behavioral Health pursuant  
4963 to Code Section 37-1-4. Such rules, regulations, policies, procedures, and administrative

orders shall remain in effect until amended, repealed, superseded, or nullified by the Department of Behavioral Health by proper authority or as otherwise provided by law.

(b) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by the Department of Human Resources which relate to the functions transferred to the Department of Behavioral Health pursuant to Code Section 37-1-4 shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the Department of Behavioral Health. In all such instances, the Department of Behavioral Health shall be substituted for the Department of Human Resources, and the Department of Behavioral Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(c) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of Behavioral Health pursuant to Code Section 37-1-4 on June 30, 2009, shall, on July 1, 2009, become employees of the Department of Behavioral Health in similar capacities, as determined by the commissioner of behavioral health. Such employees shall be subject to the employment practices and policies of the Department of Behavioral Health on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Merit System of Personnel Administration and who are transferred to the department shall retain all existing rights under the State Merit System of Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the Department of Behavioral Health.

## ARTICLE 2

4993 37-1-20.

4994 (a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases  
4995 shall be a division of the department and shall be managed by a director whose  
4996 qualifications meet standards set by the board.  
4997 (b) The department, through the division, shall:

- 4998 (1) Establish, administer, and supervise the state programs for mental health;  
4999 ~~developmental disabilities;~~ and addictive diseases;
- 5000 (2) Direct, supervise, and control the medical and physical care, treatment, and  
5001 rehabilitation provided by the institutions and programs under its control, management,  
5002 or supervision;
- 5003 (3) Have authority to contract for services with community service boards, private  
5004 agencies, and other public entities for the provision of services within a service area so  
5005 as to provide an adequate array of services; and choice of providers for consumers; and  
5006 to comply with the applicable federal laws, rules, and regulations related to public or  
5007 private hospitals; hospital authorities; medical schools and training and educational  
5008 institutions; departments and agencies of this state; county or municipal governments;  
5009 any person, partnership, corporation, or association, whether public or private; and the  
5010 United States government or the government of any other state;
- 5011 (4) Establish and support programs for the training of professional and technical  
5012 personnel as well as regional planning boards and community service boards;
- 5013 (5) Have authority to conduct research ~~into the causes and treatment of disability and~~ into  
5014 the means of effectively promoting mental health;
- 5015 (6) ~~Assign specific responsibility to one or more units of the division for the~~  
5016 ~~development of a disability prevention program. The objectives of such program shall~~  
5017 ~~include, but are not limited to, monitoring of completed and ongoing research related to~~  
5018 ~~the prevention of disability, implementation of programs known to be preventive, and~~  
5019 ~~testing, where practical, of those measures having a substantive potential for the~~  
5020 ~~prevention of disability;~~
- 5021 (7)(6) Establish a system for regional administration of mental health, ~~developmental~~  
5022 ~~disability,~~ and addictive disease services in institutions and in the community ~~under the~~  
5023 ~~supervision of a regional coordinator;~~
- 5024 (8)(7) Make and administer budget allocations to regional offices ~~of the division~~  
5025 established by the board pursuant to Code Section 37-2-4.1 to fund the operation of  
5026 mental health, ~~developmental disabilities,~~ and addictive diseases facilities and programs;
- 5027 (9)(8) Coordinate in consultation with providers, professionals, and other experts the  
5028 development of appropriate outcome measures for client centered service delivery  
5029 systems;
- 5030 (10) ~~Establish, operate, supervise, and staff programs and facilities for the treatment of~~  
5031 ~~disabilities throughout this state;~~
- 5032 (11)(9) Disseminate information about available services and the facilities through which  
5033 such services may be obtained;

5034       (12)(10) Supervise the regional office's exercise of its responsibility and authority  
5035       concerning funding and delivery of ~~disability~~ services;

5036       (13)(11) Supervise the regional offices concerning the receipt and administration of  
5037       grants, gifts, moneys, and donations for purposes pertaining to mental health;  
5038       ~~developmental disabilities~~; and addictive diseases;

5039       (14)(12) Supervise the ~~regional offices~~ concerning making administration of contracts  
5040       with any hospital, community service board, or any public or private providers without  
5041       regard to regional or state boundaries for the provision of disability services and in  
5042       making and entering into all contracts necessary or incidental to the performance of the  
5043       duties and functions of the ~~division~~ department and the regional offices; and

5044       (15)(13) Regulate the delivery of care, including behavioral interventions and medication  
5045       administration by licensed staff, or certified staff as determined by the ~~division~~  
5046       department, within residential settings serving only persons who are receiving services  
5047       authorized or financed, in whole or in part, by the ~~division~~; department.

5048       (16) ~~Classify 'community living arrangements' and 'host homes' for persons whose~~  
5049       ~~services are financially supported, in whole or in part, by funds authorized through the~~  
5050       ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
5051       ~~Department of Human Resources.~~ As used in this Code section, the term:

5052           (A) '~~Community living arrangement~~' means any residence, whether operated for profit  
5053       or not, which undertakes through its ownership or management to provide or arrange  
5054       for the provision of housing, food, one or more personal services, supports, care, or  
5055       treatment exclusively for two or more persons who are not related to the owner or  
5056       administrator of the residence by blood or marriage.

5057           (B) '~~Host home~~' means a private residence in a residential area in which the occupant  
5058       owner or lessee provides housing and provides or arranges for the provision of food,  
5059       one or more personal services, supports, care, or treatment exclusively for one or two  
5060       persons who are not related to the occupant owner or lessee by blood or marriage. A  
5061       host home shall be occupied by the owner or lessee, who shall not be an employee of  
5062       the same community provider which provides the host home services by contract with  
5063       the division. The division shall approve and enter into agreements with community  
5064       providers which, in turn, contract with host homes. The occupant owner or lessee shall  
5065       not be the guardian of any person served or of their property nor the agent in such  
5066       person's advance directive for health care. The placement determination for each  
5067       person placed in a host home shall be made according to such person's choice as well  
5068       as the individual needs of such person in accordance with the requirements of Code  
5069       Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person; and

5070 (17) Provide guidelines for and oversight of host homes, which may include, but not be  
5071 limited to, criteria to become a host home, requirements relating to physical plants and  
5072 supports, placement procedures, and ongoing oversight requirements.

5073 (e)(b) The department shall:

5074 (1) Establish a unit of the department which shall receive and consider complaints from  
5075 individuals receiving services, make recommendations to the director of the division  
5076 commissioner regarding such complaints, and ensure that the rights of individuals  
5077 receiving services are fully protected; and

5078 (2) Exercise all powers and duties provided for in this title or which may be deemed  
5079 necessary to effectuate the purposes of this title;

5080 (3) Assign specific responsibility to one or more units of the division for the  
5081 development of programs designed to serve disabled infants, children, and youth. To the  
5082 extent practicable, such units shall cooperate with the Georgia Department of Education  
5083 and the University System of Georgia in developing such programs; and

5084 (4) Classify and license community living arrangements, as defined in paragraph (16) of  
5085 subsection (b) of this Code section, in accordance with the rules and regulations  
5086 promulgated by the department for the licensing of community living arrangements and  
5087 the enforcement of licensing requirements. To be eligible for licensing as a community  
5088 living arrangement, the residence and services provided must be integrated within the  
5089 local community. All community living arrangements licensed by the department shall  
5090 be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business  
5091 entity, corporation, or association, whether operated for profit or not for profit, may  
5092 operate a community living arrangement without first obtaining a license or provisional  
5093 license from the department. A license issued under this article is not assignable or  
5094 transferable.

5095 37-1-21.

5096 (a) The department is designated and empowered as the agency of this state responsible  
5097 for supervision and administrative control of: state facilities for the treatment of mental  
5098 illness or the habilitation and treatment of individuals with developmental disabilities; state  
5099 hospitals for the treatment of tubercular patients; programs for the care, custody, and  
5100 treatment of addictive disease; and other facilities, institutions, or programs which now or  
5101 hereafter come under the supervision and administrative control of the department. With  
5102 respect to all such facilities, institutions, or programs the department shall have the  
5103 following powers and duties:

5104 (1) To create all necessary offices, appoint and remove all officers of such facilities,  
5105 institutions, or programs, prescribe and change the duties of such officers from time to

time, and fix their salaries as provided for by the pay plan covering positions under the State Merit System of Personnel Administration and in accordance with rules and regulations of the State Personnel Board, except that the commissioner shall not be subject to the State Merit System of Personnel Administration or the rules and regulations of the State Personnel Board. The department shall discharge and cause to be prosecuted any officer or other person who shall assault any patient in any of such facilities or institutions or who shall knowingly use toward any such patient any other or greater force than the occasion may require;

(2) To refuse or accept and hold in trust for any such facility, institution, or program any grant or devise of land or bequest or donation of money or other property for the particular use specified or, if no use is specified, for the general use of such facility, institution, or program;

(3) To bring suit in its name for any claims which any such facility or institution may have, however arising;

(4) To appoint police of such facilities, institutions, or programs who are authorized, while on the grounds or in the buildings of the respective facilities, institutions, or programs to make arrests with the same authority, power, privilege, and duties as the sheriffs of the respective counties in which such facilities, institutions, or programs are situated. If because of the contagious or infectious nature of the disease of persons arrested facilities are not available for their detention, such police shall be authorized to confine such persons within the respective facilities, institutions, or programs pending trial as provided in other cases. After trial and conviction of any such person, he or she shall be sentenced to serve his or her term of sentence in the secured ward of the facility, institution, or program; and

(5) To have full authority to receive patients ordered admitted to such facilities, institutions, or programs pursuant to any law, to receive any voluntary patients, to discharge such patients pursuant to law, to contract with patients or other persons acting on behalf of patients or legally responsible therefor, and in general to exercise any power or function with respect to patients provided by law. It is the intent of the General Assembly to provide always the highest quality of diagnosis, treatment, custody, and care consistent with medical, therapeutic, and rehabilitative evidence based practice and knowledge. It is the further intent of the General Assembly that the powers and duties of the department with respect to patients shall be administered by persons properly trained professionally for the exercise of their duties, consistent with the intention expressed in this Code section.

(b) The board is empowered to prescribe all rules and regulations for the management of such facilities, institutions, and programs not conflicting with the law.

5143 37-1-22.

5144 The board shall adopt and promulgate written rules, regulations, and standards as may be  
5145 deemed necessary to effectuate the purposes of this title and which shall be the basis of  
5146 state financial participation in mental health, ~~developmental disabilities~~, and addictive  
5147 diseases programs.

5148 37-1-23.

5149 The board is directed to prescribe rules of practice and procedure in order to implement this  
5150 chapter. The department ~~and the division are~~ is directed to make the board's and the  
5151 department's rules available for distribution.

5152 37-1-24.

5153 No provision in this title shall require the department or any facility or private facility or  
5154 any community service board to utilize a physician in lieu of a psychologist or a  
5155 psychologist in lieu of a physician in performing functions under this title even though this  
5156 title authorizes either a physician or a psychologist to perform the function.

5157 37-1-25.

5158 The department is authorized to purchase land or lands adjacent to or near lands now under  
the control of the department where, in the opinion of the department, the land is needed  
for the benefit of one of the institutions under its control and management, to pay for such  
land out of any funds which may be available for such purpose, and to take title to land so  
purchased in the name of the State of Georgia for the use of the department.

5163 37-1-26.

5164 (a) The department shall sell, to the best advantage, all surplus products of the Central  
State Hospital or other institutions under the control and supervision of the department and  
shall apply the proceeds thereof to the maintenance of the institution from which such  
surplus products are received. Should any surplus funds arise from this source, they shall  
be paid into the state treasury annually; and the department shall, at the end of each quarter,  
make a detailed report of all such transactions to the Governor.

5170 (b) It is not the intention of this Code section to encourage competition in any way by the  
state, its institutions, agencies, departments or branches, or other subdivisions with the  
individual, private farmers of this state, or others, in the production and sale of agricultural  
or industrial commodities or products in due course of commerce.

5174

## ARTICLE 3

5175 37-1-40.

5176 All rules and regulations of the Board of ~~Human Resources~~ Behavioral Health shall be  
5177 adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

5178

## ARTICLE 4

5179 37-1-50.

5180 (a) No license, permit, or certificate or other similar right shall be revoked or suspended  
5181 without opportunity for a hearing as provided in Chapter 13 of Title 50, the 'Georgia  
5182 Administrative Procedure Act.' Any such hearing or appeal related thereto shall be  
5183 conducted in accordance with such Act.

5184 (b) The department is authorized and empowered to employ and appoint hearing  
5185 examiners to conduct hearings, issue compulsory process, administer oaths, and submit  
5186 their findings and recommendations to the appointing agency; provided, however, that any  
5187 such examiner shall be a member of the State Bar of Georgia in good standing.

5188 37-1-51.

5189 Reserved.

5190 37-1-52.

5191 Reserved.

5192 37-1-53.

5193 Notwithstanding any other provision of law to the contrary, the department is authorized  
5194 by regulation to classify as confidential and privileged documents, reports, and other  
5195 information and data obtained by them from persons, firms, corporations, municipalities,  
5196 counties, and other public authorities and political subdivisions where such matters relate  
5197 to secret processes, formulas, and methods or where such matters were obtained or  
5198 furnished on a confidential basis. All matters so classified shall not be subject to public  
5199 inspection or discovery and shall not be subject to production or disclosure in any court of  
5200 law or elsewhere until and unless the judge of the court of competent jurisdiction, after in  
5201 camera inspection, determines that the public interest requires such production and  
5202 disclosure or that such production and disclosure may be necessary in the interest of justice.  
5203 This subsection shall not apply to clinical records maintained pursuant to Code Sections  
5204 37-3-166, 37-3-167, 37-4-125, 37-4-126, 37-7-166, and 37-7-167.

## ARTICLE 5

## Part 1

5207 37-1-70.

5208 As used in this ~~chapter part~~, the term:

5209 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
5210 property where such a search or inspection is one that is necessary for the enforcement  
5211 of a '~~public~~ mental health law.'

5212 (2) 'Mental health law' means Code Sections 37-3-7; and 37-3-8, and 37-4-4, Chapter 6  
5213 of this title, and any rule or regulation duly promulgated thereunder.

5214 37-1-71.

5215 The commissioner or the commissioner's delegate, in addition to other procedures now or  
5216 hereafter provided, may obtain an inspection warrant under the conditions specified in this  
5217 chapter. Such warrant shall authorize the commissioner or the commissioner's delegate to  
5218 conduct a search or inspection of property either with or without the consent of the person  
5219 whose property is to be searched or inspected if such search or inspection is one that is  
5220 elsewhere authorized under the rules and regulations duly promulgated under this title.

5221 37-1-72.

5222 (a) Inspection warrants shall be issued only by a judge of a court of record whose  
5223 territorial jurisdiction encompasses the property to be inspected.

5224 (b) The issuing judge shall issue the warrant when ~~he~~ the judge is satisfied that the  
5225 following conditions are met:

5226 (1) The one seeking the warrant must establish under oath or affirmation that the  
5227 property to be inspected is to be inspected as a part of a legally authorized program of  
5228 inspection which includes that property or that there is probable cause for believing that  
5229 there is a condition, object, activity, or circumstance which legally justifies such an  
5230 inspection of that property; and

5231 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
5232 chapter part.

5233 37-1-73.

5234 The inspection warrant shall be validly issued only if it meets the following requirements:

5235 (1) The warrant is attached to the affidavit required to be made in order to obtain the  
5236 warrant;

5237 (2) The warrant describes either directly or by reference to the affidavit the property  
5238 upon which the inspection is to occur and is sufficiently accurate that the executor of the  
5239 warrant and the owner or possessor of the property can reasonably determine from it the  
5240 property of which the warrant authorizes an inspection;

5241 (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
5242 inspection is intended to check or reveal; and

5243 (4) The warrant refers in general terms to the statutory or regulatory provisions sought  
5244 to be enforced.

5245 37-1-74.

5246 No facts discovered or evidence obtained in an inspection conducted under authority of an  
5247 inspection warrant issued pursuant to this chapter part shall be competent as evidence in  
5248 any criminal proceeding against any party.

Part 2

5250 37-1-90.

The Department of Human Resources Behavioral Health is empowered to institute appropriate proceedings for injunction in the courts of competent jurisdiction in this state for the purpose of enjoining a violation of any provision of this title as now existing or as may be hereafter amended or of any regulation or order duly issued by the board or department. The department is also empowered to maintain action for injunction to abate any public nuisance which is injurious to the public health, safety, or comfort. Such actions may be maintained notwithstanding the fact that such violation also constitutes a crime and notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the department in the county in which a violation of any provision of this title occurs.

Part 3

5262 37-1-100.

5263 Any person violating the provisions of this title shall be guilty of a misdemeanor.

## CHAPTER 2

## ARTICLE 1

5266 37-2-1.

5267 (a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill  
5268 or developmentally disabled including individuals with epilepsy, cerebral palsy, autism,  
5269 and other neurologically disabling conditions or who abuse alcohol, narcotics, or other  
5270 drugs and recognizes an obligation to such citizens to meet their needs through a  
5271 coordinated system of community facilities, programs, and services.

5272 (b) It is the policy of this state to provide adequate mental health, developmental disability,  
5273 addictive disease, and other disability services to all its citizens. It is further the policy of  
5274 this state to provide such services through a unified system which encourages cooperation  
5275 and sharing of resources among all providers of such services, both governmental and  
5276 private.

5277 (c) It is the purpose of this chapter to enable and encourage the development of  
5278 comprehensive, preventive, early detection, rehabilitative, and treatment  
5279 disability services; to improve and expand community programs for the disabled; to  
5280 provide continuity of care through integration of county, area, regional, and state services  
5281 and facilities for the disabled; to provide for joint disability services and the sharing of  
5282 manpower and other resources; and to monitor and restructure the system of providing  
5283 disability services in the State of Georgia to make better use of the combined public and  
5284 private resources of the state and local communities.

5285 (d) The provisions of this chapter shall be liberally construed to achieve the objectives set  
5286 forth in this Code section.

5287 37-2-2.

5288 As used in this chapter, the term:

5289 (1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or  
5290 other drugs and includes substance abuse.

5291 (2) 'Community service board' means a public mental health, developmental disabilities,  
5292 and addictive diseases board established pursuant to Code Section 37-2-6.

5293 (2.1) 'Community service board area' means an area inclusive of the counties which fall  
5294 within the boundaries of a community service board as designated by the ~~division~~  
5295 department pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a  
5296 community service board.

5297 (2.2) 'Community service board service area' means a community service board area and  
5298 any other county or portion thereof in which the community service board provides  
5299 services.

5300 (3) 'Consumer' means a natural person who has been or is a recipient of disability  
5301 services as defined in this Code section.

5302 (3.1) 'Council' means the Behavioral Health Coordinating Council established pursuant  
5303 to Code Section 37-2-4.

5304 (4) 'Developmental disability' includes mental retardation and other neurologically  
5305 disabling conditions, including epilepsy, cerebral palsy, and autism, which require  
5306 treatment similar to that for individuals with mental retardation.

5307 (5) ~~'Director' means the director of the Division of Mental Health, Developmental  
5308 Disabilities, and Addictive Diseases.~~

5309 (6)(5) 'Disability' means:

5310 (A) Mental or emotional illness;

5311 (B) Developmental disability; or

5312 (C) Addictive disease.

5313 (7)(6) 'Disability services' means services to the disabled or services which are designed  
5314 to prevent or ameliorate the effect of a disability.

5315 (8)(7) 'Disabled' means any person or persons having a disability.

5316 (9) ~~'Division' means the Division of Mental Health, Developmental Disabilities, and  
5317 Addictive Diseases of the Department of Human Resources.~~

5318 (8) 'Health services' means any education or service provided by the Department of  
5319 Health or by the Department of Human Services, either directly or by contract.

5320 (10)(9) 'Hospital' means a state owned or state operated facility providing services which  
5321 include, but are not limited to, inpatient care and the diagnosis, care, and treatment or  
5322 habilitation of the disabled. Such hospital may also provide or manage state owned or  
5323 operated programs in the community.

5324 (11)(10) 'Regional board' means a regional ~~mental health, mental retardation, and  
5325 substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code  
5326 section existed on June 30, 2002.

5327 (12)(11) 'Regional office' means the ~~Division of Mental Health, Developmental  
5328 Disabilities, and Addictive Diseases of the Department of Human Resources~~ office  
5329 created pursuant to Code Section 37-2-4.1. Such office shall be an office of the ~~division  
5330 department~~ which shall serve as the entity for the administration of disability services in  
5331 a region.

5332     (13)(12) 'Regional planning board' means a regional mental health, developmental  
5333        disabilities, and addictive diseases board established in accordance with Code Section  
5334        37-2-4.1.

5335     37-2-2.1.

5336     The Department of Human Resources shall have a Division of Mental Health,  
5337        Developmental Disabilities, and Addictive Diseases.

5338     37-2-3.

5339     (a) The board shall designate boundaries for mental health, developmental disabilities, and  
5340        addictive diseases regions and may modify the boundaries of such regions from time to  
5341        time as deemed necessary by the board.

5342     (b) The ~~division department~~, with the approval of the commissioner, shall designate  
5343        community service board areas, which shall serve as boundaries for the establishment of  
5344        community service boards within this state for the purpose of delivering disability services.  
5345        The ~~division department~~ shall be authorized to initiate the redesignation of such community  
5346        service board area boundaries and may consider requests from a county or group of  
5347        counties or a community service board or a group of community service boards for  
5348        recommended changes to the boundaries of the community service board areas. The  
5349        ~~division department~~, with the approval of the commissioner, is authorized to redesignate  
5350        two or more contiguous community service board areas as a single community service  
5351        board area upon the request of the community service boards serving such areas; and, if so  
5352        authorized, the assets, equipment, and resources of such community service boards shall  
5353        become the assets, equipment, and resources of the reconstituted community service board  
5354        serving the successor single board area. It is the intent of the General Assembly not to  
5355        limit a community service board to serving only those counties within the boundaries of  
5356        its community service board area.

5357     (c) To the extent practicable, the boundaries for regional planning boards and offices and  
5358        community service areas shall not subdivide any county unit or conflict with any districts  
5359        established by the ~~department~~ Department of Health and the state relating to the planning  
5360        for, or delivery of, health services. In dividing the state into areas, the board; and the  
5361        ~~department~~; ~~and the division~~ shall take into consideration such factors as geographic  
5362        boundaries, roads and other means of transportation, population concentrations, city and  
5363        county lines, other relevant community services, and community economic and social  
5364        relationships. Consideration shall also be given to the existence of facilities and personnel  
5365        available in the areas for the delivery of disability services.

5366 37-2-4.

5367 (a) The Governor shall appoint, fund, and provide staff assistance to a Governor's  
5368 Advisory Council for Mental Health, Developmental Disabilities, and Addictive Diseases,  
5369 referred to in this chapter as the 'Governor's council.' The Governor's council shall consist  
5370 of no more than 30 and no less than 15 members, who shall be representative of  
5371 professional and lay individuals, organizations, and state agencies associated or involved  
5372 with services for the disabled. Such members shall be fairly representative of all disability  
5373 groups. The term of each member of the Governor's council shall be for three years,  
5374 provided that of the members first appointed, ten shall be appointed for a term of one year,  
5375 five for a term of two years, and the remainder, if any, for a term of three years. Vacancies  
5376 shall be filled by similar appointment for unexpired terms. The director shall be an ex  
5377 officio, nonvoting member. There is created the Behavioral Health Coordinating Council.  
5378 The council shall consist of the commissioner of behavioral health; the commissioner of  
5379 health; the commissioner of human services; the commissioner of juvenile justice; the  
5380 commissioner of corrections; an adult consumer of public behavioral health services,  
5381 appointed by the Governor; a family member of a consumer of public behavioral health  
5382 services, appointed by the Governor; a parent of a child receiving public behavioral health  
5383 services, appointed by the Governor; a member of the House of Representatives, appointed  
5384 by the Speaker of the House of Representatives; and a member of the Senate, appointed by  
5385 the Lieutenant Governor.

5386 (b) The Governor's council shall advise the Governor, the board, the department, and the  
5387 division as to the efficacy of the state disability services programs, the need for legislation  
5388 relating to the disabled, the need for expansion or reduction of specific disability services  
5389 programs, and the need for specific changes in the state disability services programs. The  
5390 Governor's council shall review and prepare written comments on proposed state plans and  
5391 on standards, rules, and regulations promulgated by the division. Such comments shall be  
5392 submitted to the director, the board, the commissioner, and to any other individual or  
5393 agency deemed appropriate. The Governor's council shall further receive and consider  
5394 complaints and grievances submitted in writing by individuals, associations, or agencies  
5395 involved with the delivery or receipt of disability services and, if deemed appropriate, shall  
5396 make recommendations to the Governor, the board, the department, or the division with  
5397 respect to such complaints or grievances. The Governor's council shall also provide  
5398 guidance and assistance to the regional planning boards, hospitals, community service  
5399 boards, and other private or public providers in the performance of their duties.

5400 (b) The commissioner of behavioral health shall be the chairperson of the council. A vice  
5401 chairperson and a secretary shall be selected by the members of the council as prescribed  
5402 in the council's bylaws.

5403     (c) Meetings of the council shall be held quarterly, or more frequently, on the call of the  
5404     chairperson. Meetings of the council shall be held with no less than five days' public notice  
5405     for regular meetings and with such notice as the bylaws may prescribe for special meetings.  
5406     Each member shall be given written notice of all meetings. All meetings of the council  
5407     shall be subject to the provisions of Chapter 14 of Title 50. Minutes or transcripts shall  
5408     be kept of all meetings of the council and shall include a record of the votes of each  
5409     member, specifying the yea or nay vote or absence of each member, on all questions and  
5410     matters coming before the council. No member may abstain from a vote other than for  
5411     reasons constituting disqualification to the satisfaction of a majority of a quorum of the  
5412     council on a recorded vote. No member of the council shall be represented by a delegate  
5413     or agent.

5414     (d) Except as otherwise provided in this Code section, a majority of the members of the  
5415     council then in office shall constitute a quorum for the transaction of business. No vacancy  
5416     on the council shall impair the right of the quorum to exercise the powers and perform the  
5417     duties of the council. The vote of a majority of the members of the council present at the  
5418     time of the vote, if a quorum is present at such time, shall be the act of the council unless  
5419     the vote of a greater number is required by law or by the bylaws of the council.

5420     (e) The council shall:

5421         (1) Develop solutions to the systemic barriers or problems to the delivery of behavioral  
5422         health services by making recommendations that implement funding, policy changes,  
5423         practice changes, and evaluation of specific goals designed to improve services delivery  
5424         and outcome for individuals served by the various departments;

5425         (2) Focus on specific goals designed to resolve issues for provision of behavioral health  
5426         services that negatively impact individuals serviced by at least two departments;

5427         (3) Monitor and evaluate the implementation of established goals; and

5428         (4) Establish common outcome measures.

5429         (f)(1) The council may consult with various entities, including state agencies, councils,  
5430         and advisory committees and other advisory groups as deemed appropriate by the  
5431         council.

5432         (2) All state departments, agencies, boards, bureaus, commissions, and authorities are  
5433         authorized and required to make available to the council access to records or data which  
5434         are available in electronic format or, if electronic format is unavailable, in whatever  
5435         format is available. The judicial and legislative branches are authorized to likewise  
5436         provide such access to the council.

5437         (g) The council shall be attached to the Department of Behavioral Health for  
5438         administrative purposes only as provided by Code Section 50-4-3.

5439       (h)(1) The council shall submit annual reports of its recommendations and evaluation of  
5440       their implementation to the Governor and the General Assembly.  
5441       (2) The recommendations developed by the council shall be presented to the board of  
5442       each member department for approval or review at least annually.

5443       37-2-4.1.

5444       (a) The division department shall create regional mental health, developmental disabilities,  
5445       and addictive diseases offices. The number of these offices may be modified from time to  
5446       time as deemed necessary by the division department.

5447       (b) The division department, in consultation with the Department of Human Services, shall  
5448       create a separate regional mental health, developmental disabilities, and addictive diseases  
5449       planning board for each regional office established under subsection (a) of this Code  
5450       section. Each board shall provide and facilitate coordinated and comprehensive planning  
5451       for its region in conformity with minimum standards and procedures established by the  
5452       division department. Each board shall be designated with such identifying words before  
5453       the term 'regional mental health, developmental disabilities, and addictive diseases  
5454       planning board' as that regional planning board may, from time to time, choose and  
5455       designate by official action.

5456       (c) The powers, functions, obligations, and duties of the regional mental health, mental  
5457       retardation, and substance abuse boards as they existed on June 30, 2002, are transferred  
5458       to the department. The department shall succeed to all rights, privileges, entitlements,  
5459       contracts, leases, agreements, and other transactions of the regional boards which were in  
5460       effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases,  
5461       agreements, and other transactions shall be impaired or diminished by reason of such  
5462       transfer. In all such instances, the department shall be substituted for such regional board  
5463       and the department shall succeed to the rights and duties under such contracts, leases,  
5464       agreements, and other transactions.

5465       37-2-5.

5466       (a) Each regional planning board shall engage in disability services planning within its  
5467       region and shall perform such other functions as may be provided or authorized by law.

5468       (b) Membership on the regional planning board within an established region shall be  
5469       determined as follows:

5470           (1) Each county with a population of 50,000 or less according to the United States  
5471           decennial census of 1990 or any future such census shall appoint one member to the  
5472           board;

5473       (2) Each county with a population of more than 50,000 according to the United States  
5474       decennial census of 1990 or any future such census shall appoint one member for each  
5475       population increment of 50,000 or any portion thereof;

5476       (3) The appointment or appointments for each county shall be made by the county  
5477       governing authority; and

5478       (4) The county governing authority shall appoint a consumer of disability services, a  
5479       family member of a consumer, an advocate for disability services, or a local leader or  
5480       business person with an interest in mental health, developmental disabilities, and  
5481       addictive diseases; provided, however, that for counties with more than one appointment,  
5482       the county governing authority shall seek to ensure that such appointments represent  
5483       various groups and disability services.

5484       (b.1) A county governing authority may appoint the school superintendent, a member of  
5485       the county board of health, a member of the local board of education, or any other elected  
5486       or appointed official to serve on the regional planning board, provided that such person  
5487       meets the qualifications of paragraph (4) of subsection (b) of this Code section, such person  
5488       does not serve on a community service board, and such appointment does not violate the  
5489       provisions of Chapter 10 of Title 45.

5490       (b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning  
5491       board if such person is:

5492           (A) A member of the community service board which serves that region; or  
5493           (B) An employee or board member of a private or public entity which contracts with  
5494       the department, ~~through the division, the Department of Human Services, or the~~  
5495       Department of Health to provide health, mental health, developmental disabilities, or  
5496       addictive diseases services within the region; ~~or~~

5497           (C) An employee of such regional office or employee or board member of any private  
5498       or public group, organization, or service provider which contracts with or receives  
5499       funds from such regional office: ~~;or~~

5500           (D) An employee or board member of the department, the Department of Human  
5501       Services, or the Department of Health.

5502       (2) A person shall not be eligible to be appointed to or serve on a regional planning board  
5503       if such person's spouse, parent, child, or sibling is a member of that regional planning  
5504       board or a member, employee, or board member specified in ~~subparagraph (A), (B), or~~  
5505       ~~(C)~~ of paragraph (1) of this subsection. No person who has served a full term or more  
5506       on a regional board or regional planning board may be appointed to a community service  
5507       board until a period of at least two years has passed since the time such person served on  
5508       the regional board or the regional planning board. No person who has served on a  
5509       regional board and who becomes a member of a regional planning board on June 30,

5510        2002, may be appointed to a community service board until a period of at least two years  
5511        has passed since the time such person has served on the regional planning board.

5512        (c) In making appointments to the regional planning board, the various county governing  
5513        authorities shall ensure that appointments are reflective of the cultural and social  
5514        characteristics, including gender, race, ethnic, and age characteristics, of the regional and  
5515        county populations. The county governing authorities are further encouraged to ensure that  
5516        each disability group is viably represented on the regional planning board, and in so doing  
5517        the county governing authority may consider suggestions for appointments from clinical  
5518        professional associations as well as advocacy groups, including but not limited to the  
5519        Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent  
5520        Support Network, National Alliance for the Mentally Ill Georgia, the American Association  
5521        for Retired Persons, Georgians for Children, the National Mental Health Association of  
5522        Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their  
5523        local chapters and affiliates.

5524        (d)(1) In addition, members of the regional mental health, mental retardation, and  
5525        substance abuse boards in office on June 30, 2002, shall become members of the regional  
5526        planning board for the area in which they reside on July 1, 2002, and shall serve out the  
5527        balance of their terms.

5528        (2) The initial term of a new member of a regional planning board shall be determined  
5529        by the commissioner in order to establish staggered terms on the board. At such time as  
5530        the terms of the members of the board are equally staggered, the term of a member of the  
5531        regional planning board shall be for a period of three years and until the member's  
5532        successor is appointed and qualified. A member may serve no more than two consecutive  
5533        terms. The term of a regional planning board member shall terminate upon resignation,  
5534        death, or inability to serve due to medical infirmity or other incapacity or such other  
5535        reasonable condition as the regional planning board may impose under its bylaws.  
5536        Vacancies on the regional planning board shall be filled in the same manner as the  
5537        original appointment.

5538        (e) Prior to August 1, 2002, each regional planning board shall adopt bylaws governing  
5539        its operation and management. At a minimum, the bylaws shall provide for staggered  
5540        terms of the board, requirements for an annual meeting to elect officers, a mechanism for  
5541        ensuring that consumers of disability services and family members of consumers constitute  
5542        a majority of the appointments to the board, and a mechanism for ensuring that each  
5543        disability service is equitably represented by appointments to the board. Any board  
5544        member who serves an initial term of less than three years may be eligible to be  
5545        reappointed for two full consecutive three-year terms. The chairperson and vice  
5546        chairperson of the regional planning board shall be elected from among the members of the

5547 board to serve a term of one year with the option of reelection for an additional one-year  
5548 term. The bylaws shall provide for any other officers and their means of selection, as well  
5549 as any necessary committees or subcommittees of the board. Prior to their adoption by the  
5550 regional planning board, the bylaws shall be submitted to the ~~division department~~ for  
5551 review and approval. The regional planning board must have the written approval of the  
5552 ~~director of the division commissioner~~ prior to the adoption of bylaws.

5553 (f) The regional planning board shall meet not less than once every two months, beginning  
5554 on July 1 and continuing through the next June 30, which time frame shall be the fiscal  
5555 year for each regional planning board.

5556 (g) Each member of the regional planning board may, upon approval of the regional  
5557 coordinator, receive reimbursement for actual expenses incurred in carrying out the duties  
5558 of such office in conformance with rates and allowances set for state employees by the  
5559 Office of Planning and Budget and the same mileage allowance for use of a personal car  
5560 as that received by all other state officials and employees or a travel allowance of actual  
5561 transportation cost if traveling by public carrier.

5562 (h) Each regional planning board which is composed of members who are appointed  
5563 thereto by the governing authority of only one county shall have a minimum of six  
5564 members, notwithstanding the provisions of subsection (b) of this Code section, which  
5565 members shall in all other respects be appointed as provided in this Code section.

5566 37-2-5.1.

5567 (a) Each region shall be served by a regional coordinator; who shall be duly qualified and  
5568 appointed by the ~~director of the division commissioner~~. The regional coordinator shall  
5569 serve as the supervisor of the regional office, which shall be a unit of the ~~division~~  
5570 ~~department~~. The regional coordinator shall serve at the pleasure of the ~~division~~ director  
5571 ~~commissioner~~. The ~~director of the division commissioner~~ shall be authorized to appoint  
5572 an interim regional coordinator at any time that the position of regional coordinator is  
5573 vacant and prior to the appointment of a duly qualified and approved successor.

5574 (b) The regional coordinator may appoint such other staff including a regional services  
5575 administrator ~~and a regional state hospital administrator~~ and personnel to work for the  
5576 regional office as the ~~division~~ department deems necessary and appropriate. The regional  
5577 coordinator and such staff and personnel shall be employees of the ~~division~~ department.  
5578 Expenses for the regional office and planning board, the employment of the regional  
5579 coordinator, other staff and personnel, and the operation of the regional office shall be  
5580 funded by the ~~division~~ department as funds are appropriated by the General Assembly. The  
5581 ~~department and the division~~ shall impose limits on the administrative and operating  
5582 expenditures of the regional office and planning board.

5583 (c)(1) State, federal, and other funds appropriated to the department, ~~the division, or~~  
5584 ~~both,~~ and available for the purpose of funding the planning and delivery of disability  
5585 services shall be distributed in accordance with this subsection. All funds associated with  
5586 services to clients residing within a given region shall be managed through the ~~division~~  
5587 department; the term 'all funds' shall include funding for hospitals, community service  
5588 boards, private and public contracts, and any contracts relating to service delivery for  
5589 clients within the given region. The ~~division~~ department shall establish a funding amount  
5590 for regions conditioned upon the amount of funds appropriated. The funding amount  
5591 shall be determined, in part, based on consumer service needs, service and program  
5592 history, population based funding needs, infrastructure mandates, program efficiency and  
5593 effectiveness, geographic distances, and other factors affecting the cost and level of  
5594 service needs within each region.

5595 (2) The ~~division~~ department shall establish guidelines to ensure that regions receive such  
5596 funding based on client population, past and future service delivery needs and  
5597 capabilities, and in consideration of special needs populations, such as homeless and  
5598 transient populations. The ~~division~~ department shall ensure that funds are managed based  
5599 primarily on services to clients and in compliance with all federal, state, and regulatory  
5600 requirements.

5601 (3) The ~~division~~ department, in compliance with the provisions of the General  
5602 Appropriations Act and other applicable laws, is authorized to move funds to and  
5603 between community and institutional programs based on need, and the ~~division~~  
5604 department shall develop appropriate allocation and accounting mechanisms to move  
5605 funds in a planned and rational manner between hospitals, community service boards, and  
5606 other providers based on client needs and utilization.

5607 37-2-5.2.

5608 (a) Under the supervision of the ~~division~~ department, each regional office shall have the  
5609 following duties and functions:

- 5610 (1) To prepare, in consultation with consumers and families, community programs,  
5611 hospitals, other public and private providers, its regional planning board, and appropriate  
5612 advisory and advocacy groups, an annual plan for the funding and provision of all  
5613 disability services in the region. The plan shall be submitted to the ~~division~~ department  
5614 at a time and in the manner specified by the ~~division~~ department so as to ensure that the  
5615 plan is a basis for the annual appropriations request;
- 5616 (2) To provide, as funds become available, for consumer assessment and service  
5617 authorization and coordination for each consumer receiving services within the region;

- 5618       (3) To exercise responsibility and authority as specified in this chapter within the region  
5619       in all matters relating to the funding and delivery of disability services;
- 5620       (4) To receive and administer grants, gifts, moneys, and donations for purposes  
5621       pertaining to mental health, developmental disability, and addictive disease services;
- 5622       (5) To enter into contracts on behalf of the ~~division department~~ with any hospital,  
5623       community service board, or other public or private providers without regard to regional  
5624       or state boundaries for the provision of disability services, and to enter into all contracts  
5625       on behalf of the ~~division department~~ necessary or incidental to the performance of duties  
5626       and functions of the ~~division department~~ and regional office;
- 5627       (6) To encourage the development, in cooperation with the ~~division department~~, of  
5628       private and public providers of programs and disability services which respond to the  
5629       needs of consumers and families of consumers within the region;
- 5630       (7) To serve as the representative of the citizens of the area in regard to disability  
5631       services;
- 5632       (8) To receive and consider complaints and grievances submitted by individuals,  
5633       associations, or agencies involved with the delivery or receipt of disability services and,  
5634       if deemed appropriate, to seek resolution, through processes which may include impartial  
5635       mediation and alternate dispute resolution, of such complaints and grievances with the  
5636       appropriate hospital, community service board, or other private or public provider of  
5637       service;
- 5638       (9) To assure the highest achievable level of public awareness and understanding of both  
5639       available and needed disability services;
- 5640       (10) To visit regularly disability services facilities and programs which serve the region  
5641       in order to assure contracted providers are licensed and accredited by the designated  
5642       agencies prescribed by the ~~division department~~, and in order to evaluate the effectiveness  
5643       and appropriateness of the services, as such services relate to the health, safety, and  
5644       welfare of service recipients, and to provide technical assistance to programs in  
5645       delivering services; and
- 5646       (11) To participate with other regional offices and planning boards, ~~the division~~, the  
5647       department, local, state, or federal government agencies, educational institutions, and  
5648       public and private organizations in the coordination of planning, research, service  
5649       development, and evaluation activities:
- 5650           (A) To work cooperatively with all units of county and local government, including the  
5651           county boards of health, within the region;
- 5652           (B) To establish goals and objectives, not inconsistent with those established by ~~the~~  
5653           ~~division~~ and the department, for its region; and

5654       (C) To participate in the establishment and operation of a data base and network,  
5655       coordinated by the ~~division department~~, to serve as a comprehensive management  
5656       information system for disability services and programs.

5657       (b) It is the express intent of this chapter to confer upon the regional offices as the  
5658       administrative entities of the ~~division department~~ the flexibility and authority necessary to  
5659       enter into contracts on behalf of the ~~division department~~ with a wide range of public and  
5660       private providers to ensure that consumers are afforded cost-effective, locally based, and  
5661       quality disability services. Under the supervision of the ~~division department~~, regional  
5662       offices are specifically authorized to enter into contracts on behalf of the ~~division~~  
5663       ~~department~~ directly with any county governing authority, any disability services  
5664       organization created or designated by such county governing authority, any county board  
5665       of health, any private or public provider, or any hospital for the provision of disability  
5666       services.

5667       (c) Each regional office shall account for all funds received, expended, and administered  
5668       and shall make reports to the ~~division department~~ and to the Department of Human  
5669       Services regarding the funds received from each such department. The audit of such  
5670       activity shall be part of the annual audit of the appropriate department.

5671       37-2-6.

5672       (a) Community service boards in existence on June 30, 2006, are re-created effective July  
5673       1, 2006, to provide mental health, developmental disabilities, and addictive diseases  
5674       services. Such Effective July 1, 2009, such community service boards may enroll and  
5675       contract with the department, the Department of Human Services, or the Department of  
5676       Health to become a provider of mental health, developmental disabilities, and addictive  
5677       diseases services or health services. Such boards shall be considered public agencies.  
5678       Each community service board shall be a public corporation and an instrumentality of the  
5679       state; provided, however, the liabilities, debts, and obligations of a community service  
5680       board shall not constitute liabilities, debts, or obligations of the state or any county or  
5681       municipal corporation and neither the state nor any county or municipal corporation shall  
5682       be liable for any liability, debt, or obligation of a community service board. Each  
5683       community service board re-created pursuant to this Code section is created for nonprofit  
5684       and public purposes to exercise essential governmental functions. The re-creation of  
5685       community service boards pursuant to this Code section shall not alter the provisions of  
5686       Code Section 37-2-6.2 which shall apply to those re-created community service boards and  
5687       their employees covered by that Code section and those employees' rights are retained.

5688 (b) Each community service board shall consist of members appointed by the governing  
5689 authorities of the counties within the community service board area. Membership on such  
5690 community service board shall be determined as follows:

5691 (1)(A) The governing authority of each county within the community service board  
5692 area:

5693 (i) With a population of 50,000 or less according to the most recent United States  
5694 decennial census shall appoint one member to the board; and

5695 (ii) With a population of more than 50,000 according to the most recent United States  
5696 decennial census shall appoint one member for each population increment of 50,000  
5697 or any portion thereof; or

5698 (B) In the event that the number of community service board member positions  
5699 established in accordance with subparagraph (A) of this paragraph would exceed 13,  
5700 the membership of such community service board pursuant to this subsection shall be  
5701 appointed as follows and the bylaws shall be amended accordingly:

5702 (i) For community service boards whose community service board area contains 13  
5703 or fewer counties, the board shall be set at 13 members and appointments to the board  
5704 shall be made by the governing authority of each county within the community  
5705 service board area in descending order from the county with the largest population to  
5706 the county with the smallest population according to the most recent United States  
5707 decennial census and this method shall be repeated until all 13 members of the  
5708 community service board are appointed. If a county governing authority fails to make  
5709 an appointment within a reasonable time, the next descending county by population  
5710 shall make an appointment and the method shall continue; and

5711 (ii) For community service boards whose community service board area contains  
5712 more than 13 counties, one member of the community service board shall be  
5713 appointed by the governing authority of each county within the community service  
5714 board area, so that the number of members on the board is equal to the number of  
5715 counties in the community service board area.

5716 The county governing authority shall appoint as at least one of its appointments a  
5717 consumer of disability services, a child psychiatrist, a family member of a consumer,  
5718 an advocate for disability services or for health services, or a local leader or  
5719 businessperson with an interest in mental health, developmental disabilities, and  
5720 addictive diseases or health services; provided, however, that for counties with more  
5721 than one appointment, the county governing authority shall seek to ensure that such  
5722 appointments represent various groups and disability services;

5723 (2) In addition to the members appointed pursuant to paragraph (1) of this subsection,  
5724 each community service board may appoint up to three additional members in order to

address variation in the population sizes of counties or the financial contributions of counties within the community service board area or may authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board while holding such elective office. The bylaws of the community service board shall address the number of such additional members, if any, and the purpose or purposes for which such positions are created. The term of office of such additional members shall be the same as that of other members as provided in subsection (h) of this Code section; except that the term of office of a member in a position created to authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board shall be the same term of office as the elective term of office of said chief executive officer or said member of that county governing authority;

(3) Each community service board in existence on June 30, 2006, shall reconstitute its membership in accordance with the provisions of paragraphs (1) and (2) of this subsection, effective July 1, 2006, as follows:

(A) A community service board which increases or reduces the number of its members in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws adopted in accordance with subsection (h) of this Code section to reflect such increases or reductions. A community service board which reduces the number of its members shall designate which position or positions are to be eliminated and shall make reasonable efforts to eliminate any position or positions of members whose terms expire on or before June 30, 2006; provided, however, that members serving on a community service board whose terms do not expire on or before June 30, 2006, shall continue to serve out the terms of office to which they were appointed, regardless of whether this causes a board to temporarily exceed the maximum number of members. Any additional positions created in conformity with such paragraphs (1) and (2) may be filled on July 1, 2006, and the governing authority of a county that is otherwise authorized to appoint such additional community service board member or members may do so no sooner than May 1, 2006, but any person so appointed shall not take office until July 1, 2006. If a position on such community service board is not filled on July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date. A community service board is authorized to make whatever changes necessary in the terms of office of its members in order to achieve the staggering of terms required by subsection (h) of this Code section; and

(B) The term of office of an ex officio, voting member of a community service board holding membership on June 30, 2006, shall expire on June 30, 2006; and

5762 (4)(A) A person shall not be eligible to be appointed to or serve on a community  
5763 service board if such person is:

5764 (i) A member of the regional planning board which serves the region in which that  
5765 community service board is located;

5766 (ii) An employee or board member of a public or private entity which contracts with  
5767 the ~~division department, the Department of Human Services, or the Department of~~  
5768 Health to provide mental health, developmental disabilities, and addictive diseases  
5769 services or health services within the region; or

5770 (iii) An employee of that community service board or employee or board member of  
5771 any private or public group, organization, or service provider which contracts with or  
5772 receives funds from that community service board.

5773 (B) A person shall not be eligible to be appointed to or serve on a community service  
5774 board if such person's spouse, parent, child, or sibling is a member of that community  
5775 service board or a member, employee, or board member specified in ~~division~~ (i), (ii),  
5776 or (iii) of subparagraph (A) of this paragraph. With respect to appointments by the  
5777 same county governing authority, no person who has served a full term or more on a  
5778 community service board may be appointed to a regional planning board until a period  
5779 of at least two years has passed since the time such person served on the community  
5780 service board, and no person who has served a full term or more on a regional planning  
5781 board may be appointed to a community service board until a period of at least two  
5782 years has passed since the time such person has served on the regional planning board.

5783 (5) A community service board created in accordance with this subsection shall  
5784 reconstitute its membership in conformity with the most recent United States decennial  
5785 census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

5786 (b.1) A county governing authority may appoint the school superintendent, a member of  
5787 the county board of health, a member of the board of education, or any other elected or  
5788 appointed official to serve on the community service board provided that such person meets  
5789 the qualifications of paragraph (1) of subsection (b) of this Code section and such  
5790 appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office  
5791 which begin July 1, 1994, or later, an employee of the Department of Human Resources  
5792 (now known as the Department of Behavioral Health for these purposes) or an employee  
5793 of a county board of health may shall not serve on a community service board. For terms  
5794 of office which begin July 1, 2009, or later, an employee of the department, the Department  
5795 of Human Services, or the Department of Health or a board member of the respective  
5796 boards of each department shall not serve on a community service board.

5797 (c) In making appointments to the community service board, the county governing  
5798 authorities shall ensure that such appointments are reflective of the cultural and social

5799 characteristics, including gender, race, ethnic, and age characteristics, of the community  
5800 service board area and county populations. The county governing authorities are further  
5801 encouraged to ensure that each disability group is and consumers of health services are  
5802 represented on the community service board, and in making such appointments the county  
5803 governing authorities may consider suggestions from clinical professional associations as  
5804 well as advocacy groups. For the purposes of this subsection, 'advocacy groups' means any  
5805 organizations or associations that advocate for, promote, or have an interest in disability  
5806 services or health services and are exempted as a charitable organization from federal  
5807 income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however,  
5808 that 'advocacy groups' shall not mean paid providers of disability services or health  
5809 services.

5810 (c.1) A county governing authority in making appointments to the community service  
5811 board shall take into consideration that at least one member of the community service  
5812 board is an individual who is trained or certified in finance or accounting; provided,  
5813 however, if after a reasonable effort at recruitment there is no person trained or certified  
5814 in finance or accounting within the community service board area who is willing and able  
5815 to serve, the county governing authority may consider for appointment any other person  
5816 having a familiarity with financial or accounting practices.

5817 (d) Each county in which the governing authority of the county is authorized to appoint  
5818 members to the community service board shall participate with the board in the operation  
5819 of the program through the community service board. All contractual obligations,  
5820 including but not limited to real estate leases, rentals, and other property agreements, other  
5821 duties, rights, and benefits of the mental health, developmental disabilities, and addictive  
5822 diseases service areas in existence on June 30, 2006, shall continue to exist along with the  
5823 new powers granted to the community service boards effective July 1, 2006.

5824 (e) Notwithstanding any other provision of this chapter, a community service board may  
5825 be constituted in a method other than that outlined in subsection (b) of this Code section  
5826 if:

5827 (1) A board of health of a county desiring to be the lead county board of health for that  
5828 county submits a written agreement to the division former Division of Mental Health,  
5829 Developmental Disabilities, and Addictive Diseases of the Department of Human  
5830 Resources (now known as the Department of Behavioral Health) before July 1, 1993, to  
5831 serve as the community service board and to continue providing disability services in that  
5832 county after July 1, 1994, and the governing authority for that county adopts adopted a  
5833 resolution stating its desire to continue the provision of disability services through its  
5834 board of health after July 1, 1994, and submits submitted a copy of such resolution to the  
5835 former division before July 1, 1993; or

5836       (2)(A) The lead county board of health for a community mental health, mental  
5837       retardation, and substance abuse service area, as designated by the ~~division former~~  
5838       Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the  
5839       Department of Human Resources (now known as the Department of Behavioral Health)  
5840       on July 15, 1993, but which area excludes any county which meets the requirements of  
5841       paragraph (1) of this subsection, ~~submits submitted~~ a written agreement to the ~~former~~  
5842       division and to all counties within such service area to serve as the community service  
5843       board for that area and to continue providing disability services after July 1, 1994,  
5844       which agreement ~~shall be was~~ submitted between July 31, 1993, and December 31,  
5845       1993; and

5846       (B) Each county governing authority which is within the service area of a lead county  
5847       board of health which has submitted an agreement pursuant to subparagraph (A) of this  
5848       paragraph ~~adopts adopted~~ a resolution stating its desire to continue the provision of  
5849       disability services through such lead county board of health after July 1, 1994, and  
5850       ~~submits submitted~~ a copy of that resolution to the ~~former~~ division, the regional board,  
5851       and the lead county board of health between July 31, 1993, and December 31, 1993;  
5852       and

5853       (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this  
5854       subsection agrees in writing to appoint a director for mental health, mental retardation,  
5855       and substance abuse other than the director of the county board of health as stipulated in  
5856       Code Section 31-3-12.1, to appoint an advisory council on mental health, mental  
5857       retardation, and substance abuse consisting of consumers, families of consumers, and  
5858       representatives from each of the counties within the boundaries of the community service  
5859       board, and to comply with all other provisions relating to the delivery of disability  
5860       services pursuant to this chapter.

5861       (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to  
5862       or on December 31, 1993, a community service board as provided in subsection (b) shall  
5863       be established and appointed by January 31, 1994, to govern the provision of disability  
5864       services within the boundaries of the community service board. Such community service  
5865       board shall have the authority to adopt bylaws and undertake organizational and contractual  
5866       activities after January 31, 1994; provided, however, that the community service board  
5867       established pursuant to this Code section may not begin providing services to clients until  
5868       July 1, 1994.

5869       (g) If a community service board is established pursuant to paragraph (2) of subsection (e)  
5870       of this Code section, such community service board must operate as established at least  
5871       until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,  
5872       the counties included under the jurisdiction of such a community service board may vote

5873 to reconstitute the community service board pursuant to the provisions of subsection (b)  
5874 of this Code section by passage of a resolution by a majority of the county governing  
5875 authorities within the jurisdiction of the community service board prior to January 1, 1997,  
5876 or each year thereafter.

5877 (h) Each community service board shall adopt bylaws and operational policies and  
5878 guidelines in conformity with the provisions of this chapter. Those bylaws shall address  
5879 board appointment procedures, initial terms of board members, the staggering of terms,  
5880 quorum, a mechanism for ensuring that consumers of disability services or of health  
5881 services and family members of consumers constitute no less than 50 percent of the board  
5882 members appointed pursuant to subsection (b) of this Code section, and a mechanism for  
5883 ensuring equitable representation of the various disability groups and health services. A  
5884 quorum for the transaction of any business and for the exercise of any power or function  
5885 of the community service board shall consist of a majority of the total number of filled  
5886 board member positions appointed pursuant to subsection (b) of this Code section. A vote  
5887 of the majority of such quorum shall be the act of the governing board of the community  
5888 service board except where the bylaws of the community service board may require a  
5889 greater vote. The regular term of office for each community service board member shall  
5890 be three years. Vacancies on such board shall be filled in the same manner as the original  
5891 appointment. For the purposes of this subsection, 'equitable representation of the various  
5892 disability and health service groups' shall mean that consumers and family members of  
5893 such consumers who constitute no less than 50 percent of the board members holding  
5894 membership pursuant to subsection (b) of this Code section shall be appointed so as to  
5895 assure that an equal number of such members to the fullest extent possible represents  
5896 mental health, developmental disabilities, and addictive diseases interests and the interests  
5897 of consumers of health services.

5898 (i) Each community service board which is composed of members who are appointed  
5899 thereto by the governing authority of only one county shall have a minimum of six and no  
5900 more than 13 members, not including any additional members appointed pursuant to  
5901 paragraph (2) of subsection (b) of this Code section, notwithstanding the provisions of  
5902 subsection (b) of this Code section, which members in all other respects shall be appointed  
5903 as provided in this Code section.

5904 (j) No officer or employee of a community service board who has authority to take, direct  
5905 others to take, recommend, or approve any personnel action shall take or threaten action  
5906 against any employee of a community service board as a reprisal for making a complaint  
5907 or disclosing information concerning the possible existence of any activity constituting  
5908 fraud, waste, or abuse in or relating to the programs, operations, or client services of the  
5909 board to the board or to a member of the General Assembly unless the complaint was made

5910 or the information was disclosed with the knowledge that it was false or with willful  
5911 disregard for its truth or falsity. Any action taken in violation of this subsection shall give  
5912 the public employee a right to have such action set aside in a proceeding instituted in the  
5913 superior court.

5914 (k) A member of a community service board who after notice that such member has failed  
5915 to complete any required training prescribed by the department pursuant to paragraph (4)  
5916 of subsection ~~(b)~~(a) of Code Section 37-1-20 continues such failure for 30 days may be  
5917 removed from office by the remaining members of the community service board.

5918 (l) A member of a community service board may resign from office by giving written  
5919 notice to the executive director of the community service board. The resignation is  
5920 irrevocable after delivery to such executive director but shall become effective upon the  
5921 date on which the notice is received or on the effective date given by the member in the  
5922 notice, whichever date is later. The executive director, upon receipt of the resignation,  
5923 shall give notice of the resignation to the remaining members of the community service  
5924 board and to the chief executive officer or governing authority of the county that appointed  
5925 the member.

5926 (m) The office of a member of a community service board shall be vacated upon such  
5927 member's resignation, death, or inability to serve due to medical infirmity or other  
5928 incapacity, removal by the community service board as authorized in this Code section or  
5929 upon such other reasonable condition as the community service board may impose under  
5930 its bylaws.

5931 (n) A member of a community service board may not enter upon the duties of office until  
5932 such member takes the following oath of office:

5933 STATE OF GEORGIA

5934 COUNTY OF \_\_\_\_\_

5935 I, \_\_\_\_\_, do solemnly swear or affirm that I will truly perform the  
5936 duties of a member of the \_\_\_\_\_ Community Service Board to the  
5937 best of my ability.

5938 I do further swear or affirm:

5939 (1) That I am not the holder of any unaccounted for public money due this state or any  
5940 political subdivision or authority thereof;

5941 (2) That I am not the holder of any office of trust under the government of the United  
5942 States, any other state, or any foreign state which I am by the laws of the State of Georgia  
5943 prohibited from holding;

5944 (3) That I am otherwise qualified to hold said office according to the Constitution and  
5945 the laws of Georgia; and

5946 (4) That I will support the Constitution of the United States and this state.

5947

5948

5949

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Signature of member of

Community Service Board

5950

5951

5952

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Typed name of member of

Community Service Board

5953 Sworn and subscribed

5954 before me this \_\_\_\_\_ day

5955 of \_\_\_\_\_, \_\_\_\_.

5956 (SEAL)

5957 37-2-6.1.

5958 (a) Each community service board shall employ an executive director to serve as its chief  
5959 executive officer who shall direct the day-to-day operations of the community service  
5960 board. Such executive director shall be appointed and removed by the community service  
5961 board and shall appoint other necessary staff pursuant to an annual budget adopted by the  
5962 board, which budget shall provide for securing appropriate facilities, sites, and  
5963 professionals necessary for the provision of disability and health services. The community  
5964 service board may delegate any power, authority, duty, or function to its executive director  
5965 or other staff. The executive director or other staff is authorized to exercise any power,  
5966 authority, duty, or function on behalf of the community service board.

5967 (b) Each community service board, under the jurisdiction of its board, shall perform duties,  
5968 responsibilities, and functions and may exercise power and authority described in this  
5969 subsection. Each program may exercise the following power and authority:

5970 (1) Each community service board may adopt bylaws for the conduct of its affairs;  
5971 provided, however, that the community service board shall meet at least quarterly, and  
5972 that all such meetings and any bylaws shall be open to the public, as otherwise required  
5973 under Georgia law;

5974 (2) Each community service board may make and enter into all contracts necessary and  
5975 incidental to the performance of its duties and functions;

5976 (3) Each community service board may acquire by purchase, gift, lease, or otherwise and  
5977 may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and  
5978 dispose of real and personal property of every kind and character, or any interest therein,  
5979 for its corporate purposes;

- 5980       (4) Each community service board may contract to utilize the services of the Department  
5981       of Administrative Services, the State Merit System of Personnel Administration, the state  
5982       auditor, or any other agency of state, local, or federal government;  
5983       (5) Each community service board may provide, either independently or through contract  
5984       with appropriate state or local governmental entities, the following benefits to its  
5985       employees, their dependents, and survivors, in addition to any compensation or other  
5986       benefits provided to such persons:  
5987           (A) Retirement, pension, disability, medical, and hospitalization benefits, through the  
5988       purchase of insurance or otherwise, but medical and hospitalization benefits may only  
5989       be provided through the Department of ~~Community~~ Health under the same conditions  
5990       as provided for such benefits to state employees, and the Department of ~~Community~~  
5991       Health shall so provide if requested;  
5992           (B) Life insurance coverage and coverage under federal old age and survivors'  
5993       insurance programs;  
5994           (C) Sick leave, annual leave, and holiday leave; and  
5995           (D) Any other similar benefits including, but not limited to, death benefits;  
5996       (6) Each community service board may cooperate with all units of local government in  
5997       the counties where the community service board provides services as well as neighboring  
5998       regions and with the programs of other departments, agencies, and regional commissions  
5999       and regional planning boards;  
6000       (7) Each community service board shall establish and maintain a personnel program for  
6001       its employees and fix the compensation and terms of compensation of its employees;  
6002       provided, however, each community service board shall comply with the provisions of  
6003       Chapter 20 of Title 45, relating to state personnel administration, for ~~as~~ so long as and to  
6004       the extent that each employee of such board who is a covered employee as defined in  
6005       Code Section 45-20-2 and is subject to the rules and regulations of the State Merit System  
6006       of Personnel Administration remains in a covered position or as otherwise provided by  
6007       law;  
6008       (8) Each community service board may receive and administer grants, gifts, contracts,  
6009       moneys, and donations for purposes pertaining to the delivery of disability services or of  
6010       health services;  
6011       (9) Each community service board may establish fees for the provision of disability  
6012       services or health services according to the terms of contracts entered into with the  
6013       department, Department of Human Resources Services, and the or Department of  
6014       Community Health, as appropriate;

- 6015       (10) Each community service board may accept appropriations, loans of funds, facilities,  
6016       equipment, and supplies from local governmental entities in the counties where the  
6017       community service board provides services;
- 6018       (11) Each member of the community service board may, upon approval of the executive  
6019       director, receive reimbursement for actual expenses incurred in carrying out the duties  
6020       of such office; provided, however, such reimbursement shall not exceed the rates and  
6021       allowances set for state employees by the Office of Planning and Budget or the mileage  
6022       allowance for use of a personal car as that received by all other state officials and  
6023       employees or a travel allowance of actual transportation cost if traveling by public  
6024       carrier;
- 6025       (12) Each community service board shall elect a chairperson and vice chairperson from  
6026       among its membership. The members shall also elect a secretary and treasurer from  
6027       among its membership or may designate the executive director of the community service  
6028       board to serve in one or both offices. Such officers shall serve for such terms as shall be  
6029       prescribed in the bylaws of the community service board or until their respective  
6030       successors are elected and qualified. No member shall hold more than one office of the  
6031       community service board; except that the same person may serve as secretary and  
6032       treasurer. The bylaws of the community service board shall provide for any other officers  
6033       of such board and the means of their selection, the terms of office of the officers, and an  
6034       annual meeting to elect officers;
- 6035       (13) Each community service board may have a seal and alter it;
- 6036       (14) Each community service board may contract with the State Merit System of  
6037       Personnel Administration regarding its personnel who remain in the classified service;
- 6038       (15) Each community service board may establish fees, rates, rents, and charges for the  
6039       use of facilities of the community service board for the provision of disability services  
6040       or of health services through the Department of Health, in accordance with the terms of  
6041       contracts entered into with the department, Department of Human Services, or  
6042       Department of Health, as appropriate;
- 6043       (16) Each community service board may borrow money for any business purpose and  
6044       may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or  
6045       obligation incurred by a community service board shall not be considered a debt, liability,  
6046       or obligation of the state or any county or any municipality or any political subdivision  
6047       of the state. A community service board may not borrow money as permitted by this  
6048       Code section if the highest aggregate annual debt service requirements of the then current  
6049       fiscal year or any subsequent year for outstanding borrowings of the community service  
6050       board, including the proposed borrowing, exceed 15 percent of the total revenues of the  
6051       community service board in its fiscal year immediately preceding the fiscal year in which

6052 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from  
6053 taxation by the state or its political subdivisions. A state contract with a community  
6054 service board shall not be used or accepted as security or collateral for a debt, liability,  
6055 or obligation of a community service board without the prior written approval of the  
6056 commissioner;

6057 (17) Each community service board, to the extent authorized by law and the contract for  
6058 the funds involved, may carry forward without lapse fund balances and establish  
6059 operating, capital, and debt reserve accounts from revenues and grants derived from state,  
6060 county, and all other sources; and

6061 (18) Each community service board may operate, establish, or operate and establish  
6062 facilities deemed by the community service board as necessary and convenient for the  
6063 administration, operation, or provision of disability services or of health services by the  
6064 community service board and may construct, reconstruct, improve, alter, repair, and equip  
6065 such facilities to the extent authorized by state and federal law.

6066 (c) Nothing shall prohibit a community service board from contracting with any county  
6067 governing authority, private or other public provider, or hospital for the provision of  
6068 disability services or of health services.

6069 (d) Each community service board exists for nonprofit and public purposes, and it is found  
6070 and declared that the carrying out of the purposes of each community service board is  
6071 exclusively for public benefit and its property is public property. Thus, no community  
6072 service board shall be required to pay any state or local ad valorem, sales, use, or income  
6073 taxes.

6074 (e) A community service board ~~does~~ shall not have the power to tax, the power to issue  
6075 general obligation bonds or revenue bonds or revenue certificates, or the power to  
6076 financially obligate the state or any county or any municipal corporation.

6077 (f) A community service board shall not operate any facility for profit. A community  
6078 service board may fix fees, rents, rates, and charges that are reasonably expected to produce  
6079 revenues, which, together with all other funds of the community service board, will be  
6080 sufficient to administer, operate, and provide the following:

6081 (1) Disability services or health services;  
6082 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating  
6083 its facilities; and  
6084 (3) The creation and maintenance of reserves sufficient to meet principal and interest  
6085 payments due on any obligation of the community service board.

6086 (g) Each community service board may provide reasonable reserves for the improvement,  
6087 replacement, or expansion of its facilities and services. Reserves under this subsection  
6088 shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.

- 6089 (h) Each county and municipal corporation of this state is authorized to convey or lease  
6090 property of such county or municipal corporation to a community service board for its  
6091 public purposes. Any property conveyed or leased to a community services board by a  
6092 county or municipal corporation shall be operated by such community service board in  
6093 accordance with this chapter and the terms of the community service board's agreements  
6094 with the county or municipal corporation providing such conveyance or lease.
- 6095 (i) Each community service board shall keep books of account reflecting all funds  
6096 received, expended, and administered by the community service board which shall be  
6097 independently audited annually.
- 6098 (j) A community service board may create, form, or become a member of a nonprofit  
6099 corporation, limited liability company, or other nonprofit entity, the voting membership of  
6100 which shall be limited to community service boards, governmental entities, nonprofit  
6101 corporations, or a combination thereof, if such entity is created for purposes that are within  
6102 the powers of the community service board, for the cooperative functioning of its members,  
6103 or a combination thereof; provided, however, that no funds provided pursuant to a contract  
6104 between the department, Department of Human Services, or Department of Health and the  
6105 community service board may be used in the formation or operation of the nonprofit  
6106 corporation, limited liability company, or other nonprofit entity. No community service  
6107 board, whether or not it exercises the power authorized by this subsection, shall be relieved  
6108 of compliance with Chapter 14 of Title 50, relating to open and public meetings, and  
6109 Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless  
6110 otherwise provided by law.
- 6111 (k) No community service board shall employ or retain in employment, either directly or  
6112 indirectly through contract, any person who is receiving a retirement benefit from the  
6113 Employees' Retirement System of Georgia except in accordance with the provisions of  
6114 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is  
6115 employed as of July 1, 2004, may continue to be employed.
- 6116 (l) A community service board may join or form and operate, either directly or indirectly,  
6117 one or more networks of community service boards, disability or health service  
6118 professionals, and other providers of disability services or health services to arrange for the  
6119 provision of disability services or health services through such networks; to contract either  
6120 directly or through such networks with the Department of Community Health to provide  
6121 services to Medicaid beneficiaries; to provide disability services or health services in an  
6122 efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis;  
6123 and to undertake other disability or health services related managed care activities. For  
6124 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other  
6125 provision of law, a community service board shall be permitted to and shall comply with

6126 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to  
6127 the activities undertaken by the community service board or by a community service board  
6128 under this subsection or subsection (j) of this Code section. No community service board,  
6129 whether or not it exercises the powers authorized by this subsection, shall be relieved of  
6130 compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public  
6131 records, unless otherwise provided by law. Any licensed health care provider shall be  
6132 eligible to apply to become a participating provider under such a plan or network that  
6133 provides coverage for health care, or disability services, or health services which are within  
6134 the lawful scope of the provider's license, but nothing in this Code section shall be  
6135 construed to require any such plan or network to provide coverage for any specific health  
6136 care, or disability service, or health service.

6137 37-2-6.2.

6138 (a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994,  
6139 included the performance of employment duties or functions which will become  
6140 employment duties or functions of the personnel of a community service board on July  
6141 1, 1994, shall become employees of the applicable community service boards on and after  
6142 July 1, 1994. Such employees shall be subject to the employment practices and policies  
6143 of the applicable community service board on and after July 1, 1994. Employees who are  
6144 subject to the State Merit System of Personnel Administration and who are transferred  
6145 to a community service board shall retain all existing rights under the State Merit System  
6146 of Personnel Administration. Retirement rights of such transferred employees existing  
6147 under the Employees' Retirement System of Georgia or other public retirement systems  
6148 on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees  
6149 and membership in any such retirement system shall continue in the same status  
6150 possessed by the transferred employees on June 30, 1994, without any interruption in  
6151 membership service and without the loss of any creditable service. For purposes of  
6152 coverage under the Employees' Retirement System of Georgia, such employees  
6153 transferred to the community service boards on July 1, 1994, shall be deemed to be state  
6154 employees. Accrued annual and sick leave possessed by said employees on June 30,  
6155 1994, shall be retained by said employees as employees of the community service board.  
6156 Any person who is granted employment rights and benefits as a member of a community  
6157 service board pursuant to this subsection and who later becomes employed, without any  
6158 break in service, by the division department, Department of Human Services, or  
6159 Department of Health, a hospital thereof, another community service board, a county  
6160 board of health for which such person provides services pursuant to this title, or a  
6161 regional board shall retain, in that later employment position, all such rights and benefits.

Such rights and benefits shall also be retained by any person who is employed on June 30, 1994, by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health) of the former Department of Human Resources, a hospital thereof, a county board of health for which such person provides services pursuant to this title, or a regional board and who later becomes employed, without any break in service, by a community service board.

(2) Classified employees of a community service board under this chapter shall in all instances be employed and dismissed in accordance with rules and regulations of the State Merit System of Personnel Administration.

(3) All rights, credits, and funds in the Employees' Retirement System of Georgia which are possessed by personnel transferred by provisions of this Code section to the community service boards are continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the community service boards.

(b) As to those persons employed by the ~~division~~ former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health) of the former Department of Human Resources, a hospital thereof, or a regional board on June 30, 1994, any termination from state employment after that date of any such person who is a member of the classified service shall not result from the anticipated or actual employment or utilization by:

(1) The department;

(2) A regional board;

(3) A community service board;

(4) A hospital; **or**

(5) The Department of Human Services;

(6) The Department of Health; or

(5)(7) Any private provider of disability services or health services of any person who is not an employee of the state or a political subdivision thereof to perform the duties and functions of such terminated state personnel unless such termination and utilization is the result of a reduction in appropriations for such duties or functions or is the result of a reduction in force caused by any other state department or agency which has ceased to contract with the department, the Department of Human Services, or the Department of Health for the services which had been provided by the terminated state personnel.

37-2-6.3.

(a) A community service board is a public body as provided in paragraph (1) of subsection (c) of Code Section 37-2-11.1.

6198 (b) A community service board has the power to bring an action in its own name and, to  
6199 the extent otherwise authorized by law and to the extent not immune from suit, may be  
6200 sued in its own name. The state and the counties in which the community service board  
6201 operates shall not be considered a party to or liable under any such litigation.

6202 (c) Debts, obligations, and liabilities of a community service board are not; debts,  
6203 obligations, or liabilities of the state or of the counties in which such board operates. A  
6204 community service board is prohibited from entering into debts, obligations, or liabilities  
6205 which are also debts, obligations, or liabilities of the state or of any county.

6206 37-2-6.4.

6207 (a) Notwithstanding any other provisions of this chapter, a community service board may  
6208 reconstitute or convert its organizational structure in the following ways:

6209 (1) With the approval of the governing board of the community service board and the  
6210 approval of the county governing authorities of the counties served by the community  
6211 service board, the community service board may convert to a private nonprofit  
6212 corporation. So long as the reconstituted organization continues to serve a public purpose  
6213 as defined by the department, the Department of Human Services, or the Department of  
6214 Health, as appropriate, such organization shall be authorized to retain the use of assets,  
6215 equipment, and resources purchased with state and federal funds by the former  
6216 community service board. In the event the new private nonprofit fails to serve such  
6217 public purpose, those assets, equipment, and resources purchased by the former  
6218 community service board with state and federal funds shall be returned to the department,  
6219 the Department of Human Services, or the Department of Health, as appropriate, or to an  
6220 agency designated by the such department. For a period of three years following the  
6221 community service board's conversion to a private nonprofit corporation, the private  
6222 nonprofit corporation shall ensure that consumers of disability services or health services,  
6223 as appropriate, and family members of such consumers constitute a majority of the  
6224 appointed board members and that the various disability groups and health services  
6225 groups are equitably represented on the board of the nonprofit corporation;

6226 (2) With the approval of the governing board of the community service board and the  
6227 approval of all of the county governing authorities of the counties served by the  
6228 community service board, the community service board may convert to a unit of county  
6229 government. All assets, equipment, and resources of the community service board shall  
6230 be transferred to the new unit of county government; or

6231 (3) With the approval of the governing board of the community service board and the  
6232 approval of all of the county governing authorities of the counties served by the  
6233 community service board, the community service board may become a component part

6234 of a hospital authority in those counties served by the community service board. So long  
6235 as the hospital authority continues to serve a public purpose as defined by the department,  
6236 the Department of Human Services, or the Department of Health, as appropriate, the  
6237 hospital authority shall be authorized to retain possession of those assets, equipment, and  
6238 resources purchased by the community service board with state and federal funds. In the  
6239 event the hospital authority fails to serve such public purpose, those assets, equipment,  
6240 and resources purchased by the community service board with state and federal funds  
6241 shall be returned to the department, the Department of Human Services, or the  
6242 Department of Health, as appropriate, or to an agency designated by the such appropriate  
6243 department or departments.

6244 (b) In the event that all county governing authorities of a community service area  
6245 designated pursuant to subsection (b) of Code Section 37-2-3 concur that a community  
6246 service board reconstituted pursuant to subsection (a) of this Code section has failed to  
6247 provide disability services or health services as required, those county governing  
6248 authorities may request that the division department coordinate the formation of a new  
6249 community service board pursuant to Code Section 37-2-6. Upon notification of the  
6250 request, the division department shall assist the county governing authorities in making  
6251 appointments to the new community service board and establishing bylaws pursuant to  
6252 Code Section 37-2-6. The division department shall make a determination about the  
6253 disposition of all assets, equipment, and resources purchased with state or federal funding  
6254 in the possession of the predecessor agency. To the extent that the community service  
6255 board was providing disability services or health services through the Department of  
6256 Human Services or the Department of Health, such department or departments shall  
6257 provide to the Department of Behavioral Health all documents, data, information, and  
6258 consultation necessary or helpful to the formation of the new community service board and  
6259 the determination and disposition of assets, equipment, and resources of the community  
6260 service board.

6261 37-2-6.5.

6262 (a) By joint action of the membership of a community service board created pursuant to  
6263 Code Section 37-2-6 and the governing authority of each county within the community  
6264 service board area, such community service board may cease operations; provided,  
6265 however, such community service board shall notify the commissioner at least 90 days in  
6266 advance of the meeting of the community service board in which such action is to be taken.  
6267 Such joint action shall indicate the date on which the community service board shall cease  
6268 operations.

6269 (b) Upon receipt of notification that a community service board intends to cease  
6270 operations, the commissioner shall notify the chairperson and executive director of such  
6271 community service board and the governing authority of each county within the community  
6272 service board area of such board that:

6273 (1) The department, after securing the approval of the Governor, intends to appoint a  
6274 manager or management team to manage and operate the programs and services of the  
6275 community service board in accordance with the provisions of paragraph (1) of  
6276 subsection (c) of Code Section 37-2-10 until the ~~division department~~ shall determine:

6277 (A) That such community service board should continue in operation, provided one or  
6278 more members appointed to such board in accordance with subsection (b) of Code  
6279 Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code  
6280 Section 37-2-10, and the ~~division department~~, acting on behalf of the membership of  
6281 the community service board, nominates a successor to a removed member and advises  
6282 the county governing authority that appointed such removed member to appoint a  
6283 successor;

6284 (B) That all of the members of such community service board appointed in accordance  
6285 with subsection (b) of Code Section 37-2-6 shall be removed and such community  
6286 service board shall be reconstituted; and that the ~~division department~~ shall assist the  
6287 county governing authorities in making appointments to the new community service  
6288 board; or

6289 (C) In the case where the membership of such community service board is the  
6290 membership of a county board of health designated in accordance with Code Section  
6291 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the  
6292 community service board should be removed and the membership of the community  
6293 service board be reconstituted in accordance with subsection (b) of Code Section  
6294 37-2-6;

6295 (2) The ~~division department~~, with the approval of the commissioner, intends to  
6296 redesignate the boundaries of the community service board area served by such board  
6297 pursuant to paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the  
6298 boundaries of an adjacent community service board area served by another community  
6299 service board to include the counties in the community service board area served by the  
6300 community service board that intends to cease operations so that the community service  
6301 board serving such adjacent area may assume responsibility for the provision of disability  
6302 services within such counties;

6303 (3) The department intends to request pursuant to Code Section 31-3-12.1 that the  
6304 governing authority of a county within the community service board area of such board

6305 authorize the membership of the board of health of such county to serve as the  
6306 membership of such community service board; or

6307 (4) The department, after securing the approval of the Governor, intends to appoint a  
6308 manager or management team to manage and operate the programs and services of the  
6309 community service board until such time as arrangements can be made to secure one or  
6310 more alternate service providers to assume responsibility for the provision of services  
6311 previously provided by the community service board.

6312 (c) If a community service board ceases operation and is succeeded by another community  
6313 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),  
6314 or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code  
6315 section, the division department shall make a determination about the disposition of all  
6316 assets, equipment, and resources purchased with state or federal funding in the possession  
6317 of the predecessor community service board.

6318 (d) If a community service board ceases operation and one or more alternate service  
6319 providers assume responsibility for the provision of services previously provided by the  
6320 community service board pursuant to paragraph (4) of subsection (b) of this Code section,  
6321 the department shall petition the superior court of the county in which the principal office  
6322 of that community service board was located for appointment of a receiver of the assets of  
6323 the community service board for the protection of the board's creditors and the public. The  
6324 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after  
6325 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities  
6326 of the community service board. The court shall then decree that the board be dissolved.  
6327 Upon completion of the liquidation, any surplus remaining after paying all costs of the  
6328 liquidation shall be distributed, as determined by the court, to the agencies, entities, or  
6329 providers providing disability services in the community service board area formerly  
6330 served by the community service board which ceased operations. At no time shall any  
6331 community service board upon ceasing operations convey any of its property, except as  
6332 may be otherwise authorized by a superior court in this subsection, to any private person,  
6333 association, or corporation.

6334 37-2-7.

6335 (a) The division department shall formulate and publish biennially a state plan for  
6336 disability services which shall take into account the disability services plans submitted by  
6337 the regional offices as required by Code Section 37-2-5.2. The state disability services plan  
6338 shall be comprehensive and shall include public and private institutional and community  
6339 services to the disabled. In developing the state plan, the division department shall request  
6340 input from the regional offices and planning boards, the community service boards,

6341 hospitals, and other public and private providers. The plan shall include an overview of  
6342 current services and programs and shall also present information on future program,  
6343 service, educational, and training needs.

6344 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays  
6345 and interruptions in the administration of disability services when moving an individual  
6346 from one element of service to another in order to ensure continuity of care and treatment  
6347 for persons receiving such services.

6348 (c) The plan shall further set forth the proposed annual budget of the ~~division department~~  
6349 and the regions.

6350 (d) The plan shall be submitted to the department, the Governor, the General Assembly,  
6351 the Governor's council, the regional planning boards, the hospitals, the community service  
6352 boards, and any other public or private provider requesting a copy of the plan.

6353 (e) At such time as the state plan is submitted, the ~~division department~~ shall further submit  
6354 an analysis of services provided, programs instituted, progress made, and the extent of  
6355 implementation of the previous biennial plan. Such analysis shall measure the  
6356 effectiveness and the efficiency of the methods of delivering services which ameliorate or  
6357 prevent disability and restore health. This analysis shall further address the efforts of the  
6358 ~~division department~~ in coordinating services in accordance with Code Section 37-2-9.

6359 37-2-8.

6360 Reserved.

6361 37-2-9.

6362 To the maximum extent possible, disability services provided by the ~~division department~~  
6363 and the regional offices, hospitals, community service boards, and other public and private  
6364 providers shall be coordinated with related activities of the department and judicial,  
6365 correctional, educational, social, and other health service agencies and organizations, both  
6366 private and public.

6367 37-2-9.1.

6368 (a) Each regional planning board and community service board shall comply with the  
6369 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4  
6370 of Chapter 18 of Title 50, relating to inspection of public records, except where records or  
6371 proceedings are expressly made confidential pursuant to other provisions of law.

6372 (b) Each regional office and community service board and other public and private  
6373 providers are authorized to establish one or more advisory boards for the purpose of

6374 ensuring coordination with various agencies and organizations and providing professional  
6375 and other expert guidance.

6376 37-2-10.

6377 (a) Notwithstanding any other provisions of the law, the director commissioner with the  
6378 concurrence of ~~the commissioner~~ and the Governor is authorized to establish and  
6379 administer community programs on an emergency basis in the event one or more  
6380 community service boards fail to assume responsibility for the establishment and  
6381 implementation of an adequate range of disability services or to provide appropriate  
6382 disability services as determined by the ~~division department~~ or substantially breach their  
6383 contracts with the department pursuant to this chapter.

6384 (b) Upon notification by a community service board of an inability to provide an adequate  
6385 range of disability services or to provide appropriate services, the director commissioner,  
6386 with concurrence of ~~the commissioner~~ and the Governor, may:

6387 (1) Assume responsibility for the administration and operation of all of the community  
6388 programs operated by or through such board and, in which case, the programs shall  
6389 become department programs; the department shall acquire the assets of the community  
6390 service board; and the community service board employees shall become employees of  
6391 the department; or

6392 (2) Assume responsibility for the administration and operation of one or more of the  
6393 community programs operated by or through such board, in which case, such program  
6394 or programs shall become a department program or programs; the department shall  
6395 acquire those assets of the community service board assigned to such program or  
6396 programs; and the employees of such program or programs shall become employees of  
6397 the department. Any community service board programs not transferred to the  
6398 department shall continue to be operated by the community service board and the  
6399 employees for such programs shall remain community service board employees.

6400 (c)(1) Notwithstanding any other provisions of the law, in extenuating circumstances, the  
6401 director commissioner with the concurrence of ~~the commissioner~~ and the Governor is  
6402 authorized to appoint a manager or management team to manage and operate the  
6403 programs and services of the community service board if the director commissioner finds  
6404 that the community service board:

6405 (A) Provides notice pursuant to Code Section 37-2-6.5 that such board intends to cease  
6406 operations;

6407 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a  
6408 contract with the department;

6409 (C) Misused state or federal funds;

(D) Engaged in a fraudulent act, transaction, practice, or course of business;  
(E) Endangered the life, safety, or health of a consumer served by the community service board;  
(F) Failed to keep fiscal records and maintain proper control over its assets;  
(G) Failed to respond to a substantial deficiency in a review or audit;  
(H) Otherwise substantially failed to comply with this chapter or the rules or standards of the department ~~or division~~; or  
(I) No longer has the fiscal ability to continue to provide contracted services and, without the intervention of the department, continued provision of disability services ~~or health services~~ to consumers in the service area is in immediate jeopardy.

(2) In order to carry out the provisions of paragraph (1) of this subsection, the ~~director~~ commissioner shall give written notice to the community service board regarding the appointment of a manager or management team and the circumstances on which the appointment is based. The ~~director~~ commissioner may require the community service board to pay costs incurred by the manager or management team.

(3) Subject to the determination of the ~~director~~ commissioner, a manager or management team appointed pursuant to this subsection may:

(A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure, operation, or the management of the community service board;  
(B) Hire, supervise, discipline, reassign, or terminate the employment of an employee of the community service board;  
(C) Reallocate the resources and manage the assets of the community service board;  
(D) Require that a financial transaction, expenditure, or contract for goods and services be approved by the manager or management team;  
(E) Redesign, modify, or terminate a program or service of the community service board;  
(F) Direct the members of the community service board, the executive director, chief financial officer, or any other administrative or program manager to take an action;  
(G) Exercise a power, duty, authority, or function of the community service board as authorized by this chapter;  
(H) Recommend to the ~~director~~ commissioner the removal of a member or the executive director of the community service board; and the provisions of any law to the contrary notwithstanding, the ~~director~~ commissioner may remove such member or executive director from office; and  
(I) Report at least monthly to the ~~director~~ commissioner on actions taken.

(4) A manager or management team appointed pursuant to this subsection may not use or dispose of any asset or funds contributed to the community service board by the

6447 governing authority of a county or municipal corporation without the approval of such  
6448 governing authority.

6449 (5) If a manager or management team is appointed pursuant to this Code section, the  
6450 department may:

6451 (A) Upon a determination that the conditions that gave rise to the appointment of a  
6452 manager or management team pursuant to this subsection have been met and that such  
6453 manager or management team is no longer necessary, terminate the authority delegated  
6454 to such manager or management team and restore authority to the community service  
6455 board to manage and operate the services and programs of the community service  
6456 board; or

6457 (B) Operate and manage the programs of the community service board until such time  
6458 as arrangements can be made to secure one or more alternative service providers to  
6459 assume responsibility for the provision of services previously provided by the  
6460 community service board. If this option is exercised, the department shall petition the  
6461 appropriate superior court for appointment of a receiver pursuant to subsection (d) of  
6462 Code Section 37-2-6.5.

6463 (6) Nothing in this subsection shall be construed to prohibit the department from  
6464 canceling a contract with a community service board.

6465 37-2-11.

6466 (a) ~~It is the goal of the State of Georgia that every citizen be provided an adequate level~~  
6467 ~~of disability care through a unified system of disability services. To this end, the~~  
6468 ~~department through the division shall, to the maximum extent possible, allocate funds~~  
6469 ~~available for services so as to provide an adequate disability services program available to~~  
6470 ~~all citizens of this state. In funding and providing disability services, the division and the~~  
6471 ~~regional offices shall ensure that all providers, public or private, meet minimum standards~~  
6472 ~~of quality and competency as established by the department and the division.~~

6473 (b) ~~Fees generated, if any, by hospitals, community service boards, and other private and~~  
6474 ~~public providers, providing services under contract or purview of the division, shall be~~  
6475 ~~reported to the division and applied wherever appropriate against the cost of providing, and~~  
6476 ~~increasing the quantity and quality of, disability services, provided, however, that income~~  
6477 ~~to a community service board derived from fees may be used to further the purposes of~~  
6478 ~~such community service board as found in Code Section 37-3-6.1, subject to~~  
6479 ~~appropriations. The division shall be responsible for developing procedures to properly~~  
6480 ~~account for the collection, remittance, and reporting of generated fees. The division shall~~  
6481 ~~work with the community service boards and other public or private providers to develop~~  
6482 ~~an appropriate mechanism for accounting for the funds and resources contributed to local~~

6483 ~~disability services by counties and municipalities within the area. Such contributions are~~  
6484 ~~not required to be submitted to either the community service boards or the division;~~  
6485 ~~however, appropriate documentation and accounting entries shall make certain that the~~  
6486 ~~county or municipality is credited, and if necessary compensated, appropriately for such~~  
6487 ~~contribution of funds or resources.~~

6488 (c) ~~No person shall be denied disability services provided by the state as defined in this~~  
6489 ~~chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however,~~  
6490 ~~unless otherwise prohibited by law or contract, providers of disability services may deny~~  
6491 ~~nonemergency disability services to any person who is able to pay, but who refuses to pay.~~  
6492 ~~The division shall develop a state-wide sliding fee scale for the provision of disability~~  
6493 ~~services and shall promulgate standards that define emergency disability services and~~  
6494 ~~refusal to pay.~~ Reserved.

6495 37-2-11.1.

6496 (a) ~~Venue for the purpose of any action against a community service board shall be the~~  
6497 ~~county in which the principal office of the community service board is located. For~~  
6498 ~~purposes of this Code section, 'principal office' shall be defined as the facility which houses~~  
6499 ~~the executive director or other such top administrator for the community service board.~~

6500 (b) ~~In any legal proceeding, a regional planning board or the regional office shall be~~  
6501 ~~considered a unit of the division department and shall be afforded the assistance of legal~~  
6502 ~~counsel from the Attorney General.~~

6503 (c)(1) ~~The community service boards shall be public bodies but shall not be considered~~  
6504 ~~agencies of the state or any specific county or municipality. Such community service~~  
6505 ~~boards are public agencies in their own right and shall have the same immunity as~~  
6506 ~~provided for counties. No county shall be liable for any action, error, or omission of a~~  
6507 ~~community service board. Notwithstanding any provisions of law to the contrary, and~~  
6508 ~~regardless of any provisions of law which grant employees of the community service~~  
6509 ~~boards benefits under programs operated by the state or which deem them to be state~~  
6510 ~~employees only for purposes of those benefits, employees of the community service~~  
6511 ~~boards shall not be employees of the state but shall be employees of the community~~  
6512 ~~service boards and, further, the state shall not be liable for any action, error, or omission~~  
6513 ~~of such employees.~~

6514 (2) ~~A community service board may employ or contract for legal counsel to assist in~~  
6515 ~~performing its duties and shall be authorized to appoint legal counsel to represent the~~  
6516 ~~community service board and its employees. The community service board may exercise~~  
6517 ~~any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification,~~  
6518 ~~defense, and insuring of members and employees of public bodies.~~

6519 37-2-11.2.

6520 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of  
6521 patient and client care, any program receiving any public funds from, or subject to  
6522 licensing, certification, or facility approval by, the department, the Department of Human  
6523 ~~Resources Services~~, the Department of Health, or a regional office shall be required to  
6524 provide the department or the appropriate regional office or both, upon request, complete  
6525 access to, including but not limited to authorization to examine and reproduce, any records  
6526 required to be maintained in accordance with contracts, standards, or rules and regulations  
6527 of the department, the Department of Human ~~Resources Services~~, or the Department of  
6528 Health or pursuant to the provisions of this title.

6529 (b) Records obtained pursuant to subsection (a) of this Code section shall not be  
6530 considered public records and shall not be released by the department, the Department of  
6531 Human Services, the Department of Health, or any regional office unless otherwise  
6532 specifically authorized by law.

6533 (c) The community service board shall maintain a clinical record for each consumer  
6534 receiving treatment or habilitation services from such board. The treatment of clinical  
6535 records of consumers in receiving services for mental illness shall be governed by the  
6536 provisions of Code Section 37-3-166. The treatment of clinical records of consumers  
6537 receiving habilitation services for developmental disabilities shall be governed by the  
6538 provisions of Code Section 37-4-125. The treatment of clinical records of consumers in  
6539 treatment for addictive diseases shall be governed by the provisions of Code Section  
6540 37-7-166."

### 6541 SECTION 3-2.

6542 The following Code sections of the Official Code of Georgia Annotated are amended by  
6543 replacing "Department of Human Resources" wherever it occurs with "Department of  
6544 Behavioral Health":

- 6545 (1) Code Section 15-11-73, relating to juvenile traffic offenses;
- 6546 (2) Code Section 15-11-152, relating to ordering an evaluation of a child's mental  
6547 condition;
- 6548 (3) Code Section 16-7-83, relating to persons convicted or under indictment for certain  
6549 offenses;
- 6550 (4) Code Section 16-11-129, relating to license to carry pistol or revolver;
- 6551 (5) Code Section 17-7-130, relating to proceedings upon plea of mental incompetency  
6552 to stand trial;
- 6553 (6) Code Section 17-7-131, relating to proceedings upon plea of insanity or mental  
6554 incompetency at time of crime;

- 6555 (7) Code Section 26-4-5, relating to definitions relative to the "Georgia Pharmacy  
6556 Practice Act";  
6557 (8) Code Section 37-3-146, relating to education of children undergoing treatment in a  
6558 facility for persons who are mentally ill;  
6559 (9) Code Section 37-3-150, relating to right to appeal orders of probate court, juvenile  
6560 court, or hearing examiner;  
6561 (10) Code Section 37-7-3, relating to coordination of state drug and alcohol abuse  
6562 programs;  
6563 (11) Code Section 37-7-146, relating to education of children undergoing treatment in  
6564 a facility for persons who are alcoholics, drug dependent individuals, or drug abusers;  
6565 (12) Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile  
6566 court, or hearing examiner;  
6567 (13) Code Section 40-5-82, relating to administration of the Driver Improvement  
6568 Program;  
6569 (14) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;  
6570 (15) Code Section 42-8-35.3, relating to conditions of probation for stalking or  
6571 aggravated stalking;  
6572 (16) Code Section 42-9-41, relating to duty of the State Board of Pardons and Paroles  
6573 to obtain and place in records information respecting persons subject to relief or placed  
6574 on probation;  
6575 (17) Code Section 43-12A-5, relating to provider centers that engage in the practice of  
6576 providing, installing, or monitoring ignition interlock devices not to operate under any  
6577 name deceptively similar to another business;  
6578 (18) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies  
6579 providing services to the mentally retarded;  
6580 (19) Code Section 49-5-221, relating to definitions relative to children and adolescents  
6581 with severe emotional problems;  
6582 (20) Code Section 49-5-223, relating to the State Plan for the Coordinated System of  
6583 Care for children and adolescents with severe emotional problems;  
6584 (21) Code Section 49-5-224, relating to the submission by the commissioner of human  
6585 resources of an annual report on the State Plan for the Coordinated System of Care;  
6586 (22) Code Section 49-5-227, relating to the Governor's Office for Children and Families  
6587 to comment on the State Plan for Coordinated System of Care and provide  
6588 recommendations; and  
6589 (23) Code Section 50-27-24, relating to lottery prize proceeds subject to state income tax.

**SECTION 3-3.**

6590 The following Code sections of the Official Code of Georgia Annotated are amended by  
6591 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
6592 behavioral health":

- 6594 (1) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;  
6595 and  
6596 (2) Code Section 49-5-224, relating to the submission by the commissioner of human  
6597 resources of an annual report on the State Plan for the Coordinated System of Care;

**SECTION 3-4.**

6598 The following Code sections of the Official Code of Georgia Annotated are amended by  
6599 replacing "Division of Mental Health, Developmental Disabilities, and Addictive Diseases  
6600 of the Department of Human Resources" wherever it occurs with "Department of Behavioral  
6601 Health":

- 6603 (1) Code Section 15-11-63, relating to designated felony acts with respect to juvenile  
6604 proceedings for delinquent and unruly children;  
6605 (2) Code Section 15-11-149, relating to disposition of mentally ill or mentally retarded  
6606 child;  
6607 (3) Code Section 19-15-4, relating to the Georgia Child Fatality Review Panel;  
6608 (4) Code Section 40-5-64, relating to limited driving permits for certain offenders;  
6609 (5) Code Section 45-18-5.2, relating to sheltered employment center employees; and  
6610 (6) Code Section 49-4A-9, relating to sentence of youthful offenders.

**SECTION 3-5.**

6611 Code Section 37-9-2 of the Official Code of Georgia Annotated, relating to definitions  
6612 relative to payment of expenses for support, treatment, and care of patients in institutions  
6613 generally, is amended by revising paragraph (6) as follows:

6615 "(6) 'State hospital' means any state hospital which now or hereafter comes under the  
6616 control of the ~~Division of Mental Health, Developmental Disabilities, and Addictive~~  
6617 ~~Diseases~~ of the department and any facility operated in conjunction therewith."

**SECTION 3-6.**

6619 Code Section 37-10-2 of the Official Code of Georgia Annotated, relating to the Interstate  
6620 Compact on Mental Health, is amended by revising Article XV as follows:

6621

"ARTICLE XV.

- 6622 (a) Pursuant to said compact, the Commissioner of ~~Human Resources~~ Behavioral Health,  
6623 or his delegate, is hereby designated to be the compact administrator. The compact  
6624 administrator, acting jointly with like officers of other party States, shall have power to  
6625 promulgate rules and regulations to carry out more effectively the terms of the compact.  
6626 The compact administrator is hereby authorized, empowered and directed to cooperate with  
6627 all departments, agencies and officers of and in the government of this State and its  
6628 subdivisions in facilitating the proper administration of the compact or any supplementary  
6629 agreement or agreements entered into by this State thereunder.
- 6630 (b) The compact administrator is hereby authorized and empowered to enter into  
6631 supplementary agreements with appropriate officials of other States pursuant to Articles  
6632 VII and XI of the compact. In the event that such supplementary agreements shall require  
6633 or contemplate the use of any institution or facility of this State or require or contemplate  
6634 the provision of any service of this State, no such agreement shall have force or effect until  
6635 approved by the head of the department or agency under whose jurisdiction said institution  
6636 or facility is operated or whose department or agency will be charged with the rendering  
6637 of such service.
- 6638 (c) The compact administrator, using funds appropriated to the Department of ~~Human~~  
6639 Resources Behavioral Health and the Department of Health, may make or arrange for any  
6640 payments necessary to discharge any financial obligations imposed upon this State by the  
6641 compact or by any supplementary agreement entered into thereunder.
- 6642 (d) Duly authenticated copies of this Act shall be transmitted by the Secretary of State of  
6643 the State of Georgia to the Governor of each State, to the Attorney General and the  
6644 Administrator of General Services of the United States, and to the Council of State  
6645 Governments, and to the Veterans' Administration.
- 6646 (e) The compact administrator is hereby directed to consult with the immediate family of  
6647 any proposed transferee and, in the case of a proposed transfer from an institution in this  
6648 State to an institution in another party State, to take no final action without notice to the admitting  
6649 court or in case of admission other than by a court, then notice to the admitting  
6650 medical facility is required.
- 6651 (f) In the administration of this compact, the compact administrator shall in no way  
6652 abridge the rights or privileges of any patient to appeal to the courts for a hearing as  
6653 provided under the laws of Georgia."

**SECTION 3-7.**

6654  
6655 Code Section 40-16-5 of the Official Code of Georgia Annotated, relating to authority of the  
6656 commissioner of driver services, is amended by revising paragraph (5) of subsection (d) as  
6657 follows:

6658 "(5) All rules and regulations previously adopted which relate to functions transferred  
6659 under this chapter from the Department of Human Resources (now known as the  
6660 Department of Behavioral Health for these purposes) to the Department of Driver  
6661 Services."

**SECTION 3-8.**

6662  
6663 Code Section 42-5-52 of the Official Code of Georgia Annotated, relating to classification  
6664 and separation of inmates generally, is amended by revising subsections (d), (e), and (f) as  
6665 follows:

6666 "(d) The department is authorized to transfer a mentally diseased inmate from a state or  
6667 county correctional institution or other facility operating under its authority to a criminal  
6668 ward or facility of the Department of ~~Human Resources~~ Behavioral Health. The inmate  
6669 shall remain in the custody of the Department of ~~Human Resources~~ Behavioral Health until  
6670 proper officials of the facility at which ~~he~~ the inmate is detained declare that his or her  
6671 sanity has been restored, at which time the inmate shall be returned to the custody of the  
6672 department. At any time after completion of his or her sentence, an inmate detained by the  
6673 Department of ~~Human Resources~~ Behavioral Health on the grounds that he or she is  
6674 mentally diseased may petition for release in accordance with the procedure provided in  
6675 Chapter 3 of Title 37. Prior to completion of his or her sentence, this procedure shall not  
6676 be available to ~~him~~ the inmate.

6677 (e) Upon being presented with a proper certification from the county physician of a county  
6678 where a person has been sentenced to confinement that the person sentenced is addicted to  
6679 drugs or alcohol to the extent that ~~his~~ the person's health will be impaired or ~~his~~ life  
6680 endangered if immediate treatment is not rendered, the department shall transfer the inmate  
6681 to the custody of the Department of ~~Human Resources~~ Behavioral Health. The inmate shall  
6682 remain in such custody until officials of the Department of ~~Human Resources~~ Behavioral  
6683 Health determine ~~he~~ the inmate is able to serve his or her sentence elsewhere.

6684 (f) The department may transfer any inmate afflicted with active tuberculosis from any  
6685 state or county correctional institution, or any other facility operating under the authority  
6686 of the department, to a tubercular ward or facility specially provided and maintained for  
6687 criminals by the department at a tuberculosis facility or facilities operating under the  
6688 Department of ~~Human Resources~~ Health."

**SECTION 3-9.**

6689      Code Section 49-5-220 of the Official Code of Georgia Annotated, relating to legislative  
6690      findings and intent with respect to children and adolescents with severe emotional problems,  
6691      is amended as follows:

6692      "49-5-220.

6693      (a) The General Assembly declares its intention and desire to:

6694            (1) Ensure a comprehensive mental health program consisting of early identification,  
6695            prevention, and early intervention for every child in Georgia;

6696            (2) Preserve the sanctity of the family unit;

6697            (3) Prevent the unnecessary removal of children and adolescents with a severe emotional  
6698            disturbance from their homes;

6699            (4) Prevent the unnecessary placement of these children out of state;

6700            (5) Bring those children home who through use of public funds are inappropriately  
6701            placed out of state; and

6702            (6) Develop a coordinated system of care so that children and adolescents with a severe  
6703            emotional disturbance and their families will receive appropriate educational,  
6704            nonresidential and residential mental health services, and support services, as prescribed  
6705            in an individualized plan.

6706      (b) In recognition of the fact that services to these children are provided by several  
6707      different agencies, each having a different philosophy, a different mandate, and a different  
6708      source of funding, the General Assembly intends that the ~~Division of Mental Health,~~  
~~Developmental Disabilities, and Addictive Diseases of the Department of Human~~  
~~Resources~~ Department of Behavioral Health shall have the primary responsibility for  
6709      planning, developing, and implementing the coordinated system of care for severely  
6710      emotionally disturbed children. Further, it recognizes that to enable severely emotionally  
6711      disturbed children to develop appropriate behaviors and demonstrate academic and  
6712      vocational skills, it is necessary that the Department of Education provide appropriate  
6713      education in accordance with P.L. 94-142 and that the ~~Division of Mental Health,~~  
~~Developmental Disabilities, and Addictive Diseases of the Department of Human~~  
~~Resources~~ Department of Behavioral Health provide mental health treatment.

6714      (c) Further, in recognition that only a portion of the children needing services are receiving  
6715      them and in recognition that not all the services that comprise a coordinated system of care  
6716      are currently in existence or do not exist in adequate numbers, the General Assembly  
6717      intends that the ~~Department of Human Resources~~ Department of Behavioral Health and the  
6718      Department of Education jointly develop and implement a State Plan for the Coordinated  
6719      System of Care for severely or emotionally disturbed children or adolescents as defined in  
6720      paragraph (10) of Code Section 49-5-221.

6726 (d) The commissioner of the ~~Department of Human Resources~~ behavioral health and the  
6727 State School Superintendent shall be responsible for the development and implementation  
6728 of the state plan.

6729 (e) The commissioner of the ~~Department of Human Resources~~ behavioral health shall be  
6730 responsible for preparing this jointly developed state plan for publication and  
6731 dissemination. The commissioner of the ~~Department of Human Resources~~ behavioral  
6732 health shall also be responsible for preparing for publication and dissemination the annual  
6733 report.

6734 (f) The receipt of services under this article is not intended to be conditioned upon  
6735 placement of a child in the legal custody, protective supervision, or protection of the  
6736 ~~Department of Human Resources~~ Department of Human Services."

### **SECTION 3-10.**

6738 Code Section 49-5-225 of the Official Code of Georgia Annotated, relating to local  
6739 interagency committees with respect to children and adolescents with severe emotional  
6740 problems, is amended by revising subsection (a) as follows:

6741 "(a) At least one local interagency committee shall be established for each region of the  
6742 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
6743 ~~Department of Human Resources~~ Department of Behavioral Health whose permanent  
6744 membership shall include a local representative from each of the following:

6745 (1) The community mental health agency responsible for coordinating children's  
6746 services;  
6747 (2) The Division of Family and Children Services of the Department of Human  
6748 Resources Services;  
6749 (3) The Department of Juvenile Justice;  
6750 (4) The Division of Public Health of the Department of ~~Human Resources~~ Health;  
6751 (5) A member of the special education staff of the local education agency;  
6752 (6) The Division of Rehabilitation Services of the Department of Labor."

### **PART IV**

6754 Effective Date and Repeater.

### **SECTION 4-1.**

6756 This Act shall be effective on July 1, 2009.

### **SECTION 4-2.**

6758 All laws and parts of laws in conflict with this Act are repealed.